

CALIFORNIA AIR RESOURCES BOARD

SIP COMPLETENESS CHECKLIST
(Electronic Format)

***** TO BE COMPLETED BY DISTRICT AND RETURNED TO ARB *****

All rules submitted to the EPA as State Implementation Plan (SIP) revisions must be supported by certain information and documentation for the rule packages to be deemed complete for review by the EPA. Rules will not be evaluated for approvability by the EPA unless the submittal packages are complete. To assist you in determining that all necessary materials are included in rules packages sent to the ARB for submittal to the EPA, please fill out the following form and include it with the rule package you send ARB. See the ARB's Guidelines on the Implementation of the 40 CFR 51, Appendix V, for a more detailed explanation than is provided here. Adopted rules and rule amendments should be checked against U.S. EPA's Guidance Document for Correcting Common VOC & Other Rule Deficiencies (Little Blue Book, August 21, 2001) to ensure that they contain no elements which will result in disapproval by EPA.

District: San Joaquin Valley Unified Air Pollution Control District

Rule No: 2020 and 2201, Section 4.6.9

Rule Title: Rule 2020 (Exemptions) and Rule 2201 (New and Modified Stationary Source Review Rule), Section 4.6.9

Date Adopted or Amended: Amended September 21, 2006

ADMINISTRATIVE MATERIALS

Note: All documents should be in electronic format. Items that have signatures, initials, or stamps may be scanned.

<u>Attached</u>	<u>Not Attached</u>	<u>N/A</u>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>COMPLETE COPY OF THE RULE:</u> Provide an unmarked copy of the entire rule as adopted or amended by your District Board.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>UNDERLINE AND STRIKEOUT COPY OF THE RULE:</u> If an amended rule, provide a complete copy of the rule indicating in underline and strikeout format all language which has been added, deleted, or changed since the rule was last adopted or amended.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>COMPLETE COPY OF THE REFERENCED RULE(S):</u> For any rule which includes language specifically referencing another rule, a copy of that other rule must also be submitted, unless it has already been submitted to EPA as part of a previous SIP submittal.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>PUBLIC NOTICE EVIDENCE:</u> Include a copy of the local newspaper clipping certification(s), stating the date of publication, which must be at least 30 days before the hearing. As an alternative, include a copy of the actual published notice of the public hearing as it appeared in the local newspaper(s). In this case, however, enough of the newspaper page must be included to show the date of publication. The notice must specifically identify by title and number each rule adopted or amended.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>RESOLUTION/MINUTE ORDER:</u> Provide the Board Clerk certified resolution or minute order. This document must include certification that the hearing was held in accordance with the information in the public notice. It must also list the rules that were adopted or amended, the date of the public hearing, and a statement of compliance with California Health and Safety Code Sections 40725-40728 (Administrative Procedures Act).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>PUBLIC COMMENTS AND RESPONSES:</u> Submit copies of written public comments made during the notice period and at the public hearing. Also submit any written responses prepared by the District staff or presented to the District Board at the public hearing. A summary of the public comments and responses is adequate. If there were no comments made during the notice period or at the hearing, please indicate N/A to the left.

CALIFORNIA AIR RESOURCES BOARD

SIP COMPLETENESS CHECKLIST
(Electronic Format)

TECHNICAL MATERIALS

Note: All documents and forms should be in electronic format.

<u>Attached</u>	<u>Not Attached</u>	<u>N/A</u>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>RULE EVALUATION FORM:</u> See instructions for completing the Rule Evaluation Form and the accompanying sample form.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>NON-EPA TEST METHODS:</u> Attach all test methods that are referenced in your rule that do not appear in 40 CFR 51, 60, 61, 63, or have not been previously submitted to EPA. EPA methods used in other media such as SW846 for solid waste are not automatically approved for air pollution applications. Submittal of test methods that are not EPA-approved should include the information and follow the procedure described in Region 9's "Test Method Review & Evaluation Process."
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>MODELING SUPPORT:</u> Provide if appropriate. In general, modeling support is not required for VOC and NOx rules to determine their impacts on ozone levels. Modeling is required where a rule is a relaxation that affects large sources (≥ 100 TPY) in an attainment area for SO ₂ , directly emitted PM ₁₀ , CO, or NO _x (for NO ₂ purposes). In cases where EPA is concerned with the impact on air quality of rule revisions which relax limits or cause a shift in emission patterns in a nonattainment area, a reference back to the approved SIP will be sufficient provided the approved SIP accounts for the relaxation and provided the approved SIP used the current EPA modeling guidelines. If current EPA modeling guidelines were not used, then new modeling may be required.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>ECONOMIC AND TECHNICAL JUSTIFICATION FOR DEVIATIONS FROM EPA POLICIES:</u> The District staff report or other information included with the submittal should discuss all potential relaxations or deviations from RACT, RACM, BACT, BACM, enforceability, attainment, RFP, or other relevant EPA requirements. This includes, for example, demonstrating that exemptions or emission limits less stringent than the presumptive RACT (e.g., a CTG) meet EPA's 5 percent policy, and demonstrating that all source categories exempted from a RACM/BACM rule are de minimus according to EPA's RACM/BACM policy.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>ADDITIONAL MATERIALS:</u> Provide District staff reports and any other supporting information concerning development of the rule or rule changes. This information should explain the basis for all limits and thresholds contained in the rule.

APCD/AQMD RULE EVALUATION FORM – Page 1
(Electronic Format)

I. GENERAL INFORMATION

District: SJVUAPCD

Rule No(s): Rule 2020 and Rule 2201, Section 4.6.9 Date adopted/Amended/Rescinded: Amended September 21, 2006

Rule Title(s): Rule 2020 (Exemptions)
Rule 2201 (New and Modified Stationary Source Review Rule), Section 4.6.9

Date Submitted to ARB: September 27, 2006

If an Amended Rule, Date Last Amended (or Adopted): Rule 2020 Last Amended December 19, 2002. Rule 2201 Last amended December 15, 2005.

Is the Rule Intended to be Sent to the U.S. EPA as a SIP Revision? Yes No (If No, do not complete remainder of form)

District Contact: Carlos Garcia Phone Number: 559 230-5893 E-mail Address: carlos.garcia@valleyair.org

Narrative Summary of New Rule or Rule Changes: New Rule Amended Rule

The amendments to Rule 2020 (Exemptions) and Rule 2201 (New and Modified Stationary Source Review Rule), Section 4.6.9 are administrative changes that incorporate existing state law requirements for permitting agricultural sources of air emissions. The amendments will have no impact on the District's permitting practices for agricultural sources.

Pollutant(s) Regulated by the Rule (Check): ROG (NOx) SO2
 (CO) PM TAC (name): _____

II. EFFECT ON EMISSIONS

defunct

Complete this section ONLY for rules that, when implemented, will result in quantifiable changes in emissions. Attach reference(s) for emission factor(s) and other information. Attach calculation sheet showing how the emission information provided below was determined.

Net Effect on Emissions: Increase Decrease N/A

Emission Reduction Commitment in SIP for this Source Category: N/A

Inventory Year Used to Calculate Changes in Emissions: N/A Area Affected: N/A

Future Year Control Profile Estimate (Provide information on as many years as possible):
N/A

APCD/AQMD RULE EVALUATION FORM - Page 2
(Electronic Format)

Baseline Inventory in the SIP for the Control Measure: N/A

Emissions Reduction Commitment in the SIP for the Control Measure: N/A

Revised Baseline Inventory (if any): N/A

Revised Emission Reduction Estimate (if developed): N/A

Note that the district's input to the Rule Evaluation Form will not be used as input to the ARB's emission forecasting and planning.

