

**SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT**  
**DRAFT STAFF REPORT**

**Draft Rule 9610**  
**(State Implementation Plan Credit for Emission Reductions Generated**  
**through Incentive Programs)**

April 9, 2013

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**I. SUMMARY**

The on-going mission of the San Joaquin Valley Unified Air Pollution Control District (District) is to improve air quality and protect the health of residents in the San Joaquin Valley air basin (Valley). As such, the District has implemented among the most stringent prohibitory regulations and one the most successful incentive programs in the nation. These efforts combined with the investments of Valley businesses and residents, are achieving significant air quality improvements, thus improving public health and progressing the Valley towards attainment of increasingly stringent federal air quality standards (National Ambient Air Quality Standards, or NAAQS). However, the Valley continues to experience unique and significant air quality challenges in attaining the NAAQS.

Incentive programs achieve emissions reductions beyond those achieved by regulations alone by accelerating the adoption of cleaner technologies. Incentives allow the District to reduce emissions from source categories outside of the District's regulatory authority, as well as source categories where socioeconomic impacts would otherwise prevent traditional control strategies from being implemented. The District currently operates one of the largest and most well-respected incentive programs in the state providing over \$500 million in incentive funds resulting in over 100,000 tons of lifetime emission reductions. Each District incentive investment is matched by cost-sharing on the part of the participating businesses, public agencies, and residents, who together have also invested over \$400 million of funding through these projects.

The District has been lauded for its efficient and effective use of incentive funding and programs, which have become a model for grant programs throughout the state. In

addition to locally-generated funding sources, support from federal and state sources has been critical in bringing much-needed incentive funds to the Valley.

Although incentive programs result in real air quality benefits, the U. S. Environmental Protection Agency (EPA) has not historically granted credit to the District for incentive-based emission reductions in State Implementation Plans (SIPs). When given SIP credit, incentive-based emission reductions can be used alongside regulatory-based emission reductions to meet certain federal Clean Air Act (CAA) requirements, such as demonstrating attainment, fulfilling commitments for long-term measures under CAA §182(e)(5) (“black box reductions”), meeting “reasonable further progress” emission reduction milestones, or satisfying contingency measure requirements. District Rule 9610 (State Implementation Plan Credit for Emission Reductions Generated through Incentive Programs) will be the first-in-the-nation, federally approved, rule through which incentive-based emission reductions can receive SIP credit.

## **II. RULE DEVELOPMENT PROCESS**

### **A. Background**

The premise of this rule project was established during the development of the *2007 Ozone Plan* in response to the need to attain the stringent 1997 federal 8-hour ozone NAAQS. The District recognized that to meet this stringent standard, emission reductions were needed from sources outside of the District’s regulatory authority, particularly from mobile sources. Incentive programs allow the District to achieve emission reductions from these types of sources, and the District’s past experience demonstrates that substantial reductions in actual emissions can be cost-effectively achieved through incentive-based programs.

The District’s *2007 Ozone Plan* identified the potential for substantial future emission reductions from incentive-based programs using funds from known funding sources such as the Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program), the Department of Motor Vehicles registration surcharge fees, the Indirect Source Review fees, and development agreements, as well as from future state and federal funding sources not yet identified. The District identified guidance documents promulgated by EPA for purposes of allowing SIP credit for voluntary measures such as incentive-based programs. These guidance documents include *Improving Air Quality with Economic Incentive Programs* (2001), *Incorporating Emerging and Voluntary Measures in a State Implementation Plan* (2004), and *Voluntary Mobile Source Emission Reduction Programs in State Implementation Plans* (1997). The continued success and reliance on emission reductions from incentive-based programs in current and future plans require formal EPA recognition that the resulting reductions are creditable towards emission reduction commitments in SIPs through as mechanism such as Rule 9610; the District crafted Rule 9610 as this mechanism from the EPA foundation documents identified above.

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The EPA *Improving Air Quality with Economic Incentive Programs* as a guidance document for economic incentive programs (EIP) guidance defines a principle called “the integrity principle,” which requires the emission reductions to be surplus, quantifiable, enforceable, and permanent. Satisfying these elements ensures the validity of the program overall and allows the incentive-based emission reductions to be considered for SIP credit. Rule 9610 is written to ensure that incentive-based emission reductions for which the District will claim SIP credit satisfy the integrity requirements. The following is a brief discussion of each integrity element as it applies to the District and incentive-based emission reductions.

- **Surplus**

The District funds incentive projects based on incentive program guidelines that have been designed to ensure that the resulting emission reductions are not otherwise required by any federal, state, or local regulation or other legal mandate. For additional details of these guidelines refer to Section III of this staff report. The emission reductions must also be in excess of the SIP Baseline Emission levels; meaning the base year, attainment year, and interim year emissions inventories as reported in a SIP that serve as a primary starting point for modeling and other SIP analyses. Carl Moyer Program Guidelines, for example, ensure that emissions reductions are surplus by accounting for compliance dates and emission reductions credited to all adopted regulations to ensure the reductions from incentives are not double counted.

- **Quantifiable**

The District evaluates the potential reductions that would be achieved by replacing the old equipment with the new equipment using the established calculation methods and emissions factors in the appropriate program guidelines. Quantifiable is defined in rule language as emission reductions that can be reliably determined and replicated through the use of well-established emission factors and calculation methodologies, as outlined in applicable incentive program guidelines. Using well-established emission factors and calculation methodologies ensure that the emissions reductions can be replicated.

- **Enforceable**

Emission reductions are enforceable if the incentive programs include the following provisions:

- The emission reductions must be independently and practicably verifiable for the duration of the project life through inspections, monitoring, and/or other mechanisms;
- Incentive program violations are defined through legally binding contracts, including identifying party or parties responsible for ensuring that emission reductions are achieved;
- Grantees are obligated to provide all records needed to demonstrate that emission reductions are achieved; and
- The public has access to all emission-related information for reductions

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claimed in the annual demonstration report, as outlined in Section 4.0.”

Rule language includes the above mentioned requirements in the definition of the term Enforceable and, as such, provides the criteria to ensure enforceability of emissions reduced.

- **Permanent**

For purposes of Rule 9610, permanent is defined as permanent for the lifetime of the project. Performance is assured by actions taken to physically destroy, disable, or otherwise ensure the reduction of emissions from existing or baseline equipment, vehicles, or, other practices.

The District and the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) aligned efforts to ensure that both agencies programs meet EPA’s criteria for incentive based reductions to be SIP-creditable. In December 2010, the District, EPA, the California Air Resources Board (ARB), and USDA NRCS signed a Statement of Principles outlining the approach to SIP-credibility of voluntary incentive programs (see Appendix A). This statement of principles established a general framework to ensure that reductions in emissions resulting from the voluntary incentives receive SIP credit. All parties involved agreed to work collaboratively to develop a mechanism to provide SIP credit for emissions reductions from federal, state, and local incentive programs that meet the EPA integrity criteria of being surplus, quantifiable, enforceable, and permanent.

After signing the memorandum of understanding (MOU) with the District and ARB, NRCS and EPA continued to work together to further refine the incentive program processes implemented by NRCS to provide a mechanism pursuant to the CAA to quantify for SIP credit emission reductions from farm equipment, achieved through voluntary incentive programs at the state/local level. As a result of these continued efforts EPA and NRCS signed a second MOU, the *Implementation Principles for Addressing Agricultural Equipment under the Clean Air Act*, in July 2012 (see Appendix B).

