

Rule 9410

Employer Based Trip Reduction

Governing Board Hearing
December 17, 2009



HEALTHY AIR LIVING™

Live a Healthy Air Life!

Guiding Principles

1. Employers can not require employees to commute in a particular way.
2. Allow employers to craft approaches that work best with their workforce, work culture, and available commute alternatives in their region.
3. Understand and accommodate labor laws and employer liability issues.
4. Minimize red-tape and administrative costs and enable employers to focus their resources on real measures.
5. Give credit for measures already in-place in advance of the rule.
6. Provide tools and turnkey measures to help employers meet their obligations without having to reinvent the wheel.
7. Strong but streamlined accountability measures to ensure compliance and measure performance.



Why Rule 9410?

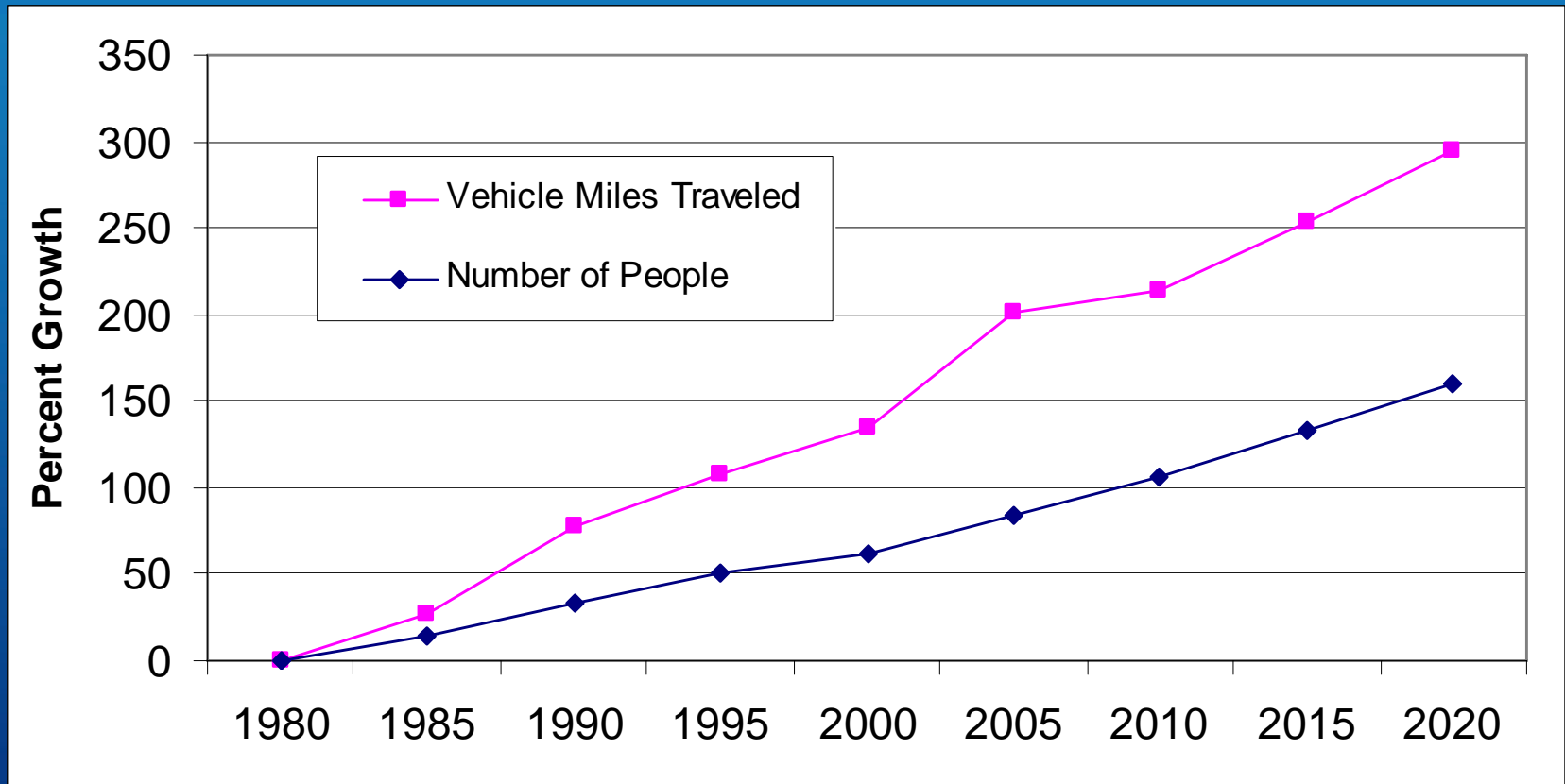
- State and federal mandates and law
 - Clean Air Act Section 182(d)(1)(B)
 - California Health and Safety Code Sections 40601(d) and 40612(a)(2)
 - District's 2007 *Ozone Plan* and 2008 *PM2.5 Plan*
- To implement every feasible measure to attain health-based air quality standards
- To reduce mobile source emissions, which are the biggest contributor to the Valley's air quality problem
- To share the air pollution clean-up burden, historically carried by stationary sources



