

**Action Summary Minutes
San Joaquin Valley Unified Air Pollution Control District
Governing Board Meeting, Governing Board Room
1990 E. Gettysburg Avenue, Fresno, CA.**

**Thursday, December 15, 2005
9:00 a.m.**

Meeting held via video teleconference (VTC) system with the Central Region Office (Fresno) and the Southern Region Office (Bakersfield).

The video teleconference (VTC) system was not available in the Northern Region Office (Modesto).

1. **CALL TO ORDER** – The Chair, Supervisor Thomas W. Mayfield, called the meeting to order at 9:16 a.m.

2. **ROLL CALL was taken and a quorum was present.**

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|---|---------------------|
| Susan B. Anderson, Supervisor | Fresno County |
| Barbara Patrick, Supervisor | Kern County |
| Tony Barba, Supervisor | Kings County |
| Ronn Dominici, Supervisor | Madera County |
| Sam Armentrout, Councilmember (absent) | City of Madera |
| Michael G. Nelson, Supervisor | Merced County |
| Dan Prince, Councilmember | City of Ripon |
| Jack A. Sieglock, Supervisor (*) | San Joaquin County |
| J. Steven Worthley, Supervisor | Tulare County |
| Mike Maggard, Councilmember, Vice Chair | City of Bakersfield |
| Thomas W. Mayfield, Supervisor, Chair | Stanislaus County |

(*) Arrived during Item #5

3. **APPROVAL OF CONSENT CALENDAR – Item Numbers (16-23)**. (These matters are routine in nature and are usually approved by a single vote. Prior to action by the Board, the public will be given the opportunity to comment on any consent item).

16. Approve Action Summary Minutes for the San Joaquin Valley Unified Air Pollution Control District Governing Board Meeting of Thursday, November 17, 2005.

17. Receive and file List of Scheduled Meetings for 2005 and 2006.

18. Receive and file Operations Statistics Summary for November 2005.

19. Receive and file Budget Status Report as of November 30, 2005.
20. Receive and file District's Annual Offset Equivalency Report to the Federal Environmental Protection Agency.
21. Receive and file Comprehensive Annual Financial Report and Single Audit Report for the fiscal year ended June 30, 2005.
22. Approve and authorize the Chair to execute Amendment 1 to agreement with Sonoma Technology, Inc. to extend the term of the agreement to January 31, 2006.
23. Approve and authorize the Chair to execute Amendment 1 to Agreement with Board of Regents of the University and Community College System of Nevada on behalf of Desert Research Institute in the amount of \$10,000 for meteorology and forecast model improvements.

APPROVED AS RECOMMENDED – *On motion by Board Member Nelson to approve the Consent Calendar as submitted. Seconded by Board Member Prince and unanimously carried with the following roll call vote:*

Ayes: *Nelson, Dominici, Worthley, Anderson, Barba, Patrick, Prince, Maggard and Mayfield.*
Absent: *Sieglock and Armentrout.*

Governing Board Action: The Board approved the Consent Calendar items 16, 17, 18, 19, 20, 21, 22 and 23, as submitted.

The Chair announced that anyone that wanted to comment today will have a three minute time limit to make their comments. The Chair noted this will allow everyone the opportunity to provide public comment.

4. **ELECTION OF OFFICERS** – Recommend electing the Chair and Vice Chair of the Governing Board for 2006.

MOTION TO ELECT – *Board Member Patrick made the motion to elect as Chair Councilmember Maggard and Supervisor Worthley as Vice Chair for 2006. Seconded by Board Member Barba and unanimously carried with the following roll call vote:*

Ayes: *Anderson, Dominici, Barba, Patrick, Nelson, Prince, Worthley, Maggard and Mayfield.*
Absent: *Armentrout and Sieglock.*

Governing Board Action: The Board elected Mike Maggard, Councilmember, City of Bakersfield, Chair and J. Steven Worthley, Supervisor, Tulare County, Vice Chair, of the Governing Board for 2006.

5. **PUBLIC COMMENT** – Peter Dorian, member of the public, spoke in support of Rule 9510.

William W. Moore, member of the public, suggested the Board contact the Public Utilities Company (PUC), and suggest the PUC revise the PG&E rate tier based on county by county in the area a customer lives and not based on the overall state.

