

GOVERNING BOARD

Craig Pedersen, Chair
Supervisor, Kings County

Lloyd Pareira, Vice Chair
Supervisor, Merced County

Drew M. Bessinger
Mayor, City of Clovis

David Couch
Supervisor, Kern County

Kuyler Crocker
Supervisor, Tulare County

Bob Elliott
Supervisor, San Joaquin County

Christina Fugazi
Councilmember, City of Stockton

Buddy Mendes
Supervisor, Fresno County

Kristin Olsen
Supervisor, Stanislaus County

Tania Pacheco-Werner, PhD.
Appointed by Governor

Alvaro Preciado
Councilmember, City of Avenal

Monte Reyes
Councilmember, City of Porterville

Alexander C. Sherriffs, M.D.
Appointed by Governor

Chris Vierra
Mayor, City of Ceres

Tom Wheeler
Supervisor, Madera County

Samir Sheikh
Executive Director
Air Pollution Control Officer

Northern Region Office
4800 Enterprise Way
Modesto, CA 95356-8718
(209) 557-6400 • FAX (209) 557-6475

Central Region Office
1990 East Gettysburg Avenue
Fresno, CA 93726-0244
(559) 230-6000 • FAX (559) 230-6061

Southern Region Office
34946 Flyover Court
Bakersfield, CA 93308-9725
(661) 392-5500 • FAX (661) 392-5585

DATE: August 20, 2020

TO: SJVUAPCD Governing Board



FROM: Samir Sheikh, Executive Director/APCO
Project Coordinator: Morgan Lambert

RE: **ITEM NUMBER 12: REVIEW AND APPROVE
NEW EMISSION REDUCTION CREDIT
PROGRAM PUBLIC ADVISORY WORKGROUP**

RECOMMENDATION:

Review and approve the District's proposed framework for the Public Advisory Workgroup that will assist in developing solutions to enhance the District's Emission Reduction Credit (ERC) program.

BACKGROUND:

At their January 2019 meeting, the California Air Resources Board (CARB) directed their staff to review the District's ERC program in response to a request from environmental advocacy groups. CARB staff worked cooperatively with District staff to review the ERC system, including the annual federal equivalency demonstration, in the context of the District's stationary source permitting program. District staff spent considerable resources in educating CARB staff regarding the District's permitting program and responding to numerous questions and inquiries.

Following nearly a year and a half of detailed review, CARB released its final report titled *Review of San Joaquin Valley Air Pollution Control District Emission Reduction Credit System* on June 5, 2020. District staff drafted a response to the review that was included in the final report. The District Governing Board received and filed CARB's review at the June 18, 2020, Governing Board meeting and affirmed the District's commitments to evaluate and identify opportunities to enhance the District's ERC program moving forward in a manner that ensures an effective permitting program that protects public health and supports economic growth and development in the Valley.

On June 26, 2020, CARB held a hearing on the review to consider their staff's recommendations. At this hearing, CARB approved their staff's recommendations, including their commitment to support the District's local process moving forward. Consistent with the District's commitments for a robust local public process to assist in developing solutions related to the District's offset equivalency system, the purpose of this item is to consider the approval of the proposed framework for the Public Advisory Workgroup that will be utilized as an effective means to receive input from Valley stakeholders.

DISCUSSION:

To achieve the District's mission of improving air quality and public health for all Valley residents, the District has developed and implemented numerous air quality plans to reduce emissions from stationary sources through the adoption of nearly 650 of the most stringent rules in the nation and strong voluntary incentive programs that have invested more than \$3 billion of combined funds in clean-air projects. Over the past several decades, these air quality improvement efforts have reduced NOx emissions (primary precursor for both ozone and PM2.5) from mobile and stationary sources by over 75%, including a greater than 90% reduction from stationary sources under the District's jurisdiction, resulting in significant air quality progress towards meeting the health-based federal ozone and PM2.5 standards.

In addition to the District rules aimed at directly reducing emissions from stationary sources, the District also has a set of rules establishing a permitting program designed under state law to ensure on a regional basis there is no net increase in emissions of nonattainment pollutants or their precursors for new or modified sources. ERCs are one component of a stringent and rigorous permitting program that regulates emission increases from stationary sources.