III. SOURCES/ATTAINMENT STATUS

District is: Attainment Nonattainment Split

Approximate Total Number of Small (<100 TPY) Sources Affected by this Amendment: N/A

Percent in Nonattainment Area: N/A%

Number of Large (\geq 100 TPY) Sources Controlled: N/A Percent in Nonattainment Area: N/A%

Name(s) and Location(s) (city and county) of Large (\geq 100 TPY) Sources Controlled by Rule (Attach additional sheets as necessary): N/A

IV. EMISSION REDUCTION TECHNOLOGY

Does the Rule Include Emission Limits that are Continuous? Yes No

If Yes, Those Limits are in Section(s) N/A of the Rule.

Other Methods in the Rule for Achieving Emission Reductions are: N/A

V. OTHER REQUIREMENTS

The Rule Contains:

Emission Limits in Section(s): N/A Work Practice Standards in Section(s): N/A

Recordkeeping Requirements in Section(s): Rule 2020, 6.9.3, 8.0; Rule 2201, 4.6.2 Reporting Requirements in Section(s): Rule 2201 5.8, 7.2, 7.3, 7.4

APCD/AQMD RULE EVALUATION FORM - Page 3
(Electronic Format)

VI. IMPACT ON AIR QUALITY PLAN

No Impact Impacts RFP Impacts attainment

Discussion: The amendments to Rule 2020 (Exemptions) and Rule 2201 (New and Modified Stationary Source Review Rule), Section 4.6.9 are administrative changes that incorporate existing state law requirements for permitting agricultural sources of air emissions. No emission reductions are expected from the additional administrative requirements.

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**BEFORE THE GOVERNING BOARD OF THE
SAN JOAQUIN VALLEY UNIFIED
AIR POLLUTION CONTROL DISTRICT**

IN THE MATTER OF: PROPOSED AMENDMENTS TO RULE 2020 (EXEMPTIONS) AND RULE 2201 (NEW AND MODIFIED STATIONARY SOURCE REVIEW RULE) } **RESOLUTION NO. 06-09-18**

WHEREAS, the San Joaquin Valley Unified Air Pollution Control District (District) is a duly constituted unified air pollution control district, as provided in California Health and Safety Code Sections 41050 to 40161; and

WHEREAS, said district is authorized by California Health and Safety Code Section 40702 to make and enforce all necessary and proper orders, rules, and regulations to accomplish the purpose of Division 26 of the Health and Safety Code; and

WHEREAS, pursuant to Section 107 of the federal Clean Air Act and pursuant to Section 39608 of the California Health and Safety Code, the San Joaquin Valley Air Basin has been classified as a nonattainment area for both the national and state health-based ozone air quality standards and the national and state health-based particulate matter air quality standards; and

WHEREAS, pursuant to Section 107 of the Clean Air Act, the San Joaquin Valley Air Basin has been classified as a serious nonattainment area for the national eight-hour health-based ozone air quality standards; and

WHEREAS, the California Clean Air Act as codified in Section 40920(b) of the California Health and Safety Code requires the District's attainment plans to provide for a stationary source control program designed to achieve no net increase in emissions of nonattainment pollutants or their precursors from all new or modified stationary sources which emit, or have the potential to emit, 10 tons or more per year; and

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1 **WHEREAS**, the federal Clean Air Act requires the District to require permits of major
2 stationary sources of air pollutants, including any agricultural source that is required to
3 obtain a permit pursuant to Title I or Title V; and

4 **WHEREAS**, the agricultural source permitting exemption that existed in California
5 Health and Safety Code, Section 42310(e), was removed through the implementation
6 of Senate Bill 700, effective January 1, 2004; and

7 **WHEREAS**, SB700 also established new legal constraints on the District's
8 agricultural source permitting thresholds and offset requirements, via Health and
9 Safety Code Sections 42301.16 and 42301.18(c), respectively; and

10 **WHEREAS**, changes to Rules 2020 (Exemptions) and 2201 (New and Modified
11 Stationary Source Review) are necessary to consolidate state and federal permitting
12 requirements in a single document to avoid the potential misinterpretation of
13 agricultural permitting requirements by permittees and other stakeholders; and

14 **WHEREAS**, Rule 2201 (New and Modified Stationary Source Review) is not made
15 less stringent than the rule version that existed on December 30, 2002, pursuant to
16 California Health and Safety Code 42500 through 42507; and

17 **WHEREAS**, a public hearing for the adoption of proposed amendments to Rule 2020
18 (Exemptions) and Rule 2201 (New And Modified Stationary Source Review Rule) were
19 duly noticed for September 21, 2006, in accordance with California Health and Safety
20 Code Section 40725.

21 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

22 1. The Governing Board hereby amends Rule 2020 (Exemptions) and Rule 2201
23 (New And Modified Stationary Source Review Rule), as set forth in the attached
24 hereto and incorporated herein by this reference. Amendments to Rule 2020 and
25 Rule 2201 shall become effective upon adoption.

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SJVUAPCD Governing Board
ADOPT AMENDMENTS TO RULE 2020 (EXEMPTIONS) AND RULE 2201 (NEW AND MODIFIED
STATIONARY SOURCE REVIEW RULE)
September 21, 2006

1 2. The Governing Board hereby finds, based on the evidence and information
2 presented at the hearing upon which its decision is based, all notices required to be
3 given by law have been duly given in accordance with Health and Safety Code
4 Section 40725, and the Board has allowed public testimony in accordance with Health
5 and Safety Code Section 40726.

6 3. In connection with said rulemaking, the Board makes the following findings as
7 required by California Health and Safety Code Section 40727:

8 a. **NECESSITY.** The Governing Board finds based on the staff report, on
9 public and industry testimony, and on the record for this rulemaking proceeding that a
10 need exists for amendments of said rules. Amendments to the said rules are
11 necessary to avoid the potential misinterpretation of agricultural permitting
12 requirements by permittees and other stakeholders.

13 b. **AUTHORITY.** The Governing Board finds that it has the legal authority
14 for said rulemaking under the California Health & Safety Code Sections 40000 and
15 40001.

16 c. **CLARITY.** The Governing Board finds that said rule is written or
17 displayed so that the meaning can be easily understood by those persons or
18 industries directly affected by the said rule.

19 d. **CONSISTENCY.** The Governing Board finds that said rule is in
20 harmony with, and not in conflict with or contradictory to, existing statutes, court
21 decisions, or state or federal regulations.

22 e. **NONDUPLICATION.** The Governing Board finds that said rule does not
23 impose duplicate requirements as any existing state or federal regulation.

24 f. **REFERENCE.** The Governing Board finds that said rulemaking
25 implements Section 172(c)(1) and 182(c) of the Clean Air Act, and Section 40920(b)
26 of the California Health and Safety Code.

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SJVUAPCD Governing Board
ADOPT AMENDMENTS TO RULE 2020 (EXEMPTIONS) AND RULE 2201 (NEW AND MODIFIED
STATIONARY SOURCE REVIEW RULE)
September 21, 2006

1 4. The Governing Board finds that, because said rulemaking will have no possible
2 significant adverse effect on the environment, the proposed actions are exempt from
3 the provisions of the California Environmental Quality Act of 1970 (CEQA) under the
4 provisions of Section 15061 (b)(3) of the State CEQA Guidelines.