## **B. Draft Rule 9610**

District staff began the rule development process for Draft Rule 9610 with extensive research of existing incentive programs throughout the state of California, EPA guidance documents regarding incentive programs and SIP creditability of voluntary measures, and District documents discussing and committing to SIP-creditable emissions reductions. Based on this research and discussions with ARB and EPA, the District crafted draft Rule 9610. This rule would act as the administrative mechanism for the District to claim SIP credit for emissions reductions achieved through incentive programs.

**C. Public Workshops for Rule 9610**

The District will host a public workshop to present, discuss, and hear comments on the draft rule and draft staff report on April 9, 2013. The draft rule and staff report will be made available on the District's website prior to the public workshop, and a two week comment period will follow the public workshop. Comments received on or before 5:00 PM on April 23, 2013 will be considered and incorporated into the draft rule or staff report as appropriate.

**D. Public Hearing for Rule 9610**

In accordance with California Health and Safety Code (CH&SC) Section 40725, the proposed rule and final draft staff report will be made available and publicly noticed prior to the Governing Board public hearing to consider adoption of proposed New Rule 9610. The District's *2012 PM2.5 Plan* contains a commitment to schedule the public hearing to consider the adoption of new Rule 9610 in 2013; the public hearing is anticipated to be during the second quarter of 2013.

**E. CEQA**

Pursuant to California Code of Regulations (CCR) Section 15060(c)(3), this project is not subject to California Environmental Quality Act (CEQA) because it is not a project as defined in Section 15378.

**III. DISTRICT INCENTIVE PROGRAMS**

The District operates one of the largest and most well-respected voluntary incentive programs in the state. With strong advocacy efforts at the state and federal levels, the District has seen a significant increase in incentive funding levels over the past five years, with incentive program funding of \$25 million per year a decade ago to over \$100 million of funding per year in current funding. District incentive programs have a positive impact on air quality and are also highly successful due to the fact that participation is voluntary and the emission reductions are both highly cost-effective and surplus of the reductions required by regulations.

The District's incentive programs have been developed around several core principles, including cost-effectiveness, integrity, effective program administration, excellent customer service, the efficient use of District resources, fiscal transparency and public accountability. The product of these focused efforts is that the District is a statewide leader in incentive programs with several elements being held as models for other air districts throughout California. As a result, ARB has routinely called upon the District to administer statewide incentive programs on their behalf and on behalf of other local air districts. Recent examples include administering the Lower Emission School Bus Program on behalf of ARB and 18 other air districts, the statewide Agricultural Utility Terrain Vehicle (UTV) program and the statewide School Bus Retrofit Program.

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The District is regularly audited by independent outside agencies including professional accountancy corporations on behalf of the federal government, ARB, the California Department of Finance (DOF) and the California Bureau of State Audits. These comprehensive and rigorous independent audits focus on every aspect of District administered incentive programs including programmatic and fiscal controls. These audits are conducted to ensure that the public funds to which the District has been entrusted are spent appropriately and in the manner in which they were intended. Towards that end, the District's incentive programs were recently audited by ARB and DOF, including a thorough review of several of the District's largest and most complex incentive programs totaling more than \$215 million over a four year period. These audits included an extensive review of District internal programmatic and fiscal policies and procedures, and field validation of projects. The results of the audits confirmed that the District's incentive programs are fiscally sound and are "efficiently and effectively achieving their emission reduction objectives." ARB's audit report also concluded that the District is meeting or exceeding all requirements for the expenditure of funds and commended the District for administering the Proposition 1B Lower Emission School Bus Program on behalf of 18 other local air districts.

Over the years, the District has collaborated with other air districts and public agencies to provide grant funding to reduce emissions in the San Joaquin Valley and throughout California while ensuring that the core integrity criteria of being surplus, quantifiable, enforceable, and permanent are met. These strong working relationships have led to successful implementation of programs such as the replacement of mobile agricultural equipment, which has been implemented by both the District and the USDA NRCS.

The majority of incentive grant programs that are administered by the District are based on incentive program guidelines developed and adopted by ARB. These ARB developed program guidelines, such as the Carl Moyer Program and Proposition 1B: Goods Movement Emission Reduction Program (Prop 1B), have been approved by ARB after lengthy public review processes, and have been designed to provide for SIP-creditable emission reductions.

## **A. Carl Moyer Memorial Air Quality Standards Attainment Program**

The Carl Moyer Program is a grant program that funds the incremental cost of cleaner-than-required engines and equipment. Adopted in 1999 by ARB, this program provides incentives to help obtain early or extra emission reductions, especially from emission sources in environmental justice communities and areas disproportionately impacted by air pollution with a primary objective of obtaining cost-effective and surplus emission reductions that can be credited toward California's legally-enforceable obligations in the SIP.

The Carl Moyer Program has been successfully implemented through the cooperative efforts of the ARB and air districts in California. As directed by the CH&SC, ARB's role

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is to oversee the Carl Moyer Program by managing program funds, developing and maintaining guidelines, and determining cost-effectiveness methodologies. Air districts use the Carl Moyer Program Guidelines to select, fund, and monitor projects in their jurisdiction by providing grants to public and private entities for the incremental cost of cleaner-than-required engines and/or equipment.

According to the Carl Moyer Program Guidelines (available at <http://www.arb.ca.gov/msprog/moyer/guidelines/current.htm>), emission reductions funded through the program must be real, surplus, quantifiable, and enforceable in order to meet the underlying statutory provisions and to be SIP-creditable.

The guidelines include robust administrative requirements to ensure that emission reductions are enforceable and are achieved throughout the life of a project. The District has used the Carl Moyer Program Guidelines to develop the practices that are currently in place to ensure all integrity criteria are met, and that emissions reductions are SIP-creditable.

- **Surplus**

The Carl Moyer Program Guidelines ensure that projects are surplus to regulations by only allowing projects to be selected that are not required by any federal, State or local regulation, memorandum of agreement/understanding with a regulatory agency, settlement agreement, mitigation requirement, or other legal mandate. For example, the guidelines have accounted for each adopted regulation to determine the compliance dates of any affected engines and emission benefits claimed by each regulation have been determined. There is also a minimum project life of three years to ensure that the program does not fund actions taken to comply with regulatory deadlines. The minimum project life requirement also ensures the overall cost-effectiveness of the program and that the emission reductions are real for the life of the project. In some cases, exceptions to the three year project life have been made when appropriate, such as small fleets with on-road vehicles and stationary agricultural equipment.

- **Quantifiable**

The District evaluates the potential reductions that would be achieved by replacing the old equipment with the new equipment using the established calculation methods and emissions factors in the program guidelines. The calculation methodology, formulas, and emission factors are part of the Carl Moyer Program Guidelines and have been approved through a public process. To ensure that real, quantifiable emission reductions are achieved over the life of a project, the program guidelines require that emission control technologies be certified or verified by ARB (certification or verification by the EPA or International Maritime Organization may be allowed for some source categories for which ARB does not have a certification or verification program)(ARB, 2011).