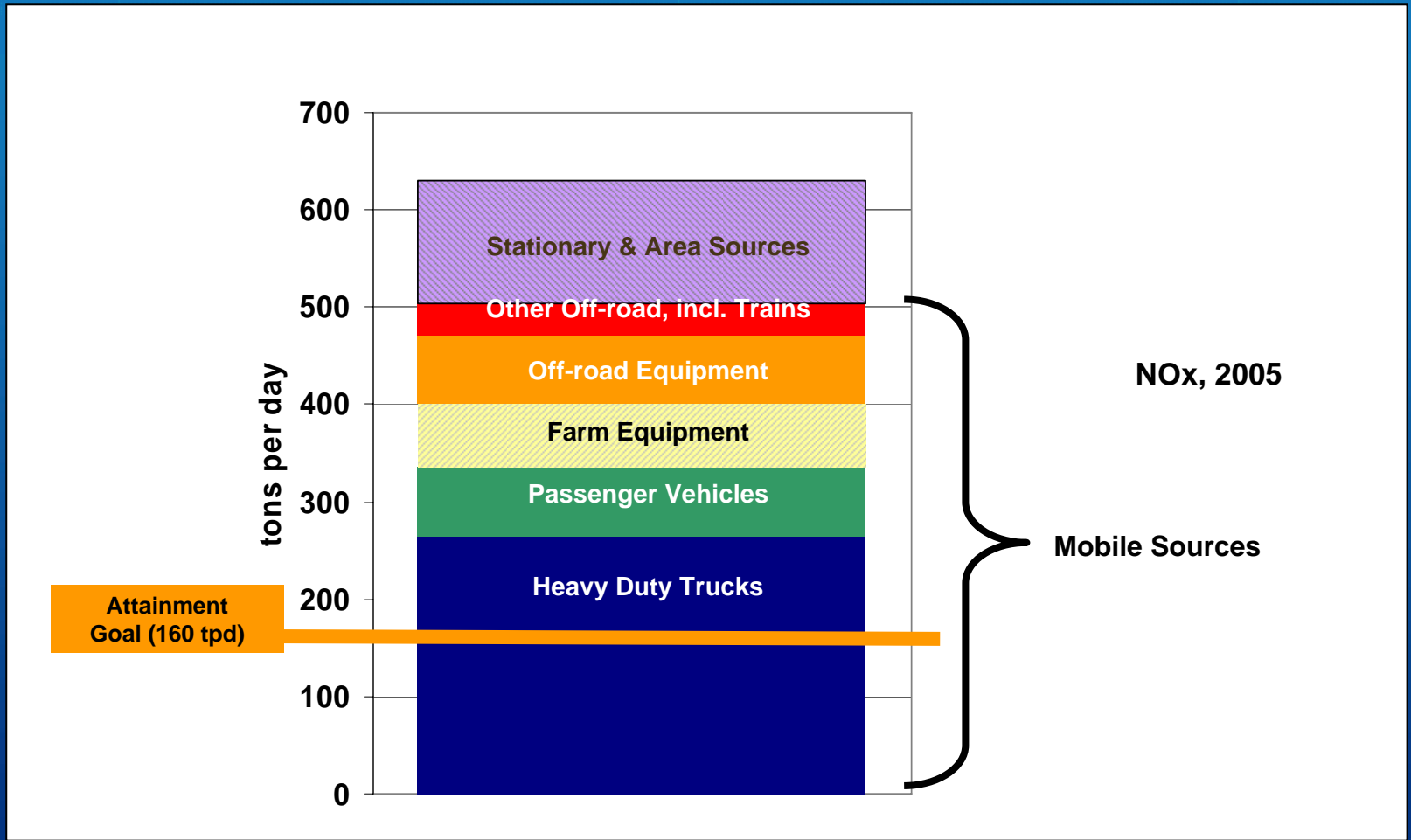
HEALTHY AIR LIVING™

Live a Healthy Air Life!

Valley Population and VMT Growth Since 1980



Attainment Depends on Reductions from Mobile Sources



Applicability

- Employers with 100+ eligible employees
 - Only employees reporting to work between 6am - 10am
 - Some employees are excluded, such as seasonal, part-time, on-call, home garage, and field staff
- Two categories of worksites
 - Tier One: 100 - 249 eligible employees
 - Tier Two: 250+ eligible employees
- Estimated 1,883 affected worksites
 - 1,342 Tier One and 541 Tier Two Worksites



HEALTHY AIR LIVING™

Live a Healthy Air Life!

Phased-in Requirements

Preparation: Eligible employer registration 2010

Phase 1: Marketing and Program Support menu options

- Pick menu options (ETRIP) by September 2011
- Implement by 2012

Phase 2: Services & Facilities menu options

- Pick menu options (ETRIP) by September 2012
- Implement by 2013

Phase 3: Transportation, Alternative Schedules, and Incentives menu options

- Pick menu options (ETRIP) by September 2013
- Implement by 2014



HEALTHY AIR LIVING™

Live a Healthy Air Life!

Accountability

- Commute Verification: collect employee data starting in 2014
- Report results to the District once a year in Annual Report
 - Results are informational: No mandated employee participation level for ridesharing and alternative transportation
 - However, ETRIP measures have been shown to increase participation in alternative commuting
- Annual Report also includes ETRIP revisions

Emissions and Cost

- Estimated emission reductions upon full implementation in 2014:
 - 0.6 tons per day (tpd) NO_x
 - 0.6 tpd VOC
 - 0.05 tpd PM_{2.5}
- Cost ranges from \$3,000 – \$9,700 per worksite per year depending on the phase
- Cost effectiveness ranges from \$8,000 – \$15,000 per ton
