

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

DRAFT STAFF REPORT

Rule 9410 (Employer Based Trip Reduction)

September 14, 2009

Prepared by: Jessica Hafer Fierro, Senior Air Quality Specialist
Nichole Corless, Air Quality Specialist

Reviewed by: Errol Villegas, Planning Manager
Scott Nester, Director of Planning
Lori Sheridan, Air Quality Inspector
Patia Siong, Senior Air Quality Specialist
Colette Kincaid, Senior Air Quality Specialist
Sharon Kendall, Personnel Administrator
George Heinen, Supervising Air Quality Engineer
Lucinda Roth, Supervising Air Quality Specialist

I. SUMMARY

Reducing mobile source emissions is key to the success of the San Joaquin Valley's (Valley) attainment strategies for the federal 8-hour ozone and PM_{2.5} (particulate matter that is 2.5 microns or less in diameter) standards. About 75% of the Valley's oxides of nitrogen (NO_x) emissions come from mobile sources, and NO_x is a key ingredient in both ozone and secondary particulate matter formation. However, state and federal laws preempt the San Joaquin Valley Air Pollution Control District's (District) authority to regulate tail-pipe emissions for mobile sources.

The California Air Resources Board (ARB) is responsible for regulating emissions from on-road motor vehicles, and ARB also establishes fuel specifications for California. Local governments, such as cities and counties, can influence air quality by addressing emissions from vehicles in their land-use and transportation planning processes and projects. For example, reducing urban sprawl and increasing street connectivity reduce emissions and help improve air quality.

While the District cannot regulate the vehicles themselves or the fuels the vehicles use, the District can reduce mobile source emissions through other avenues. The District's Emissions Reduction Incentive Program (ERIP) provides financial incentives to help replace older cars and engines through a few different programs. One program targets cars that have a history of needing smog repairs, but are currently legally registered and able to be driven. Based on the results of an emission test, incentives are available for up to \$5000 to replace an older car. Other incentives are also given so older engines

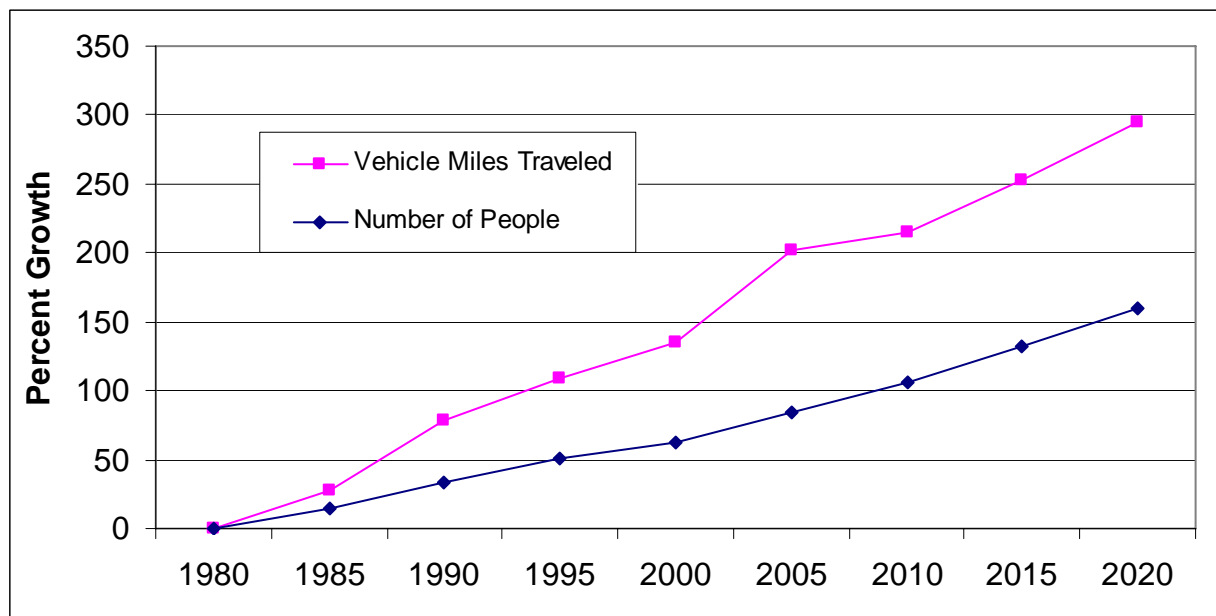
SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

are replaced with newer, cleaner engines years before these engines would be required to be replaced through regulation or natural attrition. The District encourages carpooling, trip linking, and similar activities through Healthy Air Living, the District's principle public outreach effort. Through the District's Indirect Source Review (ISR) rule 9510, the added vehicle miles traveled that results from new development is mitigated through onsite and off-site measures. The District will also reduce vehicle emissions through adoption and implementation of Rule 9410, Employer Based Trip Reduction. The District committed to this rule in both the *2007 Ozone Plan* and the *2008 PM2.5 Plan*.

A. Reasons for Rule Development and Implementation

Between 2000 and 2020, the population of the San Joaquin Valley is expected to grow by 60%. In contrast, the total population for the state of California is expected to grow 29% over the same time period.¹ Population growth typically leads to increased vehicle activity and increased emissions of ozone precursors, slowing the progress made by regulations that require newer automobiles to pollute less than older models. Furthermore, the Valley's total vehicle miles traveled (VMT) is increasing at an even faster rate than the population (see Figure1). So the Valley has more people, and they're generally driving more.

Figure 1 San Joaquin Valley Percent Growth in Population and Vehicle Miles Traveled as compared to 1980



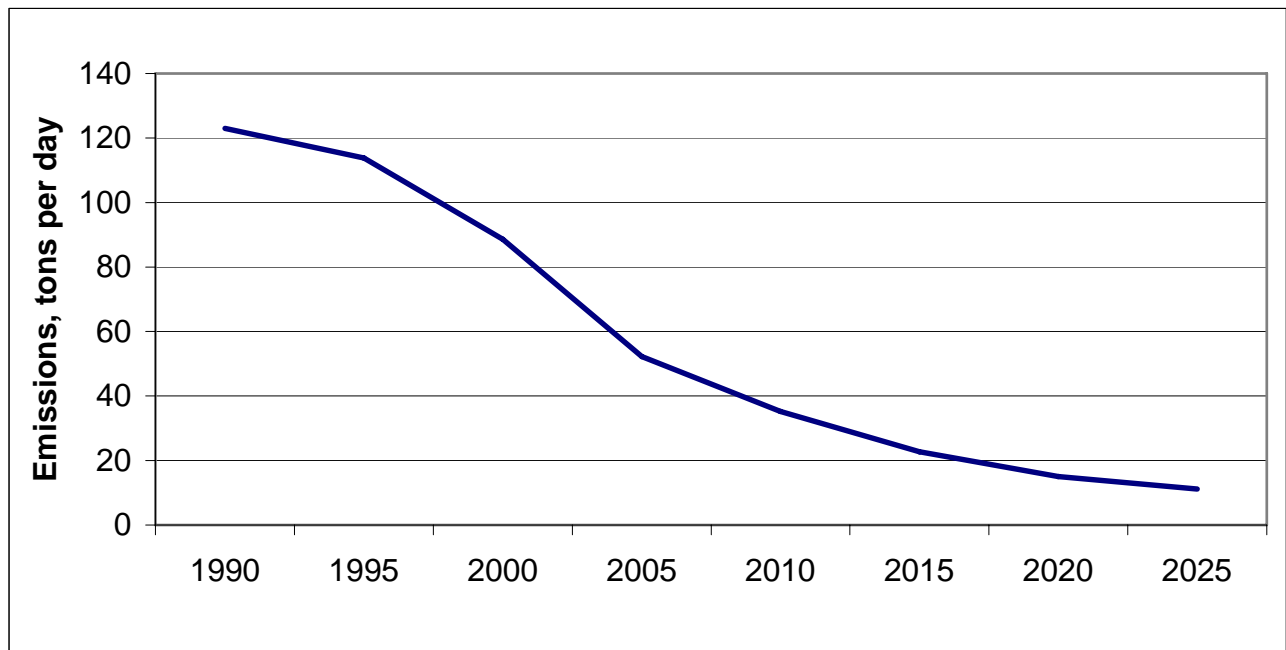
¹ Based on data obtained from www.arb.ca.gov/app/emsinv/trends.em_trends.php, developed using reports from the California Department of Finance.

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Despite VMT increases, total passenger vehicle emissions have decreased significantly with improvements in technology and fuel formulations (see Figure 2). However, with EPA's new health-based standards for PM_{2.5} and 8-hour ozone adopted in 2006 and 2008, respectively, the immense attainment challenges before the Valley demand further reductions from a variety of sources. The proposed Employer Based Trip Reduction rule will achieve some of the additional mobile source emissions reductions needed to contribute to the Valley's progress towards EPA's increasingly stringent air quality standards.

According to the Department of Transportation's (DOT) National Household Travel Survey², as a nation-wide average, trips to and from work account for 17% of all private vehicle trips (see Figure 3). The survey also found that private vehicle use is the largest mode of transportation to and from work, accounting for about 92% of all work commutes (see Figure 4).

Figure 2 Mobile Source Emissions, Light Duty Passenger and Light Duty Trucks



² The 2001 surveys were released in July 2005. A 2008 update is in progress with a target completion date in fall 2009.

Figure 3 Private Vehicle Trip Purposes, 1990-2001

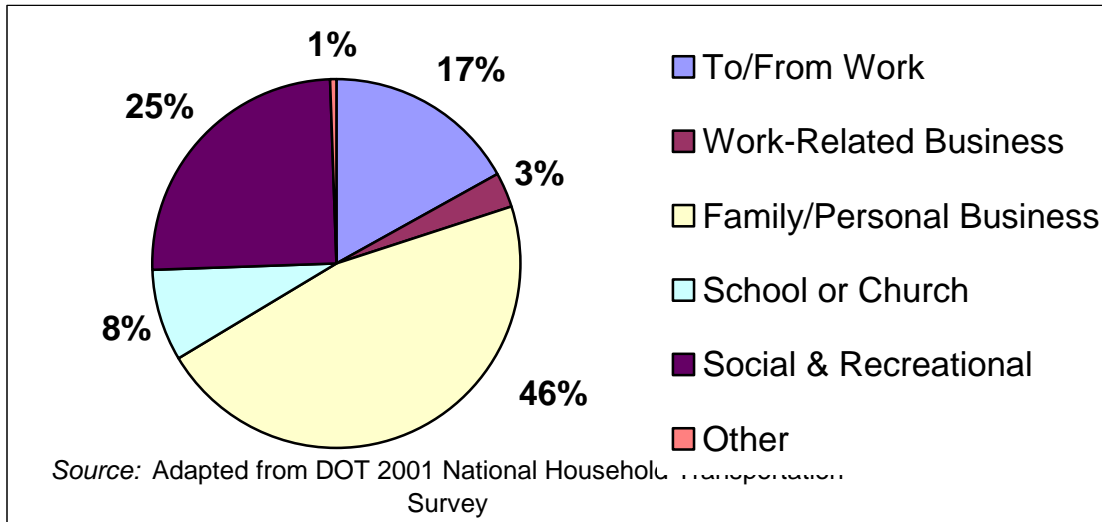
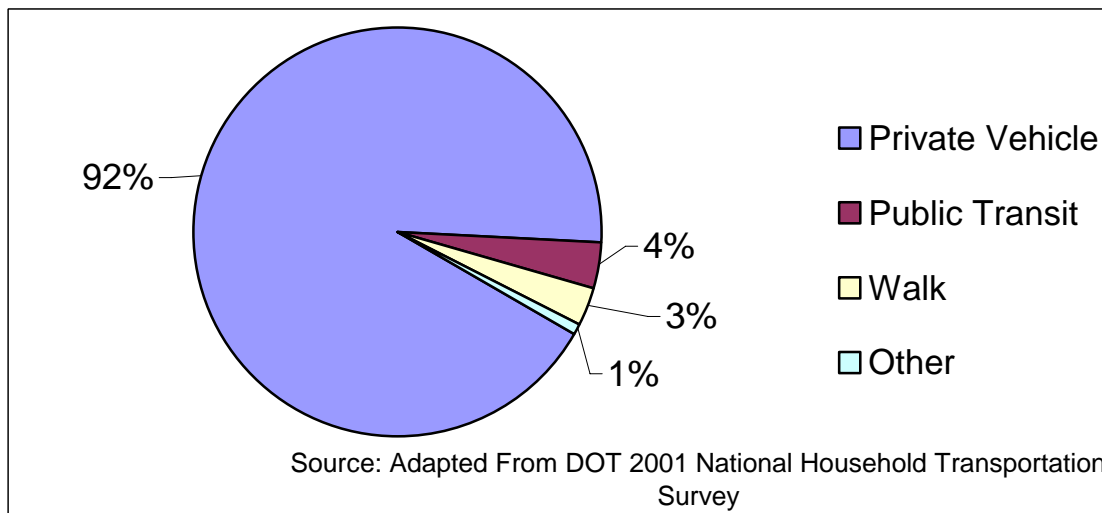