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- **Enforceable**

The District has created enforceable contracts, based on requirements in the Carl Moyer Program guidelines, which are signed by both District management and the grantee to ensure that projects are fully accomplished and the integrity criteria are met. The legally binding contracts include, but are not limited to, usage reporting requirements for the grantee, the destruction requirements of the baseline equipment/engine, and an allowance for the District to conduct an audit of the project at any time during the project life.

- **Permanent**

To ensure that the SIP-creditable emissions reductions are permanent, actions such as post inspections of the new equipment and verification that the baseline equipment has been destroyed through the required process as described in the program guidelines are performed.

Although the program guidelines allow for multiple funding options, each air district is allowed to choose which options to administer each year. The District reviews where the greatest need for reductions and incentive assistance is when selecting which funding options to pursue. Currently, the District provides funding for the following options under the Carl Moyer Program:

- Heavy-Duty Off-Road Vehicles – repower, retrofit, and replacement options
- Stationary Agricultural Sources – repower and new electric purchase options
- Locomotives – repower and alternate technology switcher options
- Heavy-Duty On-Road Vehicles – retrofit and replacement options

Sometimes, a specific incentive project may vary from the established Carl Moyer Program Guidelines in order to be implemented. Such rare instances require a case-by-case determination from ARB to ensure they satisfy SIP-creditable requirements and align with the goals and standards of the Carl Moyer Program before they can be implemented. As such, the emission reductions from projects that are approved under the case-by-case determination process provision in the Carl Moyer Program Guidelines are SIP-creditable in that they satisfy the four integrity requirements. Therefore, the District will include projects that have undergone case-by-case determinations in the annual demonstration reports for SIP credit.

The Districts makes all application and guideline materials available to the public online at the District's website, available for pick-up in the Central Region office or by mail upon request.

**B. Proposition 1B: Goods Movement Emission Reduction Program**

In November 2006, California voters approved Prop 1B authorizing \$1 billion in bond funding to reduce air pollution associated with the movement of freight along California's major trade corridors. Subsequent implementing legislation established standards and procedures for the expenditure of these funds. Governor Schwarzenegger's Executive Order S-02-07 provides further direction to ensure accountability and transparency in administering bond-funded programs.

ARB developed the *Proposition 1B: Goods Movement Emission Reduction Program Guidelines for Implementation* (Prop 1B Guidelines) (available at <http://www.arb.ca.gov/bonds/gmbond/gmbond.htm>), in consultation with stakeholders, including: air districts, metropolitan planning organizations, port authorities, shipping lines, railroad companies, trucking companies, harbor craft owners, freight distributors, terminal operators, local port community advisory groups, community interest groups, and airports. The Prop 1B Guidelines ensure that implementing air district funded qualifying projects achieves the following results:

- Reduce emissions and health risks,
- Incorporate simplicity and efficiency,
- Ensure cost-effectiveness,
- Leverage other funding sources, and
- Provide transparency and accountability.

The guidelines include robust administrative requirements to ensure that emission reductions are enforceable and are achieved throughout the life of a project. The District has used the Prop 1B Program Guidelines to develop the practices that are currently in place to ensure all integrity criteria are met.

- **Surplus**  
The Prop 1B program supplements ARB's diesel regulations by funding early compliance or providing extra emission reductions beyond those required by current rules. The program guidelines require that the District ensure all trucks being considered to receive funding have had ARB verify compliance with the state's diesel regulations and further require that any trucks under contract with the district be noted as such in the state's online regulation reporting database. This ensures that the new truck will not be used towards compliance during the project life ensuring that the emissions reductions are surplus.
- **Quantifiable**  
The District evaluates the potential reductions that would be achieved by replacing the old equipment with the new equipment using the Project Benefits Calculator created by ARB. The calculator is available to the public on ARB's website at <http://www.arb.ca.gov/bonds/gmbond/gmbond.htm> and is updated by ARB on a regular basis.

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- **Enforceable**

The District has created enforceable contracts, based on requirements in the Prop 1B Program guidelines, which are signed by both District management and the grantee to ensure that projects are fully accomplished and the integrity criteria are met. The legally binding contracts include, but are not limited to, usage reporting requirements for the grantee, operating location requirements for the new vehicle, the destruction requirements of the baseline equipment/engine, and an allowance for the District to conduct an audit of the project at any time during the project life.

- **Permanent**

To ensure that the SIP-creditable emissions reductions are permanent, actions such as post inspections of the new equipment and verification that the baseline equipment has been destroyed through the required process as described in the program guidelines are performed.

ARB, under direction from Executive Order S-02-07, established transparency and accountability measures for administering the bond funding. ARB has made all program materials including, but not limited to; guidelines, Board Resolutions, Notice of Funding Availability, summary tables, recommendations for funding, materials from public workshops, and completed applications submitted by local and State agencies available on their website.

Through the Prop 1B program, the District provides incentive funds to reduce emissions from eligible heavy-duty trucks traveling through California's major trade corridors and locomotives. Available funding options include retrofit, repower, replace, and a tiered truck transaction, which involves retrofitting and replacing two different trucks. The program supplements ARB's diesel regulations by funding early compliance or providing extra emission reductions beyond those required by current rules.

Due to the extensive amount of funding available, a comprehensive outreach and marketing campaign by the District was necessary to ensure that the Prop 1B funds are fully liquidated and the emission reduction benefits of the program are realized. The Prop 1B guidelines state that the District is required to "...use marketing strategies that specifically target the owners of program eligible equipment..." and require the District to utilize marketing strategies that target independent owner/operators of trucks. To date, the District has conducted numerous grass-roots outreach activities targeting potential applicants to ensure that independent owner/operators are informed of the Prop 1B program as required by the program guidelines.

### C. Combustion Systems Improvement of Mobile Engines

To assist with meeting California's air quality attainment goals, in 2009 the NRCS established the California Air Quality Initiative which provides financial assistance to address air quality concerns through the Environmental Quality Incentives Program. NRCS provides incentive funds to assist farmers to replace, repower, or retrofit diesel powered agricultural equipment with the goal of ensuring the resulting reductions meet the SIP creditability criteria of being surplus, quantifiable, enforceable, and permanent. Since 2009, the NRCS program, in combination with the District's program, has provided over \$105 million in incentives for agricultural equipment replacement, with significant continued investment currently ongoing. Eligible participants are owners of land in agricultural or forest production or persons who are engaged in livestock, agriculture, or forest production on eligible land and that have a natural resource concern on the land.

Applications are accepted on a continuous basis with periodic application ranking cut-offs. Applications are ranked for funding based upon ranking criteria developed with input from Local Work Groups, Stakeholders, and the State Technical Advisory Committee (STAC). The ranking score of a project is based on multiple factors including but not limited to:

- Whether or not the project location is in an area that has an EPA NAAQS non-attainment designation for PM<sub>2.5</sub>, PM<sub>10</sub> and Ozone and what type of designation that area has (for example "extreme" nonattainment).
- If there are currently any local or state agriculturally based air emission regulatory requirements for the area that the project is located.
- The emission level of the baseline equipment/engine and the emission factors of the new/replacement equipment/engine.
- The amount of NO<sub>x</sub>, ROG, and PM that is projected to be reduced by funding the project.