Joan Poss, member of the public, stated the air quality this winter is the worse that she has ever seen. Ms. Poss stated the Air District should do more outreach to educate the public regarding air quality.

Sean Edgar, Clean Fleets Coalition, stated he is involved in the Goods Movement Task Force in Sacramento. Mr. Edgar stated that in combination with the Governor's partnership with San Joaquin Valley we are hopeful that we will be able to establish many of the transportation related infrastructures and also some community mitigation funds via this process. Mr. Edgar noted that he spent last week dealing with a new state-wide rule that ARB will be handling dealing with equipment and public utility fleets.

6. **REPORT FROM CITIZENS ADVISORY COMMITTEE (CAC)** – Dennis Tristao, City Primary Member, Kings County, briefed the Governing Board regarding the December 6, 2005 CAC Meeting. Mr. Tristao stated he was elected as Chair of the CAC during the December 6, 2005 meeting for 2006 and 2007.

Mr. Tristao stated the CAC did not have a quorum of Interest Group Members at the CAC Meeting to make a recommendation to the Governing Board on the rules that will be considered for adoption today. However, the CAC did have a consensus on Rule 4307 (Boilers, Steam Generators and Process Heaters 2.0 MMBTU/HR to 5.0 MMBTU/HR) and Rule 4309 (Dryers, Dehydrators and Ovens). Mr. Tristao noted that the consensus was generally for adoption by the Governing Board for Rule 4307 and Rule 4309. Mr. Tristao noted that for some of the other rules the Governing Board will be considering today the CAC did not have a consensus. Either for reasons of complexity of the rule or for reasons that it would appear that the makeup of the rule may change substantially before they appear before the Governing Board today. Mr. Tristao noted that the CAC will continue to provide the Governing Board with recommendations/consensus on rules and other air quality issues.

Mr. Tristao thanked Mr. Les Clark for his previous chairmanship of the CAC.

The Chair on behalf of the Governing Board provided Mr. Les Clark a plaque expressing their appreciation for chairing the CAC for 2004 and 2005.

Mr. Clark thanked the Governing Board for their recognition.

7. **PUBLIC HEARING: ADOPT PROPOSED AMENDMENTS TO RULE 2201 (NEW AND MODIFIED STATIONARY SOURCE REVIEW RULE)** – Presentation by David L. Crow, Executive Director/APCO and Dave Warner, Director of Permit Services.

The following persons provided comments during the public comment portion of this item:

Paul Cort, Earthjustice, spoke in opposition to the Governing Board adopting Rule 2001 as recommended. Mr. Cort noted that state law prohibits the relaxation of District rules as they existed on December 31, 2002. Mr. Cort stated he thinks there is some confusion in the Staff Report distinguishing between state and federal requirements. Mr. Cort noted that state law does not make that distinction.

Arthur Unger, a member of the Sierra Club's Kern Kaweah chapter, stated his comments were covered by the gentleman from Earthjustice. Mr. Unger promised the Governing Board that the federal roll backs that occurred December 31, 2002 will be revisited someday.

ADOPTED AS RECOMMENDED – *On motion by Board Member Worthley to adopt proposed amendments to Rule 2201 as recommended and authorizing the Chair to sign the resolution. Seconded by Board Member Sieglock and unanimously carried with the following roll call vote:*
Ayes: *Worthley, Prince, Nelson, Sieglock, Patrick, Dominici, Anderson, Barba, Maggard and Mayfield.*
Absent: *Armentrout.*

Governing Board Action: *The Board (1) adopted proposed amendments to Rule 2201 (New and Modified Stationary Source Review Rule) and (2) authorized the Chair to sign the resolution.*

8. **PUBLIC HEARING: ADOPT REVISED PROPOSED RULE 4307 (BOILERS, STEAM GENERATORS AND PROCESS HEATERS 2.0 MMBTU/HR TO 5.0 MMBTU/HR)** – Presentation by David L. Crow, Executive Director/APCO and George Heinen, Supervising Air Quality Engineer.

The following person provided comments during the public comment portion of this item:

Kevin Hamilton, Director of Asthma Program at Community Medical Center, stated he had concerns with exempting boiler units for the oil industry with their recorded profits. Mr. Hamilton suggested the Governing Board might consider requesting staff revise the exemptions.