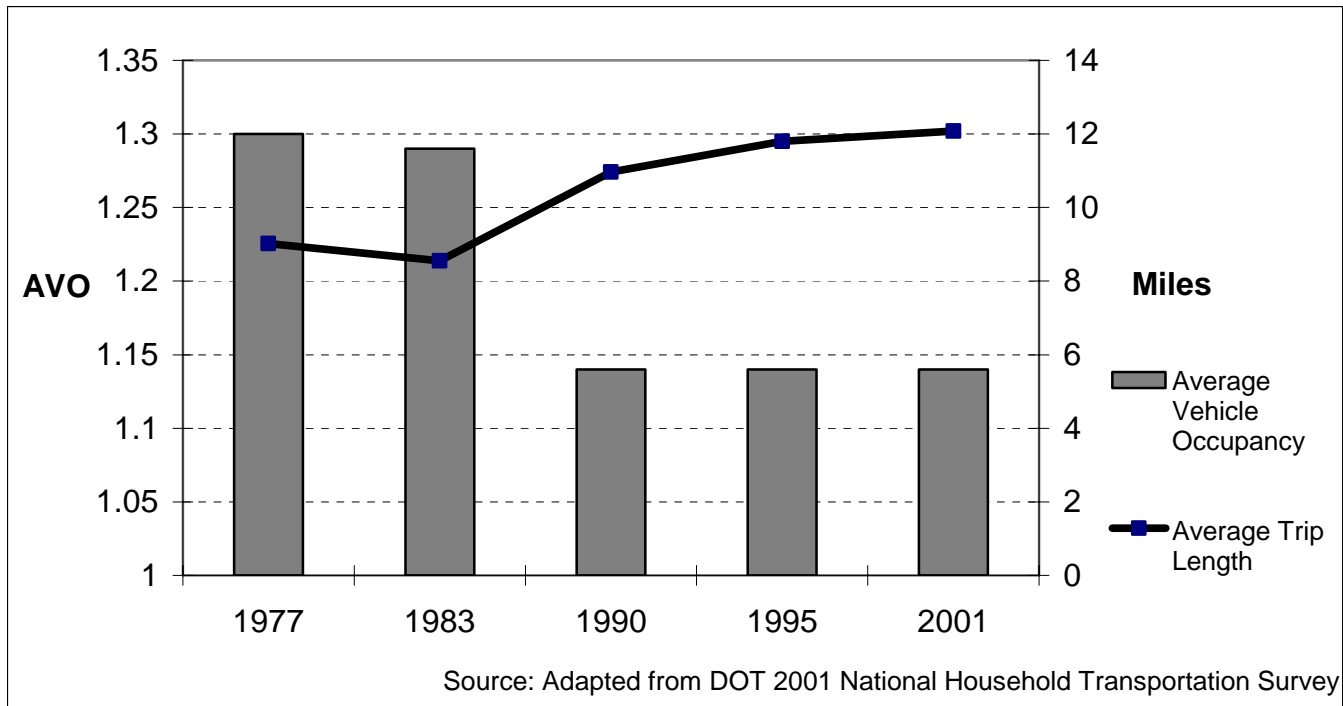
Figure 4 Modes of Transportation To and From Work, 1990-2001



The DOT survey also found that average vehicle occupancy to and from work has declined since 1977, and the average distance for commuting to work has continued to increase over the same time period (see Figure 5). The work commute is not the only arena where vehicle miles traveled can be reduced, but it carries some significant advantages and benefits. For example, carpooling to work is convenient in that coworkers are going to the same place at the same time. Using carpooling to decrease

single occupancy vehicle use and vehicle miles traveled during the common work commute times can decrease congestion as well as improve air quality.

Figure 5 Average Vehicle Occupancy (AVO) and Trip Length To and From Work



The San Joaquin Valley Air Basin is designated nonattainment for the National Ambient Air Quality Standard (NAAQS) for 8-hour ozone and for PM2.5. The Valley is also nonattainment for the California ozone and PM standards. By reducing VMT, Rule 9410 can decrease emissions of ozone precursors, direct PM2.5, and PM2.5 precursors. Decreasing VMT can also contribute to efforts to reduce greenhouse gases (GHG).

B. Description of Project

Consistent with the District’s plan commitments, Rule 9410 would require larger employers (those with 100 or more employees) to establish employee trip reduction programs to reduce VMT, reducing emissions associated with work commutes. The draft rule proposes a menu-based Employer Trip Reduction Implementation Plan (ETRIP) and periodic reporting requirements to evaluate performance on a phased-in compliance schedule. Employers can choose which services and programs work best for their operations and their employees. The goal of the ETRIP is to provide employees with opportunities that make ridesharing and alternative transportation more accessible while not requiring a certain number of participants, as employers cannot

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

legally mandate their employees' activities outside of working hours. The District will make the periodic reporting as simple as possible and will allow for electronic reporting. The reporting component of the rule will help the employer and the District assess how successful the ETRIP is in facilitating alternative transportation and ridesharing. The District will provide guidance documents detailing the various menu options employers may implement to help to reduce employee commute trips throughout the compliance schedule.

C. Rule Development Process

As part of the rule development process, District staff conducted public scoping meetings in February 2009. At the scoping meetings, District staff presented the objectives of the proposed rulemaking project and solicited suggestions from affected stakeholders on how best to achieve the goals of the project. The knowledge gathered during the scoping meetings was incorporated into Draft Rule 9410 that will be presented in future workshops, and each workshop will be followed by a public comment period. The comments received during workshops and during the written comment period are summarized with District responses in Appendix A of this Draft Staff Report.

A voluntary survey was sent to large employers to solicit information about their current work environment, including employee information and rideshare programs currently in place. Information provided through the survey assisted the District in the development of Rule 9410 and supporting materials.

The first Draft Rule and revised Draft Staff Report were presented at workshops held in July 2009 followed by a public comment period. A socioeconomic focus group was held directly after one of the workshops to solicit comments and information to be used for the socioeconomic and environmental analyses. The results of the socioeconomic analysis will be published in a report and presented along with the proposed rule during the final workshop.

The second round of workshops is scheduled for September 14, 15, and 16, 2009, and the revised Draft Rule and revised Draft Staff Report will be published prior to the meeting. Socioeconomic and cost effective analyses will be discussed at the workshops and available for comments. A public comment period will follow the workshop and close on September 30, 2009.

A socioeconomic and cost analysis workshop will also be held in October (tentatively) to allow for further time for stakeholders to comment and provide information to the District regarding the costs associated with rule implementation.

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

The proposed rule and staff report with appendices, and final draft socioeconomic analysis report will be published and available to affected sources and interested parties prior to a public hearing before the District Governing Board to consider adoption of Rule 9410 in the fourth quarter of 2009.

II. BACKGROUND

A. History and Legislative Authority

On January 20, 1994, the District Governing Board adopted Rule 9001 (Commute Based Trip Reduction) in response to California Clean Air Act (CCAA) requirements to reduce single occupancy commute vehicle trips and to reduce motor vehicle emissions. In October 1995, Senate Bill (SB) 437 created Health and Safety Code (H&SC) section 40929(a) (renumbered to 40717.9), which prohibited any public agency from requiring an employer to implement an employee trip reduction program unless expressly required by federal law. District staff determined that Rule 9001 was inconsistent with the new H&SC section, so the District ceased enforcement of the trip reduction rule as of October 9, 1995, and the rule was repealed on February 15, 1996.

More recent legislation gives the District authority to implement measures such as an employer based trip reduction rule or a commute options program:

- 2008 California Assembly Bill (AB) 2522 (Arambula) authorizes the San Joaquin Valley Air District to adopt rules and regulations to reduce vehicle trips in order to reduce air pollution from vehicular sources (H&SC Section 40612(a)(2)).
- 2003 California SB 709 (Florez) authorizes the San Joaquin Valley Air District to adopt rules and regulations to require businesses that employ at least 100 people to establish a rideshare program (H&SC Section 40601(d)).

Also, under Clean Air Act Section 182(d)(1)(B) and 182(e), severe and extreme nonattainment areas may adopt control measures requiring employers to implement programs to reduce work-related vehicle trips and miles traveled by employees.

The District's *2007 Ozone Plan* identified Employer Based Trip Reduction as one of the innovative strategies for reducing ozone precursors. The *2008 PM_{2.5} Plan* also committed to adopt a rule requiring employers with 100 or more employees to establish employee trip reduction programs.

III. SUMMARY OF PROPOSED RULE

A. Employer Requirements of Draft Rule 9410

The stated purpose of Draft Rule 9410 is to improve ambient air quality by reducing air pollutant emissions that result from vehicle commute trips to worksites with 100 or more employees. The rule requires employers to implement an Employer Trip Reduction Implementation Plan (ETRIP) to provide employees with opportunities that make ridesharing and alternative transportation more accessible. Employers with at least 100 eligible employees would be subject to Rule 9410. Exempt employees include the following (see Rule definitions for more information):

- Those not arriving at work between 6am-10am
- Agricultural workers
- Emergency health and safety employees
- Employment agency employees
- Field personnel
- Field construction workers
- Independent contractors
- Home garage employees
- Part-time employees
- Seasonal employees
- Volunteers

There are three main components of compliance in Draft Rule 9410:

1. Employer registration
2. Employer Trip Reduction Implementation Plan (ETRIP)
3. Employee Survey and Annual Report

Employer registration: Employers subject Rule 9410 (i.e., worksites with 100 or more eligible employees) would register with the District by July 1, 2010 (see Section 6.1 of the Draft Rule).

- Employers who become subject to Rule 9410 after January 1, 2010, due to a change in the workforce, would register within 180 days after becoming subject to Rule 9410 (see Sections 6.1 and 6.6.1 of the Draft Rule).
- Employers who fall below the 100 eligible employee level after registering with the District for this rule would notify the District in writing of their change in status within 90 days of their change in status (see Section 6.6.1.1 of the Draft Rule).

ETRIP: The Employer Trip Reduction Implementation Plan (ETRIP) shows which menu options the employer is implementing to achieve the point targets specified in the rule. The menu approach allows employers the flexibility to choose measures that are more appropriate for their employees and their operations. The goal of the ETRIP is to provide employees with opportunities that make ridesharing and alternative

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

transportation more accessible. The ETRIP strategies will be implemented on a phased schedule. The goal of the phased schedule is to allow time for education and awareness of trip reduction opportunities and benefits as well as to minimize the cost burden on employers.

- Employers would notify eligible employees of the compilation of the ETRIP and facilitate the participation of eligible employees in the development of the ETRIP.
- Tier 1 worksites have between 100 and 249 eligible employees. Tier 2 worksites have 250 or more eligible employees. Tier 2 worksites would have to achieve more points in their ETRIP (see Section 5.1, Table 1 in the Draft Rule; see also Table 1 in this Staff Report).
- There is a list of measures an employer can choose for their ETRIP, and each measure has an associated point value (see Table 2 in this Staff Report).
- The measures in the ETRIP are divided into five Strategies: Marketing, Program Support (Implementation), Transportation and Alternative Schedule, Incentives, and Services and Facilities (Amenities). There is a minimum point target for each strategy.
- ETRIP strategies will be implemented on a phased schedule beginning with the Marketing and Program Support strategies (see Table 1 in this Staff Report).
- The first ETRIP for the Marketing and Program Support (Implementation) strategies would be due to the District by September 1, 2011, or 90 days after initial employer registration. The first ETRIP will include the measures employers plan on implementing in those strategies and will need to start implementing by January 1, 2012.
- The ETRIP total point target is higher than the minimum point targets for the five strategies. The additional points needed in the ETRIP can come from any measure or combination of measures and would be listed in the ETRIP due to the District by District by September 1, 2013 and start implementing by January 1, 2014.
- The ETRIP template will be simple, and the District will offer electronic reporting. The Draft form includes a series of check boxes and areas where the total points can be added for easy comparison to the rule's point targets.
- The District would act on ETRIPs within 45 days of submittal.
- Employers would keep records of steps taken to implement measures for the ETRIP on file for at least five years, making records available to the District or EPA upon request.
- The first ETRIPs are due to the District on September 1 in 2011, 2012, and 2013. Beginning in 2015 (or after the employer has become subject to the rule and has submitted their first ETRIP), the employer will submit the complete ETRIP form to the District annually by March 31. Any changes the employer made to their trip reduction program will be reflected on their new ETRIP.

Employee Surveying: Survey results are for informational purposes, to help the employer and the District assess how successful the ETRIP is in facilitating alternative

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

transportation and ridesharing. At least 90% of surveys distributed to eligible employees must be returned to be counted. There is no mandated target participation level associated with employee use of alternative transportation and ridesharing.

