

BOARD MEETING DATE: July 8, 2011

AGENDA NO. 1

MINUTES: Governing Board Monthly Meeting

SYNOPSIS: Attached are the Minutes of the June 3, 2011 meeting.

RECOMMENDED ACTION:

Approve Minutes of the June 3, 2011 Board Meeting.

Sandra McDaniel,
Clerk of the Boards

FRIDAY, JUNE 3, 2011

Notice having been duly given, the regular meeting of the South Coast Air Quality Management District Board was held at District Headquarters, 21865 Copley Drive, Diamond Bar, California. Members present:

William A. Burke, Ed.D., Chairman
Speaker of the Assembly Appointee

Mayor Dennis R. Yates, Vice Chairman
Cities of San Bernardino County

Supervisor Michael D. Antonovich (arrived at 10:30 a.m.)
County of Los Angeles

Supervisor John J. Benoit
County of Riverside

Councilmember Michael A. Cacciotti (arrived at 9:20 a.m.)
Cities of Los Angeles County – Eastern Region

Ms. Jane W. Carney
Senate Rules Committee Appointee

Supervisor Josie Gonzales
County of San Bernardino

Dr. Joseph K. Lyou
Governor's Appointee

Councilmember Judith Mitchell
Cities of Los Angeles County – Western Region

Supervisor Shawn Nelson (arrived at 9:25 a.m.)
County of Orange

Mayor Miguel A. Pulido
Cities of Orange County

Members Absent:

Mayor Ronald O. Loveridge
Cities of Riverside County

Councilmember Jan Perry
City of Los Angeles

CALL TO ORDER: Chairman Burke called the meeting to order at 9:10 a.m.

- Pledge of Allegiance: Led by Ms. Carney.
- Presentation of Retirement Award to Paul Wuebben

Chairman Burke presented a retirement award to Paul Wuebben in recognition of his 30 years of dedicated District service.

- Opening Comments

Supervisor Benoit. Updated the Board on recent developments regarding the nuisance issues in Mecca, including a recent meeting with Senator Barbara Boxer that was very productive.

CONSENT CALENDAR

1. Approve Minutes of May 6, 2011 Board Meeting
2. Set Public Hearing July 8, 2011¹ to Consider Amendments and/or Adoption to AQMD Rules and Regulations

Amend Rule 1133.1 – Chipping and Grinding Activities, and Adopt Rule 1133.3 – Emission Reductions from Greenwaste Composting Operations

Budget/Fiscal Impact

3. Execute Contract for Continuation of Air Quality Institute
4. Establish List of Prequalified Providers for Temporary Employment Services
5. Execute Contract for Resurfacing of Diamond Bar Headquarters Parking Structure Deck

¹ Note: At the May 6, 2011 Board meeting, the Board set a public hearing for July 8, 2011 to Amend Rule 1147 – NOx Reductions from Miscellaneous Sources.

6. Establish Vice Chair's Stipend Equal to that of What is Provided to AQMD's Board Member Who Represents CARB
7. Authorize Funding for Cost Offsets of Rule 1147 Equipment Certifications from Air Quality Investment Fund, Rule 1121 Emission Mitigation Fee Program
8. Recognize Revenue and Execute Contracts for Truck Replacement Projects
9. Execute Contract for Expansion of Hydrogen Fueling Infrastructure
10. Approve Alternative Fuel Infrastructure and Local Government Match Contract Awards under FY 2010-11 AB 2766 Discretionary Fund Work Program

Items 11 through 16 - Information Only/Receive and File

11. Legislative & Public Affairs Report
12. Hearing Board Report
13. Civil Filings Report
14. Lead Agency Projects and Environmental Documents Received by AQMD
15. Rule and Control Measure Forecast
16. Status Report on Major Projects for Information Management Scheduled to Start During Last Six Months of FY 2010-11

BOARD CALENDAR

18. Administrative Committee
19. Investment Oversight Committee
20. Legislative Committee

- 21. Mobile Source Air Pollution Reduction Review Committee

- 22. California Air Resources Board Monthly Report

Dr. Lyou announced his abstention Item No. 8 because UPS is a potential source of income to him; and Item No. 10 because Waste Management is a potential source of income to him. Supervisor Benoit announced his abstention on Agenda Item No. 10 because of campaign contributions from CR&R, Inc.

Agenda Item No. 7 was withheld for public comment. Agenda Item No. 10 was postponed until a quorum of Board Members were present to take action on the item.