5 5. The Executive Director/Air Pollution Control Officer is directed to file a Notice of
6 Exemption with the County Clerks of each of the counties in the District.

7 6. The Executive Director/Air Pollution Control Officer is directed to file with all
8 appropriate agencies certified copies of this resolution and the rule adopted herein
9 and is directed to maintain a record of this rulemaking proceeding in accordance with
10 California Health and Safety Code Section 40728.

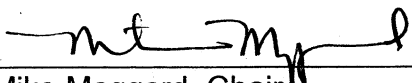
11 **THE FOREGOING** was passed and adopted by the following vote of the
12 Governing Board of the San Joaquin Valley Unified Air Pollution Control District this
13 21st day of September 2006, to wit:

14 **AYES:** O'Brien, Barba, Case, Sieglock, Prince, Patrick,
15 Worthley and Maggard.

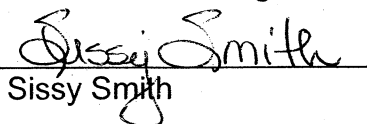
16 **NOES:** None.

17
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19 **ABSENT:** Nelson, Dominici and Armentrout.

20
21 SAN JOAQUIN VALLEY UNIFIED
22 AIR POLLUTION CONTROL DISTRICT

23 By 
24 Mike Maggard, Chair
25 Governing Board

26 ATTEST:
27 Clerk to the Governing Board

28 By 
Sissy Smith

SAN JOAQUIN VALLEY APCD

ATTN FINANCE DEPARTMENT

1990 E GETTYSBURG AVE

FRESNO, CA 93726

PROOF OF PUBLICATION

RECEIVED

AUG 07 2006

FINANCE
SJVAPCD

COUNTY OF FRESNO STATE OF CALIFORNIA

EXHIBIT A.

The undersigned states:

McClatchy Newspapers in and on all dates herein stated was a corporation, and the owner and publisher of The Fresno Bee.

The Fresno Bee is a daily newspaper of general circulation now published, and on all-the-dates herein stated was published in the City of Fresno, County of Fresno, and has been adjudged a newspaper of general circulation by the Superior Court of the County of Fresno, State of California, under the date of November 22, 1994, Action No. 520058-9.

The undersigned is and on all dates herein mentioned was a citizen of the United States, over the age of twenty-one years, and is the principal clerk of the printer and publisher of said newspaper; and that the notice, a copy of which is hereto annexed, marked Exhibit A, hereby made a part hereof, was published in The Fresno Bee in each issue thereof (in type not smaller than nonpareil), on the following dates.

August 3, 2006

PUBLIC NOTICE
#91703
SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT
**NOTICE OF PUBLIC HEARING ON
PROPOSED RULES AND REGULATIONS**

NOTICE IS HEREBY GIVEN that a public hearing will be held on September 21, 2006, at 9:00 am, or as soon thereafter as may be heard, at 1990 East Gettysburg Avenue, Fresno, California. The public hearing may also be attended through video teleconferencing at 2700 "M" Street in Bakersfield, California, and at 4800 Enterprise Way in Modesto, California. At the said hearing, the Governing Board of the San Joaquin Valley Unified Air Pollution Control District (District) will consider adopting or amending rules affecting the counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare. The following actions will be considered at the said hearing:

Amend Rule 2020 (Exemptions)
Amend Rule 2201 (New and Modified Stationary Source Review Rule)

NOTICE IS FURTHER GIVEN that Proposed Rules 2020 and 2201 will be submitted to the United States Environmental Protection Agency for incorporation as part of the California State Implementation Plan (SIP). Said action would constitute a SIP revision.

NOTICE IS FURTHER GIVEN that all interested persons desiring to be heard or present evidence on the said matters may appear at the said hearing. Interested persons may view the proposed rules at the District offices at 1990 East Gettysburg Avenue in Fresno, 2700 "M" Street in Bakersfield, and 4800 Enterprise Way in Modesto as well as on-line at:

www.valleyair.org/workshops/public_workshops_idx.htm

If you are unable to download the documents from the District's website, a paper copy can be obtained by calling Ms. Diane Falcon at (559) 230-6005 or faxing your request to her at (559) 230-6064.

Written comments should be addressed to Carlos Garcia at SJVUAPCD, 1990 East Gettysburg Avenue, Fresno, CA 93726-0244 and must be received by 5:00 pm on August 31, 2006. For additional information, contact Mr. Garcia by phone at (559) 230-5900 or email at carlos.garcia@valleyair.org.

(PUB: August 3, 2006)

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated AUGUST 3 2006

Cathy Aguilera

PROOF OF PUBLICATION

The BAKERSFIELD CALIFORNIAN
P.O. BOX 440
BAKERSFIELD, CA 93302

SAN JOAQUIN VALLEY A.P.C.D.
1990 E GETTYSBURG FRED BATES
FRESNO, CA 93726

RECEIVED
AUG 08 2006
FINANCE
SJVAPCD

Ad Number: 287546 PO #: 1
Edition: TBC Run Times
Class Code Legal Notices
Start Date 8/5/2006 Stop Date 8/5/2006
Billing Lines 44 Inches 264.92
Total Cost \$ 160.52 Account 1SAN51
Billing SAN JOAQUIN VALLEY A.P.C.D.
Address 1990 E GETTYSBURGFRED BATES
FRESNO,CA 93726

STATE OF CALIFORNIA
COUNTY OF KERN

I AM A CITIZEN OF THE UNITED STATES AND A RESIDENT OF THE COUNTY AFORESAID: I AM OVER THE AGE OF EIGHTEEN YEARS, AND NOT A PARTY TO OR INTERESTED IN THE ABOVE ENTITLED MATTER. I AM THE ASSISTANT PRINCIPAL CLERK OF THE PRINTER OF THE BAKERSFIELD CALIFORNIAN, A NEWSPAPER OF GENERAL CIRCULATION, PRINTED AND PUBLISHED DAILY IN THE CITY OF BAKERSFIELD COUNTY OF KERN,

AND WHICH NEWSPAPER HAS BEEN ADJUDGED A NEWSPAPER OF GENERAL CIRCULATION BY THE SUPERIOR COURT OF THE COUNTY OF KERN, STATE OF CALIFORNIA, UNDER DATE OF FEBRUARY 5, 1952, CASE NUMBER 57610; THAT THE NOTICE, OF WHICH THE ANNEXED IS A PRINTED COPY, HAS BEEN PUBLISHED IN EACH REGULAR AND ENTIRE ISSUE OF SAID NEWSPAPER AND NOT IN ANY SUPPLEMENT THEREOF ON THE FOLLOWING DATES, TO WIT: 8/5/06

ALL IN YEAR 2006

I CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Cathy Uyru

DATED AT BAKERSFIELD CALIFORNIA

8-7-06

Solicitor I.D.: 0

First Text
SANJOAQUINVALLEYUNIFIEDAIRPOLLUTIONCC

Ad Number 287546

**SAN JOAQUIN VALLEY UNIFIED
AIR POLLUTION CONTROL DISTRICT
NOTICE OF PUBLIC HEARING
ON PROPOSED RULES AND REGULATIONS**

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AFFIDAVIT OF PUBLICATION

ACCOUNT NUMBER 1658
AD NUMBER 0000060291-01
AD SIZE 2.0 X 4.30"
AD AMOUNT \$68.76

RECEIVED
AUG 08 2006
FINANCE
SJVAPCD

San Joaquin Valley Air Pollution Control Dist.
1990 E. Gettysburg Ave, Attn: Administrative Services,
Fresno, CA 93726