- Employers would survey their eligible employees for a Survey Period, twice per year, beginning in 2014.
- The Survey Period (as defined in Section 3.0 of the Draft Rule) would be a regular work-week running from Monday through Friday. This would be representative of a typical work week. The Survey Period would not contain any federal, state, or local holiday, regardless of whether the holiday is observed by the employer. An employer may choose to survey over a two week pay period.
- The calendar year's semiannual Survey Periods would be at least 120 days apart.
- The surveys would collect information on the modes of transportation used by all eligible employees for commutes both to and from work, every day of the survey period.
- Employers would keep survey records on file for at least five years, making records available to the District or EPA upon request.
- Survey results would be reported to the District by March 31 of every year, beginning in 2015.

Table 1: ETRIP Point Targets

ETRIP	Tier One Worksite	Tier Two Worksite	Initial Submittal Deadline	Starting Implementation
Minimum points per strategy				
Marketing Strategy	6	10	September 2011	January 2012
Program Support Strategy	6	8	September 2011	January 2012
Services and Facilities Strategy	6	10	September 2012	January 2013
Transportation and Alternative Schedule Strategy	10	15	September 2013	January 2014
Incentives Strategy	4	9	September 2013	January 2014
<i>Additional Points Needed (from any measure or combination of measures)</i>	<i>12</i>	<i>14</i>	<i>September 2013</i>	<i>January 2014</i>
Total Points Goal	44	66	September 2013	January 2014

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

Table 2: ETRIP Menu Options	
Marketing Strategy <i>Measures that help increase trip reduction program awareness & accessibility</i>	Points
Healthy Air Living Partner – Register with the San Joaquin Valley Air Pollution Control District as a Healthy Air Living Partner and remain a partner in good standing. See www.healthyairliving.com for more information.	6
Employer Rideshare Event – Employer sponsored events available to all eligible employees which promote rideshare opportunities, such as: <ul style="list-style-type: none"> • Employee Rideshare Fair that has multiple agencies or resources about alternative transportation in the vicinity of the worksite • Presentation on the alternative transportation opportunities and services available to the worksite and benefits of ridesharing. This should be at least a one-hour meeting for all eligible employees or the equivalent. • Week-long Alternative Transportation/Rideshare event where eligible employees are encouraged to try alternative transportation throughout the week. 	5
Employer Rideshare/Alternative Transportation Meetings – Semiannual meetings available to all eligible employees to help those employees identify those who live in similar areas to foster the rideshare coordination.	5
Employer Rideshare/Alternative Transportation Focus Group(s) – Meetings conducted at least semiannually with a sample of eligible employees to solicit input on commute behavior, incentives to rideshare, and any constraints to alternative commute modes.	5
Onsite Transit Information Center – Employer-provided transit information center for general transit information and/or the onsite sale of public transit passes, tickets or tokens to that worksite’s eligible employees. Information must be verified and updated, as necessary, at least quarterly.	3
Rideshare and Alternative Transportation Bulletin Boards – A communication tool that displays materials that publicizes incentives and encourages participation in a rideshare program. The bulletin board should be in a location that would be most likely viewed by the majority of the eligible employees. It may be necessary to have more than one bulletin board. The board should be verified and updated, as necessary, at least quarterly.	3
Attendance at a Marketing Class/Focus Group – Annual attendance by the ETC at an Employee Trip Reduction program marketing class provided by the District or its designee.	3

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

<p>Employer Rideshare Newsletter – An employer-generated newsletter that discusses alternative transportation modes, outlines incentives, and encourages participation in a rideshare program. Must be distributed at least quarterly to all eligible employees. A newsletter should be at least two pages long and be text-driven to provide eligible employees with detailed information about ridesharing and alternative transportation. Could be an electronic newsletter.</p>	3
<p>“Best Workplaces for Commuters” Recognition – Businesses who, through application to the Best Workplaces for Commuters program, are found to meet the National Standard of Excellence in commuter benefits can be included in the national list of Best Workplaces for Commuters. This is a standard created by the Center for Urban Transportation Research and the U.S. Environmental Protection Agency. See www.bestworkplaces.org for more information.</p>	3
<p>Rideshare Flyer – A flyer that provides updates to eligible employees on alternative commute modes and incentives offered by the employer to encourage participation in a rideshare program. The flyer would be one page and may include graphics and short summaries to highlight program basics and updates. Must be distributed at least quarterly to all eligible employees.</p>	1
<p>CEO Communication – Direct communication by the employer’s CEO to introduce alternative commute modes, outline incentives, and encourage participation in a rideshare program. This must occur, at a minimum, on an annual basis. Might occur as verbal or written communication.</p>	1
<p>Rideshare Orientation for New Employees – Explanation of alternative transportation modes and employer incentives to promote and encourage participation in a rideshare program during the employer’s regular orientations for new, eligible employees.</p>	1
<p>Rideshare agency registration – Provide worksite information to a regional rideshare agency and maintain or update information as appropriate and requested by the regional agency</p>	1
<p>Other marketing measure approved by the District</p>	Varies
<p>Program Support Strategy <i>Measures that promote trip reduction program implementation</i></p>	
<p>Internal Ride Matching – The employer provides rideshare matching service, zip code list or assistance in finding commute alternatives for all eligible employees. Information must be updated semiannually.</p>	5
<p>Internal Guaranteed Ride Home Service – The employer directly provides eligible employees with a return trip to the point of commute origin, when a need for the return trip arises and the</p>	5

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

<p>employer participated in ridesharing or alternative transportation that day. This need, as defined by the employer, may be a personal emergency, an unplanned situation or business-related activities (such as overtime). This service may be provided by employer vehicle, rental car, taxi, another employee or by a TMA/TMO.</p>	
<p>Personalized Commute Assistance – The employer provides personalized assistance such as transit itineraries, carpool matching and personal follow-up to eligible employees at least annually. Examples of ways an employer can provide this service to eligible employees are:</p> <ul style="list-style-type: none"> • Organize carpool/vanpool formation meeting(s). • Assist in identifying park and ride lots. • Assist in identifying bicycle and pedestrian routes. • Assist in providing personalized transit routes and schedule information. • Provide personalized follow-up assistance to maintain participation in the commute program. 	5
<p>External Employee Ride Matching Services – The employer promotes the use of a third-party rideshare program to help eligible employees identify appropriate opportunities for ridesharing. Employers must promote these services at least annually.</p>	3
<p>External Guaranteed Ride Home Service – The employer utilizes a third-party service to provide eligible employees with a return trip to the point of commute origin, when a need for the return trip arises and the employer participated in ridesharing or alternative transportation that day. This need may be a personal emergency, an unplanned situation or business-related activities (such as overtime). The employer needs to indicate if this service would be provided by employer vehicle, rental car, taxi, another employee or by a TMA/TMO.</p>	3
<p>Other program support measure approved by the District</p>	Varies
<p>Services and Facilities Strategy <i>Measures that increase the convenience of program participation.</i></p>	Points
<p>Onsite Food Service – Employer provides an onsite area where eligible employees can consistently purchase meals, such as a cafeteria or lunch truck service.</p>	7
<p>Onsite Child Care – Daycare service provided to eligible employees.</p>	7
<p>Showers and/or Lockers onsite</p>	5
<p>Onsite Kitchen – Eating area at the worksite that includes a sink, microwave, and refrigerator.</p>	5
<p>Onsite Bike Repair – Services that would allow a bicycle repair person to repair and/or tune up employee bicycles onsite at least twice per month if or when eligible</p>	5

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

employees sign up and agree to pay for said services.	
Electric vehicle recharging	5
Onsite ATM	3
Onsite vending machines	3
Bike Racks – Racks and secure bike parking is provided to accommodate eligible employees who bike to work. The employer must provide secure bike parking for the foreseeable need of the bicycle commuters.	3
Health Facilities – Services that provide first aid to eligible employees including, but not limited to, first aid, onsite nurse, etc.	3
Employer Provided Bicycles – Provided by the employer and made available for employee use during lunch and breaks.	3
Fitness Area and/or Classes – Employer provided area to exercise during breaks or lunches. Examples may include, but are not limited to: <ul style="list-style-type: none"> • Fitness area with exercise equipment available for employee use • Room designated for an exercise video or fitness instruction during lunch at least once per week 	3
Employer-Organized Lunch Delivery – Employer-organized lunch delivery at least twice per month.	1
Check cashing	1
Direct Deposit	1
Break and/or Lunch Activities – Employer-sanctioned or employer-promoted activities that may reduce the amount of eligible employees going offsite during breaks and/or lunches at least two times per month. May include activities such as games, movies, etc.	1
Dry Cleaning – Onsite pick up and delivery through an outside agency.	1
Postal Service – Stamps for sale onsite and onsite mail pick up for eligible employees' personal mail.	1
Other services and facilities measure approved by the District	Varies
Transportation and Alternative Schedules Strategy <i>Measures that provide options to decrease VMT</i>	Points
Compressed Work Week (CWW) – A regular, full-time work schedule which eliminates at least one round-trip commute trip (both home-to-work and work-to-home) at least once every two weeks for eligible employees. A CWW schedule must be implemented in a manner that reduces trips to the worksite, as an alternative to completing the	15

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

<p>basic work requirement of five eight-hour workdays in one week, or ten eight hour workdays in two weeks. At least 50% of all eligible employees must be on the CCW schedule.</p> <ul style="list-style-type: none"> • 9/80 Schedule – The employee works eight nine-hour days, and one eight-hour day. The employee is thus off of work one day every ten days. • 4/10 Schedule – The employee works four ten-hour days each week. The employee thus takes one day off work in every five day period. • 3/36 Schedule – The employee works three twelve-hour days and takes two days off work every five days. 	
<p>Telecommuting Program – A system of working at home, offsite, or at a telecommuting center for a full workday. Telecommuting should eliminate the trip to work or reduce the travel distance to the worksite by more than 80 percent. The employer should make telecommuting available to at least 10 percent of its eligible employees (even if less than 10 percent of eligible employees take advantage of the program), and each participant should be allowed to telecommute at least one day per week.</p>	9
<p>Vanpool Program – The employer provides eligible employees with a vanpool program designed to encourage the use of existing vanpools or the development of new vanpools. The employers must provide eligible employees information on vanpool availability, benefits of vanpooling, and any incentives offered by the employer or an outside agency.</p>	8
<p>Bicycle Program – Employer-promoted program which encourages bicycle commuting. The employer should provide a safe place to store bicycles, information (such as routes and safety) and a repair kit or tools (such as a tire pump).</p>	7
<p>Carpool Program – Employer promoted program designed to encourage the use of existing carpools or the development of new carpools by facilitating ride matching, providing ridesharing information, and resources to participants.</p>	7
<p>Shuttles – Employers provide a shuttle for daily work commutes between employer worksites or between transportation stations and the worksite.</p>	5
<p>Flex Time Schedule – Eligible employees are permitted to adjust their work hours in order to accommodate public transit schedules or rideshare arrangements.</p>	3
<p>Staggered Work Schedule – The employer selects different start and stop times for departments or individuals within the company to promote ridesharing and accommodate public transit.</p>	3
<p>Other transportation and alternative schedule measure approved by the District</p>	Varies

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

Incentives Strategy <i>Measures that encourage trip reduction program participation through monetary based incentives.</i>	Points
Monetary Incentive – The employer, or other funding sources, provides eligible employees with cash subsidies, at least on a quarterly basis, for participation in the trip reduction program. This can include, but is not limited to, providing a monetary incentive to eligible employees who use alternative transportation a predetermined, minimum number of times per month or pay period.	9
Time Off with Pay – The employer provides eligible employees additional time off with pay for participation in the trip reduction program. This can include, but is not limited to, allowing eligible employees to accrue time off for every time they use alternative transportation or ridesharing.	9
Vanpool Subsidy – Employers pay for all or part of the cost of commuting by vanpool for eligible employees that use these services. The employer must provide the monetary value of the vanpool subsidy and the frequency of distribution.	5
Transit Subsidy – Employers pay for all of the cost of commuting by local transit, commuter rail or train for eligible employees that use these services. The employer must provide the monetary value of the transit subsidy and the frequency of distribution.	5
Bicycle Subsidy – Employers pay for the purchase of a bicycle and/or bicycle improvements, repair, and storage for eligible employees that use these services and regularly commute by bicycle. The employer must provide the monetary value of the bicycle subsidy and the frequency of distribution.	5
Startup Incentive – Designed to reward commuters who previously commuted via single occupancy vehicle by offering a one-time or short-term incentive when they begin using ridesharing or alternative transportation on a regular basis.	3
Discount Transit Passes – Employers pay for part of the cost of commuting by local transit, commuter rail or train for eligible employees that use these services.	3
Discounted/Free Meals – Employers provide participating eligible employees with meals free or at least 50% discounted for their participation in the commute reduction program. The employer must offer meals to all eligible, participating employees at least once per month.	3
Points Program – Program where eligible employees earn points for each day of participation in	1

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

the trip reduction program. Points are redeemed for such rewards as time off, gift certificates, cash or merchandise.	
<p>Preferential Parking – The employer provides preferential parking spaces for use by eligible employees when they participated in ridesharing. These spaces must be clearly posted or marked in a manner that identifies them for carpool or vanpool use only. Of all parking spaces available for any eligible employees (not including spaces reserved for management, visitors, or employer fleet), at least 7% should be permanently designated as carpool spaces.</p>	1
<p>Prize Drawing – Eligible employees are provided with a chance to win prizes, at least quarterly, for participation in the trip reduction program.</p>	1
Other incentive measure approved by the District	Varies

B. District Commitments in Draft Rule 9410

The District has committed to providing multiple resources and tools to minimize costs and administrative burden associated with the implementation of this rule. Table 3 summarizes those commitments.