ADOPTED AS RECOMMENDED – On motion by Board Member Barba to adopt Rule 4307 as recommended. Seconded by Board Member Anderson and unanimously carried with the following roll call vote:

Ayes: Nelson, Worthley, Dominici, Barba, Anderson, Sieglock, Prince, Patrick, Maggard and Mayfield.

Absent: Armentrout.

Governing Board Action:

- 1. Adopted Revised Proposed Rule 4307 (Boilers, Steam Generators, and Process Heaters – 2.0 MMBtu/hr to 5.0 MMBtu/hr), and***
- 2. Authorized the Chair to sign the Resolution.***

9. **PUBLIC HEARING: ADOPT REVISED PROPOSED RULE 4309 (DRYERS, DEHYDRATORS AND OVENS)** – Presentation made by David L. Crow, Executive Director/APCO and George Heinen, Supervising Air Quality Engineer.

The Governing Board noted the Staff Report indicates that with the adoption of Rule 4309 there will be an estimated reduction of 237 tons of NOx per year and asked how that relates to the PM10 Plan commitments. The Governing Board also commented that staff should review exempting existing equipment whereby the technology is not available to retrofit that specific piece of equipment.

George Heinen responded that the PM10 Plan committed to a 12 percent reduction and this is a 33 percent reduction therefore, the District is going above the Plan's commitment.

The following persons provided comments during the public comment portion of this item:

Matt Taylor, Darling International, stated his company is concerned with a chicken feather issue and requested the same leeway be granted to his industry that has been granted to the asphalt industry.

Harry DeLint, California Dairies, Inc., thanked staff for working with industry on Rule 4309. Mr. DeLint stated that there will be problems with this rule because

there are many types of dryers in the Valley and he thinks there will be problems with retrofits to meet the requirements of this rule.

Mike Buckantz, Justice & Associates, commented that he is concerned with the costs associated with the rule.

Rob Neenan, California League of Food Processors, Sacramento, thanked staff for working with industry in respect to Rule 4309. Mr. Neenan spoke in support of the vegetable dehydration portion of Rule 4309.

Jan Ennenga, Executive Director, Manufacturers Council of the Central Valley, thanked staff for working with industry in respect Rule 4309. Ms. Ennenga stated she is glad to hear that staff will continue to work with industry over the implementation and many challenges of Rule 4309. Ms. Ennenga encouraged the adoption of this rule with the consent decree pending.

Manuel Cunha, Nisei Farmers League, stated he hoped the Board adopts this rule.

Brian Hoffman, Environmental Coordinator, Granite Construction Company, requested clarification to the requirements of Section 5.4.1.1 and 5.4.1.1.2 regarding continuous emissions monitoring and alternative monitoring systems.

Mr. Heinen explained that the rule provides for the utilization of alternative monitoring methods in lieu of continuous monitoring when certain conditions are met.

ADOPTED AS RECOMMENDED – *On motion by Board Member Sieglock to adopt Rule 4309 as recommended. Seconded by Board Member Dominici and unanimously carried with the following roll call vote:*

Ayes: *Barba, Patrick, Prince, Dominici, Nelson, Worthley, Sieglock, Anderson, Maggard and Mayfield.*

Absent: *Armentrout.*

Governing Board Action:

- 1. *Adopted Revised Proposed Rule 4309 (Dryers, Dehydrators and Ovens), and***
- 2. *Authorized Chair to sign the Resolution.***

FIVE MINUTE BREAK

RETURNED FROM BREAK AT 10:45 A.M.

10. **PUBLIC HEARING: ADOPT PROPOSED RULE 9510 (INDIRECT SOURCE REVIEW) AND PROPOSED RULE 3180 (ADMINISTRATIVE FEES FOR AIR IMPACT ASSESSMENT APPLICATIONS); APPROVE AMENDMENTS TO THE DISTRICT'S CLASSIFICATION & COMPENSATION PLAN AND DISTRICT POSITION CONTROL LIST; AND ADOPT BUDGET RESOLUTION INCREASING THE 2005-06 DISTRICT BUDGET BY \$2,315,900 NECESSARY FOR IMPLEMENTATION OF THE INDIRECT SOURCE REVIEW PROGRAM**

Presentation by David L. Crow, Executive Director/APCO, Seyed Sadredin, Deputy Air Pollution Control Officer and Tom Jordan, Special Projects Administrator.

