

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

**Thursday, August 21, 2003
9:00 a.m.**

Meeting held via video teleconferencing (VTC) in the Central Region Office (Fresno) with the Northern Region Office (Modesto) and the Southern Region Office (Bakersfield) participating via VTC.
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1. **CALL TO ORDER** – The Chair, Supervisor Ronn Dominici, called the meeting to order at 9:01 a.m.
2. **ROLL CALL** was taken and a quorum was present.

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

(*) Attended meeting in Northern Region Office (Modesto)

(**) Attended meeting in Southern Region Office (Bakersfield)

(**) Arrived after Roll Call

3. **APPROVAL OF CONSENT CALENDAR** – Item Numbers **(13-19)**. (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).
 13. Approve Action Summary Minutes from the Governing Board Meeting of Thursday, July 17, 2003.
 14. Receive and file List of Scheduled Meetings for 2003.
 15. Receive and file Operations Statistics Summary for July 2003.

16. Receive and file Budget Status Report as of July 31, 2003.
17. Approve and authorize Hmong outreach contract with Fangs Communications for \$48,000.
18. Approve and authorize the Chair to execute Amendment No. 2 to the REMOVE Program Contract # 00-010 with the City of Los Banos to extend the term of the contract to January 31, 2004.
19. Adopt amendments to the Personnel Rules Section of the Administrative Code – Section 17.7 Annual Leave.

APPROVED AS RECOMMENDED – Board Member Barba made the motion to approve the Consent Calendar as submitted. Seconded by Board Member Worthley and carried unanimously with the following **Roll Call Vote**:

Ayes: Nelson, Mayfield, Worthley, Armentrout, Case, Barba and Dominici.

Absent: Sieglock, Maggard and Patrick.

Action: Approved Consent Calendar items 13, 14, 15, 16, 17, 18 and 19, as submitted.

4. **PUBLIC COMMENT** – No Public Comment.
5. **REPORT FROM CITIZENS ADVISORY COMMITTEE (CAC)** – Item moved down on the agenda.
6. **PUBLIC HEARING: ADOPT PROPOSED AMENDMENTS TO RULES 4351 (BOILERS, STEAM GENERATORS, AND PROCESS HEATERS-PHASE 1), AND 4305 (BOILERS, STEAM GENERATORS, AND PROCESS HEATERS-PHASE 2), AND PROPOSED RULE 4306 (BOILERS, STEAM GENERATORS, AND PROCESS HEATERS-PHASE 3)** – Presentation made by David L. Crow, Executive Director/APCO and George Heinen, Supervising Air Quality Engineer.

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

Roger H. Christy, ChevronTexaco, comments pertained to Rule 4306. Mr. Christy requested the following bolded words be inserted in Section 7.2.3 of Rule 4306:

“Full Compliance” identifies that date by which the owner shall demonstrate that each unit is in compliance with this rule. **Canceling or surrendering a Permit to Operate constitutes full compliance.**

Mr. Christy noted he supports the adoption of this rule. His preference is with the language he suggested for Section 7.2.3 for Rule 4306 but if that is not available he will continue to work with staff to clarify this issue.

Colby Morrow, Sempra Energy Utilities on behalf of Southern California Gas Company, noted that while Sempra appreciates staff’s efforts during rule development especially the incorporation of provisions for alternate monitoring systems they have grave concerns regarding what is being considered economically reasonable for this proposed rule.

John Sullivan, Alzeta, addressed the concerns raised by end users about the ability of the ultra low NOx burners to operate in load-following boiler.

Ed Yates, California League of Food Processors (CLFP), noted his primary concern is with the load-following issues and the cost effectiveness of the proposed rule. Mr. Yates stated he would like to compliment staff and noted they have been very receptive to discussions and to listening. Mr. Yates stated comments are being submitted by the Manufacturers Council of the Central Valley and they are in total concert with those comments.

Darryl Gunderson, Aera Energy, spoke in support of the rules. Mr. Gunderson stated he supports Mr. Christy’s, ChevronTexaco, comments regarding the need for a policy or a note in the rule to allow us to retire steam generators or heater treaters as part of compliance.

Scott Sill, Lone Star Gas speaking as Chairman of Refiners Council, spoke in support of the adoption of Rules 4351, 4305 and 4306.

Break at 10:34 a.m.

Reconvened from Break at 10:45 a.m.