Table 3: Rule Compliance Support Materials to be Provided by the District		
District-provided Resource	Corresponding Employer Requirement	Deadline
District webpage and listserv dedicated to Rule 9410	NA	February 1, 2010
Employer Registration Template and online Registration option	Section 6.1	February 1, 2010
Marketing guidance and templates	Marketing Strategy, Section 5.2	March 1, 2011
Marketing training sessions, organized and facilitated by the District	Marketing Strategy, Section 5.2	First training to be held by April 1, 2011, with public noticing and outreach at least 30 days before the first training session
Program Support Strategy guidance and resources	Program Support Strategy, Section 5.2	March 1, 2011
Services and Facilities guidance and resources	Services and Facilities Strategy, Section 5.2	March 1, 2012
Transportation and Alternative	Transportation and	March 1, 2013

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

Schedules Strategy guidance and resources	Alternative Schedules Strategy, Section 5.2	
Incentives Strategy guidance and resources	Incentives Strategy, Section 5.2	March 1, 2013
Transportation, Alternative Schedules, and Incentives training sessions, organized and facilitated by the District	Transportation and Alternative Schedules Strategy and Incentives Strategy, Section 5.2	First training to be held by April 1, 2013, with public noticing and outreach at least 30 days before the first training session
Employee survey templates and online reporting options	Sections 6.4 and 6.5	September 1, 2013

IV. DISCUSSION

A. Regulations in other California Air Districts

South Coast Air Quality Management District adopted Rule 2202 On-Road Motor Vehicle Mitigation Options on February 6, 2004. The rule requires employers with 250 or more employees throughout the district to reach an Emissions Reduction Target depending on designated zones. Rule 2202 provides a menu of options to achieve reductions, one of which is Employee Commute Reduction Program. This option requires registration of the employer and the implementation of a trip reduction plan. South Coast AQMD offers a toolbox of ways to achieve commute reductions within Rule 2202.

Bay Area Air Quality Management District's Rule 1 Trip Reduction Requirements for Large Employers, under Regulation 13, was adopted in 1992 and vacated by SB 437 (Lewis) in 1996. This rule required employers with 100 or more employees to implement a trip reduction plan. Currently, Bay Area AQMD promotes voluntary employer based trip reduction programs through their Transportation Control Measures (TCMs) stated in the 2000 Clean Air Plan and updated in the 2005 Ozone Strategy. TCM 1 states that the Metropolitan Transportation Commission will continue to administer the regional ridesharing program funded by Bay Area AQMD's Transportation Fund for Clean Air (TFCA). TFCA also funds TCM 13 Transit Use Incentives providing 58 employers with monthly transit passes, TCM 14 Rideshare and Vanpool Services, and TCM 16 Intermittent Control Measure/Public Education Spare the Air Program which is currently partnered with 1,021 employers.

B. Additional Resources

There is a multitude of employer based and regional programs in and outside of California that provide services to reduce VMT and emissions. Though they have been successful, the efforts still remain voluntary in nature and limited in scope. Mandatory trip reduction programs have the potential to provide widespread change and achieve significant reductions in VMT. Employers may be able to partner with existing programs and services, or employers may benefit from implementing programs similar to those that have already been shown to be successful.

Healthy Air Living

Healthy Air Living (HAL) is the Air District's campaign to help Valley residents and businesses make air quality a priority in day-to-day decision making. So far, the HAL campaign has provided public education informing Valley residents and businesses alternative transportation possibilities and ways to reduce emissions. The HAL initiative also offers toolkits to employers, including the [Employee Trip Reduction Resource Book](http://www.healthyliving.com/docs/Trip%20Reduction%20Book.pdf) (found at <http://www.healthyliving.com/docs/Trip%20Reduction%20Book.pdf>) highlighting various considerations and strategies for adopting a trip reduction plan. The HAL program will continue to serve Valley residents, providing information on how to make changes affecting air quality in the Valley. Visit [healthyliving.com/business.htm](http://www.healthyliving.com/business.htm) for more information.

Best Workplaces for Commuters

Best Workplaces for Commuters is a nation-wide program dedicated to employer recognition and resources for commuter benefits. Applicants agree to offer a selection of commuter benefits and ensure a minimum level of employee participation. This program was created by the Center for Urban Transportation Research and the U.S. Environmental Protection Agency. See www.bestworkplaces.org for more information. The San Joaquin Valley Air District applied for Best Workplaces for Commuters recognition in February 2009.

Valley Transit Services

Employers in some areas may be able to take advantage of local transit services in their area. Table 4 summarizes some of the major Valley bus systems.

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

Table 4: Valley Bus Information

City	Bus System	Fare	Website	Hours Available	Routes Available Online
Bakersfield	GET (Golden Empire Transit)	\$0.90	www.getbus.org/	6:00am-10:45pm	Yes
Clovis	Stageline and FAX Route 28	\$1	www.cityofclovis.com/UMAP.asp?FolderID=249	6:00am-8:25pm	Yes
Fresno	FAX (Fresno Area Express)	\$1	www.fresno.gov/DiscoverFresno/PublicTransportation/default.htm	5:30am-10:00pm	Yes
Hanford	KART (Kings Area Rural Transit)	\$1	www.kartaits.com/karhome.htm	5:50am-11:00pm	Yes
Lodi	Grape Line	\$1	www.loidi.gov/transit/introductions.html	6:00am-7:00pm	Yes
Madera	MAX (Madera Area Express)	\$0.75	www.maderactc.org/pubtrans.html	7:00am-6:30pm	Yes
Manteca	Manteca Transit	\$1	www.ci.manteca.ca.us/mantecatransit/general.htm	6:00am-7:00pm	Yes
Merced	The BUS	\$1	www.mercedthebus.com/index.html	7:00am-6:00pm	Yes
Modesto	MAX (Modesto Area Express)	\$1.25	www.modestoareaexpress.com/default.htm	6:30am-6:00pm	Yes
Porterville	Porterville Transit	\$1	www.portervilletransit.org/	7:00am-7:00pm	Yes
Stockton	RTD (Regional Transit District)	\$1.50	www.sanjoaquinrtd.com/Default.htm	6:00am-10:45pm	Yes
Tracy	Tracer	\$1	www.mvtransit.com/Tracer_home.htm	7:00am-7:00pm	Yes
Turlock	BLAST (Bus Line Service of Turlock)	\$1.25	www.ci.turlock.ca.us/citydepartments/developmentservices/transitservices/blastbus/	5:35am-6:15pm	Yes
Visalia	VCC (Visalia City Coach)	\$1	www.ci.visalia.ca.us/depts/transit/visalia_city_coach_(vcc)/default.asp	6:00am-9:30pm	Yes

Resources for Ridesharing

There are many programs operating regionally throughout California to provide alternative transportation services such as ride matching, commute calculators, employer resources, incentives and discounts and Guaranteed Ride Home services. Though it is not nearly exhaustive, the following list is of a few notable programs in the San Joaquin Valley:

- Commute Connection (www.commuteconnection.com) is a regional rideshare program operated by the San Joaquin Council of Governments and helps commuters find suitable alternative transportation options. The program includes free services such as commuter ride matching, Guaranteed Ride Home and employer assistance, while raising public awareness about the connection between transportation choices, air quality, and traffic congestion. Commute Connection currently serves almost 10,000 commuters in San Joaquin, Stanislaus, Calaveras and Tuolumne Counties.
- Kings County Area Public Transit Agency (www.kartaits.com) sponsors two programs that serve Kings County as well as other surrounding communities. Kings Area Rural Transit (KART) is Kings County's complete public rural and urban transportation provider. KART provides service within the Downtown areas of Hanford and Lemoore and regular route service between Hanford and the cities and communities of Armona, Avenal, Corcoran, Fresno, Grangeville, Hardwick, Kettleman City, Laton, Lemoore, Stratford, and Visalia. The AITS program is a vanpool program, also sponsored by Kings County Area Public Transit Agency, which provides agricultural workers in Kings, Tulare and Fresno Counties with safe, affordable vans they can use to drive themselves and others to work. AITS offers start-up grants to purchase the vans, and riders pay only a nominal fee to cover the cost to operate, maintain and insure the vehicle. The vans are also each equipped with a Global Positioning System, first aid kits, fire extinguishers and roadside safety items.
- Kern Commuter Connection (www.commutekern.org) serves Kern County offering information on carpooling, vanpooling and other modes of alternative transportation as well as air quality and road information and employer resources.
- Merced Rides (www.mercedrides.com) serves Merced County with information on transit, ridesharing, and the "Car-less Commute" program.
- South Valley Rideshare (www.southvalleyrideshare.com) is an innovation of Visalia City Coach in collaboration with the Kings County Area Public Transit Agency serving Madera, Fresno, Kings, Tulare, and Kern Counties. The website provides listings of open carpools and vanpools and provides other transit information.
- Valley Rides (www.valleyrides.com) is a cooperative effort between California State University Fresno and the Council of Fresno County Governments serving the Central Valley students and businesses. Valley Rides offers information on park and ride lots in the area and carpooling tips.

C. Successes

Successes in Ridesharing

The following worksites have successfully incorporated carpooling, vanpooling, or other mass transit options in their trip reduction efforts:

- The San Joaquin Valley Air District currently operates a voluntary Alternative Transportation Incentive Program for its employees. This program provides monetary incentives and preferential parking for those employees who use alternative modes of transportation, such as carpooling, biking, and public transit for at least 60% of commutes to and from work. Currently, this program has about 37% participation and has been a role model for the Valley.
- Paramount Farms in Northwestern Kern County operate employee vanpools for its sites in Lost Hills and Kings County.
- Pelco in Fresno has a wide variety of employee focused programs that reduce vehicle miles travelled, including bike to work and bus incentives.
- IKEA Wholesale in Bakersfield participates in and encourages carpooling and other alternative transportation with subsidies and competitions between employees.
- Tejon Ranch is implementing a vanpool to serve the many employees at IKEA and Tejon Industrial Complex.
- Diamond Foods in Fowler are in the process of getting bus service to their site and will provide a bus schedule to all employees.
- Frito-Lay is establishing a rideshare program at the worksites in Crows Landing and Bakersfield to help reduce vehicle trips.
- Cal State University Bakersfield encourages student use of busses by subsidizing bus passes, and by sponsoring an Alternative Transportation Day. They are also exploring ways to get more people involved such as incentivizing alternative transportation with gift drawings.
- Chevron facilities in Fresno operate vanpools to outlying field areas.
- Aera Energy operates vanpools from the offices in Bakersfield.
- Dreyers Ice Cream in Bakersfield encourages their employees to walk, bike, and carpool to work.

Successes in Services and Facilities

Onsite facilities and services make choosing alternative transportation more convenient. Programs currently in place that offer additional services to employees as a part of their trip reduction efforts include:

- The District offers its employees various facilities like showers and lockers, bike racks, bikes available for break and lunchtime use, lunch activities, postal services, order in lunches, and dry cleaning pickup and delivery. These additional services help reduce vehicle trips at lunch and for running errands, especially complementing those who do commute alternatively.

- Paramount Farms has a cafeteria in the Lost Hills facility to keep employees from commuting offsite for meals.
- Pelco has an onsite food service, postal services, and dry cleaning service helping to decrease additional trips employees need to make.
- IKEA contracts with a catering service to keep employees on site for meals.
- CSUB offers many internet classes and has dining facilities, postage facilities, and provides daycare for students and staff.
- The Chevron facility has a gym on site, provides lunch service, postal service, and bicycle storage.
- Aera Energy also has a gym on site, ATM, and provides lunch service for employees.

Successes in Alternative Work Schedules and Telecommuting

Many employers utilize flexible schedules and telecommuting to help reduce vehicle trips, congestion, and pollution:

- The District has implemented flexible work schedules and telecommuting to reduce vehicle trips to and from work and meetings. The District's flexible work schedule consists of working 9 days out of a two week period but still achieving 80 hours (9/80 schedule). This is done by working 9 hours a day Monday through Thursday and then 8 hours on the working Friday and then off on the second Friday therefore reducing a day of commuting to work.
- Paramount Farms saves travel with teleconferencing between offices in Lost Hills and Santa Monica, and allows employee telecommuting.
- Pelco allows flex work schedules to better suit employees.
- IKEA has a telecommuting program that allows some job classifications to work from home.
- Chevron also operates on a 9/80 schedule to help reduce vehicle trips.
- Aera Energy operates on a 9/80 schedule in addition to their other trip reduction efforts.
- Dreyers utilizes video-conferencing and telecommuting to cut down on travel.

