



Air Pollution Control District Governing Board

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

**STATEMENT OF PROCEEDINGS
AIR POLLUTION CONTROL DISTRICT GOVERNING BOARD
THURSDAY, DECEMBER 9, 2021, AT 1:30 PM**

A. REGULAR MEETING was called to order at 1:37 p.m.
Present: Board Members Nora Vargas, Chair; Anne Marie Birkbeck-Garcia; Marcus Bush; 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; and Gregory Lusitana, Senior Deputy County Counsel.

Absent: Members Nathan Fletcher, Sean Elo-Rivera, Esther Sanchez, and Stephen Whitburn

B. PUBLIC COMMUNICATION
Suzanne Hume spoke to the Board regarding Clean Air for Kids
John Bottorff spoke to the Board regarding Wood Smokers
Ron Askeland spoke to the Board regarding Trade-in Program for Gas-Powered Leaf Blowers

C. APPROVAL OF STATEMENT OF PROCEEDINGS/MINUTES
Approval of the Statement of Proceedings/Minutes for the San Diego County Air Pollution Control District Governing Board November 4, 2021, meeting.

ACTION

ON MOTION of Member Gomez, seconded by Member Shu, the Air Pollution Control District Governing Board approved the Statement of Proceedings for the meeting of November 4, 2021.

AYES: Birkbeck-Garcia, Bush, Gomez, Martinez, Medina, Shu, Vargas

ABSENT: Fletcher, Elo-Rivera, Sanchez, Whitburn

D. Consent Calendar

1. RESOLUTION DESIGNATING DATES AND TIMES FOR REGULAR MEETINGS OF THE AIR POLLUTION CONTROL DISTRICT GOVERNING BOARD IN 2022

Item Type: Consent

Recommended By: Nora Vargas, APCD Governing Board Chair

Overview: It is recommended that the Board adopt the Resolution setting the Air Pollution Control District Governing Board regular meeting schedule for calendar year 2022. Governing Board meetings will be held via teleconference consistent with the Brown Act until in-person

meetings resume, at which time, meetings will be held at the County Administration Center, 1600 Pacific Highway, Room 302, San Diego, CA 92101.

Requested Action: Adopt the Resolution: RESOLUTION SETTING THE DATES AND TIMES FOR REGULAR MEETINGS OF THE AIR POLLUTION CONTROL DISTRICT GOVERNING BOARD IN CALENDAR YEAR 2022

ACTION D.1:

Setting a meeting for January 19, 2022, at 9:00 a.m. and continuing Consent Calendar Item D.1 entitled: Resolution Designating Dates and Times for Regular Meetings of the Air Pollution Control District Governing Board in 2022 to January 19, 2022; ON MOTION of Member Bush, seconded by Member Medina, the Air Pollution Control District Governing Board took action as recommended, on Consent.

AYES: Birkbeck-Garcia, Bush, Gomez, Martinez, Medina, Shu, Vargas

ABSENT: Fletcher, Elo-Rivera, Sanchez, Whitburn

2. [ADOPTION OF PROPOSED AMENDMENTS TO RULE 69.3.1 - STATIONARY GAS TURBINE ENGINES-BEST AVAILABLE RETROFIT CONTROL TECHNOLOGY, AND REPEAL OF EXISTING RULE 69.3 - STATIONARY GAS TURBINE ENGINES- REASONABLY AVAILABLE CONTROL TECHNOLOGY](#)

Item Type: Consent

Recommended By: Paula Forbis, Interim Air Pollution Control Officer

Overview: Existing Rule 69.3.1 regulates air pollutant emissions, specifically oxides of nitrogen (NOx), from stationary gas turbine engines (units). These units burn fuel, typically natural gas, to produce electricity at facilities such as power plants, hospitals, and college campuses. These emissions contribute to the formation of ozone in the air we breathe. When inhaled, ozone adversely impacts people's health. Symptoms can include chest pain, shortness of breath, worsening of bronchitis and asthma, and nausea.