MOVED BY GONZALES, SECONDED BY YATES, AGENDA ITEMS 1 THROUGH 6, 8, 9, AND 11 THROUGH 22 APPROVED AS RECOMMENDED, RECEIVING AND FILING THE BOARD COMMITTEES AND MSRC REPORTS; AND ADOPTING THE POSITIONS ON LEGISLATION AS SET FORTH BELOW, BY THE FOLLOWING VOTE:

AYES: Benoit, Burke, Carney, Gonzales, Lyou (except *Item #8*), Mitchell, Pulido and Yates.

NOES: None.

ABSTAIN: Lyou (*Item #8 only*).

ABSENT: Antonovich, Cacciotti, Loveridge, Nelson and Perry.

Bill/Title	Recommended Position
AB 475 (Butler) Vehicles: Offstreet Parking: Electric Vehicles	Watch
SB 358 (Cannella) Income Tax: Gross Income: Exclusion: Air Quality Funds	Support
AB 880 (Perez) Environmental quality: CEQA: expedited environmental review	Support
SB 246 (De Leon) California Global Warming Solutions Act of 2006: Offsets	Support with Amendments
SB 862 (Lowenthal) Southern California Goods Movement Authority	Support with Amendments

(Councilman Cacciotti arrived at 9:20 a.m.)

17. Items Deferred from Consent Calendar

7. Authorize Funding for Cost Offsets of Rule 1147 Equipment Certifications from Air Quality Investment Fund, Rule 1121 Emission Mitigation Fee Program

Bill LaMarr, California Small Business Alliance, expressed concern that the large financial and compliance impact that the rule amendment will have on small businesses has not been addressed, even with their participation in the Stationary Source Committee meetings. He provided the Board with a copy of an article from *Inside Cal/EPA* regarding the proposals' shortfalls and urged the Board to make changes to the proposal before taking action.

Councilwoman Mitchell recalled that an outcome of the Stationary Source Committee meeting was that staff would work with small businesses on this issue, and asked staff for an update.

Dr. Barry Wallerstein, Executive Officer, responded that staff is continuing to work on the issues raised at the previous meetings and will provide a report to the Board's Stationary Source Committee. He added that the item currently before the Board will spur technology development, by providing grant funds for testing of burners, and help reduce costs for the manufacturers and end-users.

In response to Supervisor Gonzales' inquiry regarding the allocation of money, Dr. Wallerstein stated that additional funds will be allocated, if necessary.

Ms. Carney announced her abstention from Item No. 7 because Brithinee Electric, Loma Linda University Medical Center, Maruhachi Ceramics of America, Precision Stampings, U.S. Battery, and Modular Metal Fabricators are sources of income to her.

MOVED BY YATES, SECONDED BY LYOU,
AGENDA ITEM 7 APPROVED AS RECOMMENDED
BY STAFF, BY THE FOLLOWING VOTE:

AYES: Benoit, Burke, Cacciotti, Gonzales,
Lyou, Mitchell, Pulido and Yates.

NOES: None.

ABSTAIN: Carney.

ABSENT: Antonovich, Loveridge, Nelson and
Perry.

PUBLIC HEARINGS

23. Adopt Proposed Rule 1325 – Federal PM_{2.5} New Source Review Program
(Continued from the May 6, 2011 Board Meeting)

Jill Whynot, Director of Strategic Initiatives, gave the staff presentation.

(Supervisor Nelson arrived at 9:25 a.m.)

The public hearing was opened, and the following individual addressed the Board on Agenda Item 23.

STEPHEN O’KANE, AES Southland

Explained that while they are appreciative of the staff’s efforts in developing Rule 1325, their primary concern is regarding the exclusion of the provision in Rule 1304 that addresses PM_{2.5}, which has not been remedied. He stressed the negative impact the rule will have on the output of power generation stations in the area.

There being no further public testimony on this item, the public hearing was closed.

Dr. Wallerstein commented that AES recently sold particulate offsets so that the Walnut Creek Power Plant could be built; so, it is peculiar that AES is now asking the Board to create an exemption for particulate offsets. Dr. Wallerstein added that if a plant stays at the 100-ton-per year cap, they could produce over 1,000 megawatts.

Ms. Carney asked how existing businesses can obtain offsets.

Dr. Wallerstein replied that offsets for PM_{2.5} are generated similarly to PM₁₀, adding that ninety percent or more of the PM₁₀ emissions are actually PM_{2.5} emissions. He noted that staff will assist the sources in calculating PM_{2.5} emissions relative to any PM₁₀ offsets.