The ranking criteria ensure that the projects with the greatest amount of reductions, resulting in the highest air quality benefit will be selected for funding.

NRCS has created robust administrative requirements based on those in the Carl Moyer Program Guidelines to ensure that emission reductions are enforceable, are achieved throughout the life of a project, and ensure all integrity criteria are met. The NRCS Combustion System Improvement of Mobile Engines incentive program guidelines are available at [ftp://ftp-fc.sc.egov.usda.gov/CA/programs/AQI/2012\\_Combustion\\_Systems\\_Improvement\\_Policy\\_and\\_Procedures.pdf](ftp://ftp-fc.sc.egov.usda.gov/CA/programs/AQI/2012_Combustion_Systems_Improvement_Policy_and_Procedures.pdf).

- **Surplus**  
The goal of the NRCS program is to accelerate equipment replacement and to introduce cleaner engines and equipment into fleets in advance of rules or

regulations. Because off-road agricultural equipment is not currently subject to any existing regulations, emissions reductions resulting from this program are considered surplus.

- **Quantifiable**  
NRCS quantifies the potential emissions reductions for each project application using the established Carl Moyer Program calculation methodologies and emission factors.
- **Enforceable**  
NRCS has created enforceable contracts, based on requirements in the Farm Bill and modeled after the Carl Moyer Program Guidelines, which are signed by both NRCS and the grantee to ensure that projects are fully accomplished and the integrity criteria are met. Clauses contained in the contracts safeguard the integrity of the funding and the reductions. Should a grantee not be able to achieve the SIP-creditable emissions reductions as committed in the contract, NRCS receives liquidated damages, and the funding can be put towards another project.
- **Permanent**  
To ensure that the SIP-creditable emissions reductions are permanent, NRCS conducts a post inspection of the new equipment and verification that the baseline equipment has been destroyed through the required process.

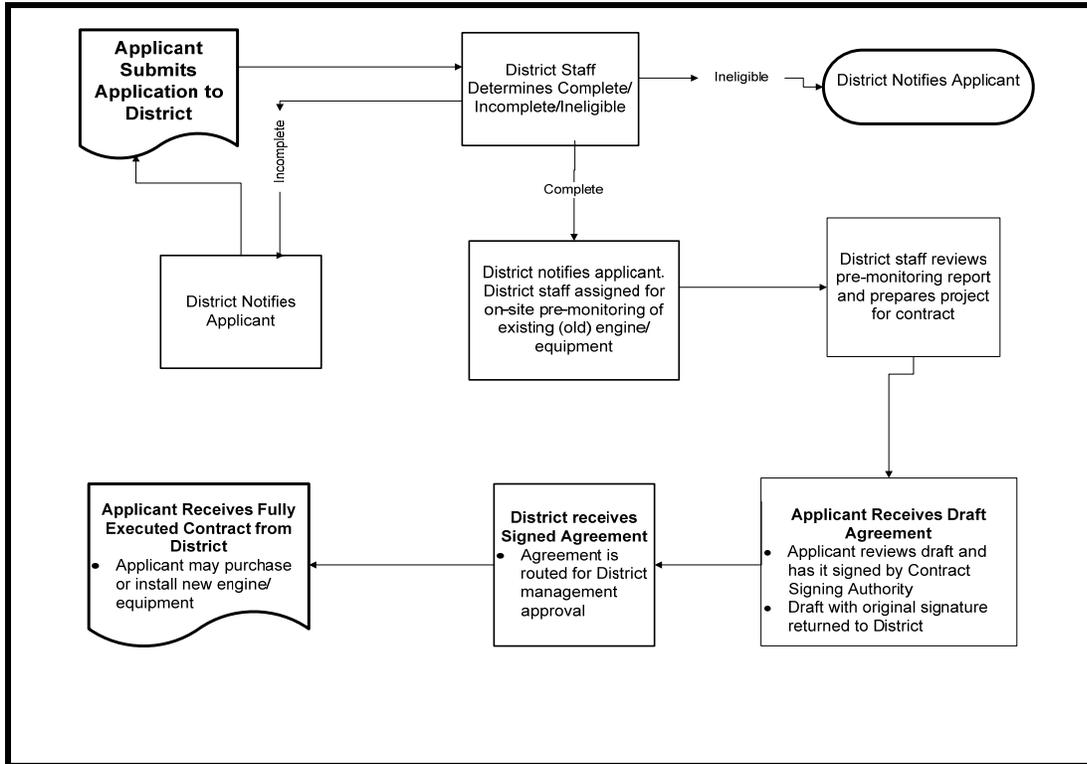
The Combustion Systems Improvement of Mobile Engines incentive program is unique from other incentive programs in that NRCS is explicitly prohibited from identifying grantees by name. As directed by the Farm Bill (Food Security Act of 1985 (7 U.S.C. § 608d(2))), NRCS must maintain the confidentiality of information provided by an agricultural producer participating in the NRCS Combustion Systems Improvement of Mobile Engines incentive program. The information is exempt from mandatory disclosure and may not be used in judicial or administrative proceedings without the consent of the person involved.

#### **D. Overview of District Incentive Project Process**

Applications received by the District generally follow approval processes and timelines, based on guidelines that have been publically approved such as the Carl Moyer Program Guidelines. The following summary provides a general overview of the incentive program process.

Upon receipt of an application, a determination is made regarding whether the application is complete, and a letter is mailed to the applicant regarding the status of the application.

Figure 1 General overview of District incentive program process



Once an application is deemed complete, a District employee or a contracted agent of the District will perform a pre-inspection: the engine and/or equipment is physically inspected to verify the condition of the engine and/or equipment, all unique identifiers such as Vehicle Identification Number (VIN) and Engine Serial Numbers (ESN) are recorded, and it is confirmed that the engine and/or equipment is operational. Photographs are taken of the engine and/or equipment and an inspection report is completed. The inspection report and photographs are then reviewed by District staff to verify the information critical to calculating emission reductions on the application match the actual engine and/or equipment.

For applicable project types, usage documentation from the applicant is requested after application information has been verified with information from the inspection report. This usage information is used to calculate the projected emissions reductions, cost-effectiveness and incentive amount to be issued by the District.

Applicants found to be in violation of any District rules or that have any outstanding Notice of Violations during the application process will not be issued a contract for an incentive project until such time that all outstanding issues are resolved. Once deemed clear of any violations, the contractual agreement is entered into by the District and the applicant.

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After all signatures have been obtained, the contract is then executed and the applicant, now referred to as the grantee, is notified to start their project. This ensures that all activities related to the project are covered under the provisions of the legally binding contract and are therefore enforceable by the District.

**Figure 2** Photographs of the dismantling of a tractor



Once the new engine/equipment has been purchased and/or installed, the grantee submits a Claim for Payment (CFP) packet. The District's receipt of the CFP triggers a post-inspection to be scheduled. A District employee or contracted agent of the District will then inspect the new engine/equipment in the applicant's possession and document critical information with photographs. Post-inspection also involves by District staff performing an inspection at the dismantling facility of the old engine/equipment to confirm that it matches the contract and that proper destruction has occurred, as illustrated in Figure 2. Inspection reports from the post-inspection are reviewed by District staff and once both old and new engine/equipment information has been verified the CFP is paid.