Rule 69.3.1 was last amended on February 24, 2010 (AP02) and contains stringent health-protective State requirements for new units with a power rating of 0.3 megawatt (MW) or greater, and existing units with a power rating of 1.0 MW or greater.

In 2016, the San Diego County Air Pollution Control District (District) submitted Rule 69.3.1 for approval to the U.S. Environmental Protection Agency (EPA) as part of the San Diego County portion of the State Implementation Plan (SIP) for attaining and maintaining federal air quality standards. The submittal to EPA was necessary to demonstrate compliance with federal requirements to implement "Reasonably Available Control Technology" (RACT) on stationary gas turbine engines. RACT is defined by EPA as "the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility." Subsequently, EPA identified various updates to Rule 69.3.1 that are necessary to assure federal approval of the rule. These updates include a revision to the rule applicability; removal of requirements for specific units that have since been retired from operation; revision of some definitions to remove Air Pollution Control Officer discretion; and other minor edits for clarification. If approved by the Air Pollution Control District Governing Board (Governing Board), amended

Rule 69.3.1 will be resubmitted through the California Air Resources Board (CARB) to the EPA for approval into the SIP.

If approved, the requested action will also result in the repeal of existing Rule 69.3, which was last amended on December 16, 1998 (AP04). Rule 69.3 contains federal-only emissions standards that are now incorporated into proposed amended Rule 69.3.1. If adopted by the Governing Board, proposed amended Rule 69.3.1 would incorporate the most current federal and State standards and improve upon and replace Rule 69.3, making Rule 69.3 obsolete.

A future amendment to Rule 69.3.1 may be necessary to address a September 30, 2021, EPA memorandum prohibiting any exemptions from air pollutant emission limits in the District rules during periods of turbine startup, shutdown and malfunction (SSM). The District will continue to evaluate the potential impacts of this recent policy revision and if requested by EPA, the District will address the potential issue during a separate rulemaking process. The District is proceeding with the current proposed amendments to Rule 69.3.1 in order to timely implement the other EPA-mandated amendments described above.

Requested Action:

- 1. Find that the adoption of proposed amended Rule 69.3.1 – Stationary Gas Turbine Engines-Best Available Retrofit Control Technology, and repeal of existing Rule 69.3 – Stationary Gas Turbine Engines-Reasonably Available Control Technology are categorically exempt from the provisions of the California Environmental Quality Act pursuant to California Code of Regulations, Title 14, Section 15308, as an action taken to assure the protection of the environment, and pursuant to Section 15061(b)(3) since it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.*
- 2. Adopt the Resolution entitled: RESOLUTION ADOPTING AMENDMENTS TO RULE 69.3.1 – STATIONARY GAS TURBINE ENGINES-BEST AVAILABLE RETROFIT CONTROL TECHNOLOGY, AND REPEAL OF EXISTING RULE 69.3 – STATIONARY GAS TURBINE ENGINES-REASONABLY AVAILABLE CONTROL TECHNOLOGY, OF REGULATION IV OF THE RULES AND REGULATIONS OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT*

ACTION D.2:

Setting a meeting for January 19, 2022, at 9:00 a.m.; ON MOTION of Member Bush, seconded by Member Medina, the Air Pollution Control District Governing Board took action as recommended, on Consent.

AYES: Birkbeck-Garcia, Bush, Gomez, Martinez, Medina, Shu, Vargas

ABSENT: Fletcher, Elo-Rivera, Sanchez, Whitburn

3. ADOPTION OF PROPOSED AMENDMENTS TO RULE 40 - PERMIT AND OTHER FEES AND RULE 42 - HEARING BOARD FEES

Item Type: Consent

Recommended By: Paula Forbis, Interim Air Pollution Control Officer

Overview: *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 – Permit and Other Fees 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 – Hearing Board Fees 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 modifications to split payment and late fee provisions, minor clarifications, the removal of outdated language, and increases in various fees consistent with the direction of the Governing Board on May 21, 2021, and the Public Hearing held on October 14, 2021. Increases in stationary source fees are limited as required by Health and Safety Code Section 41512.7. Fee increases are summarized in the table below and are detailed in Attachments D and E.