- Estimated workload increases - 0.09%
- Employment, profitability not significantly impacted by costs



HEALTHY AIR LIVING™

Live a Healthy Air Life!

District has navigated legal, labor, and fiscal concerns

- **District Human Resources Department has been key player in designing Rule 9410:**
 - Workers' Compensation
 - Wage & Hour Rules
 - Staff Resources
 - Liability/Risk Management
 - Collective Bargaining Agreements
 - Financial Constraints
 - Tax Implications
- **These measures have been successfully implemented at many workplaces**

Extensive Support from District

- Support efforts to reduce/eliminate administrative costs
- District support is a rule commitment, with deadlines
- Guidance and Turnkey resources for each strategy
 - Forms
 - Samples, Models, Templates, Examples
 - Guidance Documents
 - Resource Guides
 - Marketing Assistance & Marketing Materials
- District webpage
- Employer Registration Template and online Registration
- Electronic ETRIP submittal system
- Commute Verification Templates and Automated/District-supported Reporting Options

Healthy Air Living Partners

- Build upon strong success of last two years
- Provide extensive turnkey support
 - Webpage with tools and support for Healthy Air Living Partners
 - Email list serve to send out information and Valley Air News
 - Special email address to directly communicate with the District
 - Trainings in person or via the internet
 - Information and resources available via Facebook and Twitter
 - Materials and templates to conduct outreach
 - Attend events (such as lunches, meetings, fairs)
 - Prizes (such as a hybrid vehicle)
 - Partner official recognition certificate
 - Available to answer questions and provide tools and support
- Fits in with current program
- Partnerships not limited to 9410 employers



HEALTHY AIR LIVING™

Live a Healthy Air Life!