MOVED BY YATES, SECONDED BY CACCIOTTI,
THE BOARD APPROVED AGENDA ITEM 23,
ADOPTING RESOLUTION NO. 11-13,
CERTIFYING THE NOTICE OF EXEMPTION AND
ADOPTING RULE 1325, AS RECOMMENDED BY
STAFF, BY THE FOLLOWING VOTE:

AYES: Benoit, Burke, Cacciotti, Carney,
Gonzales, Lyou, Mitchell, Nelson, Pulido
and Yates.

NOES: None.

ABSENT: Antonovich, Loveridge and Perry.

24. Amend Rule 1113 – Architectural Coatings

Naveen Berry, Planning and Rules Manager, gave the staff presentation and presented an errata sheet concerning Method 24 use.

Dr. Lyou inquired about the possible conflict that might arise by allowing manufacturers to use a variety of test methods, and how enforcement staff detects a non-compliant product.

In response, Mr. Berry explained that the manufacturers list the VOC content of their product on the label, as required by the rules, and consistency is achieved because the levels are based on fairly accurate formulation information.

In regard to Councilman Cacciotti's questioning about enforcement efforts, Mr. Berry replied that inspections have increased over the past three years and regular visits are made to big box retailers, manufacturer-owned stores and small stores.

Mr. Berry added that enforcement conducts a thorough inspection of shelved coatings, paint can labels and the three year sell-through provision expiration dates. If a possible violation has occurred, the inspectors will buy the sample, conduct laboratory testing and analysis and take appropriate enforcement action if the sample is non-compliant.

Dr. Laki Tisopoulos, Assistant DEO/Planning, Rule Development and Area Sources, added that enforcement also collects products by random samples for testing.

Dr. Wallerstein noted that if there is no prior history of violations, the inspector will typically issue a notice to comply to allow the company to correct the problem. The additional step of issuing a notice of violation will occur if the non-compliant product is still for sale at the time of the next inspection. He noted that a training program to help educate small businesses on the rules is forthcoming, and staff will continue to educate store owners about the limits in the rule.

Supervisor Nelson stressed the importance of the fair implementation of enforcement actions. He provided examples of current enforcement actions, as he understood them, that give rise to his concerns.

Dr. Wallerstein responded to Councilwoman Mitchell's inquiry about manufacturers across the nation complying with the District's rule, indicating that while the need to reduce emissions in the South Coast is greater than other areas, the remainder of the State will soon follow suit with similar VOC restrictions making it prudent for manufacturers to produce compliant solvents.

Dr. Lyou suggested that the District work with the business community and local chambers of commerce to educate them on the enforcement process. He added that electronic or paper communication reminding them of deadlines would also be of benefit.

Supervisor Gonzales stressed that the manufacturer has the ultimate responsibility for complying with the deadline, and suggested that manufacturers allow small businesses to exchange non-compliant paint for compliant materials.

Mayor Yates commented that during the rule's original development process, extensive discussions occurred regarding the rule's effect on all stakeholders, including small business and the manufacturers, and assurances were made that inspectors would inform retailers of any violation under normal procedures. He commented that the procedures for inspectors to deal with small businesses may need to be revisited.

(Supervisor Antonovich arrived at 10:30 a.m.)

The public hearing was opened, and the following individuals addressed the Board on Agenda Item 24.

JOE BLANDFORD, Miltec

Explained the importance of UV technology and extended an invitation to the Board to visit the Miltec headquarters in Steenville, Maryland to learn more about the technology.

LUIS CABRALES, Coalition for Clean Air

Expressed support for the amendment of Rule 1113 and the precedence it will set for a national standard by reducing VOC emissions in the region and protecting workers and consumers.

ROBERT WENDOLL, Dunn-Edwards Corporation

Addressed a possible discrepancy in the Table of Standards, where pigmented lacquers are now being rolled in with the lacquers listed under the heading "clear wood finishes", suggesting that pigmented coatings are clear coatings. He requested staff prepare a compliance advisory explaining that the purpose of this change is to simply consolidate the two lacquer types (clear and pigmented) and that pigmented lacquers are subject to the same limit detailed in the rule.

Dr. Wallerstein confirmed that staff would issue a compliance advisory.

JOHN LONG, Vista Paint Corporation

Thanked staff for their efforts in helping interpret both the State's and the District's rules; noted that even as manufacturers they face the problem of individual stores not complying when they are told to remove or replace product; and requested the Board consider implementing a sales volume assessment to set the standard for the color change requirements.

Dr. Tisopulos stated that the proposed time frame is already an extended time frame, adding that staff has been working with industry to address concerns, investigate the ability for them to modernize equipment, and also factored in the age of the equipment and the state of the economy to ascertain a reasonable time frame.

In response to Supervisor Nelson's inquiry regarding the cost of tint dispensers, Mr. Berry replied that the cost is approximately \$20,000 per dispenser.