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 adopt the Resolution entitled: RESOLUTION ADOPTING AMENDMENTS TO RULE 40 – PERMITS AND OTHER FEES AND RULE 42 – HEARING BOARD FEES, OF REGULATION III OF THE RULES AND REGULATIONS OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT. 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. The proposed amendments to Rule 40 include revisions to the split payment provisions that will extend fee payment for annual operating fees into four (4) payments instead of two (2), and clarifications to the split payment provisions for initial application evaluation fees. These proposed revisions will provide greater flexibility for businesses experiencing financial hardship while ensuring that the District receives the full payment for initial application evaluation and annual operating fees.

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.

The proposed revisions to Rule 40 include a provision authorizing the Air Pollution Control Officer to waive late fees due to financial hardship during declared federal, State, or local emergencies on a case-by-case basis.

Requested Action:

1. Find that the requested action is exempt from the requirements of the California Environmental Quality Act pursuant to CEQA Guidelines Section 15273 because the additional fee revenues that would be generated by adjustments that could result from the adoption of proposed amendments to Rule 40 – Permit and Other Fees and Rule 42 – Hearing Board Fees will be used for the purposes set out in that section, including operating expenses and purchasing or leasing supplies, equipment, or materials.
2. Adopt the Resolution entitled: *RESOLUTION ADOPTING AMENDMENTS TO RULE 40 – PERMITS AND OTHER FEES AND RULE 42 – HEARING BOARD FEES, OF REGULATION III OF THE RULES AND REGULATIONS OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT*

ACTION D.3:

Setting a meeting for January 19, 2022, at 9:00 a.m.; ON MOTION of Member Bush, seconded by Member Medina, the Air Pollution Control District Governing Board took action as recommended, on Consent.

AYES: Birkbeck-Garcia, Bush, Gomez, Martinez, Medina, Shu, Vargas

ABSENT: Fletcher, Elo-Rivera, Sanchez, Whitburn

4. ADOPTION OF PROPOSED AMENDMENTS TO RULE 19.3 - EMISSION INFORMATION

Item Type: Consent

Recommended By: Paula Forbis, Interim Air Pollution Control Officer

Overview: The San Diego County Air Pollution Control District (District) is required by federal and State law to adopt and implement Rule 19.3 – Emission Information. Rule 19.3 requires facilities in the San Diego region to provide the District with emission information. The purpose of this rule is to allow the District to quantify and inventory air pollutant emissions throughout the San Diego region by requiring permitted sources to submit emission information. This information is necessary for compliance with various federal and State regulations as well as for carrying out air quality and health risk modeling and simulation operations.

Rule 19.3 is outdated and is being amended to comply with recent changes in State reporting regulations, specifically the California Air Resources Board (CARB) Criteria Toxics Reporting, or CTR Regulation, which implements statewide annual reporting of criteria air pollutant and toxic air contaminant emissions data from facilities. These proposed amendments will also phase in requirements for electronic submittal of annual emissions inventory reporting beginning in 2022, when electronic reporting will replace the current mode of emissions inventory reporting submitted via hardcopy. The phase-in for electronic submittal is intended to facilitate the submittal of emission information for subject facilities, and to expedite the District's review and approval process. Additionally, the proposed amendments will address comments received from the U.S. Environmental Protection Agency (EPA) that require amendments to allow for federal approval of the rule. At EPA's request, language was added to clarify that facilities emitting 25 tons or more per year of oxides of nitrogen or volatile organic compounds are required to submit a signed Emissions Statement Form certifying that

the information contained in the form is accurate to the best knowledge of the individual certifying it. If approved by the Governing Board, amended Rule 19.3 would be resubmitted through CARB to the EPA for approval and inclusion in the San Diego County portion of the State Implementation Plan for attaining and maintaining air quality standards.