D. Benefits of a Trip Reduction Program

The Employer Based Trip Reduction program is part of the District's strategy for bringing the San Joaquin Valley Air Basin into attainment of EPA's health-based air quality standards for PM2.5 and 8-hour ozone. A majority of the Valley's NOx emissions come from mobile sources, and these emissions contribute to both ozone and PM concentrations. Employer based trip reduction programs can provide a step in reducing vehicle trips in the Valley to reduce mobile source emissions and improve air quality.

California Senate Bill 375

The District's Employer Based Trip Reduction rule can also reduce GHG emissions and help the Valley comply with California Senate Bill (SB) 375. Under SB 375, approved on August 22, 2008 and codified in the California Government Code and Public Resources Code, metropolitan planning organizations (MPOs) must adopt a Sustainable Communities Strategy as part of their regional transportation plans. SB 375 links regional planning to Assembly Bill (AB) 32, which requires the State of California to reduce greenhouse gas (GHG) emissions to 1990 levels no later than 2020. Under SB 375, ARB will provide MPOs with GHG emission reduction targets. The MPOs will then incorporate strategies like better use of mass transit and bicycle lanes as well as mixed-use or denser development practices into their Sustainable Communities Strategies to reduce GHG emissions. This effort and the District's Employer Based Trip Reduction are complementary programs, incorporating similar strategies to achieve separate goals.

Additional Benefits

Workplace trip reduction programs can have a wide range of benefits, depending on how programs are implemented, and the benefits can affect multiple parties. Table 5 summarizes some of the potential benefits of trip reduction programs.

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

Table 5: Possible Benefits of a Trip Reduction Program

Benefits	Employee	Employer	Community
Decrease parking fees and costs	✓	✓	
Expanded employee benefits at low/no cost	✓	✓	
Lower absenteeism and tardiness	✓	✓	
Increased employment opportunities for disabled and others unable to meet traditional work hours	✓	✓	
Enhanced employee productivity through teleconferencing and telework options	✓	✓	
Increase in transport options	✓		✓
Increase road safety	✓		✓
Save money on gas and insurance	✓		
Decrease vehicle wear and tear	✓		
Boost mental health by decreasing stress from driving and traffic	✓		
Relieve overcrowded parking areas		✓	
Reduced overhead costs such as office space requirements if telecommuting		✓	
Tax Benefits		✓	
Enhanced employee recruitment and retention		✓	
Expanded service hours if changes made to work hour schedules		✓	
Reducing road and parking facility requirements		✓	
Decrease congestion			✓
Improve air quality			✓
Reduce road and traffic service costs			✓
More efficient land use			✓
Community livability			✓

E. Conjunction with Other District Programs

The District has programs already in place that reduce emissions from mobile sources. One example is the District's Healthy Air Living program, discussed earlier in this staff report. Since reductions achieved through Healthy Air Living are voluntary, the District does not quantify or credit these reductions in the attainment planning process. In contrast, the District's Indirect Source Review (ISR) program, Rule 9510, is a quantifiable and creditable mechanism for reducing mobile source emissions, specifically those associated with new development. New development can increase emissions both during construction and after, when increased vehicle traffic to and from the development increases an area's VMT. ISR requires developers of larger residential, commercial, and industrial projects to reduce emissions indirectly generated by their projects through either onsite measures (like siting near transit or retail services) or through off-site measures. For off-site measures, the developer pays an off-site mitigation fee to the District, and then those funds are used in the District's existing grant programs to fund emissions reductions projects.

Some of the mobile source reductions obtained through the District's Emissions Reduction Incentive Program (ERIP) are a result of ISR funds, and some funding comes from other sources. ERIP provides a variety of financial incentives and grants for projects that reduce air pollutant emissions from mobile or non-mobile sources. Some ERIP projects that reduce emissions from mobile sources include subsidized van pools. The District has also awarded a grant to the Visalia City Coach that subsidizes the cost of monthly transit passes (called "Hop Pass"), providing a discount for new bus commuters for up to six months.

Rule 9410 provides another important opportunity for the District to help the Valley achieve additional, much-needed mobile source emissions reductions. While Employer Based Trip Reduction has potential to reach a different and larger target group of commuters than those reached through ISR and ERIP, it is possible that some employees will be reducing trips by utilizing programs and services put in place through ISR and ERIP. The District must not count the same emissions reductions in two different programs.

Through ERIP record keeping, the District maintains information on vanpool ridership and transit pass subsidies. The District will compare this to information collected through Rule 9410 record keeping to prevent double counting of emissions reductions. At this time, the District expects the only a very small percentage of those participating in Employer Based Trip Reduction will also receive District transportation subsidies.

IV. EMISSIONS REDUCTION ESTIMATE

District staff has estimated the potential emissions reduction to be achieved from implementing the proposed Rule 9410. Please refer to Appendix B of this staff report for the analysis and detail on the emissions reduction estimate.

V. ECONOMIC ANALYSIS

Pursuant to H&SC 40728.5, District staff will prepare a cost effectiveness and socioeconomic analysis later in the rule development process to analyze the economic feasibility of the proposed rule.

VI. ENVIRONMENTAL IMPACTS

Pursuant to the California Environmental Quality Act (CEQA), District staff will investigate any potential environmental impacts of the proposed Rule 9410 later in the rule development process and recommend appropriate action to the District Governing Board.

VII. RULE CONSISTENCY ANALYSIS

Pursuant to H&SC 40272.2, District staff will prepare a rule consistency analysis of Rule 9410 later in the rule development process.

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

VIII. REFERENCES

1. San Joaquin Valley APCD. *2007 Ozone Plan*. April 30, 2007.
2. San Joaquin Valley APCD. *2008 PM2.5 Plan*. April 30, 2008.
3. SJVAPCD Healthy Air Living Business Page www.healthyairliving.com/business.htm
4. SJVAPCD HAL Employee Trip Reduction Resource Book
<http://www.healthyairliving.com/docs/Trip%20Reduction%20Book.pdf>
5. U.S. Department of Transportation and Federal Highway Administration. "Summary of Travel Trends: 2001 National Household Travel Survey". December, 2004.
6. SJVAPCD Alternative Transportation Incentive Program
7. Employment Development Department, Labor Market Information Division. Third Quarter, 2007. <http://www.labormarketinfo.edd.ca.gov/?pageid=138>
8. Bay Area AQMD. "Regulation 13 - Transportation Control Measures. Rule 1 - Trip Reduction Requirements for Large Employers". Adopted December 16, 1992. Suspended by the CA Legislature January 1, 1996.
9. Bay Area AQMD. "2005 Ozone Strategy". January 4, 2006.
10. South Coast AQMD. "Rule 2202. On-Road Motor Vehicle Mitigation Options" and "Employee Commute Reduction Program Guidelines". February 6, 2004.
11. Commute Connection www.commuteconnection.com
12. South Valley Rideshare www.southvalleyrideshare.com
13. Commute Kern <http://commutekern.org/>
14. Valley Rides for Central California www.valleyrides.com
15. Best Workplaces For Commuters www.bestworkplaces.org/index.htm
16. Kern Commuter Connection commutekern.org/index.html
17. Merced Rides www.mercedrides.com
18. Kings County Area Public Transit Agency www.kartaits.com

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

APPENDIX A

Public Comments

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

Air Resources Board Comments

The ARB staff has reviewed the rule and does not have any comments at this time.

Written Comments on the Draft Staff Report for Rule 9410

Comment period held from July 2, 2009 through July 21, 2009.

Comments were received from the following people and organizations:

Chevron (Chevron)
Sunview Vineyards of California (Sunview)
California League of Food Processors (CLFP)
Manufacturing Council of the Central Valley (MCCV)
Silgan Containers Manufacturing Corporation (Silgan)
Kern Oil and Refining Company (Kern Oil)
The City of Clovis (Clovis)
The City of Reedley (Reedley)
Coalition for Clean Air (CCA)
California Citrus Mutual (CCM)
California Cotton Ginners Growers Associations (CCGGA)
California Grape and Tree Fruit League (CGTFL)
Nisei Farmers League (Nisei)
Western Agricultural Processors Association (WAPA)
San Joaquin Council of Governments (SJCOG)
Del Monte Foods Hanford (Del Monte)
ASV Wines, Inc. (ASV)

Rule Definitions

- 1. Comment:** The rule should incorporate an “agriculture employer” definition. To insure uniformity with other rules, we suggest using the definition in the CFR, Title 29 (Labor), Chapter 5, (Wage & Hour Dept of Labor), Sub Chapter A (Regulations) 500.20, which reads as follows:
“Agricultural employer means any person who owns or operates a farm, ranch, processing establishment, cannery, gin, packing shed or nursery, or who produces or conditions seed, and who either recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal agricultural worker.”

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

Given agriculture's challenges in achieving successful compliance, we recommend that section 3.1 be expanded to include Agricultural Employer. (CCM, CCGGA, CGTFL, Nisei, WAPA)

Response: Many in the agricultural community have already been implementing trip reduction programs (such as vanpools) with great success. However, the District recognizes that agricultural employers are subject to complex employment regulations. Rule 9410's definition of "agricultural worker" and that category's inclusion in the definition of "excluded employees" in Section 3.0 should be sufficient to prevent Rule 9410 from coming into conflict with other Agricultural Employer regulations.

- 2. Comment:** The definition of Agricultural Worker should be clarified to read "any person employed in the tillage, planting, growing, care or harvesting of crops including winery workers, or employed in the raising of fowl or animals, or eligible under the Migrant and Seasonal Agricultural Worker Protection Act." (Sunview, ASV)

Response: The District is using a similar definition in the rule in Section 3.0.

- 3. Comment:** The definitions of a seasonal worker and seasonal employer should be amended to be consistent with other district rules used to define seasonal sources, such as Rule 2201 which utilizes a 120 day time period. (CLFP, MCCV, Silgan, Del Monte)

Response: Rule 2201 New and Modified Stationary Source Review discusses Seasonal Sources as those with more than 90% of its annual emissions occurring within a consecutive 120-day period. This definition specifically targets seasonal equipment, not seasonal workers. Unlike seasonal equipment, seasonal workers are "excluded employees" in Section 3.0 of the rule not because of when their emissions occur, but because of the challenges associated in promoting and implementing a trip reduction program among employees that do not work for an employer for a very long time. The District expects that employees who work for an employer more than 16 weeks should have the opportunity to incorporate ridesharing and alternative transportation into their routine.

Applicability

- 4. Comment:** We recommend that the requirements of the rule be applicable only during the summer months of June through September reflecting the targeted emissions in the *2007 Ozone Plan* and high ozone periods. (Chevron)

Response: This rule will reduce both ozone and PM2.5 precursors, so the emissions reductions achieved by 9410 will be important year round.

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Implementing a trip reduction program year-round will also have a greater likelihood of program success.

- 5. Comment:** The rule should be made voluntary, and there should be additional options provided to achieve the point goals. (Silgan) Instead of the proposed rule, the District could require that employers with 100 or more eligible employees annually distribute information designed and provided by the Air District concerning the variety of trip reduction opportunities, personal responsibility, and just how important personal actions are in helping improve Valley air quality. This could be done in a number of ways: hosting a District presentation; conducting a “healthy air fair;” events; contests, or distributing flyers, etc. (CLFP, MCCV)

Response: To achieve the SIP-creditable emission reductions that the Valley needs to contribute to attainment of federal ozone and PM2.5 standards, Rule 9410 needs to be an enforceable program, as the District committed to in the *2007 Ozone Plan* and *2008 PM2.5 Plan*. Employers will have the opportunity to submit “Other measures approved by the District” in their ETRIP. The District will provide a wide range of resources to employers to help make compliance with Rule 9410 as accessible as possible. However, employers know their workforces and worksites the best, and employers are likely to be more credible with and familiar to their employees than would be the District.

- 6. Comment:** This rule shifts the burden for air quality improvements to stationary sources when the data indicates that 80 percent of the pollution originates from mobile sources, and of this, only 17% is due to travel to and from work, leaving 83 percent of the mobile source reductions unaffected. The 17% figure is misleading, in relation to any attempt to quantify benefit, because in many portions of the Valley, the commute is to worksites outside of the air district. (CLFP, MCCV, Silgan)

Response: The Valley’s attainment challenges require participation from all sectors of the Valley. This rule is just one component of the District’s overall strategy, and it is one of the few ways the District can achieve much-needed mobile source reductions. Ultimately, Rule 9410 is focused on these mobile sources, and larger employers are a catalyst for allowing more of the people commuting in the Valley to do so via ridesharing and alternative transportation. While the work commute is only a portion of all vehicle miles traveled in personal vehicles, it can be a convenient target for ridesharing and alternative transportation for a number of reasons, as discussed in the staff report. A small percentage of people may be commuting out the Valley, but there may be people commuting into the Valley as well. The District quantifies emissions reductions in

the Revised Draft Staff Report, and these reductions are based on Valley-specific employer data.

