

News Release

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Attn: Local news, business and
assignment editors



San Joaquin Valley
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District's developer rule stands *U.S. Supreme Court declines to hear national home builders' challenge*

The Valley Air District has prevailed in the lengthy legal challenge by the National Association of Home Builders (NAHB) to a landmark regulation addressing development-related emissions.

Rule 9150 – Indirect Source Review was first upheld by the federal District Court in 2007. The ruling was appealed, and the Ninth Circuit Court of Appeals again upheld the rule last year. In June of this year, NAHB filed a petition asking the U.S. Supreme Court to review the appellate court decision. Today, the Supreme Court issued a decision declining to hear the case.

The petition was the NAHB's last legal recourse against the rule, which requires new developments in the Valley in to mitigate their air emissions. The NAHB argued that the rule imposes an engine standard on construction equipment that is pre-empted by the Clean Air Act.

"While we are very pleased with the resolution of this suit, the Air District wants to emphasize the appreciation we have for the Valley's builders and the support they have always demonstrated for this important regulation," said Seyed Sadredin, the District's executive director and air pollution control officer. "Their partnership is critical in achieving our clean-air goals."

The state Building Industry Association filed a separate challenge to Rule 9510 in state court. The District won that case in 2008; a decision that upheld on appeal in 2009. Last year, the California Supreme Court refused to grant the state Building Industry Association's petition to review the case.

Rule 9510 holds developers accountable for air-quality impacts that result from building activity and also for air-quality impacts that result from the development's use. Developers have options for offsetting pollution through a variety of mitigation measures – for example, bike paths, increased energy efficiency or building new developments close to transit stops.

Fees are assessed for pollution that exceeds thresholds established by the Air District, which uses these fees to achieve off-site emission reductions by funding clean-air projects such as retiring polluting vehicles and paving unpaved roads.