PUBLICATION SENT
STATE OF CALIFORNIA
COUNTY OF KINGS

I AM A CITIZEN OF THE UNITED STATES AND A RESIDENT OF THE COUNTY FORESAID; I AM OVER THE AGE OF EIGHTEEN YEARS, AND NOT A PART TO OR INTERESTED IN THE ABOVE-ENTITLED MATTER. I AM THE PRINCIPAL CLERK OF HANFORD SENTINEL, INC., A NEWSPAPER OF GENERAL CIRCULATION, PRINTED AND PUBLISHED DAILY IN THE CITY OF HANFORD, COUNTY OF KINGS, AND WHICH NEWSPAPER HAS BEEN ADJUDGED A NEWSPAPER OF GENERAL CIRCULATION BY THE SUPERIOR COURT OF THE COUNTY OF KINGS, STATE OF CALIFORNIA, UNDER THE DATE OF OCTOBER 23, 1951, CASE NUMBER 11623,

THAT I KNOW FROM MY OWN PERSONAL KNOWLEDGE THE NOTICE, OF WHICH THE ANNEXED IS A PRINTED COPY (SET IN TYPE NOT SMALLER THAN NONPAREIL), HAS BEEN PUBLISHED IN EACH REGULAR AND ENTIRE ISSUE OF SAID NEWSPAPER AND NOT IN ANY SUPPLEMENT THEREOF ON THE FOLLOWING DATES, TO WIT:

PUBLISHED ON: 8/3/2006
FILED ON: 08/03/2006

I CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATED AT KINGS COUNTY, CALIFORNIA,

THIS DAY 3 of August, 2006

SIGNATURE Amyssa B. V. Sen

AD#60291
SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT
NOTICE OF PUBLIC HEARING ON PROPOSED RULES AND REGULATIONS
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www.valleyair.org/workshops/public_workshops_idx.htm
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Publish: Aug. 3, 2006

Proof of Publication

(2015.5 C.C.P.)

NOTICE OF PUBLIC HEARING

RE: RULES 2020, 2201

SEPT. 21, 2006

RECEIVED
AUG 10 2006
FINANCE
SJVAPCD

STATE OF CALIFORNIA)
) ss.
County of Madera)

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of the Madera Tribune, a newspaper of general circulation, published in the City of Madera, County of Madera, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Madera, State of California, under the date of November 9, 1966, Case Number 4875 that the notice, of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

AUGUST 3, 2006

I certify (or declare) under penalty of perjury that the foregoing is true and correct.



Signature

Date: August 3, 2006

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

NOTICE OF PUBLIC HEARING ON PROPOSED RULES AND REGULATIONS

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Amend Rule 2020 (Exemptions)

Amend Rule 2201 (New and Modified Stationary Source Review Rule)

NOTICE IS FURTHER GIVEN that Proposed Rules 2020 and 2201 will be submitted to the United States Environmental Protection Agency for incorporation as part of the California State Implementation Plan (SIP). Said action would constitute a SIP revision.

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www.valleyair.org/workshops/public_workshops_idx.htm

If you are unable to download the documents from the District's website, a paper copy can be obtained by calling Ms. Diane Falcon at (559) 230-6005 or faxing your request to her at (559) 230-6064.

Written comments should be addressed to Carlos Garcia at SJVUAPCD, 1990 East Gettysburg Avenue, Fresno, CA 93726-0244 and must be received by 5:00 pm on August 31, 2006. For additional information, contact Mr. Garcia by phone at (559) 230-5900 or email at carlos.garcia@valleyair.org.

No. 7234 - Aug. 3, 2006

Proof of Publication

(2015.5 C.C.P.)

Proof of Publication of

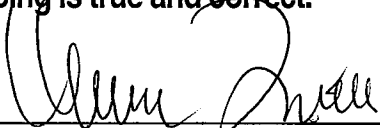
PUBLIC NOTICE

STATE OF CALIFORNIA)
County of Merced) ss.

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of the Merced Sun-Star, a newspaper of general circulation, printed and published in the City of Merced, County of Merced, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Merced, State of California, under the date of July 14, 1964, Case Number 33224 that the notice, of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

AUGUST 3, 2006

I certify (or declare) under penalty of perjury that the foregoing is true and correct.



Signature

08/14/2006

Date:

This space is for the County Clerk's Filing Stamp

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LEGAL 06- AUGUST 3, 2006

**--PROOF OF PUBLICATION
NOTICE**

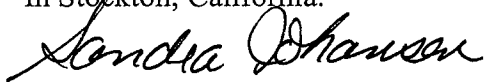
STATE OF CALIFORNIA
COUNTY OF SAN JOAQUIN

THE UNDERSIGNED SAYS:

I am a citizen of the United States and a resident of San Joaquin County; I am over the age of 18 years and not a part to or interested in the above-entitled matter. I am the principal clerk of the printer of THE RECORD, a newspaper of general publication, printed and published daily in the City of Stockton, County of San Joaquin and which newspaper has been adjudged a newspaper of general circulation in the City of Stockton and the County of San Joaquin by the Superior Court of the County of San Joaquin, State of California, under the date of February 26, 1952, File No. 52857, San Joaquin County Records; that the notice of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates,

To wit; August 4, I declare under penalty of perjury that the foregoing is true and correct. Executed on: August 4, 2006

In Stockton, California.



Sandra Johansen

RECEIVED
AUG 09 2006
FINANCE
SJVAPCD

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

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#523060 8/4/06

**DECLARATION OF PUBLICATION
(C.C.P. S2015.5)**

**COUNTY OF STANISLAUS
STATE OF CALIFORNIA**

I am a citizen of the United States and a resident Of the County aforesaid; I am over the age of Eighteen years, and not a party to or interested In the above entitle matter. I am a printer and Principal clerk of the publisher of **THE MODESTO BEE**, printed in the City of **MODESTO**, County of **STANISLAUS**, State of California, daily, for which said newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of **STANISLAUS**, State of California, Under the date of **February 25, 1951, Action No. 46453**; that the notice of which the annexed is a printed copy, has been published in each issue thereof on the following dates, to wit:

AUGUST 4, 2006

I certify (or declare) under penalty of perjury That the foregoing is true and correct and that This declaration was executed at **MODESTO, California** on

AUGUST 4, 2006


(Signature)

RECEIVED
AUG 09 2006
FINANCE
SJVAPCD

**SAN JOAQUIN VALLEY UNIFIED
AIR POLLUTION CONTROL DISTRICT
NOTICE OF PUBLIC HEARING ON
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AUGUST 4, 2006

SAN JOAQUIN VALLEY AIR POLLUTION
1990 EAST GETTYSBURG AVE
FRESNO, CA 93726

Ad Number: 06524640

**In the Superior Court of the State of California in and
for the County of Tulare**

Certificate of Publication

STATE OF CALIFORNIA ss.
COUNTY OF TULARE

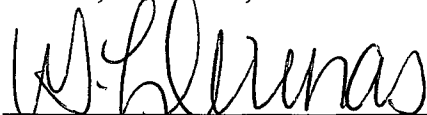
I, GINARAE LLERENAS am over the age of 18 years old, citizen of the United States and not a party to, or have an interest in this matter, hereby certify that the VISALIA TIMES DELTA is a newspaper of general circulation within the provisions of the Government Code of the State of California, adjudicated a newspaper of general circulation on April 22, 1929 by Superior Court order no. 20576 as entered in book 35 page 85 of said court, printed and published in the City of Visalia, County of Tulare, State of California, and that I am the principal clerk of the printer of said newspaper. I also certify that the