Jan Ennenga, Executive Director, Manufacturers Council of the Central Valley (MCCV), asked to incorporate by reference in the official public record all formal written comments submitted by the MCCV and its members and related companies along with any data and information presented to District staff during workshops, focus group meetings and stakeholder group discussions which pertain to this rulemaking process for Draft Rules 4351, 4305 and 4306.

Ms. Ennenga stated their concern is specifically related to the technological infeasibility of ultra low NOx units (ULNOx) for processes with a highly viable

steam demand such as those found in the food processing industry. Ms. Ennenga requested that the limit on load following units be set at a limit of 30 ppm as opposed to the 15 ppm.

Kelly A. Lynch, Del Monte Foods, Western Region Environmental Manager, supports the comments made by Ed Yates CLFP and Jan Ennenga of MCCV have made.

Doug Burroughs, Del Monte Foods, stated these rules need to be cost effective for Del Monte to remain in business in the Central Valley and California.

Robert McGinity, Applied Utility Systems, stated he felt the economic evaluations were a bit excessive.

Jerry Frost, Kern Oil Refining Company, stated Kern Oil Refining supports the proposed Rule 4306 before the Board today with the caveat that dialog with the District be re-established to try and develop the Alternate Emission Control Plan (AECP) "bubble" provisions within Section 9.5 to make the provisions a truly viable alternative. Only then will facilities begin to have greater operational flexibility while providing an additional 10% emission reductions beyond the current rule limits.

Mr. Frost noted Kern Oil Refining is a member of the Refiners Council and supports the comments of our illustrious Chairman Scott Sill.

Manuel Cunha, Nisei Farmers League, stated his concern with the economic analysis report for the proposed rules. Mr. Cunha suggested this item be returned to the September.

Dr. David Pepper, urged the Board to do everything they could to support the balance in the tough decisions we have to make.

Les Clark, Independent Oil Producers Agency (IOPA) and the Producers Association, noted he has concerns with the (small burner units) heater treaters portion of this rule. Mr. Clark stated he is not opposing per se the rules and regulations but he thinks this is one area with the heater treaters where we need more time.

David Campbell, Environmental Manager, San Joaquin Refining Company and TriCor Refining in Bakersfield and the Refiners Council, the cost to compliance by the stakeholders will be very high because of the high cost of retrofitting their combustion units and or replacing their combustion units to comply with this rule. The cost effectiveness in dollars per tons of emissions reduced will be at an all time high for their industry.

Mr. Campbell stated the Refiners Council, San Joaquin Refining and TriCor Refining are in support of the Governing Board adopting Rules 4351, 4305 and 4306.

Kevin Hall, member of the Sierra Club, requested the Board pass the rules as written.

MOTION TO ADOPT RULES 4305, 4306 AND 4351, AND INCLUDE A TECHNOLOGY REVIEW OF THE LOAD FOLLOWING UNITS IN THE YEAR 2004 TO SEE IF THE 15 PPM LIMIT IS ONE THAT IS TECHNOLOGY FEASIBLE WITH THE INCLUSION IN THE RESOLUTION THAT STAFF WILL BRING BACK TO THE BOARD FURTHER INFORMATION REGARDING THE ALTERNATIVE COMPLIANCE COMPONENT AND HEATER TREATERS IN TWELVE MONTHS FROM NOW. THE MOTION INCLUDES ADOPTION OF THE NEGATIVE DECLARATION AND AUTHORIZES THE CHAIR TO SIGN THE RESOLUTION – The motion was made by Board Member Patrick. Seconded by Board Member Case. The motion failed with the following **Roll Call Vote**:

Ayes: Case, Barba, Worthley, Nelson and Patrick.
Noes: Mayfield, Armentrout, Sieglock and Dominici.
Absent: Maggard.

MOTION TO CONTINUE PUBLIC HEARING TO SEPTEMBER 18, 2003 WAS WITHDRAWN - The motion to continue was made by Board Member Worthley and seconded by Board Member Sieglock.

ADOPT AS RECOMMENDED – Board Member Sieglock made the motion to adopt Rules 4351 and 4305 as submitted with the adoption of the Negative Declaration and authorizing the Chair to sign the resolution. Seconded by Board Member Armentrout and carried unanimously with the following **Roll Call Vote**:

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

Action: The Board took the following action:

- (1) Adopted the Negative Declaration prepared for Rules 4351 and 4305.
- (2) Adopted Rule 4351 (Boilers, Steam Generators, Process Heaters-Phase 1) and Rule 4305 (Boilers, Steam Generators, Process Heaters-Phase 2) as submitted.
- (3) Authorized the Chair to sign the resolution.