Staff provided the Board and the public with a document that contains additions to Appendix A. Specifically, the comments received on the November 17th Receive and File of Rules 9510 and 3180, and the District's Response to Comments.

Several Board Members commented about the issue of affordable housing and the low income housing trigger in respect to Rule 9510.

Some Board Members suggested the threshold per unit the District is proposing to charge is not high enough and they could see a developer paying the fee and avoiding the mitigation check list in order to quickly move a project through the process.

Some Board Members voiced concerns regarding what will happen to projects that are already in the pipeline: will there be additional fees, and if Rule 9510 is adopted when will it become effective, etc. The Board commented they would like to have an opportunity to re-visit the rule sometime in the future to make revisions if necessary. There was also concern raised regarding the proposed increase in staffing levels if Rule 9510 is adopted.

Several Board Members stated they liked the flexibility of the rule where there is a menu of items that can be put into the project that helps offset the emissions that will happen as a result of these projects. The Board stated the rule has the ability to put smart growth into projects which helps offset some of the cost of a project. The Board assured the building industry that District staff will work with their industry to help resolve any issues that arise if Rule 9510 is adopted.

During the Public Hearing for Rules 9510 and 3180 the Governing Board broke for lunch at 1:12 p.m. and reconvened at 2:00 p.m. The following comments were provided during the Public Hearing:

The following persons provided general comments regarding Rules 9510 and 3180:

Steven Kelly, representing the Greater Bakersfield Chamber of Commerce
Joe Haley, Director of Administrative Services, Visalia Unified School District
Bill Evans, Self Help Enterprises, Visalia
Mike Lewis, Senior Vice President, Construction Industry Air Quality Coalition
Bart Doyle, representing the California Builders Association
Kathryn Phillips, Environmental Defense
John Ennis, Consultant

The following persons spoke in opposition to Rules 9510 and 3180:

Rick Osorio, Merced City Councilmember
Adrian Moore, Reason Foundation
John Zumwalt, President of the Board of Trustees for the College of Sequoias
Ken Stykes, L.A. County Taxpayers Coalition
Nathan Magsig, Mayor, City of Clovis and affiliated with the Coalition for Urban Renewal Excellence
Michael Turnipseed, Executive Director, Kern County Taxpayers Association
Bob Keenan, Building Industry Association (BIA)
Mike Prandini, Building Industry Association (BIA), Madera and Fresno County
Brian Todd, Executive Vice President, Building Industry Association (BIA) of Kern County

The following persons spoke in support of Rules 9510 and 3180:

Jeff Weir, representing the staff of the ARB
Mario Talavera, LUCA
Maria C. Arevalo, LUCA
Rose Gray, resident of the San Joaquin Valley
Marjorie Bell, retired teacher from Bakersfield
Lucy Clark, resident of greater Woody
Will Winn, concerned citizen from Bakersfield
Harry Love, resident of Bakersfield
Ches Arthur, resident of Pine Mountain Club
Susan Good, spoke on behalf of Senator Dean Florez
Elizabeth Gonzales, Program Director for La Union Del Pueblo Entero (LUPE) on behalf of Nora Benavides, Executive Director
Dr. Dave Lighthull, Research Director for the Relational Culture Institute, Fresno
Ann Williams, Citizen, City of Bakersfield
John Rochelle, Unlimited Energy
Laura Dennison, Citizen City of Bakersfield
Gabiella Kirkland, California Grape and Fruit Tree League
Kevin Hall, member of the Sierra Club

Gordon Nipp, member of the Sierra Club
Troy Hightower, Solar Demonstration Center
Ann Gallon, Citizen, City of Bakersfield
Betsy Reifsnider, Environmental Justice Coordinator for the Catholic Diocese of Stockton
Arthur Unger, Citizen, City of Bakersfield
Leo Padrete, Citizen, City of Clovis
Eva Nipp, Retired Teacher, Bakersfield
Dave Wagner, Diocese of Stockton
Louise Johnson, Diocese of Stockton, Environmental Justice Project
Kenneth Ryan, Transportation Issue Chair for the Sierra Club in California
Maria Polite, Citizen, City of Bakersfield
Roger Isom, California Cotton Ginners and Growers Association
Mary-Michal Rawling, Merced/Mariposa County Asthma Coalition
Daniella Simunovic, Fresno Metro Ministry
John Telles, Cardiologist, Fresno
Mark Stout, Clean Energy Consultant
Laurie Folks, resident of Fig Garden, Fresno County
Bob Sarvey, resident of Tracy
Soccoro Gaeta, Fresno Metro Ministry
Manuel Cunha, Nisei Farmers League
Stephanie Moen, Director Tulare Co. Asthma Coalition
Carolina Simunovic, Fresno Metro Ministry

