



Air Pollution Control District Governing Board

Anne Marie Birkbeck-Garcia Enrique Medina
Marcus Bush Esther Sanchez
Sean Elo-Rivera Jack Shu
Nathan Fletcher Nora Vargas
Georgette Gomez Stephen Whitburn
Consuelo Martinez

**STATEMENT OF PROCEEDINGS
AIR POLLUTION CONTROL DISTRICT GOVERNING BOARD
THURSDAY, OCTOBER 14, 2021, AT 1:30 P.M.**

- A. REGULAR MEETING was called to order at 1:31 p.m.
Present: Board Members Esther Sanchez, Vice-Chair; Anne Marie Birkbeck-Garcia; Marcus Bush; Sean Elo-Rivera; Nathan Fletcher; Georgette Gomez; Consuelo Martinez, Enrique Medina; Jack Shu; also, Paula Forbis, Interim Air Pollution Control Officer; Marvice Mazyck, Clerk of the Air Pollution Control District Governing Board; Rodney Lorang, Senior Deputy County Counsel; and Gregory Lusitana, Senior Deputy County Counsel.

Absent: Stephen Whitburn, and Nora Vargas

- B. PUBLIC COMMUNICATION
Jack Monger addressed the Board to thank Board Member Georgette Gomez for her attendance at the IEA Environmental Conference and Interim Air Pollution Control Officer Paula Forbis for the work she has recently done with the San Diego County Air Pollution Control District.

- C. APPROVAL OF STATEMENT OF PROCEEDINGS
Approval of the Statement of Proceedings/Minutes for the San Diego County Air Pollution Control District Governing Board September 9, 2021, meeting.

ACTION

ON MOTION of Member Gomez, seconded by Member Martinez, the Air Pollution Control District Governing Board approved the Statement of Proceedings for the meeting of September 9, 2021.

AYES: Birkbeck-Garcia, Bush, Fletcher, Gomez, Martinez, Medina, Sanchez, Shu
ABSENT: Elo-Rivera, Whitburn, Vargas

- D. CONSENT CALENDAR
 - 1. **ADOPTION OF PROPOSED AMENDMENTS TO RULES 20.1, 20.3, 20.4 (NEW SOURCE REVIEW) AND RULE 1401 (TITLE V OPERATING PERMITS-GENERAL PROVISIONS)**
The San Diego County Air Pollution Control District (District) rules apply to factories and other stationary sources of air pollution in the San Diego region and include requirements for facilities to obtain permits to operate from the District. A permit outlines the actions a facility must take to control and reduce its air pollutant emissions to protect public health. Permits must comply with federal, State and local requirements. Rules 20.1, 20.3 and 20.4 regulate emissions of air contaminants from new and modified facilities requiring permits from the District, and Rule 1401 governs the District's Title V permitting program which requires each existing "major stationary source" of regulated air pollutants to obtain a federally enforceable operating permit from the District.

The proposed amendments make three primary changes to these rules, as required pursuant to federal law:

- 1. Correct Rule 20.1, which was last amended in 2019, by removing a reference to the application submittal date in determining the applicability of New Source Review (NSR) emission thresholds. This correction was required by the U.S. Environmental Protection Agency (EPA) in its partial approval of the rule on October 16, 2020;*
- 2. Remove language which allows the offsetting of increased emissions of one air pollutant by reducing the emissions of another air pollutant (known as "inter-pollutant offset trading") for ozone precursors including Oxides of Nitrogen (NOx) and Volatile Organic Compounds (VOCs) from Rules 20.3 and 20.4, due to the ruling in EPA v. Sierra Club, 985 F.3d 1055 (D.C. Cir. 2021); and*
- 3. Revise the applicability thresholds for Rule 1401, due to the redesignation of the San Diego region to severe non-attainment for ozone. The redesignation lowered the threshold requirement for "major stationary sources" to obtain a Title V operating permit. A major stationary source is now defined as a source emitting 25 tons or more per year of either NOx or VOC.*

California Health and Safety Code Section 42500 et seq. (Senate Bill (SB) 288) prohibits California air districts from changing their NSR program requirements in ways that would make them less stringent than the rules that existed on December 30, 2002. District staff evaluated the proposed rule amendments, in coordination with the California Air Resources Board (CARB) and determined they do not result in a relaxation of the NSR rules in effect on that date, therefore the amendments are permissible. Staff's evaluation pertaining to the State law (Senate Bill (SB) 288) is documented in Attachment C, fulfilling CARB's request to include this information in today's proceedings.

ACTION 1:

ON MOTION of Member Gomez, seconded by Member Bush, the Air Pollution Control District Governing Board took action as recommended, on Consent, adopting Resolution No. 21-006 entitled RESOLUTION ADOPTING AMENDED RULE 20.1 – NEW SOURCE REVIEW-GENERAL PROVISIONS; RULE 20.3 – NEW SOURCE REVIEW-MAJOR STATIONARY SOURCES AND PREVENTION OF SIGNIFICANT DETERIORATION (PSD) STATIONARY SOURCES; AND RULE 20.4 – NEW SOURCE REVIEW-PORTABLE EMISSION UNITS OF REGULATION II OF THE RULES AND REGULATIONS; AND TITLE V OPERATING PERMITS RULE 1401 – GENERAL PROVISIONS OF REGULATION XIV OF THE RULES AND REGULATIONS OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT.