The District sends the grantee a usage statement that the grantee then fills out and submits to the District to satisfy contractual reporting requirements starting one year from the implementation date of the project. The grantee is required to annually report actual usage for the previous year, provide proof of insurance and certify that they still own the engine/equipment for the duration of years required in the contract. The number of years required to report varies by project type from one year to 20 years.

Deviation from the general standard process described above may occur if the specific funding source and/or incentive program guidelines require additional or varying steps. The Prop 1B Guidelines, for example, require that all applications are received in a competitive ranking and selection process. The District opens the application solicitation period for at which time applications are accepted. Once the application solicitation period is closed, applications are reviewed for eligibility and then entered into the ARB Goods Movement Online Database to create a competitively ranked list of

eligible projects. The highest ranking projects are then selected for funding. The Prop 1B Guidelines require that the rank list be kept up to date and is made available to the public via the District's website.

## **IV. DISCUSSION**

### **A. The Role of Rule 9610 in Attainment Plans**

EPA periodically reviews and establishes health-based NAAQS for ozone, particulates, and other pollutants. Once a standard is set, EPA designates areas as attainment or nonattainment. EPA also adopts implementation rules which, with the CAA, establish required components for attainment plans (state implementation plans, or SIPs). By meeting planning and attainment requirements, local air districts avoid federal sanctions and improve public health.

Traditional regulatory controls are a core component of the District's attainment strategies. Since 1992, the District has adopted over 500 new rules and amendments, reflecting technologies and methods far beyond minimum control levels. Although new opportunities for stronger regulatory controls continue to become increasingly scarce, the District evaluates all sources of air pollutant emissions for new emissions reductions opportunities in each attainment plan.

EPA requires reasonably available control technology (RACT), reasonably available control measures (RACM), best available control technology (BACT), and/or best available control measures (BACM), depending on the EPA requirements associated with a particular attainment plan. In addition, an attainment plan as a whole must demonstrate sufficient emissions reductions to achieve attainment, to meet reasonable further progress (RFP) milestones, and satisfy contingency measure emissions reductions requirements.

Given the significant emissions reductions already being achieved in the Valley through adopted regulatory strategies and the significant investment necessary to achieve emissions reductions, the Valley is at the point of diminishing returns from new regulatory controls. Yet the Valley continues to face significant challenges under current and upcoming EPA air quality standards. The District thus pursues comprehensive, multi-faceted strategies that reach beyond traditional regulations to include incentive programs, technology advancement efforts, and more.

Although traditional regulations alone will not meet the Valley's attainment needs, emissions reductions from non-regulatory strategies, such as incentives, have generally not been allowed credit in attainment plans to meet federal CAA requirements. Establishing a framework for these programs to receive SIP credit through Rule 9610 is critical for ensuring the continued success of both incentive programs and the District's attainment plans.

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Emission reductions credited through Rule 9610 will not replace the need or requirements for regulatory controls. In each attainment plan, the District will continue to evaluate regulatory opportunities to satisfy any applicable RACT/RACM or BACT/BACM requirements. However, once all reasonable regulatory options are exhausted, crediting incentive-based reductions through Rule 9610 will help the District assure that the attainment plan as a whole achieves sufficient SIP-creditable emissions reductions to achieve attainment, to meet RFP milestones, and satisfy contingency measure emissions reductions requirements.

Within individual attainment plans, the District will identify a Rule 9610 emissions reduction commitment for a particular year or years. This commitment will represent the emissions reductions need for attainment, RFP, or contingency remaining after accounting for emissions reductions quantified from regulatory strategies. This Rule 9610 commitment will also be limited to an amount of emissions reductions deemed reasonable in light of secured or reasonably anticipated funding and the estimated availability of emissions reductions projects and willing participants, based on historical participation and estimates of remaining equipment. The Rule 9610 emissions reductions need and the reasonableness of Rule 9610 emissions reductions projection will be documented within the attainment plan.

The District will identify all standing attainment plan(s) commitments for Rule 9610 in annual demonstration reports compiled pursuant to Rule 9610. The District will show that the total emissions reductions from SIP-creditable incentive programs meets, at a minimum, the attainment plan commitments for each year for which there is such a commitment. In this way, the District will, in a transparent process, verify that all attainment plan needs associated with Rule 9610 have been met.

## **B. Summary of Rule 9610**

Rule 9610 would be the first rule in the nation to provide an air quality agency an administrative mechanism to take SIP credit for incentive-based emission reductions. District Rule 9610 will not replace any requirements in the CAA. On an annual basis, the District's Air Pollution Control Officer (APCO) will prepare a report to submit to ARB and EPA that demonstrates the incentive-based emission reductions meet the SIP-credibility criteria. Additionally, the annual report will quantify on-going creditable emission reductions from projects funded in prior years. The report will be made available to the public prior to submittal to ARB and EPA, and made available on the District's website after it is submitted to ARB and EPA

**C. Draft Rule 9610**

The following is a summary of rule language with explanations on intent, and interpretation of rule language. For specific rule language refer to the draft rule.

**Section 1.0 Purpose**

The purpose of Rule 9610 is to serve as an administrative mechanism for the District to receive SIP credit for emission reductions achieved in the Valley through incentive-based programs. The purpose statement further clarifies that the incentive programs may be administered by the District or by other public agencies, which could include, but would not be limited to, NRCS and ARB.

ARB is in the process of adopting their own rule, similar to District Rule 9610, to provide ARB with the administrative mechanism to claim emissions reduced from incentive-based projects administered by ARB. However, the applicability of the ARB rule is specifically limited to the Agricultural Equipment incentive-based program and is additionally limited to taking credit for emissions reduced in the Valley, and not state-wide.

Although the purpose statement of District Rule 9610 allows for other public agencies to administer SIP-creditable incentive programs in the Valley, it does not preclude those other agencies from meeting all requirements of this rule. Any incentive-based emission reductions submitted for SIP credit must meet the requirements for SIP-credibility as defined in rule language.

**Section 2.0 Definitions**

The definition section of this rule provides clarity and support for the requirements presented within the rule. While some definitions come from existing District regulations and state and federal guideline documents, many of the definitions are unique to this rule. The following is a discussion of the definitions that may be unique to this rule to assist with understanding of rule terminology.

Case-by-Case Determinations. Case-by-case determinations are alternative procedures approved by ARB for specific projects, as authorized under the Carl Moyer Program Guidelines. An air district may request ARB review of a project or other Carl Moyer Program element that varies from the requirements of the Carl Moyer Program Guidelines for a case-by-case determination as provided for in the guidelines. ARB may approve such a project or other program element if the outcome of this approval would not adversely impact achievement of real, surplus, quantifiable, enforceable, and cost-effective emission reductions, would not significantly reduce program transparency, and is not prohibited by law.

All case-by-case determinations submitted for review and all general case determinations are made available to the public via web posting at ARB's Carl Moyer Program website, and the District is required by the guidelines to keep a copy of the

## SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

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determination in the project file. On some occasions, the District enters into contracts with grantees for incentive projects that require ARB approved case-by-case determinations. Less than one percent of District administered incentive programs involve case-by-case project.