NOTICE OF PUBLIC HEARING

copy of which is annexed on the margin hereof, is a true printed copy as published in said newspaper on the following date(s):

AUGUST 3, 2006

I certify under penalty of perjury that the foregoing is true and correct. Executed in Visalia, California, on AUGUST 10, 2006



GINARAE LLERENAS

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

NOTICE OF PUBLIC HEARING ON PROPOSED RULES AND REGULATIONS

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Publish: August 3, 2006
Ad#06524640

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

FINAL STAFF REPORT

Amendments to Rule 2020 (Exemptions) and Rule 2201 (New and Modified Stationary Source Review Rule)

Prepared by: Carlos Garcia, Technical Projects Coordinator
Reviewed by: David Warner, Director of Permit Services

September 21, 2006

I. SUMMARY

The San Joaquin Valley Unified Air Pollution Control District (District) is proposing to revise Rule 2020 (Exemptions) and Rule 2201 (New and Modified Stationary Source Review Rule) to clarify state law requirements pertaining to the permitting of agricultural sources of air pollution.

The District held a public workshop on July 19, 2006, to discuss the basis for the necessary changes with interested parties. During this meeting, we invited comments and suggestions on the proposed revisions. Written comments on the draft rules were due by August 2, 2006. Comments received and the District's responses are attached to this report (Attachment B). The public hearing to consider adoption of the Rules 2020 and 2201 by the District Governing Board is scheduled for September 21, 2006.

II. DESCRIPTION OF THE RULES

A. Rule 2020 (Exemptions)

The purpose of Rule 2020 (Exemptions) is to itemize those types and categories of sources that are exempt from the District's general permitting requirements contained in Rule 2010 (Permits Required).

B. Rule 2201 (New and Modified Stationary Source Review Rule):

The primary purpose of Rule 2201 (also known as the New Source Review Rule, or "NSR") is to provide a regulatory mechanism for allowing continued economic growth while minimizing the amount of emission increases due to this growth. Rule 2201 generally applies to all new stationary sources and all modifications to existing stationary sources that are subject to District permit requirements.

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The District's NSR rule incorporates both state and federal NSR requirements for non-attainment areas and applies to new and modified stationary sources that emit NO_x, CO, VOC, SO_x, PM₁₀ and other pollutants subject to District permitting requirements pursuant to District Rule 2010 (Permits Required).

Key features of Rule 2201 include:

- Best Available Control Technology (BACT): mandates emission controls to minimize emission increases above de minimus values;
- Emission offsets: requires most sources with emissions above specified offset threshold levels to be mitigated with either concurrent reductions or past reductions which have been banked as emission reduction credits (ERCs);
- Public notification: a 30 or 45 day notice period prior to issuance of an Authority to Construct (ATC) to garner comments on projects that result in emissions above specified levels;
- Required elements for the Authority to Construct, Permit to Operate and administrative requirements for the processing of NSR applications.

III. BACKGROUND AND PROPOSED RULE AMENDMENTS

A. Background

In January of 2004, new state laws took effect pertaining to the permitting of agricultural operations in the State of California (SB 700, Florez). In part, these laws removed the long-standing state air permitting exemption for agricultural operations and replaced it with a set of rules requiring agricultural sources with emissions over one-half a district's major source thresholds to obtain permits, and requiring air districts to make certain findings before requiring permits of agricultural sources with emissions less than those thresholds. See California Health and Safety Code (CH&SC), Section 42301.16.

In addition, SB 700 enacted CH&SC Section 42301.18(c). This section prohibits districts from requiring agricultural sources to offset their emissions increases unless certain criteria are met, which criteria would then allow the same types of agricultural sources to bank credits after generating voluntary emissions reductions.

Since January 2004, the San Joaquin Valley Air Pollution Control District (District) has led the state in implementing these new state laws, in tandem with the District's existing permitting rules, and has issued permits to over 400 agricultural operations.

However, we have recently been made aware that some District stakeholders may have been confused by the need to look at both the District's rules and state law to determine permitting requirements for agricultural sources.

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Specifically:

- Rule 2020 does not currently contain language that refers to the state law limiting the District's ability to require smaller agricultural sources (with emissions less than one-half the major source thresholds) to obtain permits, and
- Rule 2201 does not currently contain language that refers to the state law limiting the District's ability to require offsets from agricultural sources.

The fact that the District rules do not refer to the constraints in state law has even led at least one stakeholder to mistakenly conclude that the District must require agricultural sources to obtain permits at emissions levels below one-half the major source thresholds, and to offset increases in emissions, either of which would violate state law (see Attachment A for a more detailed discussion of the offsets issue).

The revisions to Rules 2020 and 2201 are being proposed to remedy any such possible confusion, by directly incorporating the relevant state requirements by reference. It's important to note that the District does not believe that these rule revisions are necessary to implement the state requirements. However, it is clear that clarifying the requirements by incorporating them by reference in the District's rules may help eliminate future similar misunderstandings.

B. Proposed Rule Amendments

The following changes are proposed:

- Rule 2020; Section 6.20 is added to clarify that CH&SC 42301.16 determines the District's agricultural source permitting and exemption thresholds.
- Rule 2201; Section 4.6.9 is added to clarify that agricultural sources are exempt from offsets to the extent provided by CH&SC 42301.18(c).

No applicable requirements are changed with these revisions to the rules. The District already uses the respective state requirements in its permitting processes, but is now eliminating any possible confusion by incorporating the state law requirements into the District rule book, thus unifying the District's agricultural source permitting requirements in one place.

C. Analysis of SB 288

California Health and Safety Code sections 42500 through 42507 (SB 288) mandate that a District's New Source Review (NSR) rules cannot be made less stringent, in a variety of specified areas, than the rules that existed on December 30, 2002.

This revised Rule 2201 meets this mandate. Agricultural sources were exempt from District permitting requirements, and were therefore also exempt from the offsetting

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requirements of Rule 2201, on December 30, 2002. Since permits and offsets were not required at all for ag sources at that time, establishing limits on permitting and offsets through these revisions does not relax any NSR requirement extant on December 20, 2002. Therefore, the proposed change to Rule 2201 meets the mandates of SB 288.

Although not a requirement of SB 288, it's worth noting that the revision to Rule 2201 is not a relaxation of current rules either, since they do not change any current requirements, and are merely clarifications of how the state law and the existing regulations currently work in tandem.

IV. RULE DEVELOPMENT PROCESS

District staff conducted a workshop on July 19, 2006, in which the draft rules and staff report were presented for discussion. District staff requested public participation and input regarding legal and technical concerns for inclusion in the continued rule development process, and comments received, and the District's responses are addressed in Attachment B. The District Governing Board is being asked to receive and file the rule package on August 17, 2006, and the Board's public hearing to consider the adoption of the proposed amendments to the Rule 2020 and 2201 is scheduled for September 21, 2006.

V. COST EFFECTIVENESS AND SOCIOECONOMIC IMPACT ANALYSIS

Pursuant to State law, the District is required to analyze the cost effectiveness of any proposed rule amendment that implements Best Available Retrofit Control Technology (BARCT). The draft amendments do not add BARCT requirements and therefore are not subject to the cost effectiveness analysis mandate.

