



**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

**DRAFT**  
**STATEMENT OF PROCEEDINGS**  
**AIR POLLUTION CONTROL DISTRICT GOVERNING BOARD**  
**THURSDAY, SEPTEMBER 9, 2021, AT 1:30 P.M.**

- A. REGULAR MEETING was called to order at 1:32 p.m.  
Present: Board Members Nora Vargas, Chair; Esther Sanchez, Vice-Chair; Anne Marie Birkbeck-Garcia; Marcus Bush; Sean Elo-Rivera; Nathan Fletcher; Georgette Gomez; Consuelo Martinez; Enrique Medina; Jack Shu; Stephen Whitburn; also, Mahiany Luther, APCD Deputy Director; Domingo Vigil, APCD Deputy Director; Michael Watt, APCD Deputy Director; Marvice Mazyck, Clerk of the Air Pollution Control District Governing Board, and Paula Forbis, Senior Deputy County Counsel.
- B. PUBLIC COMMUNICATION  
There was no public testimony on this item.
- C. Approval of the Statement of Proceedings/Minutes for the San Diego County Air Pollution Control District Governing Board July 16, 2021, meeting.

**ACTION**

ON MOTION of Member Martinez, seconded by Member Gomez, the Air Pollution Control District Governing Board approved the Statement of Proceedings for the meeting of July 16, 2021.

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

- D. GOVERNANCE AD HOC COMMITTEE REPORT  
A report was provided to the Board by Chair Nora Vargas.
- E. APCD STAFF UPDATE REPORT  
A report was provided to the Board by APCD Deputy Directors Mahiany Luther, Domingo Vigil, and Michael Watt.
- F. AGENDA ITEMS

**1. AUTHORIZE THE AIR POLLUTION CONTROL DISTRICT'S CONTINUED PARTICIPATION IN THE SAN DIEGO COUNTY TREASURER'S POOLED INVESTMENT FUND**

*The San Diego County Air Pollution Control District (District) is an independent local air pollution control district pursuant to the California Health and Safety Code. The District is a separate legal entity but has functioned operationally within the organizational and fiscal structure of the County and receives services from County officers and employees. California Assembly Bill 423 (Gloria, 2019) amended the California Health and Safety Code to require the composition of the District Board to include County, City, and public members as of March 1, 2021. Because of*

*the change in the composition of the District Board, on March 1, 2021, the District ceased to be part of the County organizational and fiscal structure.*

*Today's proposed actions would authorize the Interim Air Pollution Control Officer or Deputy Director to enter into the attached agreement entitled, "Investment Management Agreement" (Agreement). The Agreement continues the current investment relationship between the District and the County of San Diego and provides for the investment of funds in the San Diego County Treasurer's pooled investment fund. The San Diego County Treasurer will manage and invest deposited Funds on behalf of the District, in accordance with the San Diego County Treasurer's Pooled Money Fund Investment Policy dated January 1, 2021 (Attachment C). Interest earnings on the pool investment fund will be accrued to District funds based on average daily balances. This continues the investment of funds in the San Diego County Treasurer's pooled investment fund and the Agreement is required as result of the District's fiscal separation from the County.*

**ACTION 1:**

ON MOTION of Member Sanchez, seconded by Member Martinez, the Air Pollution Control District Governing Board took action as recommended, adopting Resolution No. 21-004 entitled RESOLUTION OF THE GOVERNING BOARD OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT AUTHORIZING THE CONTINUATION OF AN INVESTMENT ACCOUNT IN THE SAN DIEGO COUNTY INVESTMENT POOL ADMINISTERED BY THE TREASURER-TAX COLLECTOR and; authorized the Interim Air Pollution Control Officer or Deputy Director to approve and execute the "Investment Management Agreement" between the San Diego County Air Pollution Control District and the County of San Diego Treasurer- Tax Collector, to formalize the District's continued participation in the Treasurer's pooled investment fund.

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

**2. ADOPTION OF PROPOSED AMENDMENTS TO RULE 69.2.2 (MEDIUM BOILERS, PROCESS HEATERS, AND STEAM GENERATORS)**

*Existing Rule 69.2.2 regulates air pollutant emissions from medium boilers, process heaters, and steam generators (units). These units are commonly used to provide hot water or steam at different types of facilities such as hospitals, college campuses, and military installations.*

*Rule 69.2.2 was adopted on July 8, 2020 and applies to existing and new units with a heat input rating greater than 2 million British thermal units (Btu) per hour to less than 5 million Btu per hour. The current rule requires that by July 1, 2021, manufacturers of any new unit to be offered for sale within San Diego County submit to the District an application to certify that each unit model complies with the rule requirements, including a demonstration that the unit was tested and complies with the emission standards specified in the rule. This regulatory approach works well for the majority of boilers, which the large manufacturers of boilers produce and certify based on the manufacturer's previously conducted emissions testing of that same model of boiler.*

*However, small manufacturers of boilers periodically manufacture custom units (upon customer request) and are not able to perform the required emission standard testing on new custom units until after these units have been installed. In order to provide flexibility for these types of situations, the District is proposing to amend Rule 69.2.2 to allow manufacturers to submit the application for certification for new custom units after these units have been installed and tested.*

*In addition, the U.S. Environmental Protection Agency identified other updates to Rule 69.2.2 that are necessary to assure federal approval of the rule. These modifications include language clarifications and updates to the test methods. The proposed amendments to Rule 69.2.2 will also address these necessary rule updates.*

**ACTION 2.1:**

ON MOTION of Member Gomez, seconded by Member Medina, the Air Pollution Control District Governing Board took action as recommended, finding that the adoption of proposed amended Rule 69.2.2 - Medium Boilers, Process Heaters, and Steam Generators is categorically exempt from the provisions of the California Environmental Quality Act in accordance with staff analysis.