MOTION TO CONTINUE RULE 4306 TO SEPTEMBER 18, 2003. THE MOTION INCLUDES TWO OPTIONS FOR NO_x LIMITS FOR LOAD FOLLOWING UNITS TO PAGE 5 OF RULE 4306:

OPTION 1: TO ADOPT RULE 4306 AS WRITTEN WITH 15 PPM

OPTION 2: TO ADOPT RULE 4306 WITH 30 PPM. The motion was made by Board Member Sieglock. Seconded by Board Member Worthley and carried unanimously with the following Roll Call Vote:

Ayes: Nelson, Worthley, Mayfield, Barba, Case, Sieglock, Armentrout, Patrick and Dominici.

Absent: Maggard.

Action: The Board continued the Public Hearing for Rule 4306 (Boilers, Steam Generators, Process Heaters-Phase 3) to September 18, 2003. The motion includes two options for NO_x limits for load following units
OPTION 1: TO ADOPT RULE 4306 AS WRITTEN WITH 15 PPM
OPTION 2: TO ADOPT RULE 4306 WITH 30 PPM.

Lunch Break at 12:20 p.m. with Agenda Item 12.

Philip M. Jay, District Counsel, made the following announcement:

12. **CLOSED SESSION** – The Governing Board will hold a Closed Session pursuant to Section **54956.9** of the Government Code (Ralph M. Brown Act) as follows:
- ❖ Conference with legal counsel – Anticipated Litigation: significant exposure to litigation pursuant to Government Code Section 54956.9 (b)(1) and (b)(3)(A).
 - ❖ Conference with legal counsel – Existing Litigation (Government Code Section 54956.9 (a)) Name of Case: Association of irritated Residents v. California Air Resources Board Sacto Superior # 03LS01088

Returned from Lunch Break at 1:05 p.m.

5. **REPORT FROM CITIZENS ADVISORY COMMITTEE (CAC)** – Mary-Michal Erwin-Loschke, Environmental Primary, Merced County, made the CAC to the Board.

ANNOUNCEMENT PERTAINING TO ITEM # 12, CLOSED SESSION

Philip M. Jay, District Counsel, made the following announcement. The Board voted unanimously to have counsel appear and defend in the case of Association of Irrigated Residents v. California Air Resources Board, Sacto Superior # 03LS01088

7. **PUBLIC HEARING: ADOPT REVISED PROPOSED AMENDMENTS TO RULE 4701 (INTERNAL COMBUSTION ENGINES-PHASE 1) AND REVISED PROPOSED RULE 4702 (INTERNAL COMBUSTION ENGINES-PHASE 2)**

Staff presentation made by David L. Crow, Executive Director/APCO and George Heinen, Supervising Air Quality Engineer.

Staff requested the following change to the proposed Resolution, Section 7 to read as follows:

“7. The Governing Board hereby directs the APCO to initiate rulemaking to develop and adopt appropriate emission limits for agricultural IC engines. Specifically, the APCO shall schedule a public hearing to be held on or before July 31, 2005, to consider the adoption of a proposed BACM rule for agricultural IC engines.”

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

Manuel Cunha, Nisei Farmers League, stated Nisei Farmers League supports staff recommendation.

Kevin Hall, member of the Sierra Club, asked if Rule 4702, page 4, Section 4.1 is correct wherein it states that this requirement does not apply to engines in agricultural operations in the growing of crops or raising of fowl or animals.

Staff responded that Section 4.1 for Rule 4702 is correct.

Chris Dodson, Ridgewood Power Management, requested the Board consider waiving the Authority to Construct fees for retrofitting.

ADOPTED AS RECOMMENDED – Board Member Patrick made the motion to adopt Rules 4701 and 4702 as recommended. Seconded by Board Member Armentrout and carried unanimously with the following **Roll Call Vote:**

Ayes: Mayfield, Barba, Worthley, Armentrout, Sieglock, Case, Nelson, Patrick and Dominici.

Absent: Maggard.