Funding Source. As defined by the rule, is a source of funding used to implement incentive programs, including but not limited to, federal, state, and local sources. Funding sources may include, but are not limited to the Carl Moyer Program and the NRCS Combustion Systems Improvement of Mobile Engines incentive program. The District is engaged at the state and federal levels to craft policy and funding targets that account for the Valley's unique challenges and need to accelerate emission reductions, particularly from sources not under the District's regulatory authority. Toward that end, the District works closely with the Valley's legislative delegation to ensure that the Valley's needs are well represented in discussions of where to focus funding throughout the state and region as a whole. Funding sources for District administered incentive-based projects include, but are not limited to Prop 1B, the Carl Moyer Program, the federal Diesel Emissions Reductions Act (DERA), AB 923 (which authorized a \$2-per vehicle DMV fee), AB 118 (Air Quality Improvement Program (AQIP)). For the District to claim SIP credit for incentive-based emission reductions regardless of the source of funding, the emission reductions must meet the requirements of this rule.

Grantee. A grantee is a person, business, association, public agency, or other entity that enters into a contract with the District or other public agency to reduce emissions under an incentive program. An example of a grantee could be a truck fleet business that contracts with the District to retrofit an older truck engine, or perhaps a small farmer who enters into a contract to replace an agricultural irrigation pump engine.

Implementation Date. For the purposes of this rule, the implementation date for a project, as defined by this rule, is the date in which the new or replacement equipment, vehicle, or practice funded through an incentive program is put into service. For incentive projects administered by the District this date is determined and verified by the final sales invoice provided by the grantee to the District. This date is verified by the APCO or persons authorized to act on behalf of the APCO, such as District staff, during the incentive project process.

Incentive Program. An incentive program is a program that reduces emissions by promoting the adoption of lower emitting equipment, vehicles, or practices through the distribution of financial incentives to a grantee. Examples of incentive programs include, but are not limited to, the Carl Moyer Program, the NRCS Combustion Systems Improvement of Mobile Engines incentive program, the Prop 1B Program, and District administered incentive programs. Additionally, incentive programs may be administered by a public agency other than the one that originated the program; for example, the District administers incentive programs using funds and guidelines from the Carl Moyer Program.

Incentive Program Guidelines. Incentive program guidelines are administrative procedures, quantification methodologies, eligibility criteria for projects, cost-effectiveness criteria, reporting practices, and other procedures and methodologies used to implement incentive programs. For incentive-based emission reductions to qualify as SIP creditable the incentive program guidelines must meet the criteria as presented in Section 3.0 of Rule 9610.

Inspections. For purposes of this rule, an inspection refers to a physical inspection of the equipment, vehicle, or practices. This definition clarifies requirements under the definitions of Contract and Enforceable, as well as annual report requirements under Section 4.6 (Project Monitoring and Enforcement).

SIP-creditable Emission Reduction. For purposes of this rule, reductions of emissions through incentive programs that are Surplus, Quantifiable, Enforceable, and Permanent, in accordance with this rule. Refer to Section IV.B of this staff report for additional details.

### **Section 3.0 Incentive Program Guidelines**

Section 3.1 establishes that SIP creditable emission reductions will be achieved through appropriate incentive program guidelines such as the Carl Moyer Program or other incentive program guidelines that have been reviewed through a public process which includes the opportunity for public commenting. Section 3.1 is divided into four subsections.

- Section 3.1.1 is specific to the use of Carl Moyer Program Guidelines for incentive projects funded by either the Carl Moyer Program or non Carl Moyer funding sources and lists project types that qualify under these guidelines.
- Section 3.1.2 is specific to the NRCS Program Guidelines for incentive projects funded by NRCS Combustion Systems Improvement of Mobile Engines incentive program funds.
- Section 3.1.3 is specific to the Proposition 1B Goods Movement Emission Reduction Program Guidelines for incentive projects funded by Proposition 1B funds or non-Proposition 1B funds.
- Section 3.1.4 allows for the use of incentive program guidelines and funding sources not identified in Sections 3.1.1 through 3.1.3 for incentive projects, provided such guidelines are reviewed through a public process, including the opportunity for public comment; with guidelines developed to reduce emissions from mobile sources being developed in consultation with ARB. It's important to note that any SIP-creditable emission reductions from incentive programs that fall under this category of guideline and funding must meet all requirements of this rule before it will be considered by the District for inclusion into the annual demonstration report for SIP credit. Additionally, the guidelines, along with the three identified guidelines will be made publicly available on the District's web site pursuant to requirements under Section 3.2 of Rule 9610.

Section 3.2 provides for requirements for the Manual of Procedures. The Manual of Procedures assures that all incentive program guidelines used for SIP creditability are publicly available, and maintained in a centralized location on the District's website. To increase public understanding and awareness of the guidelines and the role they play in SIP-creditable of emission reductions, the website will also contain a description of how each incentive program guideline ensures that the incentive program emission reductions are SIP-creditable. A summary of case-by-case determinations will also be maintained on this website.

#### **Section 4.0 Annual Demonstration Report**

Section 4.0 provides specific requirements and guidelines for the content of the annual demonstration report that the APCO will submit to EPA and ARB to claim SIP credit for the incentive-based emission reductions.

Section 4.1 requires that the annual demonstration report contain a description of the incentive program guidelines used for implementation of incentive programs generating claimed SIP-creditable emission reductions. This description shall include a discussion of how the incentive program guidelines ensure that the emission reductions are SIP-creditable. This level of transparency with regards to the incentive program guidelines is further supported by Section 3.2, whereby a Manual of Procedures that includes all incentive program guidelines in it is maintained on the District's website; and Section 5.3, whereby the annual demonstration report containing this description shall also be maintained on the District's website. This description shall include the case-by-case determinations.

Section 4.2 requires the reporting of SIP-creditable emission reductions generated through incentive programs, as implemented in preceding years. This accounting of SIP-creditable emission reductions would be summarized by pollutant, years the emission reductions are occurring, cost effectiveness, funding amount, incentive program guidelines, and project type. This requirement is intended to include all SIP-creditable emission reductions being claimed in the SIP for that annual demonstration report. The term "preceding years" is not intended to include SIP-creditable emission reductions from past annual demonstration reports that are no longer applicable. For example, if a project life of a SIP project has ended in 2015 and the final reporting of those SIP-creditable emission reductions are accounted for in the 2016 annual demonstration report, then the 2017 annual demonstration report would not include the reductions from that project because they would not be relevant to the 2017 report.

Section 4.3 provides the requirement that any adjustments to emission reductions claimed in prior annual demonstration reports be reported in the annual demonstration report for the year the adjustments are made and shall provide the cause for the adjustments. Causes for adjustments may include, but are not limited to, updated project information during the course of project implementation or the adoption of new local, state, or federal requirements that might affect the surplus nature of emission reductions achieved by incentive programs.

# SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

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Section 4.4 requires that the annual demonstration report contain a summary of SIP commitments identified in District adopted SIPs for which SIP-creditable emission reductions will be used to satisfy, or partially satisfy. This shall include the identification of any SIP commitment shortfalls and remedies for addressing said shortfalls.