AYES: Birkbeck-Garcia, Bush, Fletcher, Gomez, Martinez, Medina, Sanchez, Shu

ABSENT: Elo-Rivera, Whitburn, Vargas

2. MEMORANDUM OF AGREEMENT AND ACCEPT, APPROPRIATE, AND ALLOCATE FUNDING FROM THE PORT DISTRICT FOR THE PORTSIDE AIR QUALITY IMPROVEMENT AND RELIEF INCENTIVE PROGRAM

Today's action would authorize the Interim Air Pollution Control Officer to enter into a Memorandum of Agreement (MOA) with the San Diego Unified Port District ("Port District") and accept and appropriate \$103,000 from the Port District in support of the Air Pollution

Control District's ("APCD") Portside Air Quality Improvement and Relief ("PAIR") Incentive Program.

The Portside Environmental Justice community (as designated pursuant to Assembly Bill (AB) 617), is comprised of Barrio Logan, Logan Heights, Sherman Heights, and western National City. The community experiences disproportionate burdens from exposure to air pollution compared to most communities in California due to environmental, health, and socioeconomic factors. The USS Bonhomme Richard Navy Ship Fire in July 2020 further exposed air quality and health vulnerabilities within the Portside community, as most residents were not able to mitigate their exposure to degraded air quality conditions in the immediate area during the incident. To address these concerns, a one-time allocation of \$550,000 was appropriated from the County of San Diego's General Fund to establish the APCD PAIR Program, purchase residential portable air purifiers (i.e., air filters) and indoor air monitors for residents of the Portside community, and conduct monitoring and data analysis.

Since that time, the APCD has completed competitive solicitations to procure the new equipment and entered into contracts with the equipment vendors. The equipment selected includes the Blueair Blue Pure 311 Auto portable residential air purifier (including three additional disposable filters to provide at least two years of continuous operation at no cost to program participants), and the IQAir AirVisual Pro indoor air monitoring device. All new equipment is anticipated to be delivered directly to participants via U.S. mail to minimize the spread of COVID-19 and accelerate the timeframe in which participants receive their new equipment. PAIR Program participants may also receive a one-time monetary stipend for the partial reimbursement of expected electricity costs associated with the new equipment operation. The APCD also completed a competitive bid process for a contractor to administer the PAIR Program on behalf of APCD and has selected a local organization familiar with the Portside community for this contract. Duties assigned to this organization will include but are not limited to outreach and customer service, selection of participants, translation, case management, and technical support. Air quality data collection and monitoring will be conducted remotely by APCD for each device connected to the internet, through a one-year APCD subscription to the IQAir AirVisual Enterprise Dashboard. Analysis of the data collected, including a comparison of data collected by APCD regional air quality monitors, will be conducted either by the APCD, California Air Resources Board, or another outside entity following the one-year subscription period.

As part of the Port District's Fiscal Year 2022 Annual Budget (adopted June 15, 2021), the Port District allocated \$103,000 from the Maritime Industrial Impact Fund for the purchase of air purifiers and air monitors. To avoid competing regional programs, the MOA calls for the Port District to transfer the \$103,000 to APCD for the purpose of purchasing additional air purifiers (i.e., air filters) or indoor air monitors for use in the PAIR Program. The Port District Board of Commissioners will consider this transfer of funds, as well as the proposed MOA (Attachment A) at their October 12, 2021 Board Meeting. By leveraging funding from both agencies, the total investment will allow APCD to purchase approximately 525 residential air purifiers and approximately 525 indoor air monitors for the Portside community. Furthermore, a unified community program will provide a single interface for interested applicants, thus helping to ensure the PAIR Program's success, and further cements the strong interagency relationship between the Port District and APCD.

Today's action would also authorize a one-time budget adjustment to APCD's Fiscal Year (FY) 2021-22 Operational Plan to add \$103,000 from the Port District to the existing budgeted funds from the County of San Diego General Fund (\$550,000) for the PAIR Program, resulting in a total PAIR Program balance of \$653,000.

ACTION 2:

ON MOTION of Member Gomez, seconded by Member Bush, the Air Pollution Control District Governing Board took action as recommended, on Consent.

AYES: Birkbeck-Garcia, Bush, Fletcher, Gomez, Martinez, Medina, Sanchez, Shu

ABSENT: Elo-Rivera, Whitburn, Vargas

E. AGENDA ITEMS

3. PUBLIC HEARING: RECEIVE PRESENTATION FOR PROPOSED AMENDMENTS TO RULE 40 - PERMIT AND OTHER FEES AND RULE 42 - HEARING BOARD FEES

The mission of the San Diego County Air Pollution Control District (District) is to improve air quality to protect public health and the environment. Accordingly, the District operates a county-wide permitting program for stationary (fixed) sources of air pollution pursuant to federal and State law. Stationary sources encompass large industrial facilities including power plants and landfills and smaller commercial establishments such as gas stations and dry cleaners. A facility’s permit outlines the actions they must take to comply with air pollution control requirements and protect air quality, the environment, and public health.