Additionally, state law requires the District to analyze the socioeconomic impacts of any proposed rule amendment that significantly affects air quality or strengthens an emission limitation. The draft amendments will have neither effect since they merely clarify the status quo, and are therefore not subject to the socioeconomic analysis mandate.

VI. RULE CONSISTENCY ANALYSIS

Pursuant to CH&SC Section 40727.2 (g) a rule consistency analysis of the draft rule is not required. The draft rule does not strengthen emission limits or impose more stringent monitoring, reporting, or recordkeeping requirements.

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VII. ENVIRONMENTAL EFFECTS

Pursuant to the California Environmental Quality Act, staff investigated the possible environmental impacts of the proposed amendments. Based on the lack of evidence to the contrary, District staff have concluded that the proposed amendments will not have any significant adverse effect on the environment since they will not alter the environmental status quo. Staff will prepare a Notice of Exemption under the provisions of Public Resource Code 15061(b)(3) for this project.

VIII. REFERENCES

California State Senate Bill 700 (Florez, 2003)

California State Senate Bill 288, Air quality : Protect California Air Act of 2003

Attachment A – Discussion Of State Offset Requirements For Agricultural Sources

Attachment B – Comments and Responses

Attachment C – California Health and Safety Code sections

Attachment A

Discussion Of State Offset Requirements For Agricultural Sources

Discussion Of State Offset Requirements For Agricultural Sources

The District has received project-specific comments that the District should be requiring offsets for increases in agricultural source emissions, on the basis of the requirements of District Rule 2201. The District disagrees, since we would be in clear violation of state law. The following is a more detailed discussion of the history of the state's permitting exemption and its relationship to our Rule 2201:

The District does not agree that it has the authority to require offsets for agricultural sources under District Rule 2201. First, section 11 of California Senate Bill 700 ("SB 700") prohibits Districts from requiring offsets for agricultural sources unless those sources are permitted to generate offsets.¹ Because there are currently no criteria for verifying that offsets generated by agricultural sources are permanent, quantifiable and surplus, the District does not allow such sources to generate offsets at this time. Thus, under SB 700, the District is prohibited from requiring offsets for these sources.

The District disagrees that District Rule 2201 authorizes the District to require offsets despite SB 700. First, the District cannot exceed the authority provided to it by the State when regulating under the Clean Air Act.² Thus, because state law prohibits the District from requiring offsets for agricultural sources at this time, the District cannot impose such a requirement.

In addition, as discussed further below, District Rule 2201 does not preempt SB 700. The Environmental Protection Agency ("EPA") specifically considered SB 700 when it approved District Rule 2201. In fact, SB 700 is the very law that enabled EPA to approve District Rule 2201. Thus, EPA was aware of SB 700 and its contents (including the prohibition on requiring offsets for agricultural sources) when it approved District Rule 2201. It is therefore contradictory to now say that District Rule 2201 somehow negates the very state law that enabled EPA to approve it.

SB 700 was passed into law on September 22, 2003 to specifically address EPA findings of deficiency³ in California's State Implementation Plan ("SIP") regarding the State's New Source Review ("NSR") and Title V permitting programs. In its proposed finding regarding the NSR deficiency, EPA stated that the California SIP was deficient because state law exempted major agricultural sources from permitting, and did not grant air districts the "authority to carry out the applicable nonattainment New Source Review ("NSR") or Prevention of Significant Deterioration of Air Quality ("PSD") portions

¹ See California Health and Safety Code section 42301.18(c).

² *Southeastern Oakland County Resource Recovery Authority v. City of Madison Heights*, 5 F.3d 166, 169 (6th Cir. 1993).

³ 67 Fed. Reg. 35990 (May 22, 2002); 68 Fed. Reg. 7327 (Feb. 13, 2003); 68 Fed. Reg. 37746 (June 25, 2003).

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of the SIP,” in contradiction of Section 110(a)(2)(E) of the Clean Air Act (“CAA”).⁴ More specifically, EPA found as follows:

California Health & Safety Code section 42310(e) exempts from all air permitting “equipment used in agricultural operations in the growing of crops or the raising of fowl or animals.” As a result, the State and districts cannot issue permits to these agricultural sources, even if they are major stationary sources under the Act. The CAA’s NSR and PSD permitting requirements do not provide for this exemption.

*Section 110(a)(2)(E) of the Act requires the State to provide assurances that it has “adequate personnel, funding, and authority under State (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of Federal or State law from carrying out such implementation plan or portion thereof) * * * .” California Health & Safety Code section 42310(e) effectively prohibits the State and districts from fully implementing the SIP-approved NSR and PSD permitting programs for agricultural sources. Thus, the SIP does not comply with the requirement for the State to have adequate legal authority to fully implement the SIP. Therefore, the SIP for nonattainment areas and approved PSD programs in attainment areas in California is substantially inadequate and must be corrected.⁵*

EPA further explained in their final finding that California must correct the deficiency in the SIP by amending the Health and Safety Code to remove the permitting exemption, as follows:

To correct the deficiency, EPA recommends that the State legislature amend Health & Safety Code section 42310(e) to remove the exemption as it applies to major agricultural sources. The State is already subject to a sanctions clock based on the Notice of Deficiency (“NOD”) that EPA issued on May 22, 2002, 67 Fed. Reg. 35990, with respect to the State’s Title V operating permits program. In that NOD, EPA explained that California Health & Safety Code section 42310(e) improperly exempted major agricultural sources from CAA Title V permitting. The NOD stated that “EPA has determined that significant action in this instance means the revision or removal of Health and Safety Code 42310(e) so that local air pollution control districts have the required authority to issue Title V permits to stationary agricultural sources that are major sources of air pollution.” A similar correction with respect to NSR and PSD permitting is necessary by November 23, 2003 to comply with this final action, i.e., remove the agricultural exemption for major sources. We are setting this deadline to be consistent with the deadline established in the May 22, 2002 NOD for making the revision for Title V purposes.

Our proposal listed several districts that have New Source Review exemptions that may pose problems for permitting major agricultural stationary sources, but did not

⁴ 68 Fed. Reg. at 7327.

⁵ 68 Fed. Reg. at 7328.

San Joaquin Valley Unified Air Pollution Control District

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September 21, 2006

call for specific revisions at this time. We believe it is reasonable to wait for the State legislature to correct Health and Safety Code section 42310(e) before we determine whether any such exemptions at the district level represent authority problems under section 110(a)(2)(E). EPA, nonetheless, encourages districts to evaluate their SIP-approved rules to ensure that exemptions do not create potential authority problems. Once the State acts to address Health and Safety Code section 42310(e), EPA will work with the districts to determine if further rulemaking is necessary to address specific local deficiencies that remain after the State law change.⁶

District Rule 2201 is the NSR portion of the SIP for the San Joaquin Valley. Although the District removed its agricultural exemption in December 2002, EPA stated that it could not approve District Rule 2201 until the State also removed its agricultural exemption, because the State agricultural exemption precluded the District from permitting agricultural sources.⁷

On September 22, 2003, SB 700 was signed into law by the California legislature to address EPA's findings of deficiency with the California SIP and Title V programs. In its final approval of the Title V programs, EPA specifically states that its action "approves state law as meeting Federal requirements."⁸ On May 17, 2004, EPA fully approved District Rules 2201 (New and Modified Stationary Source Review) and 2020 (Exemptions) as a direct response to the passage of SB 700. In its final approval of the District rules, EPA notes that the passage of SB 700 provided the District with the authority to require permits for agricultural sources.⁹ EPA had previously granted only limited approval of both rules and cited the State's and the District's agricultural exemption as one of the deficiencies. EPA describes how the agricultural exemption deficiency in the District rules was addressed, as follows:

To address the deficiency in Rule 2020, the District deleted the previous permit exemption for agricultural sources. We note that the State has also removed a similar blanket exemption, thereby providing the District with authority to require air permits for agricultural sources, including federally required NSR permits.