Partners = Roadmap

- 9410 points awarded to Partners in “Good Standing”
- Employer must follow through on Partner Commitments
- Annual Partner Commitments
 - Submit annual registration form
 - Executive Director (or similar) signs a Healthy Air Living Resolution
 - Designate a Healthy Air Living Coordinator or Team
 - Have Coordinator go through District-supplied training
 - Coordinator follows District on Facebook & Twitter
 - Sign up to receive Healthy Air Living list serve emails
 - Share outreach with the District & request assistance when needed
 - Host one Healthy Air Living event
 - Distribute the semi-annual Healthy Air Living newsletter

Partners = Roadmap

- Annual Partner Commitments (cont.)
 - Forward monthly “Valley Air News” E-blasts to employees
 - Distribute to your employees District-generated brochures
 - Encourage employees to submit pledge cards
 - Allow the District to post your logo & web address as a Partner
 - Post the Healthy Air Living logo & web address link on employer website
 - Distribute CEO letter encouraging employee involvement
 - Distribute important air-quality information as requested
 - Post a Healthy Air Living Partner Certification at workplace.
- APCO may make changes or enhancements as program grows

Extensive Public Participation & Outreach

- Public meetings in February, July, September, and October
- District presentations at 20 meetings of interested employers, industry groups, and service organizations
- The District met with each county and with the Valley's 10 largest cities
- Numerous one-on-one phone calls to work through the rule with stakeholders

Stakeholder Issues

- Some ETRIP measures will not work in particular cases (e.g., telecommuting for factory workers, transit in rural areas)
 - We re-tuned the menu options to provide sufficient points for all known situations (e.g., production line workers)
 - Employers are not required to use any particular measure
 - Other, unique measures can be proposed by employers

Stakeholder Issues

- Promoting transportation alternatives makes employers liable for risks during commute
 - State law provides liability relief for employers implementing regulatory rideshare programs
 - To avoid conflict with federal law, Phase 3 will not apply to employers subject to federal Migrant and Seasonal Agricultural Workers Protection Act

Stakeholder Issues

- There were two diametrically opposed viewpoints on commute surveys
 - Survey requirements are unrealistic and too expensive.
 - Surveys should be more frequent, and start early to establish a baseline.
- District response
 - Accountability is needed for SIP credit
 - New Commute Verification process provides flexibility, reduces burden
 - Baseline established from U.S. Census data

Stakeholder Issues

- Employers should not be penalized for lack of employee participation
 - Agree. No enforceable participation target in Rule 9410
- What constitutes a violation of Rule 9410?
 - Violation if employer does not register, file ETRIPs, Commute Verification/Annual Reports
- Penalties should be stated in the rule.
 - We need to be realistic on penalties: consequences depend on the situation; a penalty schedule may preclude common sense
 - CA Health & Safety Code 42402–42403 provides the penalty tiers for noncompliance

Stakeholder Issues

- Employers cannot bear the impact of Rule 9410 during current economic conditions. It should be voluntary.
 - To reduce the administrative cost, the District wrote explicit requirements in the rule to provide tools, training, resources, and guidance.
 - Analysis indicates that employer costs and economic impacts are relatively low, and consistent with recent rules.
 - Lack of a trip reduction rule might appear that District is not implementing all feasible measures, may lead to a more prescriptive approach
- Rule 9410 is just the first step to a more aggressive rule.
 - State law limits District authority to requiring large employers to establish rideshare programs, does not allow mandates on individuals
 - Proposed Rule 9410 would satisfy state and federal mandates

Recommendations

- Adopt proposed Rule 9410 (Employer Based Trip Reduction).
- Approve the District's enhanced Healthy Air Living Partners program (as attached) as a tool to help employers comply with Rule 9410, and authorize APCO to make administrative changes or enhancements as necessary.
- Authorize the Chair to sign the attached Resolution.