District Rule 40 sets the fees for District permitting and other services, such as inspections and source testing, related to the implementation of the stationary source permitting program. Rule 42 sets the fees for petitioning the District Hearing Board for various actions such as permit appeals and variances (i.e., temporary relief) from air pollution control requirements. Proposed amendments to Rule 40 and Rule 42 include minor clarifications, the removal of outdated language, and updates to various fees consistent with the direction of the Governing Board on May 21, 2021, as detailed in Attachments B and C and summarized in the table below:

Fee Category	Permit Application Fixed	Permit Renewal	Source Testing	Asbestos Notifications	Hearing Board	Time & Material	Processing Fee
% Fee Increase	15%	15%	15%	25%	25%	15%	15%

Today’s hearing is to receive a presentation and consider public comments on the proposed amendments to Rule 40 and Rule 42. At the conclusion of the comment process, the Board may instruct staff concerning any amendments to the proposed rules that it concludes would be appropriate. A second public hearing is scheduled for December 9, 2021, to consider adoption of the proposed rule amendments. If adopted, the proposed amendments will become effective on January 1, 2022, which will allow for testing of the new fees, revised invoicing, and outreach to stakeholders prior to implementation.

Rule 40 currently allows permit holders and applicants to submit a written request to split the payment of permit renewal and initial application evaluation fees due to financial hardship. In these instances, the first payment, including an administrative fee, must be deposited prior to the permit renewal due date or with the initial application, as applicable, and the second payment is then due 60 days later. Additionally, the District has recognized the economic impacts due to the ongoing pandemic and has accepted written requests to waive late fees for businesses facing financial hardships. District staff is reviewing these split payment provisions for potential options to provide greater flexibility, such as allowing for a greater number of payments spread out over a longer period of time and will return to the Board with proposed recommendations for consideration on December 9, 2021.

ACTION 3:

ON MOTION of Member Gomez, seconded by Member Birkbeck-Garcia, the Air Pollution Control District Governing Board opened the public hearing and took action as recommended.

AYES: Birkbeck-Garcia, Bush, Fletcher, Gomez, Martinez, Medina, Sanchez, Shu

ABSENT: Elo-Rivera, Whitburn, Vargas

4. APPOINTMENT OF MEMBERS TO THE AIR POLLUTION CONTROL DISTRICT HEARING BOARD

California Health and Safety Code Section 40800 provides for the appointment of members to the Air Pollution Control District Hearing Board. The duties of the Hearing Board include consideration of variance requests from permitted entities, permit appeals from permittees or members of the public, and requests for abatement orders. The Hearing Board is made up of five members, which include: one member admitted to practice law in California: one registered professional engineer; one member from the medical profession with specialized skills, training or interests in the fields of environmental medicine, community medicine, or occupational/toxicologic medicine; and two public members. An alternate for each member may also be appointed.

Hearing Board members were previously appointed by the County Board of Supervisors, sitting as the Air Pollution Control Board. The prior procedures for the appointment of Hearing Board members were specific to the Board of Supervisors and did not carry over to the new APCD Governing Board structure. On April 2, 2021, the new Governing Board adopted procedures for the appointment of Hearing Board members, reflected in Attachment B of the Interim Bylaws.

Hearing Board members and their associated alternates are appointed to terms of office for three years. Currently, one of the five Hearing Board members (the professional engineer member) is serving under an expired term. Accordingly, today's request is for the appointment of the professional engineer member to the Hearing Board.

In accordance with the procedures, each applicant has been requested to attend the Board meeting and be prepared to make an introductory statement and answer questions from the Board. At this time, the District has received only one application for the professional engineer member. The Board will consider the appointment of the Hearing Board member in accordance with the adopted procedures.

ACTION 4:

The following applicant was interviewed for the San Diego County Air Pollution Control District Hearing Board Engineer Member position: William Powers

ON MOTION of Member Sanchez, seconded by Member Gomez, the Air Pollution Control District Governing Board appointed William Powers as the Engineer Member of the San Diego County Air Pollution Control District Hearing Board effective September 25, 2021.

AYES: Birkbeck-Garcia, Bush, Elo-Rivera, Fletcher, Gomez, Martinez, Medina, Sanchez, Shu

ABSENT: Whitburn, Vargas

F. INTERIM AIR POLLUTION CONTROL OFFICER REPORT

A report was provided to the Board by Interim Air Pollution Control Officer Paula Forbis.

G. GOVERNANCE AD HOC COMMITTEE REPORT

A report was provided to the Board by Senior Policy Advisor David Flores of the Office of Chair Nora Vargas.

H. ADJOURNMENT

The Board adjourned the October 14, 2021, meeting at 2:23 p.m.

NOTE: This Statement of Proceedings sets forth all actions taken by the San Diego County Air Pollution Control District Governing Board on the matters stated.