Requested Action:

1. *Find that the adoption of proposed amended Rule 19.3 – Emission Information is categorically exempt from the provisions of the California Environmental Quality Act pursuant to California Code of Regulations, Title 14, Section 15308, as an action taken to assure the protection of the environment, and pursuant to Section 15061(b)(3) since it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.*
2. *Adopt the Resolution entitled: RESOLUTION ADOPTING AMENDMENTS TO RULE 19.3 EMISSION INFORMATION, OF REGULATION II OF THE RULES AND REGULATIONS OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT.*

ACTION D.4:

Setting a meeting for January 19, 2022, at 9:00 a.m.; ON MOTION of Member Bush, seconded by Member Medina, the Air Pollution Control District Governing Board took action as recommended, on Consent.

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

ABSENT: Fletcher, Elo-Rivera, Sanchez, Whitburn

E. Agenda Items

1. **CLOSED SESSION**

Item Type: Action

Recommended By: Nicholaus Norvell, Special Counsel

Overview:

PUBLIC EMPLOYEE APPOINTMENT

Title: Air Pollution Control Officer

CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: Brandy Winterbottom-Whitney, County Department of Human Resources

Unrepresented employee: Air Pollution Control Officer

ACTION E.1:

ON MOTION of Chair Vargas, seconded by Member Bush, the Air Pollution Control District Governing Board voted unanimously to appoint an Air Pollution Control Officer subject to completion of negotiations and pre-employment activities.

AYES: Birkbeck-Garcia, Bush, Gomez, Martinez, Medina, Vargas

ABSENT: Fletcher, Elo-Rivera, Sanchez, Shu, Whitburn

F. Adjournment

The APCD Governing Board adjourned the December 9, 2021, meeting at 4:49 p.m.

Supporting Documents: Attachments and supporting documentation for items listed on this agenda can be viewed online on the [APCD Governing Board webpage](#) or at the San Diego County Air Pollution Control District, 10124 Old Grove Road, San Diego, CA 92131

Meeting Access: Members of the public who wish to attend the virtual meeting may visit the [Air Pollution Control District Governing Board](#) online for meeting information and participation instructions or, send an email to APCDPublicComment@sdapcd.org

Assistance for Persons with Disabilities: Agendas and records are available in alternative formats upon request. Contact the APCD Governing Board Clerk at (858) 586-2600 with questions or to request a disability-related accommodation including sign language interpretation. To the extent reasonably possible, requests for accommodation or assistance should be submitted at least 72 hours in advance of the meeting so that the arrangements may be made.

Public Comments: Persons who wish to address the Governing Board on an item to be considered at this meeting, or on non-agenda items, may submit a Request to Speak form or email comments to APCDPublicComment@sdapcd.org. When emailing your comments, please include the meeting date, agenda item, your name, and your organization. All comments received prior to the close of the meeting will be made part of the meeting record. If you wish to submit written materials to be placed into the record or have an attachment to your comment, you may email it to APCDPublicComment@sdapcd.org or submit via U.S Mail will need to be received the business day prior in order for it to be distributed to the Board.

Comments received 24 hours prior to the start of the meeting will be distributed to the Board and posted online with the meeting materials. Comments received after the start of the meeting but before the item is called will be submitted into the written record for the corresponding agenda item.

Language Interpreter Assistance: Language interpreter services for public speakers are available upon request to the San Diego County Air Pollution Control District at least 72 hours prior to the meeting. Please contact the Air Pollution Control District Governing Board Clerk at (858) 586-5600 or via e-mail at APCDPublicComment@sdapcd.org if interpreter services are needed.