**ACTION 2.2:**

ON MOTION of Member Gomez, seconded by Member Shu, the Air Pollution Control District Governing Board took action as recommended, adopting Resolution No. 21-005 entitled RESOLUTION ADOPTING AMENDMENTS TO RULE 69.2.2 – MEDIUM BOILERS, PROCESS HEATERS, AND STEAM GENERATORS, OF REGULATION IV OF THE RULES AND REGULATIONS OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT.

**3. 2020 PERMITTING ACTIONS REPORT REQUIRED BY ASSEMBLY BILL 423**

*California Assembly Bill 423 (Gloria, 2019) amended State law to restructure the Governing Board of the San Diego County Air Pollution Control District (District) and to establish duties for the District to increase transparency and public engagement.*

*The 2020 Permitting Actions report (Attachment A) was prepared to fulfill one of the mandates in AB 423, which requires the District to prepare a report by July 1, 2021 for the Governing Board's consideration. Specifically, the District was required to report all actions taken on applications for Authorities to Construct or Permits to Operate in the 2020 calendar year, including the number of applications, timing of actions on applications, and number of public comments submitted. Further, this report was prepared to assist the Governing Board in considering possible amendments to District's rules to ensure adequate opportunity for public comments on permit applications within the District's deadline for action on applications.*

*In 2020 the District received 451 permit applications and completed 777 permitting actions. Permitting actions include issuance of an Authority to Construct, if the District determines that the project meets all applicable air quality requirements, and the subsequent issuance of a Permit to Operate, which contains conditions with emission limitations and other requirements to ensure ongoing compliance with air quality rules and regulations. For all permitting actions in 2020, the District only received 6 comments from the public. Based on these numbers, there are opportunities to enhance public engagement. In July of 2020, as required by AB 423, the District started posting the permit applications on its website. However, website posting alone will not meet the District's goals of ensuring that all public members are aware of where to find permit applications and how they can engage with the District to provide comments and obtain more information. District staff thus recommends the following strategies to enhance public engagement:*

- *Develop a Public Participation Plan that establishes a comprehensive outreach process to inform all communities about the District's roles and responsibilities related to permitting requirements and processes, and how community members can inquire and submit comments regarding permit applications under District review.*

- *Consider revisions to District Rule 15-Permit Process-Public Notification to provide further opportunities for all members of the public to stay engaged in the permitting process by receiving informative updates and understanding how to provide comments and to inquire about projects in their community.*
- *Further evaluate the District’s website to ensure it is informative and user-friendly.*

*Today’s action is for the Governing Board to receive and consider the 2020 Permitting Actions report and provide feedback to District staff regarding the proposed recommendations to further enhance public outreach and engagement related to District permitting. The proposed Public Participation Plan, and any proposed changes to District Rule 15 would be brought back for Governing Board consideration and adoption at a future meeting.*

**ACTION 3:**

ON MOTION of Member Sanchez, seconded by Member Gomez, the Air Pollution Control District Governing Board received and considered the 2020 Permitting Actions report.

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

**4. CLOSED SESSION**

*PUBLIC EMPLOYEE APPOINTMENT*

*Title: Interim Air Pollution Control Officer*

*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: Interim 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 4:**

Special counsel reported that the APCD Governing Board, with all eleven members present voting “AYE,” voted to appoint Paula Forbis as Interim Air Pollution Control Officer, subject to the approval of Item 5 on the regular meeting agenda. There was no other reportable action.

**5. CONSIDERATION OF POTENTIAL SALARY ADJUSTMENT FOR THE APPOINTED INTERIM AIR POLLUTION CONTROL OFFICER**

*Prior to consideration of this item, the Governing Board will meet in closed session regarding the potential appointment of an Interim Air Pollution Control Officer (APCO) and meet with labor negotiators to discuss salary and benefit matters related to the Interim APCO position. Under this open session item, the Governing Board may consider approving a salary adjustment for the Interim APCO position. Prior to taking action on this item, the Governing Board will provide a verbal summary of the proposed salary adjustment in compliance with Government Code section 54953(c)(iii).*

**ACTION 5:**

Special legal counsel summarized the salary and benefits of the Interim Air Pollution Control Officer position and, in accordance with Government Code Section 54953(c), provided a verbal summary of the proposed action to adjust the salary of the Interim Air Pollution Control Officer to \$215,000.

The Board adjourned the September 9, 2021, meeting at 3:27 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.