Section 4.5 (Project Information) outlines incentive project specific information to be provided in the annual demonstration report, as applicable including:

- **Project identification:** this is a unique project identifier as established by the District or other public agency.
- **Project location:** the location of the new equipment, vehicle, or practices as contracted for the incentive project.
- **Project type:** as defined in the rule and further clarified in Section 3.1.
- **Project life:** as defined in this rule, the project life shall not exceed the useful life of the equipment, vehicles, or practices funded through incentive programs.
- **Implementation date:** as defined in this rule, the implementation date is the date which new or replacement equipment, vehicles, or practices funded through incentive programs are put into service.
- **Funding amount:** is the amount of funding provided by the District or other public agency.
- **Incentive program guideline(s):** used to implement the project, including the revision date. As defined in the rule, incentive program guidelines are the administrative procedures, quantification methodologies, eligibility criteria, cost effectiveness criteria, reporting practices, and/or other procedures and methodologies used to implement incentive programs as described in Section 3.0.
- **Quantified emissions:** per year and aggregated over the project life by pollutant.
- **Description of the baseline and new equipment, vehicles, or practices:** the annual demonstration report shall include the description of both the baseline and new equipment, vehicles, or practices, as applicable:
  - **Make and model** of equipment, vehicle, or practice.
  - **Equipment/vehicle rating or horsepower**
  - **Model year**
  - **Historical and projected annual usage**
- **Additional project details:** additional project details as necessary to demonstrate the SIP-creditable emission reductions claimed in the annual demonstration report. This additional information may vary based on the incentive program guidelines used to administer the project, and provides the District with a mechanism to request any additional information to ensure the emission reductions are SIP-creditable (should such unanticipated situations arise) prior to claiming them in the annual demonstration report.

Section 4.6 (Project Monitoring and Enforcement) includes requirements for reporting of monitoring and enforcement of incentive project contracts. Incentive program guidelines have specific, and sometimes unique, requirements for project monitoring and enforcement practices to be implemented by the public agency administering the incentive program; however, all incentive programs that result in SIP creditable incentive-based emission reductions at least contain portions that fulfill the requirements of this rule. Section 4.6 requires the annual demonstration report to contain a summary of monitoring and enforcement activities conducted by the public agency including the identification of project audits, usage reports, and inspections; and identification of projects that do not satisfy contractual requirements including enforcement actions and remedies such as penalties and additional contractual requirements. This rule requirement ensures transparency on behalf of the public agency administering the incentive program with regards to confirming that incentive-based emission reductions claimed in the annual demonstration report are enforceable and permanent as defined in the rule.

Section 4.7 (Incentive Program Evaluation) requires the District to perform a retrospective assessment of the performance of its incentive program to evaluate overall incentive program performance and develop recommendations for future enhancements to incentive program implementation. The *EPA Improving Air Quality with Economic Incentive Programs* guideline requires that air districts taking SIP credit for incentive-based emission reductions perform this assessment and report to EPA on at least a triennial basis. By incorporating this process, requirements, and report into the annual demonstration report, the District is going above and beyond EPA requirements. The District has incorporated the other requirements of the EPA guidance throughout the rule. These requirements include: a public process (incorporated into Section 5.0), reporting of the amount of emission reductions actually realized through the incentive program (incorporated into Sections 4.2 and 4.3), and reporting of the effects on incentive-based emission reductions in attainment of SIP commitments (incorporated into Section 4.4).

### **Section 5.0 Annual Demonstration Report Process**

Section 5.0 provides the framework for the frequency, deadlines, and public process of the annual demonstration report. The APCO is required to submit an annual demonstration report to ARB and EPA for concurrence no later than the date specified in the rule after releasing the draft annual demonstration report to the public and presenting it to the District Governing Board. The most recent three final annual demonstration reports shall be available on the Districts website, as appropriate. The “as appropriate” language has been added to account for the first years of the program where less than three approved annual demonstration reports will exist, and therefore be inappropriate to post on the website.

**Section 6.0 Recordkeeping Requirements**

Section 6.1 requires that all documents created and/or used in implementing the requirements for the annual demonstration report be kept and maintained as required by the applicable incentive program guidelines. Additionally, consistent with the California Public Records Act and other related requirements, such records shall be made available for public review, and discussed in the annual demonstration report.

Section 6.2 provides language acknowledging the legal limitations placed on the NRCS Program Combustion System Improvement of Mobile Engines incentive program by the Federal Food Security Act of 1985 (7 U.S.C. §608d(2)). This limitation specifically prohibits NRCS from disclosure of records, as discussed in more detail in Section III.B of this staff report.

**Section 7.0 Use of Projected Incentive Program Reductions as Control Strategies in SIPs**

Section 7.0 clarifies that the District may identify SIP-creditable emission reduction commitments in District adopted SIPs to address federal CAA requirements with the caveat that the commitments shall be limited to the amount of emission reductions that the District reasonably projects to be achieved and that such commitments shall be accounted for in the annual demonstration report.

## SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

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### V. REFERENCES

- California Air Resources Board [ARB], (2013, January 2), *Incentive Program; Program Review Report, San Joaquin Valley Air Pollution Control District Fiscal Years 2006-07 through 2009-10*, Sacramento: CA
- California Air Resources Board [ARB], 2010, *Proposition 1B: Goods Movement Emission Reduction Program Proposed Update to Guidelines for Implementation Staff Report*, Sacramento: CA.
- California Air Resources Board [ARB], 2011, *The Carl Moyer Program Guidelines*, Sacramento: CA.
- San Joaquin Valley Air Pollution Control District [SJVAPCD], (2012, December 20). *2012 PM2.5 Plan [Pm2.5 Plan]*, Fresno: CA.
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- San Joaquin Valley Air Pollution Control District [SJVAPCD], (2007, April 30). *2007 Ozone Plan [Ozone Plan]*, Fresno: CA.
- San Joaquin Valley Air Pollution Control District [SJVAPCD], (2010, December 7) *SIP Credibility of the Off-Road Agricultural Equipment Replacement Incentive Programs*, Fresno: CA.
- United States Environmental Protection Agency [EPA], 2001, *Improving Air Quality with Economic Incentive Programs* (EPA-452/R-01-001), Washington DC
- United States Environmental Protection Agency [EPA], San Joaquin Valley Air Pollution Control District [SJVAPCD], United States Department of Agriculture [USDA], and California Air Resources Board [ARB], 2010, *Statement of Principles*

## Appendix A

### **Statement of Principles Outlining the Approach to SIP-Creditability of Voluntary Incentive Programs**

**April 9, 2013**

**SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT**

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**Statement of Principles Regarding the Approach to State  
Implementation Plan Creditability of Agricultural Equipment  
Replacement Incentive Programs Implemented by the  
USDA Natural Resources Conservation Service and the  
San Joaquin Valley Air Pollution Control District**

**December 2010**

## **Introduction**

The U.S. Department of Agriculture Natural Resources Conservation Service (NRCS) is implementing an Environmental Quality Incentive Program in California to help achieve federal air quality standards and meet emission reduction goals of the State Implementation Plans (SIP) for the San Joaquin Valley. This federal incentive program complements existing State and local incentive programs in California. The NRCS program is modeled after California's Carl Moyer Incentive Program, which was developed as part of California's 1994 Ozone SIP approved by U.S. Environmental Protection Agency (U.S. EPA) in 1997. The San Joaquin Valley Air Pollution Control District (District) is also implementing a program to achieve SIP creditable reductions through the early introduction of cleaner agricultural equipment. Both agencies are applying strict criteria to ensure the emission reductions achieved are surplus, quantifiable, enforceable, and permanent.

