



Dairy CARES Report

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Judge upholds San Joaquin Valley dairy air rules, rejects activists' claims as 'nonsensical'

A Fresno County judge this month ruled to uphold new air quality rules for dairies, firmly rejecting claims by anti-dairy activists that the rules were too lax and violated the law.

The regulations, collectively known as San Joaquin Valley Air Pollution Control District Rule 4570, are the nation's most comprehensive air quality regulations for large livestock facilities. The air district enacted the new regulations in mid 2006, but was immediately sued by the Association of Irrigated Residents (AIR), represented by the Center on Race, Poverty and the Environment.

"The District rule in question is the most expansive and strongest regulation ever imposed on the dairy industry anywhere in the nation," said Seyed Sadredin, the District's Executive Director. "With public health being our primary focus, we exercise the utmost diligence and research in crafting our regulations, and this one is no exception."

The new regulations are estimated to reduce smog-forming emissions from dairies by 21 tons per day, one of the largest emissions reductions by a single regulatory action in the district's history.

"We are disappointed that anti-dairy activists tried to use the courts to circumvent the year-long, open public process and scientific analysis that led to the adoption of these comprehensive environmental regulations," said Bill Van Dam, CARES Chairman. "They sued without even giving the rules a chance to work. We are pleased that the judge has rejected AIR's misguided attempt to halt this program. Our efforts to improve air quality can proceed on schedule."

Several dairy industry groups intervened in the lawsuit to participate in the defense of the air district regulations, including CARES, Western United Dairymen, California Dairy Campaign and Milk Producers Council. CARES legal counsel David Cranston represented the intervening parties in the case, which was financed through the Dairy Environmental Justice Fund.

One of the most important parts of the Fresno County Superior Court Judge D. Tyler Tharpe's decision was to support a flexible approach in the methods individual dairy operations take to reach air pollution goals – a provision that CARES coalition members strongly supported during the development of Rule 4570 as a way to manage costs related to achieving air quality goals. Flexibility allows dairies to choose from a menu of management practices to achieve the reductions, letting the producer select those measures he or she feels they can implement most cost-effectively. This is important because all dairies differ, and producers must be allowed to take into account the conditions, layout, management scheme, equipment and other important site-specific details of their operations. Doing so keeps the measures cost-effective while still reaching the air quality improvement targets. This also helps dairies that have already taken

measures or installed technologies to reduce air pollution receive credit for those actions, while raising the overall standards of performance for the industry.

Judge Tharpe rejected arguments by AIR that the flexible menu approach was not allowed by law, writing that the “menu approach to the selection of mitigation measures cannot be said to be arbitrary and capricious if it will also reduce emissions on an industry-wide basis.”

Even though Rule 4570 was passed specifically to target levels of ozone in the Valley, AIR/CRPE had argued that the district should have required dairies to reduce all emissions – even those that would not result in improved air quality. Tharpe thoroughly rejected that argument, writing: “It would be nonsensical for the legislature to impose a requirement for ozone nonattainment areas and yet require control of pollutants that have no relevance to ozone nonattainment.”

“Dairy producers have invested a great deal of time and money in research efforts to understand dairy air quality issues and to develop mitigation measures that are based in sound science, and we will continue to improve upon these efforts” said Paul Martin, Director of Environmental Services for Western United Dairymen, and chairman of CARES’ regulatory committee. “This is the most comprehensive and significant air quality regulation of dairy farms in the United States, making California dairies the most regulated in the nation.”

The facts are clear: California dairies operate under the most stringent air and water quality regulations in the nation, and continue to lead the nation in environmental performance. New or expanding dairy projects operate under even more stringent rules and must undergo full California Environmental Quality Act review. This month’s court ruling is yet another reminder that the criticism of anti-dairy activists simply isn’t supported by the facts.

CARES is a statewide coalition supporting economic and environmental sustainability for California’s dairy industry. CARES members include the Alliance of Western Milk Producers, Bank of the West, California Dairies Inc., California Dairy Campaign, Crystal Cream & Butter, Dairy Farmers of America-California, Dairy Institute of California, Hilmar Cheese Co., Joseph Gallo Farms, Land O’ Lakes, Milk Producers Council, Saputo Cheese, Turlock Dairy & Refrigeration, Western United Dairymen, and others. For information about CARES, visit our web site at www.dairycares.com, write dairycares@aol.com or call 916-441-3318.