Board Member Maggard suggested the Board adopt Rules 9510 and 3180 with the following:

- (1) No later than December 31, 2010, and after holding at least one series of public workshops, the Air Pollution Control officer shall submit Rules 9510 and 3180 to the District Governing Board for reevaluation and reauthorization.
- (2) To the maximum extent feasible, the offsite emission reduction fees collected by the District shall be expended in a manner that provides for localized air quality benefits commensurate with the emissions from the new development projects.
- (3) The District shall prepare an annual report that will be available to the public regarding the expenditure of offsite fee funds, and shall include the following: total amount of offsite fees received; total monies spent; total monies remaining; any refunds distributed; a list of all projects funded; total emission reductions realized and; the overall cost-effectiveness factor for the projects funded.

- (4) Regarding the URBEMIS models it would be helpful for District staff to come back to the Board very soon to specify the input variables so that the model is more standardized.
- (5) The District shall explore support of legislative initiatives that provide appropriate litigation relief on air quality issues in conjunction with the California Environmental Quality Act (CEQA) process for new development projects that satisfy the District emission reduction requirements of Rule 9510 or more stringent standards set by local communities and land use agencies.

After Public Testimony several Board Members expressed concerns of having to adopt Rules 9510 and 3180 because of potential sanctions if the Board does not adopt them. The Board thanked everyone who attended and provided comments pertaining to Rules 9510 and 3180.

APPROVED WITH AMENDMENTS – *On motion by Board Member Sieglock to adopt Rules 9510 and 3180 with amendments to the resolution. Seconded by Board Member Prince and unanimously carried with the following roll call vote:*

Ayes: Patrick, Anderson, Worthley, Barba, Nelson, Dominici, Sieglock, Prince, Maggard and Mayfield.
Absent: Armentrout.

The Governing Board:

1. ***Approved the attached Negative Declaration for Proposed Rule 9510 (Indirect Source Review).***
2. ***Adopted Proposed Rule 9510 (Indirect Source Review) and Proposed Rule 3180 (Administrative Fees for Indirect Source Review).***
3. ***Authorized the Chair to the sign the resolution as amended during the Public Hearing.***
4. ***Amended the District’s Classification and Compensation Plan to include the position of Program Manager.***
5. ***Amended the District’s Position Control List by adding the following positions, effective January 1, 2006:***

| <u>Classification</u> | <u>Number of Positions</u> | <u>Monthly Salary Range # / Salary</u> |
|--|-----------------------------------|---|
| <i>Air Quality Specialist 1</i> | <i>3</i> | <i>41 / \$3,215 – 3,909</i> |
| <i>Air Quality Technician I</i> | <i>2</i> | <i>37 / \$2,915 – 3,545</i> |
| <i>Program Manager</i> | <i>1</i> | <i>64 / \$5,637 – 6,854</i> |

| | | |
|---|----------|-----------------------------|
| Programmer/Analyst 1 | 1 | 45 / \$3,545 – 4,311 |
| Senior Air Quality Specialist | 2 | 51 / \$4,104 – 4,992 |
| Supervising Air Quality Specialist | 1 | 56 / \$4,638 – 5,641 |

6. **Adopted Budget resolution increasing the 2005-06 District Budget by \$2,315,900 to reflect revenue estimates and appropriations related to the Indirect Source Review Program for the remainder of the fiscal year.**

The Board added the following language to the Resolution:

- (1) No later than December 31, 2010, and after holding at least one series of public workshops, the Air Pollution Control officer shall submit Rules 9510 and 3180 to the District Governing Board for reevaluation and reauthorization.
- (2) To the maximum extent feasible, the offsite emission reduction fees collected by the District shall be expended in a manner that provides for localized air quality benefits commensurate with the emissions from the new development projects.
- (3) The District shall prepare an annual report that will be available to the public regarding the expenditure of offsite fee funds, and shall include the following: total amount of offsite fees received; total monies spent; total monies remaining; any refunds distributed; a list of all projects funded; total emission reductions realized and; the overall cost-effectiveness factor for the projects funded.
- (4) Regarding the URBEMIS models it would be helpful for District staff to come back to the Board very soon to specify the input variables so that the model is more standardized.
- (5) The District shall explore support of legislative initiatives that provide appropriate litigation relief on air quality issues in conjunction with the California Environmental Quality Act (CEQA) process for new development projects that satisfy the District emission reduction requirements of Rule 9510 or more stringent standards set by local communities and land use agencies.

BREAK

THE BOARD RECONVENED FROM BREAK AT 3:37 A.M.

11. **PUBLIC HEARING: ADOPT REVISED PROPOSED RULE 4694 (WINE FERMENTATION AND STORAGE TANKS)** – Presentation made by David L. Crow, Executive Director/APCO, Seyed Sadredin, Deputy Air Pollution Control Officer and George Heinen, Supervising Air Quality Engineer.

The following persons provided comments during the public comment portion of this item:

Sarah Jackson, Research Associate with Earthjustice, stated that Earthjustice wants to be clear that while they oppose this rule they support the regulation of this industry.

Kathryn Phillips, Environmental Defense, stated that Environmental Defense thinks this rules should go back and be reevaluated and have some more work done on it regarding the trading issue.

Kevin Hall, member of the Sierra Club, stated the Board should not adopt this rule as recommended. Mr. Hall stated the Board should send the rule back to staff for more work.

Dave Farabee, Wine Institute, stated we have been working with ARB staff for almost twenty years on developing analysis on fermentation emissions and have been working with the District staff on this particular rule for roughly two years. Mr. Caraby requested the Board adopt this rule as recommended.

Cameron King, representative of the California Association of Wine Grape Growers, requested the Governing Board adopt staff's recommendation.

The Governing Board discussed the EPA approvability issue of Rule 4694 and requested the following language be added to the resolution:
The APCO is directed to continue to work with the United States Environmental Protection Agency and key stakeholders to identify and resolve rule approvability issues and to return to the Governing Board for the consideration and approval of any necessary amendments.

APPROVED WITH AMENDMENT TO RESOLUTION – *On motion by Board Member Sieglock to approve Rule 4694 as recommended with an amendment to the resolution language. Seconded by Board Member Prince and unanimously carried with the following roll call vote:*

Ayes: *Anderson, Worthley, Dominici, Barba, Nelson, Sieglock, Patrick, Prince, Maggard and Mayfield.*

Absent: *Armentrout.*

The Governing Board:

1. ***Approved the Negative Declaration prepared for Rule 4694 finding that there is no substantial evidence that adoption of Rule 4694 will have significant adverse effect on the environment.***
2. ***Adopted Revised Proposed Rule 4694 (Wine Fermentation and Storage Tanks).***
3. ***Authorized the Chair to sign the resolution as amended during the Public Hearing.***

12. **VERBAL REPORT: CALIFORNIA AIR RESOURCES BOARD (ARB) BOARD MEETING** – Jeff Lindberg, ARB District Liaison, briefed the Governing Board on the most recent ARB activities.
13. **EXECUTIVE DIRECTOR/APCO COMMENTS** – David L. Crow, Executive Director/APCO, stated he had no comments.
14. **GOVERNING BOARD MEMBER COMMENTS** – Board Member Patrick thanked Jeff Lindberg of the Air Resources Board for attending the meeting today. Board Member Patrick noted that Air Resources Board staff member Jeff Weir's comments regarding Rules 9510 and 3180 really helped the Governing Board focus on the rules. Board Member Patrick stated that she really appreciated the attendance of Mr. Lindberg and Mr. Weir.

Board Member Patrick asked District staff to investigate the possibility of purchasing a speaker timer for future meetings with the concurrence of the full Board.

OTHER BUSINESS – No Other Business.

15. **NO CLOSED SESSION**

ADJOURN – The Chair adjourned the meeting at 4:09 p.m.