Supervisor Nelson expressed concern for companies whose equipment has not reached its life span.

Mr. Berry explained that retailers can continue to use their current dispensing equipment, as the new solvents only require additional maintenance of up to fifteen minutes per day. He added that some companies had already begun switching to new dispenser technology, prior to the current rule being in place, for other marketing purposes.

DAVID DARLING, American Coatings Association

Expressed appreciation to staff for addressing most of the issues that were of concern with the proposed amendments.

MADELYN HARDING, Sherwin-Williams

Alerted the Board to a problem with the sell-through provision that eliminates the sell-through when a product is moved to a new category in the table of standards. She asked the Board to direct staff to provide an amendment to address this issue.

Dr. Wallerstein stated that staff will meet with Ms. Harding to discuss a possible change and report the outcome to the Stationary Source Committee.

Supervisor Benoit supported the idea of staff coming back to the Board after a thorough analysis. He added that if the product is manufactured legally, it should be allowed to stay on the shelf until it sells.

RITA LOOF, Radtech International

Noted a concern regarding the uncertainty the industry faces regarding the potential violation of the rule because of the requirement to use a particular test method. She added that end-users may not have the level of sophistication required to find the necessary test method.

Dr. Wallerstein commented that since the end-users are relying on the manufacturers to do the testing, who are familiar with Reference Method 24, there is no need to add clarification for an end-user.

Mayor Yates noted that Ms. Loof's concerns led to the creation of the errata sheet that was distributed to Board members and made available to the public containing additional language regarding Method 24, but he did not see the need to incorporate that addition.

NICHOLE TYERMAN, American Lung Association

Expressed support for the current proposal which will cut smog-forming emissions from architectural coatings and enable better enforceability of the rule. They are encouraged by the reduction of toxic air pollutants that contribute to thousands of premature deaths and hospitalizations annually in the Basin.

There being no further public testimony on this item, the public hearing was closed.

Written Comments Submitted by:

Rita Loof, RadTech Intl.

Peter Chifo, Jr., Superior Technologies, Inc.

Luis Cabrales, Coalition for Clean Air, et al.

Councilman Cacciotti requested: 1) that staff bring a revision to the sell-through provisions of Rule 1113 to the Stationary Source Committee within 60 days; 2) that continued discussions occur with enforcement staff with regard to how solvent inspections occur; and 3) that educational opportunities are expanded upon.

MOVED BY CARNEY, SECONDED BY YATES,
THE BOARD APPROVED AGENDA ITEM 24,
ADOPTING RESOLUTION NO. 11-14,
CERTIFYING THE ENVIRONMENTAL
ASSESSMENT AND AMENDING RULE 1113, AS
RECOMMENDED BY STAFF, BY THE
FOLLOWING VOTE:

AYES: Antonovich, Benoit, Burke, Cacciotti,
Carney, Gonzales, Lyou, Mitchell,
Nelson and Yates.

NOES: None.

ABSENT: Loveridge, Perry and Pulido.

25. Amend Rule 2005 – New Source Review for RECLAIM

Dr. Tisopulos gave the staff presentation.

The public hearing was opened and, there being no requests from the public to comment on this item, the public hearing was closed.

Dr. Lyou asked for clarification regarding why the prices are elevated at the beginning of the year, but depressed at the end of the compliance year.

Dr. Tisopulos explained that the credits are issued in annual increments on a staggered schedule. He added that if a credit is purchased at the beginning of the cycle, most likely companies pay a higher price compared to what it would cost at the end of the cycle when the surplus credits remain.

In response to Dr. Lyou's questioning regarding new RECLAIM facilities, Dr. Tisopulos explained that the new facilities are subject to the offset requirements and NSR requirements.

MOVED BY YATES, SECONDED BY CACCIOTTI,
THE BOARD APPROVED AGENDA ITEM 25,
ADOPTING RESOLUTION NO. 11-15 CERTIFYING
THE NOTICE OF EXEMPTION AND AMENDING
RULE 2005, AS RECOMMENDED BY STAFF, BY
THE FOLLOWING VOTE:

AYES: Antonovich, Benoit, Burke, Cacciotti,
Carney, Gonzales, Lyou, Mitchell,
Nelson and Yates.

NOES: None.

ABSENT: Loveridge, Perry and Pulido.

26. Adopt Proposed Rule 310.1 - Amnesty for Unpermitted Equipment and Small Business Discount for Control Equipment

Staff waived the oral presentation on Item No. 26. The public hearing was opened; and the individual who submitted a card to speak in support of the item

waived comments. There being no other requests to speak, the public hearing was closed.