On September 22, 2003, the Governor signed SB700 into law. The legislation includes an amendment to California Health & Safety Code section 42310 to delete the previous permit exemption for agricultural sources.¹⁰

Based on the above series of EPA findings and EPA's subsequent approval of the District's Title V and NSR programs as a direct result of the State's adoption of SB 700, it is clear that EPA did not see a contradiction between SB 700 and the California SIP.

⁶ 68 Fed. Reg. at 37747.

⁷ 68 Fed. Reg. 7330, 7335 (Feb. 13, 2003).

⁸ 68 Fed. Reg. 65637, 65638 (Nov. 21, 2003).

⁹ 69 Fed. Reg. 27837, 27838 (May 17, 2004).

¹⁰ 69 Fed. Reg. 27837 (May 17, 2004).

San Joaquin Valley Unified Air Pollution Control District

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In fact, both District Rule 2201 and the state agricultural permitting requirements were fully extant at the time EPA approved the District's NSR rule into the SIP, and EPA clearly stated that SB 700 was the required catalyst for EPA's approval of District Rule 2201. District Rule 2201 cannot be read in a vacuum and must be read in harmony with SB 700. EPA's approval of District Rule 2201 in response to the passage of SB 700 demonstrates an acknowledgement of the need to look to the state law to determine the new agricultural permitting requirements.

In conclusion, requiring offsets for agricultural sources would clearly violate state law, which prohibits air districts from requiring offsets for agricultural sources that are not able to generate recognized emissions reductions.

Attachment B

**Comments and Responses on
Amendments to Rule 2020 (Exemptions)
and
Rule 2201 (New and Modified Stationary Source Review Rule)**

September 21, 2006

San Joaquin Valley Unified Air Pollution Control District

Final Staff Report: Rules 2020 and 2201

September 21, 2006

**SUMMARY OF WRITTEN COMMENTS AND RESPONSES
FROM THE RECEIVE AND FILE VERSION DATED AUGUST 17, 2006
FOR RULE 2201 (NEW AND MODIFIED STATIONARY SOURCE REVIEW RULE)
AND RULE 2020 (EXEMPTIONS)**

EPA Comment:

Comment: The District has proposed adding the following language to Rule 2201 – Section 4.6, which lists sources exempt from emission offset requirements:

4.6.9 Agricultural sources, to the *extent provided* by California Health and Safety Code (CH&SC) Section 42301.18(c), except that nothing in this section shall circumvent the requirements of section 42301.16(a). (emphasis added)

While it is helpful to include the specific CH&SC requirements related to this exemption, the use of the words “extent provided” requires the reader to review the cited CH&SC sections to determine when an agricultural source is exempt from emission offset requirements. For greater clarity, EPA suggests revising the proposed language to specifically state the limits of this exemption. If it is not possible to make this change before rule adoption, EPA asks that the District confirm our understanding of state law as it pertains to the Rule 2201 offset requirements. Our interpretation is based on the language found in CH&SC Section 42301.18(c) which states:

In addition to complying with the requirements of this chapter, a permit system established by a district pursuant to Section 42300 shall ensure that any agricultural source that is required to obtain a permit pursuant to Title I (42 U.S.C. Sec. 7401 et seq.) or Title V (42 U.S.C. Sec. 7661 et seq.) of the federal Clean Air Act is required by district regulation to obtain a permit in a manner that is consistent with the federal requirements.

We read this provision, in conjunction with the phrase “extent provided” in the rule language, as limiting the applicability of this exemption to permit actions that would not otherwise be required to provide emission offsets in accordance with federal Clean Air Act requirements..

Response: The District concurs with EPA’s interpretation. Agricultural sources that are new major sources or federal major modifications would need to provide emissions offsets in accordance with the federal Clean Air Act permitting requirements.

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ARB and Stakeholders submitting written comments:

The District did not receive any other written comments from the latest version of Rules 2020 and 2201 that were Received and Filed on August 17, 2006.

Comments that were submitted based on previous drafts of the rules and the District responses are not included here, but are available upon request.

Attachment C

California Health and Safety Code Sections Cited in the Proposed Rules

San Joaquin Valley Unified Air Pollution Control District

42301.16. (a) In addition to complying with the requirements of this chapter, a permit system established by a district pursuant to Section 42300 shall ensure that any agricultural source that is required to obtain a permit pursuant to Title I (42 U.S.C. Sec. 7401 et seq.) or Title V (42 U.S.C. Sec. 7661 et seq.) of the federal Clean Air Act is required by district regulation to obtain a permit in a manner that is consistent with the federal requirements.

(b) Except as provided in subdivision (c), a district shall require an agricultural source of air pollution to obtain a permit unless it makes all of the following findings in a public hearing:

(1) The source is subject to a permit requirement pursuant to Section 40724.6.

(2) A permit is not necessary to impose or enforce reductions of commissions of air pollutants that the district show cause or contribute to the violation of state or federal ambient air quality standard.

(3) The requirement for the source or category of sources to obtain a permit would impose a burden on those sources that is significantly more burdensome than permits required for other similar sources of air pollution.

(c) Prior to requiring a permit for an agricultural source of air pollution with actual emissions that are less than one-half of any applicable emissions threshold for a major source in the district, for any air contaminant, but excluding fugitive dust, a district shall, in a public hearing, make all of the following findings:

(1) The source is not subject to a permit requirement pursuant to Section 40724.6.

(2) A permit is necessary to impose or enforce reductions of emission of air pollutants that the district show cause or contribute to a violation of a state or federal ambient air quality standard.

(3) The requirement for a source or category of sources to obtain a permit would not impose a burden on those sources that is significantly more burdensome than permits required for other similar sources of air pollution.

42301.18. (c) A district may not require an agricultural source to obtain emissions offsets for criteria pollutants for that source if emissions reductions from that source would not meet the criteria for real, permanent, quantifiable, and enforceable emission reductions.

DATE: September 21, 2006

TO: SJVUAPCD Governing Board

FROM: Seyed Sadredin, Executive Director/APCO
Project Coordinator: David Warner

RE: **ADOPT PROPOSED AMENDMENTS TO RULE 2020 (EXEMPTIONS) AND RULE 2201 (NEW AND MODIFIED STATIONARY SOURCE REVIEW RULE)**

RECOMMENDATION:

1. Adopt proposed amendments to Rule 2020 (Exemptions) and Rule 2201 (New and Modified Stationary Source Review Rule).
2. Authorize the Chair to sign the attached resolution.

BACKGROUND:

The San Joaquin Valley Unified Air Pollution Control District (District) is proposing to revise Rule 2020 (Exemptions) and Rule 2201 (New and Modified Stationary Source Review Rule) to clarify state law requirements pertaining to the permitting of agricultural sources of air pollution.

DISCUSSION:

Rule 2020 (Exemptions)

The purpose of Rule 2020 (Exemptions) is to itemize those types and categories of sources that are exempt from the District's general permitting requirements contained in Rule 2010 (Permits Required).