Action: The Board took the following action:

- (1) Adopted the Negative Declaration prepared for the revised proposed rules**
- (2) Adopt revised proposed amendments to Rule 4701 (Internal Combustion Engines – Phase 1) and revised Rule 4702 (Internal Combustion engines – Phase 2)**
- (3) Authorized the Chair to sign the amended resolution.**

8. **EXTREME CLASSIFICATION FOR THE 1-HOUR OZONE NATIONAL AMBIENT AIR QUALITY STANDARD** – Staff presentation made by David L. Crow, Executive Director/APCO and Dave Jones, Director of Planning.

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

Suzanne Noble, Western States Petroleum Association (WSPA) – stated that WSPA supports reclassifying the District to from severe to extreme.

Manuel Cunha, Nisei Farmers League, stated he was concerned with the timelines on the issue of reclassifying.

Colby Morrow, Southern California Gas Company, stated that Southern California Gas Company is very concerned with regards to depending on EPA for our livelihood in the Valley.

Kevin Hall, member of the Sierra Club, expressed concern with reclassifying from severe to extreme.

Vanessa Stewart, Earthjustice, we don't see any sense to delay the decision for going to extreme.

Chuck Sant'Agata, President, American Lung Association of the Central California, stated the Lung Association urges the Air District to stay at the severe designation for our Valley.

Mr. Sant'Agata suggested the Board pass a resolution asking the California Air Resources Board and the Environmental Protection Agency do their job.

Caroline Simunovic, Fresno Metro Ministry, requested the Board take the most expeditious route in cleaning up of our air.

Board Member Case, requested updates on where the EPA is on this issue.

David L. Crow, Executive Director/APCO, noted an inconsistency on the

recommendation and asked the Board to accept a revision to the bottom line of the recommendation paragraph, last line to read: to Extreme ~~until~~ not later than January 15, 2004.

9. **VERBAL REPORT: CALIFORNIA AIR RESOURCES BOARD (ARB) BOARD MEETING** – Report made by Ravi Ramalingam, ARB representative and ARB Liaison for the Valley Air District. Mr. Ramalingam reported pertained to the June 26, 2003 ARB Board Meeting.

10. **EXECUTIVE DIRECTOR/APCO COMMENTS** – David L. Crow, Executive Director/APCO, highlighted two workshops via video teleconferencing: August 26, 2003, Rule 4604 (Can and Coil Coating Operations) at 10:00 a.m.

August 27, 2003, Fugitive VOC emissions for Rules 4403, 4451, 4452, 4409 and 4455 at 10:30 a.m.

September 16, 2003 for Cotton Gins and in the first week of October 7, 8, and 9, 2003 for scoping session on the Indirect Source Rule.

11. **GOVERNING BOARD MEMBER COMMENTS** – **Board Member Nelson** stated that he does not think that EPA is doing right by the Valley. Board Member Nelson stated that he gets frustrated with items on the agenda that require the Board to take immediate action or we are faced with sanctions. Board Member Nelson asked if there was not somehow the Board could get this information earlier.

David L. Crow, Executive Director/APCO and Mark Boese, Deputy Air Pollution Control Officer, explained the rule development process as well as staff's frustration in waiting for outside sources to respond in a timely manner.

Board Member Case, described a recent Fresno County Board of Supervisors meeting in respect to Senator Dean Florez's clean air bills legislation. Board Member Case spoke about an awkward situation whereby a State Senator telling her that this District had taken a support position on one of those pieces of legislation that the Fresno County Board of Supervisors were opposing. Board Member Case requested that a legislative subcommittee be formed. Board Member Case also stated that any letters for support that go forth to the legislation be signed by the Chair of the District's Governing Board.

The Chair, asked staff to put an item on the agenda to form a legislative subcommittee at the next meeting.

Board Member Sieglock, stated that as you know the counties of Merced, Stanislaus and San Joaquin recently passed resolutions with regard to giving consideration to the feasibility of a separate planning area for the counties of

Merced, Stanislaus and San Joaquin. Board Member Sieglock stated that he would like to request through the Chair that at next months Governing Board meeting we allow presentation to the Board with regard to that issue. And, then subsequent to that presentation the Board can take action as to whether or not it would allow staff to look at the pros and cons of such an issue.

The Chair, requested an item pertaining to that issue be listed on the agenda.

Board Member Patrick, requested that staff take a look at Les Clark's concern regarding Rule 4306 and heater treaters.

OTHER BUSINESS – **Kevin Hall, member of the Sierra Club**, thanked Board Member Case for requesting the formation of a legislation ad hoc subcommittee.

ADJOURN – The Chair adjourned the meeting at 2:50 p.m.