MOVED BY BENOIT, SECONDED BY CARNEY, THE BOARD APPROVED AGENDA ITEM 26, ADOPTING RESOLUTION NO.11-16, CERTIFYING THE NOTICE OF EXEMPTION AND ADOPTING RULE 310.1, AS RECOMMENDED BY STAFF, BY THE FOLLOWING VOTE:

AYES: Antonovich, Benoit, Burke, Cacciotti, Carney, Gonzales, Lyou, Mitchell, Nelson and Yates.

NOES: None.

ABSENT: Loveridge, Perry and Pulido.

OTHER BUSINESS

27. Establish AB 1318 Mitigation Fee Fund

Dr. Wallerstein explained that Item 27 will establish a mitigation fee fund to receive funds from CPV Sentinel, LLC to finance emission reduction projects.

MOVED BY CARNEY AND DULY SECONDED, THE BOARD APPROVED AGENDA ITEM 27, AS RECOMMENDED BY STAFF, BY THE FOLLOWING VOTE:

AYES: Antonovich, Benoit, Burke, Cacciotti, Carney, Gonzales, Lyou, Mitchell, Nelson and Yates.

NOES: None.

ABSENT: Loveridge, Perry and Pulido.

PUBLIC COMMENT PERIOD – (Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3)

MOTI BALYAN, Carson Chevron

Expressed concern regarding the requirement for gas stations under Phase II of Rule 461 to perform testing when tanks are at fifty percent capacity, which has caused him a great financial burden. He added that his station is equipped with an EVR Phase II self-tester that collects vapors.

Dr. Wallerstein confirmed that staff would meet with Mr. Balyan to discuss his concerns.

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CONSENT CALENDAR (CONT.)

10. Approve Alternative Fuel Infrastructure and Local Government Match Contract Awards under FY 2010-11 AB 2766 Discretionary Fund Work Program

Supervisor Nelson announced his abstention on Item No. 10 due to campaign contributions from UPS. Mayor Pulido announced his abstention on Item No. 10 because Waste Management of Orange County is a potential source of income to him.

There being a quorum of Board Members now present to take action on Item 10,

MOVED BY YATES, SECONDED BY CARNEY,
AGENDA ITEM 10 APPROVED AS
RECOMMENDED BY STAFF, BY THE FOLLOWING
VOTE:

AYES: Antonovich, Burke, Cacciotti, Carney,
Gonzales, Mitchell and Yates.

NOES: None.

ABSTAIN: Benoit, Lyou, Nelson and Pulido.

ABSENT: Loveridge and Perry.

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CLOSED SESSION

The Board recessed to closed session at 11:20 a.m., pursuant to Government Code section 54956.9(a) to confer with its counsel regarding pending litigation which has been initiated formally and to which the District is a party, as follows:

- Cleanstreet v. SCAQMD, Los Angeles Superior Court Case No. BC441151.

It was also necessary for the Board to recess to closed session under Government Code section 54956.9(c) to consider initiation of litigation (one case).

In addition, it was also necessary for the Board to recess to closed session pursuant to Government Code section 54957.6 to confer regarding upcoming labor negotiations with:

- designated representatives regarding represented employee salaries and benefits or other mandatory subjects within the scope of representation [Negotiator: William Johnson; Represented Employees: Teamsters Local 911 & SCAQMD Professional Employees Association]

and to confer with:

- labor negotiators regarding unrepresented employees [Agency Designated Representative: William Johnson; Unrepresented Employees: Designated Deputies and Management and Confidential employees].

Following closed session, General Counsel Kurt Wiese announced that a report of any reportable actions taken in closed session will be filed with the Clerk of the Board and made available upon request.

ADJOURNMENT

There being no further business, the meeting was adjourned by General Counsel Kurt Wiese at 12:15 p.m.

The foregoing is a true statement of the proceedings held by the South Coast Air Quality Management District Board on June 3, 2011.

Respectfully Submitted,

Peggy White
Deputy Clerk Transcriber

Date Minutes Approved: _____

Dr. William A. Burke, Chairman

ACRONYMS

Cal/EPA = California Environmental Protection Agency
CARB = California Air Resources Board
CEQA = California Environmental Quality Act
FY = Fiscal Year
MSRC = Mobile Source (Air Pollution Reduction) Review Committee
NSR = New Source Review
PM₁₀ = Particulate Matter ≤ 10 microns
PM_{2.5} = Particulate Matter ≤ 2.5 microns
RECLAIM = Regional Clean Air Incentives Market
U.S. EPA = United States Environmental Protection Agency
VOC = Volatile Organic Compounds