7. **Comment:** Agricultural facilities are located in small, rural communities; however, many of these locales exceed the rule's 10,000 population threshold. We question the rule's 10,000 population threshold. The population threshold should be set at a level which ensures that all options are readily available. (CCM, CCGGA, CGTFL, Nisei, WAPA)
Response: The population was set by the state legislation in SB 709. ETRIP examples for rural employers will be available at the September workshops.

Excluded Employees

8. **Comment:** Please retain the medically excused employee exclusion. Any personal information required to claim the exclusion would not be divulged without prior employee consent. It is warranted because some employees are simply unable to participate in the trip reduction measures specified by the rule due to medical/health reasons. (Chevron)
Response: Medically excused employees are not considered Excluded Employees in the current draft of the rule to help make implementation as simple as possible. There is no target participation level associated with this rule. Though some types of employees may not be willing to able or willing to rideshare, the opportunity is available through this rule. There may be some medically excused employees who may not be able to rideshare or use alternative transportation, but there may also be some who choose to and may benefit from the opportunity.
9. **Comment:** How were business sector rule exclusions (seasonal workers, contractors and emergency personnel) determined? We would encourage the District to find incentive options for these sectors such as increased vanpools using the AB 2522 funds. What is the estimated timeline on obtaining those funds? What other funds is the District exploring? (CCA)
Response: Rule exclusions were based on the feasibility and practicality of various types of employees being able to participate in a trip reduction program as well as the amount of trips and, therefore, emissions that would be reduced from these specified employee trips. It should be noted that any program elements funded by District incentive programs cannot be included in the employer's ETRIP points. The District will discuss third party funding opportunities in guidance documents that will be made available as Rule 9410 is implemented.

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

10. Comment: Many facilities designate employees as Emergency (or Safety) Response Team members (either for food safety or industrial worker safety incidents) to meet various regulatory requirements. They do not have an assigned “emergency response vehicle” but are precluded from participating in car pools or utilizing public transportation due to the unforeseen aspects of their jobs. The rule includes no provision or eligibility exclusion for this category of employee. (CLFP, MCCV)

Response: The District has attempted to capture most of the major employee types who would be unable to participate in ridesharing and alternative transportation within the category of “excluded employees.” However, in the interest of keeping the rule straightforward and as simple as possible, this list cannot be exhaustive. There will still be some eligible employees who cannot rideshare or use alternative transportation for a variety of reasons. The goal of this rule is to make the opportunity more available to more employees. There is no target participation level associated with ridesharing or alternative transportation in this rule. Guaranteed Ride Home Service is another way to address unknown circumstances.

11. Comment: The draft rule should exclude employees who are provided with a vehicle allowance for use of their private vehicle for business purposes in lieu of being provided a vehicle by the employer. (Clovis, Reedley)

Response: The District has added “Home Garage Employee” to the rule definitions and the list of excluded employees in Section 3.0. The District recognizes that these employees need to have their vehicles available, and liability limitations may prohibit these vehicles from being used to rideshare.

12. Comment: The exclusion for health and safety employees is too restrictive and should apply to all public health and safety personnel regardless of whether they are on-call or not or if they have an authorized vehicle at home or not. Such employees need to respond when called to duty and are required to report to their respective stations/headquarters in either a personal or employer issued vehicle or other means of transportation. (Clovis, Reedley)

Response: Emergency Health and Safety employees who arrive at work in a personal vehicle are not excluded because they may be able to use alternative transportation, especially if they are not on call. Many of these employees may be “excluded employees” for other reasons, like if they arrive to work outside of the hours of 6am and 10am or if they qualify as “field personnel” in Section 3.0.

Unions and Liability

13. Comment: At union facilities, work schedules are set by contract. Work schedules can not be changed without a unanimous vote from the entire workforce and therefore, measures, such as Flex Time and Staggered Work Schedule, can not be offered. (Del Monte) Union contract requirements regarding duty hours, overtime, financial incentives, and other issues will greatly complicate efforts by employers to implement the rule. Many employees plan on the added income from working extended hours, and these hours must be offered to workers based upon seniority. (CLFP, MCCV, Silgan)

Response: The Transportation and Alternative Schedules Strategy includes many menu options that do not alter work schedules or interfere with union contracts. Employers may want to introduce union-related menu options during contract negotiations so that these measures might be offered in the future. The revised draft rule phases-in ETRIP components over a period of three years to allow adequate time to negotiate appropriate issues with the unions (see Table 1 in the revised draft rule).

14. Comment: While employers can promote the benefits of alternative forms of transportation, it is not the responsibility of the employer to transport employees to and from work. The District should add liability disclaimer statements to the rule for businesses to use when making any type of presentation to comply with this rule. (Del Monte)

Response: The available menu options do not mandate employee participation in alternative transportation or ridesharing. The measures included in the ETRIP have been shown to encourage ridesharing and alternative transportation at other worksites. The District encourages employers to include the appropriate liability disclaimers in meeting and written information for their employees.

Worksites

15. Comment: It is difficult to determine rule eligibility at facilities with seasonal operations, and it is difficult to know how long facilities are eligible. Could a worksite become subject to the rule during peak employment when there are more than 100 eligible employees, and then are become exempt from the rule when employment returns to nonpeak levels of less than 100 for the remaining two thirds of the year? Are these calculations per worksite or per employer? (CLFP, MCCV) Agricultural facility labor force requirements are dictated by harvest and marketing demands. These entities process a perishable product. At the peak of the season, many facilities will employ more than 100 workers; however, for the balance of the year, the employee count decreases significantly.

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

The rule's Seasonal Employee Definition, with a qualifying cap of 80 days, prevents application for agricultural operations. (CCM, CCGGA, CGTFL, Nisei, WAPA)

Response: Employee levels are tabulated for each worksite. Agricultural workers (as defined in Section 3.0) are excluded employees in this rule. The District recognizes that employers that have large fluctuations in workforces may have added challenges in communicating and implementing trip reduction programs. Rather than incorporate this into the definition of seasonal employee in Section 3.0, the District now addresses the threshold determination issues associated with fluctuation in staff in Section 2.1 of the Revised Draft rule.

16. Comment: Many ETRIP measures do not work well in a manufacturing environment with multiple shifts, and even multiple production lines with varied reporting times depending upon processing schedule. The difficulties associated with implementing ridesharing and carpooling programs are exacerbated at in a production environment where there is less rigidity in work schedules. (CLFP, MCCV, Silgan)

Response: If the employee reports to work before 6am or after 10am, then they are not included in the eligible employee count. Employees will certainly find it easier to rideshare with coworkers who have similar schedules. There is no target participation level associated with ridesharing or alternative transportation in this rule.

17. Comment: Many of the ETRIP measures are impractical in the agricultural sector, manufacturing, food processing, and/or in rural areas. (CCM, CCGGA, CGTFL, CLFP, MCCV, Nisei, Silgan, WAPA, Del Monte) Rural areas provide fewer mass transit options and bike routes. Compressed Work Week schedules and telecommuting are quite impractical in agriculture. (Sunview, ASV) Biking to work is also infeasible and unrealistic for many production workers who have a physically demanding job. (CLFP, MCCV, Silgan). Telecommuting is not viable for a manufacturing facility or any business where employees must be onsite to perform their job duties. (Del Monte) It will be virtually impossible for our member companies to amass enough points, without incurring legal liability and union and contract violations, particularly in three sections: Implementation (Program Support), Incentives, and Services and Amenities (Facilities). (CLFP, MCCV)

Response: The District expects that each employer will find measures that could work for their worksite as well as measures that would be infeasible for their worksite. The District is working to compile sufficient measures such that each type of worksite can identify reasonable things that can be done at their worksite to reduce trips and meet the thresholds specified in the rule. While measures that involve public transit or telecommuting may not be available to

worksites in rural areas, other measures like carpools and vanpools could work very well. Employers may also submit additional measures for District approval to be included in the menu options for the next draft of the rule or for approval in their ETRIP once the rule has been implemented. District staff are available to assist worksites in preparing an ETRIP. The District will provide an example of an ETRIP for a rural based, seasonal operation for the September workshops. Agricultural workers are defined in the rule and exempt from the eligible employee count.

ETRIP Measures and Requirements

18. Comment: The Implementation (Program Support) Strategy and the Transportation and Alternative Schedules Strategy should be combined into a single category since they appear to be targeting the same goal of reducing trips/VMT. The point targets would then have to be combined. (Chevron)

Response: Though some of the measures may be able to fit under multiple categories, not all measures in the Implementation (Program Support) Strategy would be considered part of a Transportation and Alternative Schedules Strategy.

19. Comment: The 100% participation requirement of the Compressed Work Week schedule definition is unrealistic and should be changed to a more reasonable percentage such as 70% or 80%. Employers should be able to allow employees with special circumstances to opt into a conventional 10/80 schedule if needed. (Chevron)

Response: The District agrees that 100% is inappropriate for this measure. The Compressed Work Week definition in Section 3.0 has been updated to require at least 50% of eligible employees to be on a CWW schedule for the employer to be able to take credit for the measure.

20. Comment: Employers may not be able to share employee personal information and therefore could not offer Internal Ridematching as an option. (Del Monte)

Response: Internal ridematching could allow employees to submit their own information voluntarily, with the employer providing a venue for sharing information (like a list where employees can sign up with their cross streets, a map with push-pins, or an electronic sign-up system).

21. Comment: Amend the Services and Amenities (Facilities) Strategy by including the following beneficial amenities of onsite fueling station, onsite kitchen, and

company provided bicycles for onsite transportation. (Chevron) The following measures should be added along with the associated points: Onsite fueling station (5 points), Onsite tire inflation station (5 points), Kitchen facilities (7 points), Non-combustion powered vehicles (e.g., bicycle, golf carts) use for employees to move around within the facility (7 points). (Kern Oil)

Response: The menu options are intended to make it easier for employees to leave their cars at home, instead using ride sharing and alternative transportation. The District concurs that an onsite kitchen is an appropriate measure, as it assures employees that they have a place to prepare their food, removing the need to drive off-site for lunch. Onsite kitchen has been added to the "Services and Facilities" Strategy in Table 2 of the revised draft rule. However, at this time, the District does not consider onsite fueling stations or onsite bicycle/non-combustion vehicle use to be significant factors in helping employees reduce single-occupancy vehicle use.

22. Comment: Allow employers with multiple affected worksites the option of combining the worksites into a single ETRIP, adding the points for each worksite together to achieve the overall point target. This could allow employers to meet the point targets through an averaging plan, in which surplus points from one worksite could be used to mitigate a deficit at another worksite. (Chevron) Any additional points in excess of the Table 1 targets should be allowed to be transferred to other facilities within the ownership of the company or to facilities outside the ownership of the company. This would provide an incentive for companies to go beyond the minimum ETRIP targets. (Kern Oil)

Response: For simplicity, and to ensure the success of the ETRIPS at every worksite subject to the rule, the District is not planning to allow for ETRIP point transferring. However, the District would allow a single ETRIP to reflect the measures being implemented at every worksite of a particular company.

23. Comment: District staff could create a model program and then consult with local agencies about activities already in place that might qualify as part of a coordinated program. Cities would be able to make minor adjustments to the plan but would not have to spend a great deal of time and effort in creation of a plan. (Clovis, Reedley)

Response: Templates for the ETRIP will be available, and District staff will be available for consultation if needed. The District will make many resources and trainings available, as described in Section 7.0 of the revised draft rule. The District has compiled a sample rural ETRIP for the September 2009 workshops.

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

24. Comment: Many of the measures offered in the proposed rule do not indicate whether credit would be provided to the employer if partnering with the local ridesharing agency. The distinction between “internal” (employer) and “external” (rideshare agency) efforts are included in one category, but not in others. (SJCOG)

Response: Employers can earn points for partnering with external agencies for ride matching and guaranteed ride home. For other measures, it is expected that the employer will be the primary facilitator. The District will highlight possible partnering agencies in the resources and trainings that will be provided in the course of rule implementation, as described in Section 7.0 of the revised draft rule.

25. Comment: The District should consider the potential impact of possibly de-valuing existing programs when assigning a higher point system to implement “internal” measures versus utilizing “external” resources. While the importance of encouraging an employer to go beyond the minimum is understood, the measure may produce fewer results. For example, employees would have more potential matches available through a rideshare agency’s ridematching system since it includes a broader pool of commuters as opposed to an employer’s own ridematching system. (SJCOG)

Response: The District recognizes the value of third party agencies and recommends employers utilize both internal and external resources when warranted to be highly effective. The internal measures are given higher point values due to the cost and time required for the employer and the general success and efficiency of operating internal programs.