Both federal and state law mandate New and Modified Stationary Source Review (NSR) permitting programs that contain offsetting and ERC banking provisions. ERCs are intended by both federal and state law to be one part of a comprehensive NSR permitting program that has been specifically designed by Congress and the state legislature to allow for industrial growth while tightly regulating any emissions increases. Additionally, any emission increases due to growth are accounted for in State Implementation Plans that demonstrate how the District's overall air quality control program will require sufficient emissions reductions to attain national ambient air quality standards.

It is important to clarify that, despite a common misconception, ERCs cannot be used in lieu of meeting other air pollution control requirements, such as through market-based systems that other agencies may have in place. Instead, ERCs are required in addition to, and only after, establishing that the new emissions are controlled with the best

available control technology (BACT) and will not cause a health risk to surrounding communities. The San Joaquin Valley's NSR permitting program, including the accompanying ERC program, ensures that new emissions are controlled with the best technologies, prevents the permitting of any operation that will cause a significant health impact, demonstrates that attainment is not endangered, and has historically been found by the state and federal governments to comply with state and federal laws governing NSR/ERC programs.

ERCs are granted to permitted sources for voluntary emissions reductions when facilities control emissions to levels beyond current or future regulatory requirements, and are only granted after a thorough review by the District has confirmed compliance with a number of criteria defined by District Rules 2201 and 2301, which rules are vetted and approved by both CARB and federal EPA. In addition, every ERC and ERC evaluation are provided to CARB, EPA, and the public for their review prior to the ERCs being issued. ERCs approved by the District are then available for use to offset a subsequent permitted emissions increase by surrendering the ERC, whether used at the same location of the emissions decrease, or at another location, generally after the sale of the ERC to a third party.

As allowed by the federal Clean Air Act, the District's ERC program differs from a direct implementation of the federal offsetting/ERC requirements. EPA approved the District's approach in 2001 as the District's local program was at least as stringent as the federal program. As a condition of this approval, the District performs and submits to EPA and CARB an annual demonstration that the District's ERC program is at least as stringent as federal offsetting requirements, which is provided to the Governing Board and made available to the public annually. This approach is not unprecedented in California as other air districts including the South Coast AQMD and Bay Area AQMD also have offset equivalency programs.

The findings of CARB's review point to the need to revisit and enhance the ERC program moving forward in a manner that ensures an effective permitting program that protects public health and supports economic growth and development in the Valley. To ensure that any changes to the program benefit fully from the input and suggestions of Valley stakeholders and subject matter experts, District staff committed to convening a public advisory working group to assist in developing solutions related to the District's offset equivalency system. The public advisory working group concept and framework was developed with Valley community based organizations and regulated Valley businesses to support the development of the 2016 Ozone and the 2018 PM2.5 plans. This framework provided a successful mechanism to navigate complex topics and receive valuable stakeholder input that aided the development of the plans. The District believes that this public engagement tool will also be effective in navigating the complex subject matter of ERCs and federal offset equivalency, and enable effective stakeholder input that will be valuable in developing enhancements to the program.

The proposed public advisory workgroup is designed in adherence with the following guiding principles:

1. Work collaboratively to assist the District in developing enhancements related to the District's offset equivalency system moving forward in a manner that ensures an effective permitting program that protects public health and supports economic growth and development in the Valley.
2. Provide for meaningful public engagement in support of enhancements to the District's offset equivalency system.
3. Ensure process does not impede the District's ability to meet legally mandated deadlines and timeliness.

To ensure broad participation, the workgroup will be formed by the Executive Director/APCO with representatives from community-based organizations, regulated entities (industry and agriculture), municipalities, the federal EPA, and CARB. District staff will facilitate/chair the meetings which will be open to the public to allow for robust public engagement. The District will work with the members to establish the frequency and schedule of the meetings.

The APCO will appoint three representatives from Valley community-based organizations, three representatives from Valley regulated entities, and three members from the Citizens Advisory Committee (one each from Environmental, Industry/Agriculture, and City interest groups). In making the appointments, the APCO will consider experience in Valley air quality related issues, the need to have representation from different geographic areas across the Valley, and the need to have representation across different industry sectors.

NEXT STEPS:

Should the Governing Board approve the proposed framework for the Public Advisory Workgroup, the District will immediately work with stakeholders to solicit interest and appoint members to the Public Advisory Workgroup by September 4, 2020. The District will then convene the workgroup for a kick-off meeting in the weeks following based on members schedules.

Due to the complexity and importance of the issues, it is likely that the process will occur over an extended period. District staff will provide regular progress reports to the Governing Board at the regularly scheduled public meetings.