Rule 2201 (New and Modified Stationary Source Review Rule):

Rule 2201's primary purpose is to provide a regulatory mechanism for allowing continued economic growth while minimizing the amount of emission increases due to this growth. Rule 2201 applies to all new stationary sources and all modifications to existing stationary sources that are subject to District permit requirements.

The District's NSR program is designed to meet both the state and federal NSR requirements for nonattainment areas and applies to new and modified stationary sources that emit NOx, CO, VOC, SOx, PM10 and other pollutants subject to District permitting requirements pursuant to District Rule 2010 (Permits Required).

Key features of Rule 2201 include:

- Required elements for Authorities to Construct and Permits to Operate, and administrative requirements for the processing of NSR applications;
- Best Available Control Technology (BACT): mandates emission controls to minimize emission increases above de minimus values;
- Emission offsets: requires emissions above specified offset threshold levels to be mitigated with either concurrent reductions or past reductions which have been banked as emission reduction credits (ERC);
- Public notification: a 30 or 45 day notice period prior to issuance of an Authority to Construct (ATC) to garner comments on projects that result in emissions above specified levels.

Proposed Rule Amendments

The rule amendments will administratively incorporate existing state law into Rule 2020 and Rule 2201. No applicable requirements are changed with the proposed revisions to these rules. The District already uses the respective state and federal requirements in its permitting processes, but is now eliminating any possible confusion by incorporating the state law requirements into the District rule book, thus unifying the District's agricultural source permitting requirements in one place.

The following is a summary of changes proposed for Rules 2020 and 2201:

- Rule 2020; Section 6.20 is added to clarify that CH&SC 42301.16 determines the District's agricultural source permitting and exemption thresholds.
- Rule 2201; Section 4.6.9 is added to clarify that agricultural sources are exempt from offsets to the extent provided by CH&SC 42301.18(c).

COST EFFECTIVENESS ANALYSIS:

Pursuant to California Health and Safety Code Section 40728.5, the District is required to analyze the cost effectiveness of new rules that implement Best Available Retrofit Control Technology (BARCT). The proposed amendments do not add BARCT requirements and therefore are not subject to the cost effectiveness analysis mandate.

SOCIOECONOMIC IMPACT ANALYSIS:

Pursuant to California Health and Safety Code Section 40728.5, the District is required to analyze the socioeconomic impacts of any proposed rule amendment that significantly affects air quality or strengthens an emission limitation. The proposed amendments do not significantly affect air quality or strengthen an emission limitation, and are therefore not subject to the socioeconomic impact analysis mandate.

RULE CONSISTENCY ANALYSIS:

Pursuant to CH&SC Section 40727.2 (g) a rule consistency analysis of the draft rule is not required. The draft rule does not strengthen emission limits or impose more stringent monitoring, reporting, or recordkeeping requirements.

ENVIRONMENTAL IMPACTS:

Pursuant to the California Environmental Quality Act, staff investigated the possible environmental impacts of the proposed amendments. Because this rule does not relax any current NSR provisions, and possessing no evidence to the contrary, District staff have concluded that the proposed amendments will not have any significant adverse effect on the environment. Staff will prepare a Notice of Exemption under the provisions of Public Resource Code 15061(b)(3) for this project.

RULE DEVELOPMENT PROCESS:

District staff conducted a public workshop on July 19, 2006 to present, discuss, and receive comments on the provisions of the proposed amendments.

The notice of the public hearing for this rule project was published in a general circulation newspaper in each of the eight San Joaquin Valley counties, and mailed to affected sources and interested parties. The public notice solicited written comments to be submitted by mail, and identified the names and telephone numbers of the District staff who could answer questions and respond to comments. Comments received are addressed in the Final Staff Report.

*SJVUAPCD Governing Board
Adopt Proposed Amendments to Rule 2020 (Exemptions) and Rule 2201 (New and Modified Stationary
Source Review Rule)
September 21, 2006*

FISCAL IMPACT:

District staff expects no fiscal impact to the District to result from this action.

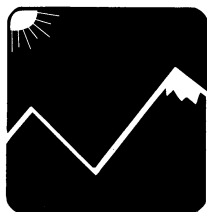
Attachments:

Resolution for Amendments to Rule 2020 and 2201 (4 pages)

Proposed Rule 2020 (12 pages)

Proposed Rule 2201 (38 pages)

Final Staff Report (15 pages)



San Joaquin Valley Air Pollution Control District

October 31, 2006

Mr. Mike Guzzetta, Manager
Rule Evaluation Section
California Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

**Re: Interim SIP Submittal for District Rules 2020 and 2201 as Amended on
September 21, 2006**

Dear Mr. Guzzetta:

On September 27, 2006, the San Joaquin Valley Unified Air Pollution Control District (District) submitted the Rule Action Package for Rule 2020 (Exemptions) and Rule 2201 (New and Modified Stationary Source Review Rule) that were adopted by the District's Governing Board on September 21, 2006. At that time, we asked that you approve these revisions and submit them to EPA for inclusion in the SIP. With this letter, we are asking ARB to take an interim action on these rules and only submit specific sections, as explained further below.

We understand that ARB is currently investigating claims by Earthjustice, and by the Center for Race, Poverty and the Environment, that the District's December 2005 amendments to Rule 2201 to incorporate the federal NSR reforms may be a relaxation contrary to the requirements of Senate Bill 288. Because the December 2005 NSR reform revisions in question are also a part of the September 2006 Rule 2201 SIP submittal, we understand that until the claims can be resolved the September revisions can not be forwarded to EPA in their entirety.

We therefore are asking at this time that only the adopted revision to Rule 2201, and the entire Rule 2020, be forwarded to EPA for inclusion into the State Implementation Plan (SIP) as expeditiously as possible.

The September 2006 amendments to Rule 2020 and Rule 2201 are administrative changes that incorporate existing state law requirements for permitting agricultural sources of air emissions. Specifically, the Governing Board acted to incorporate the following sections:

Seyed Sadredin
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
www.valleyair.org

Southern Region Office
2700 M Street, Suite 275
Bakersfield, CA 93301-2373
(661) 326-6900 • FAX (661) 326-6985

Mr. Guzzetta
October 31, 2006
Page 2

Rule 2020 – amended to add Section 6.20:

6.20 Agricultural sources, but only to the extent provided by California Health and Safety Code, section 42301.16.

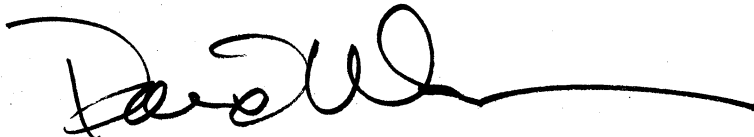
Rule 2201 – amended to add Section 4.6.9:

4.6.9 Agricultural sources, to the extent provided by California Health and Safety Code, section 42301.18(c), except that nothing in this section shall circumvent the requirements of section 42301.16(a).

To reiterate, we are asking that Rule 2020, in its entirety, and the new Section 4.6.9 of Rule 2201, as inserted on September 21, 2006, exclusive of all other sections of Rule 2201, be forwarded to EPA for inclusion into the SIP.

Should you have any questions please contact me, or Carlos Garcia of my staff, at (559) 230-5900. The District thanks you and your staff for your assistance and for your quick action on this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "David Warner", with a long horizontal flourish extending to the right.

David Warner
Director of Permit Services

DW:cg

cc: Mike Tollstrup, ARB