26. Comment: The Employer Rideshare Newsletter in the Marketing Strategy should be a shorter, one-page newsletter to allow it to be more effective, useful communication tool than a 2-page newsletter that may overload employees. (SJCOG) The Rideshare Newsletter should be created and provided to businesses by the District. It is impractical for each affected business to develop a newsletter as it will be a financial burden without clear benefits. Requiring a 2-page newsletter when the Valley Air News is only one page is inconsistent with the District’s newsletter practices. (Del Monte)

Response: While Valley Air News is one page, the District produces other newsletters for its employees that have more content. There are two menu options in the Marketing Strategy, Employer rideshare newsletter and rideshare flyer. The rideshare flyer is one page and the rideshare newsletter is two pages. Further descriptions are in Section 3.0 Definitions of the draft rule. The District will also provide a guidance manual at a later date with examples and further information for each menu option.

27. Comment: The Implementation (Program Support) Strategy should include a measure giving credit for registering with a local rideshare agency. Partnering with a local agency may yield more results than working independently by offering resources and assistance to implement certain programs employers might not undertake otherwise. (SJCOG)

Response: The District has added this measure to Marketing Strategy in the revised draft rule (Table 2).

28. Comment: Consider adding walking to the Transportation and Alternative Schedules Strategy. Also, consider including the definition of a carpool and vanpool in their program definitions. (SJCOG)

Response: The District recognizes that walking to work reduces emissions and carries other benefits as well. However, rather than focusing on walking as a specific program, an employer can promote walking in conjunction with other programs, such as the bicycle program.

29. Comment: The Commuter Choice Program in the Incentives Strategy is a bundle of transit, vanpool, parking and bicycle benefits as outlined by the IRS transportation benefits. It may be confusing that this category is included in addition to some of the independent components listed separately. Remove the independent components listed separately or list them all. (SJCOG)

Response: The District removed the Commuter Choice Program from the revised draft rule, and the components are now listed separately.

Survey Requirements

30. Comment: District staff should create a uniform web based tracking log or survey tool for use by employees to self report to the District on their involvement with trip reduction and the data could then be collated and analyzed automatically. (Clovis, Reedley)

Response: Web reporting will be available. See Section 7.0 for District commitments.

31. Comment: It would be helpful if the results of the employee surveys be available to rideshare agencies to assist with program efforts. (SJCOG)

Response: Rather than the District providing employer information to rideshare agencies, the District has added "Register with a local rideshare agency" to the

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

Marketing Strategy so employers can coordinate with agencies directly, if they choose. The District will include information on local rideshare agencies in its implementation guidance.

32. Comment: Semiannual surveys are an especially burdensome requirement, even for year round operations, whereas an annual survey should be sufficient. The requirement becomes even more troublesome for seasonal employers who may be subject to the rule part of the year yet exempt the remainder of the year. (CLFP, MCCV, Del Monte) Points should be awarded to companies that provide more frequent surveys. (Kern Oil)

Response: The determination of the eligible employee threshold has been clarified in Section 2.1 of the revised draft rule to address the large fluctuations in staff numbers. If there was only one survey per year, it could be that the survey week is not typical for the worksite. By doing more than one survey, results may provide more insight on employee commute patterns.

Cost

33. Comment: The rule will impose significant costs to develop, implement, and monitor. This rule would render the Valley an even less attractive place to conduct business. The costs to comply with this rule are difficult to ascertain, but our members estimate that at minimum, just to set up, survey and distribute information, it will cost around \$20,000 per worksite. This does not include the costs to develop and implement the ETRIP measures, including incentives, which could add another \$50,000 to \$500,000 per worksite annually for mid to large size firms. (CLFP, MCCV, Silgan) The draft rule creates an unfunded mandate which employers will be unable to absorb during these challenging economic times. With staffing at a minimum, being required to devote staff time to develop and administer a trip reduction program would not be possible. The approach to rule making should be performance-based rather than prescriptive and there should not be penalties for performance if there is participation and a good effort. (Clovis, Reedley)

Response: The costs cited by commenters appear excessive, but the District is interested in specific data on compliance costs from stakeholders. Employers are encouraged to select the most cost-effective ETRIP measures for their worksite. The District will be providing a number of templates and guidance documents to help minimize the costs associated with implementing this rule, as discussed in Section 7.0 of the revised draft rule. The District will be releasing information on its cost analysis to coincide with the September 2009 workshops.

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

34. Comment: This could be one of the least cost effective rules that the District has ever considered. Our very rough calculations indicate that there will be minimal benefit to air quality, yet there will definitely be increased costs associated with compliance. It will be extremely difficult, if not impossible, to determine the cost effectiveness of this rule and the associated socioeconomic impacts. This alone, should cause the district to consider a different approach. (CLFP, MCCV, Silgan)

Response: The emissions reductions are in Appendix B of the Revised Draft Staff Report. The cost effectiveness and socioeconomic analyses are also in progress. Programs such as these have already been shown to be effective at a number of worksites. The District will be providing templates and guidance to help keep compliance costs at a minimum.

35. Comment: The staff report indicates no cost effectiveness analysis will be conducted since the H&SC does not require it in this rule making because it is not a BARCT rule. Cost effectiveness analysis should be conducted for any and all rules, even if it is not required by law. (Kern Oil, Del Monte)

Response: Cost effective and socioeconomic analyses will be prepared for Rule 9410.

36. Comment: The rule lists options under the Incentives Strategy to promote participation, but the costs associated with those incentives remains unfunded and are apparently expected to become a new employer expense. This is an unrealistic expectation given the current economic conditions and we strongly oppose it. (Clovis, Reedley) The regulation mandates the use of costly incentives in order to amass enough points. (CLFP, MCCV) The Incentives Strategy is a financial burden and the District should not regulate how employees are compensated. (Del Monte)

Response: The Incentives Strategy has menu options that encourage employee participation. Due to the potential costs associated with this strategy, the Incentives portion of the ETRIP will not be required until 2014.

37. Comment: The costs to implement the mandated programs are quite expensive, not low or no cost as stated at the workshop and inferred in the staff report. (CLFP, MCCV)

Response: The revised draft rule phases in the ETRIP over three years to give worksites more time to plan. The District will be making a variety of templates, guidance, and trainings available to employers to help minimize the costs, as discussed in Section 7.0.

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

38. Comment: Even though only a fraction of the workforce at a site may be considered “eligible” in that they report to work between 6 and 10 a.m., etc, for wage and benefit equity, the incentive programs have to be implemented across the entire workforce. This will add considerably to the cost and administrative burden. (CLFP, MCCV)

Response: The District will take this into consideration when drafting the cost analysis.

39. Comment: The Employee Transportation Coordinator definition states this person should work full time or part time to maintain compliance with this rule, which is excessive. The number of weekly or monthly hours required to comply with this rule should be clarified and revised. The hours will most likely be added to the workload of one person which is unreasonable, creating a financial burden. (Del Monte)

Response: The amount of hours needed to comply with this rule will be assessed in the cost effective analysis. The District will provide a variety of templates and guidance documents to minimize the costs and hours devoted by the employers. However, some worksites may choose to spend more time on these programs. Because of this, the District kept “full time” as part of the definition of ETC even though the District does not expect that this will be the nature of this role at most worksites.

40. Comment: The Marketing Class/Focus Group will be a financial burden and involve employee vehicle miles to be traveled above and beyond the typical commute unless it is a no cost, web based program. There is no information currently in the rule about the purpose or benefit of this required training. (Del Monte)

Response: The District’s Marketing Class/Focus Group would only be for one employee per worksite (the ETC), and it will likely be a once per year program. It would be available in all three District offices (Modesto, Fresno, and Bakersfield). The District is also considering classes in each county as well as webcasting. The intention of the class/focus group is to share information and strategies on making trip reduction programs successful. More information on the marketing class and all of the menu options will be available in a guidance manual provided by the District at a later date.

Compliance

41. Comment: A ramp-up period should be considered for implementation. (Clovis, Reedley) The deadlines in the proposed rule should be pushed back at least a

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

year to provide the time needed to setup procedures for each affected worksite, due to the significant amount of time and resources needed to implement the administrative requirements and ETRIP programs specified by the rule.

(Chevron)

Response: The revised draft rule includes a phase-in period for the ETRIP and employee surveys (see Table 1 and Table 4).

42. Comment: What enforcement tools will be used to assure that businesses are complying with the rule? (CCA, CLFP, MCCV, Clovis, Reedley)

Response: Compliance with rules and regulations is typically verified through periodic inspections, records review, and emissions monitoring and/or testing. Compliance with Rule 9410 will likely be verified through records review and periodic inspections to ensure selected measures are in place. After sufficient outreach and compliance assistance is provided to a source category following a new or amended rule, businesses found to be out of compliance with a rule would be issued a notice to comply or a notice of violation, depending on the nature and severity of the violation. The “consequences” of a violation are dependent on numerous factors, such as the nature and persistence of the violation, the length of time over which the violation occurred, the frequency of past violations, and the action taken by the business to mitigate the violation. The District works with the business to ensure an expeditious return to compliance.

General

43. Comment: Many large food processing and manufacturing companies have a no excuse policy for late arrival. This means that regardless of the reason, if an employee is late for work more than a specified number of times they are terminated. Employees who participate in rideshare/vanpools/public transportation have less control of the situation and may arrive late for work, because the car was not serviced properly, the driver slept in, etc. Therefore, employees will be less willing to participate. (CLFP, MCCV)

Response: Most employers (regardless of sector) want their employees to be on time. There are a variety of variables that will be associated with any means of commuting, and it is always important for employees to have back-up plans and safeguards in place. Employers may want to consider an internal ride matching system that offers a greater confidence level to employers and employees.

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

44. Comment: This rule should aim to encourage use of public transit systems where a viable option exists. It is our understanding that recent federal stimulus funds increase tax benefits related to mass transit use for employees and/or employers. (CCA)

Response: The District encourages the use of public transit systems where available.

45. Comment: With no baseline being considered for this rule and a program implementation vs. individual measures being used, how will verifiable reductions be calculated? It was stated in the *2007 Ozone Plan* that $\frac{1}{4}$ of a ton of NOx per day will be reduced, but there were no reductions projected in the *2008 PM2.5 Plan*. Will the NOx tonnage increase with new data and how will specific reduction numbers be measured for PM2.5? (CCA)

Response: The emission baseline and reductions are discussed in Appendix B of the revised staff report.

46. Comment: Is a feasibility study being done on the various stakeholder employee business models? If so, how will this be done and by whom? (CCA)

Response: The District conducts feasibility studies to determine whether or not a rule should be adopted. Based on the success of existing trip reduction programs at various worksites in the Valley, Employer Based Trip Reduction was included as a rule commitment (rather than a Feasibility Study) in the *2007 Ozone Plan* and the *2008 PM2.5 Plan*.

July 2, 2009 Fresno Workshop and Socioeconomic Focus Group

18 people in attendance (11 Fresno, 6 Modesto, and 4 Bakersfield)

47. Comment: Please provide information or statistics that show emissions reductions of successful trip reduction programs.

Response: Emissions reductions are discussed in Appendix B of the revised draft staff report.

48. Comment: Will employers need to provide the measures for all shifts or only those arriving at work during the peak period?

Response: Employers will only need to provide measures for eligible employees.

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

49. Comment: Please consider applying the requirements of this rule to schools because of their contribution to congestion.

Response: At this time, this rule may apply to schools if they meet the general applicability requirements. The District is also in the process of the working with colleges and universities through the Healthy Air Living program. The District's authority for this rule (SB 709, 2003) specifically refers to businesses and commuters, so school students would not be included in this rule.

50. Comment: How much is the District's monetary incentive?

Response: The District offers a monetary incentive to its employees who use alternative transportation at least 60% of trips to and from work. Currently, employees who earn the incentive receive \$50 per pay period. This incentive is part of the District's labor contract.

July 7, 2009 Modesto Workshop

32 people in attendance (9 Modesto, 1 Fresno, and 22 San Joaquin Council of Governments)

51. Comment: Are mopeds or motorcycles counted separately from single occupancy vehicles?

Response: Mopeds, motorcycles, and gas scooters are counted as single occupancy vehicles in the employee surveys unless they are fully electric vehicles.

52. Comment: Other menu options may include walking, skateboarding, rollerblading, and running.

Response: An employer may be able to measures like walking and running in conjunction with other ETRIP measures, like the Bicycle Program.

53. Comment: Agricultural workers and part time employees should not be excluded from being eligible employees. Agricultural workers have had great success with vanpools and work during peak ozone times. The definition for part time employee could be redefined to account for those employees who have a complimentary schedule and could possibly rideshare.

Response: The District must ensure that Rule 9410 is not inconsistent with other laws pertaining to agricultural workers. The District acknowledges that some part time employees may still be able to rideshare or use alternative transportation,

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

but due to their limited hours, it may be more difficult for these employees to coordinate with coworkers.

54. Comment: Certain measures, such as employer provided bicycles and bike racks, should be clarified to include language specifying the amount the employer needs to provide to get the points in the ETRIP.

Response: The District will clarify the menu options as needed. In recognition for the Valley's diverse work environments, a degree of flexibility may be appropriate for some menu options. The District will provide further guidance on each measure in a Guidance Manual to be produced at a later date.

55. Comment: The District should consider that the cost to offer the monetary incentives could instead be used to hire new employees.

Response: The District has recognizes the incentives component of Rule 9410 may carry the most substantial cost in an employer's ETRIP. Employers are encouraged to select the most cost-effective ETRIP measures for their worksite and may want to incorporate incentives as part of their labor compensation packages. Employers may find that programs like monetary incentive programs can contribute to increased employee retention. Also, Incentives Strategy menu options are offered to eligible employees on a per use basis. Therefore, the employer may offer the incentive without many eligible employees taking advantage of it.

56. Comment: What is the stated target for this rule?

Response: The purpose of this rule is reduce vehicle miles traveled (VMT) from private vehicles used by employees to commute to and from their worksites to reduce emissions. There are point targets for employee program components, but there are no mandated participation targets for employee ridesharing or alternative transportation. Programs such as those achieved in the ETRIP component of this rule have been shown to successfully encourage ridesharing and alternative transportation.

57. Comment: Smaller employers may be encouraged to voluntarily participate by creating a recognition program. By creating a recognition program, all employers who go above the minimum points needed for the rule can be recognized.

Response: Any size employer can participate in and be recognized through the District's Healthy Air Living Program.

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

58. Comment: Are railroad employees considered field employees? They should be, due to erratic schedules and frequently working on call.

Response: Railroad employees are not uniquely treated in the rule and may or may not fall under the field employee classification depending on their work schedule. Employees are considered field personnel if they spend 20 percent or less of their work time, per week, at the worksite and do not report to the worksite during the peak period for pick-up of an employer-provided vehicle. There may be other factors that would prevent railroad employees from being classified as an eligible employee.

59. Comment: Please consider adding a clause for worksites where overtime is common therefore limiting the amount of people willing to rideshare.

Response: Where overtime is common, employees who often work overtime may be able to coordinate ridesharing with other employees who are likely to receive overtime. Guaranteed Ride Home service (one of the measures in the Transportation and Alternative Schedules Strategy is) may help address overtime uncertainties. Also, be aware that there is no mandated target for employee participation in chosen measures

60. Comment: Does the rule complement what cities and counties are doing to comply with Assembly Bill 32 to reduce greenhouse gas emissions? The District should partner with cities and counties to prevent double counting of emissions reductions and minimize additional reporting for employers.

Response: Rule 9410 is focused on decreasing ozone and PM2.5 precursors. By reducing vehicle use, the rule will also decrease GHG emissions. In this sense, this rule complements efforts to comply with AB32. The District is already in the process of working with agencies and businesses through the Climate Change Action Plan. More information on the District's Climate Change Action Plan, visit www.valleyair.org/Programs/CCAP/CCAP_idx.htm.

61. Comment: How are multi-worksite employers being handled under the rule? Would they only be required to submit one plan even if they were in several districts?

Response: Employers will need report for only the worksites within the San Joaquin Valley Air District. Worksites in other air districts do not need to comply. An employer may submit a consolidated ETRIP that covers multiple worksites (Section 6.3.2).

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

62. Comment: Will employees who reside outside of the District but commute through or into the District be exempt?

Response: Rule applicability is based on the location and characteristics of the employer. If the employer is in the San Joaquin Valley and meets other criteria, that employer is subject to the rule. Where that employer's employees reside is not part of employee eligibility. Therefore, there could be situations where an employee working at a Valley worksite will be affected by the rule, even though that employee doesn't live in the San Joaquin Valley.

July 8, 2009 Bakersfield Workshop

9 people in attendance (7 Bakersfield and 2 Modesto)

63. Comment: Will this rule encourage an increase in ridership in bus lines and transit? Is there any way to change routes or offer incentives?

Response: The goal of this rule is to increase alternative transportation, including transit. The District does offer incentives to transit and vanpool agencies, and funding comes from a variety of other sources. There are tax incentives for employers to offer transit subsidies for employees to increase transit use. This information will be discussed in the cost effective analysis. Although transit authorities have a wide range of considerations in planning transit routes, worksites may want to contact their local transit authorities for more information.

64. Comment: Are there tax credits available for carpools?

Response: At this time, there are only tax benefits for transit, vanpools, parking expenses, and qualified bicycle commuting.

65. Comment: Is there a set amount of return needed on the surveys?

Response: The revised draft rule notes that there should be a 90% return rate on employee surveys (Section 6.4.3).

66. Comment: Would actions taken prior to the Rule be allowed to be included in the ETRIP?

Response: The ETRIP can include any measures implemented before or during this rule.

APPENDIX B

Emission Reduction Analysis

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

The 2008 PM_{2.5} Plan contained an emissions inventory for On-Road Motor Vehicles based on the ARB emissions inventory (CEFS v1.06). The inventory included categories that would be used for commuting, specifically light and medium duty passenger cars and trucks. This rule affects oxides of nitrogen (NO_x), volatile organic compounds (VOC), and direct PM_{2.5} from these vehicles. Table B-1 shows the baseline emissions inventory for these pollutants.

Table B-1 Total Emissions from Light and Medium Duty Vehicles
(tons per day, or tpd)

	2010	2014	2023
NO _x	44.7	32.1	16.4
VOC	41.9	31.9	20.6
PM _{2.5}	2.3	2.6	3.2

The Department of Transportation's (DOT) National Household Travel Survey found that, as a nation-wide average, work commute Vehicle Miles Traveled (VMT) account for about 27% of total VMT for personal vehicle use³. Table B-2 shows the emissions from work commute VMT. According to the Employment Development Department, about 36% of Valley employees are employed at worksite with 100 or more employees.⁴ Table B-3 shows the emissions from commute trips of those subject to the rule.

Table B-2 Emissions from Light and Medium Duty Vehicles for Work Trips
(tpd)

	2010	2014	2023
NO _x	12.1	8.7	4.4
VOC	11.3	8.6	5.6
PM _{2.5}	0.62	0.69	0.87

³ U.S. Department of Transportation (DOT) and Federal Highway Administration (FHWA). "Commute VMT and Total VMT by Year" Table 24, page 42. National Household Travel Survey, 2004.

⁴ Employment Development Department (EDD). "Number of Employees by Size Category" Table 3B, Labor Market Information Division, Third Quarter, 2007. <http://www.labormarketinfo.edd.ca.gov/?pageid=138>

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

Table B-3 Emissions for work trips at employers with at least 100 employees (tpd)

	2010	2014	2023
NOx	4.4	3.1	1.6
VOC	4.1	3.1	2.0
PM2.5	0.23	0.25	0.32

The proposed rule emphasizes education and infrastructure for trip reduction programs through various ETRIP measures phased in at a worksite over time. Once the comprehensive ETRIP has been established, the District projects there will be a 10% employee participation rate by 2014 and a 20% participation rate by 2020. The DOT Federal Highway Administration (FHWA) supports these projections in the report “Multi-Pollutant Emissions Benefits of Transportation Strategies”⁵ which discusses employer based Transportation Demand Management (TDM) programs and evaluates their emission impacts using EPA’s COMMUTER model. Based off of the FHWA report, District staff utilized the COMMUTER model to estimate the impacts of the proposed Rule 9410, resulting in consistent participation rates. Other reports have shown similar participation rates given the amount of measures provided in the comprehensive ETRIP.^{6,7} Table B-4 shows the emissions that will be eliminated by the implementation of this rule. Emissions reductions leading up to 2014 are currently under review. The emissions reductions will be compared to the *2007 Ozone Plan* as the calculations are completed.

Table B-4 Rule 9410 emissions reductions from projected participation rate (tpd)

	2010	2014	2023
NOx	--	0.315	0.322
VOC	--	0.313	0.405
PM2.5	--	0.025	0.063

⁵ U.S. DOT FHWA. “Employer-Based TDM Programs”, Multi-Pollutant Emissions Benefits of Transportation Strategies, 2006.

⁶ Victoria Transport Policy Institute. “Travel Impacts”, TDM Encyclopedia: Commute Trip Reduction Programs That Encourage Employees to Use Efficient Commute Options, 2009.

⁷ U.S. DOT FTA and FHWA, U.S. EPA. “Summary of Choices – What works?”, Commuter Choice Primer.

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Draft Staff Report: Rule 9410

September 14, 2009

The following discussion shows the emissions reductions calculations for NO_x, VOC and PM_{2.5} in greater detail.

According to the Employment Development Department, an average of 36.27% of Valley employees work for employers with 100 or more employees.⁸ Therefore, based on the number employees in the Valley given by the Employment Development Department, an estimated 506,923 employees will be affected by this rule.

The emissions reductions can be calculated by first finding the VMT per day by the employees affected by this rule. Data from the U.S. Census Bureau American Housing Survey stated that trips to work average 14.3 miles one way.⁹ The total VMT per day for affected Valley employees is the average VMT per day multiplied by the number of employees:

$$\begin{aligned} & 2 \text{ trips per day} \times 14.3 \text{ miles per trip} \times 506,923 \text{ employees} \\ & = \text{about } 14.5 \text{ million VMT per day} \end{aligned}$$

The VMT per day will allow us to calculate the VMT reduced with the expected participation levels of 10% by 2014.

$$14.5 \text{ million VMT per day} \times 0.10 \text{ participation by 2014} = 1.4 \text{ million VMT per day reduced by participating employees by 2014}$$

This calculation provides the VMT per day reduced when trip reduction programs are implemented and participation levels reached the expected 10% in 2014. The emission reductions resulting from trip reduction efforts can be calculated by first finding the tons per VMT. The tons per VMT is determined by dividing the initial tons per day from the inventory by the average initial VMT per day. This yields the tons per VMT. The tons per VMT is then multiplied by the change in VMT per day after the implementation of trip reduction programs to find the tons per day reduced as a result of participation in this rule.

$$\text{baseline tons per day} \div \text{VMT per day} = \text{tons per VMT}$$

$$\text{tons per VMT} \times \text{VMT per day reduced} = \text{tons per day reduced}$$

For example, if referring to 2014 estimated NO_x emissions, the initial tons per day is 3.146. To find the tons per VMT, the emissions in tons per day would be divided by the initial VMT per day of the affected employees in the Valley.

$$3.146 \text{ tons per day} \div 14.5 \text{ million VMT per day} = 2.17 \times 10^{-7} \text{ tons per VMT}$$

⁸ See footnote 2.

⁹ U.S. Census Bureau. "Current Housing Reports, Series H150/07". American Housing Survey for the United States, 2007.

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

The tons per VMT can then be used to find the tons per day of NOx reduced by multiplying the VMT reduced from a 10% participation rate in employer based trip reduction programs by the tons per VMT.

$$\begin{aligned} & 1.4 \text{ million VMT per day} \times 2.17 \times 10^{-7} \text{ tons per VMT} \\ & = 0.315 \text{ tons per day of NOx reduced}^{10} \end{aligned}$$

The estimated NOx emissions reductions calculated in this staff report are slightly higher than the projected emissions reductions in the *2007 Ozone Plan*. This can be attributed to an updated emissions inventory and employment and commute data made available by the DOT National Household Travel Survey and Employment Development Department. Table B-5 demonstrates the difference in the Rule 9410 baseline compared to that of the *2007 Ozone Plan*. The current proposed rule baseline is only a portion of that of the *2007 Ozone Plan*. In the *2007 Ozone Plan*, the control measure baseline only included light duty vehicles, whereas the Rule inventory baseline, at this time, includes medium duty vehicles as well to account for SUVs and van use. The updated information has helped the District better determine the potential of this rule.

Table B-5 Rule 9410 baseline percentage of 2007 Ozone Plan baseline (%)

	2014	2023
NOx	65.5	67.1
VOC	7.75	8.29

Though the estimated VOC emissions reductions calculated in this report are lower in tons per day than what was committed to in the *2007 Ozone Plan*, this rule should achieve a higher percent of VOC reductions of the updated baseline emissions inventory than the plan projected. Table B-6 compares the emissions reductions from the *2007 Ozone Plan* to proposed Rule 9410 as compared to their respective baselines. There will be surplus emissions reductions from other measures committed to in the *2007 Ozone Plan* to account for the discrepancy in actual tons per day. Exempt worksites may also participate in trip reduction efforts with the tools developed for this rule, achieving additional reductions. However, since these reductions are not enforceable, they can not be credited in the State Implementation Plans.

¹⁰ Calculations may differ slightly due to rounding.

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Table B-6 Emissions reductions comparison between Rule 9410 and the 2007 Ozone Plan (%)

	2014		2023	
	Ozone Plan	Rule 9410	Ozone Plan	Rule 9410
NOx	5.2	10	11.7	19.9
VOC	1.6	10	2.8	20

The emissions reductions in the *2008 PM2.5 Plan* were under review and not determined at the time of plan adoption. Therefore, no specific target PM2.5 reductions were projected in the *2008 PM2.5 Plan*.