## **Relationship to San Joaquin Valley 2007 Ozone SIP**

The San Joaquin Valley faces significant challenges in achieving attainment with the U.S. EPA's ambient air quality standards. The District has many of the nation's toughest air pollution rules already in place, and many new regulations are in progress under the District's most recent attainment plans, such as the *2007 Ozone Plan*. However, regulations alone will not bring the Valley into attainment of federal air quality standards.

When the Air Resources Board (ARB) approved the District's *2007 Ozone Plan* on June 14, 2007, ARB committed to investigate additional control measures before transmitting the plan to the U.S. EPA. When ARB adopted the 2007 State Strategy on September 27, 2007, ARB committed to reducing emissions from agricultural equipment in the Valley beginning in 2014, with five to ten tons per day of NOx reductions in the Valley by 2017. This measure would accelerate fleet turnover to equipment with engines meeting cleaner new engine NOx standards as quickly as possible. ARB committed to meeting this reduction target through regulatory or voluntary incentive measures, stating that it would be "*supporting efforts to secure federal funds and other mechanisms to achieve near-term reductions that can be credited to the SIP.*"

This statement of principles establishes a general framework for ensuring that reductions in air emissions resulting from voluntary incentives to replace off-road agricultural equipment receive credit in State Implementation Plans (SIPs). Given the heavy investment from the public sector and agricultural community in replacing equipment under these voluntary incentives, establishing a general framework to receive SIP credit for these emissions reductions is critical for ensuring the continued success of these programs. These voluntary incentives are administered by the District and NRCS.

**Statement of Principles**

1. The District, NRCS, ARB, and U.S. EPA will work collaboratively to develop a mechanism to provide SIP credit for emissions reductions from the federal, state, and local incentive programs that meet the criteria of ensuring the reductions are surplus, quantifiable, enforceable, and permanent
2. The District and NRCS will each submit annual reports of the prior year's completed projects and associated emission reductions to U.S. EPA and ARB.
3. U.S. EPA will expeditiously review the submitted annual report. If EPA determines that the emissions reductions are consistent with the mechanism and criteria in Principle 1, EPA would credit the emission reductions toward the SIP.
4. The District and NRCS will ensure ongoing accountability by maintaining databases of project data, application information, funded-project data, and emissions reductions; and record retention of application forms, inspection documentation, destruction verification, and other project-relevant documentation.

Signed for U.S. EPA By,

*for*   
Deborah Jordan  
Director, Air Division, Region IX

Date: 12-15-10

Signed for SJVUAPCD By,

  
Seyed Sadredin  
Executive Director/Air Pollution Control Officer

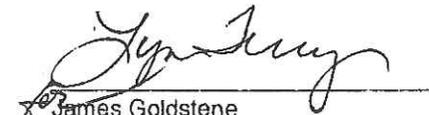
Date: 12/15/10

Signed for USDA, NRCS By,

*for*   
Lincoln E. Burton  
State Conservationist for California

Date: 12-16-10

Signed for ARB By,

*for*   
James Goldstene  
Executive Officer

Date: 12/15/10

**SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT**

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## Appendix B

### **Implementation Principles for Addressing Agriculture Equipment under the Clean Air Act**

**April 9, 2013**

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

JUL 13 2012

OFFICE OF  
AIR AND RADIATION

The Honorable Dave White  
Chief, Natural Resources Conservation Service  
U.S. Department of Agriculture, Natural Resources Conservation Service  
Office of the Chief  
1400 Independence Avenue SW, Room 5105-A  
Washington, D.C. 20250

Dear Mr. White:

Enclosed for your signature is the Agricultural Equipment Implementation of Principles that was discussed during your meeting with Janet McCabe on June 5, 2012. As you may recall, the Statement of Principles was developed at the request of the agriculture industry stakeholders seeking support for programs to assist farmers seeking to invest in cleaner agricultural equipment, including engines. The U.S. Environmental Protection Agency and the U.S. Department of Agriculture signed a memorandum of understanding (MOU) in 1998 that formalized a working relationship between the two agencies relative to air quality in the agricultural industry. The MOU set forth joint responsibilities for both agencies regarding agricultural air quality issues. It also provided considerable assurance to the agricultural sector that the exchange of air quality information, the review of research and the design of implementation measures would be jointly coordinated. To date, the two agencies have worked cooperatively to identify mutually agreeable solutions to address air quality concerns in areas dominated with agricultural-related emissions. The following implementation principles are consistent with the objectives outlined in the 1998 MOU and will guide future coordination efforts between USDA and the EPA on air quality issues related to agricultural equipment.

If you have any questions concerning this document, please feel free to contact me or your staff may contact Ms. Robin Dunkins at 919-541-5335.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gina McCarthy".

Gina McCarthy  
Assistant Administrator

Enclosure

# Implementation Principles for Addressing Agriculture Equipment under the Clean Air Act

## Introduction

The U.S. Environmental Protection Agency and the U.S. Department of Agriculture signed a memorandum of understanding (MOU) in 1998 that formalized a working relationship between the two agencies relative to air quality in the agricultural industry. The MOU set forth joint responsibilities for both agencies regarding agricultural air quality issues. It also provided considerable assurance to the agricultural sector that the exchange of air quality information, the review of research and the design of implementation measures would be jointly coordinated. To date, the two agencies have worked cooperatively to identify mutually agreeable solutions to address air quality concerns in areas dominated with agricultural-related emissions contributing to the problem. The following implementation principles are consistent with the objectives outlined in the 1998 MOU and will guide future coordination efforts as the agency focuses on air quality impacts for agricultural equipment and implements used in the U.S. agricultural sector.

Cooperation in the past has involved efforts to ensure that when measures are taken in the agricultural sector to improve air quality, they are both technologically and economically feasible for individual landowners and users and are based on the best and most recent science.

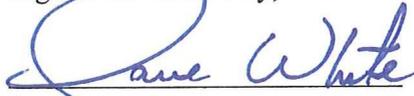
## Statement of Principles

1. The two agencies will work together to develop priorities based on their most recent activities and agency regulations and guidelines. In particular, under the MOU, the two agencies will cooperatively seek to address the issue of farm equipment compliance with all applicable federal air quality regulations using the tools available to each agency. Farm equipment includes both stationary and mobile equipment used in farming or agricultural operations. This type of equipment includes, but is not limited to: tractors and harvesters, irrigation equipment, product processing equipment and boilers and precision application technologies. An example of a recent federal regulation that applies to farm equipment compliance is the National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines, promulgated in 2010, but currently under reconsideration in 2012.
2. The two agencies will work together to determine how to best assist the agricultural sector in meeting its compliance requirements with applicable state air quality rules and regulations for farm equipment. The agencies will also encourage voluntary efforts permitted under the Clean Air Act (CAA) to improve air quality through replacement or retrofit of engines or equipment with newer, more efficient technologies. Priority should also be given to areas where reductions from agricultural emissions are needed for attaining National Ambient Air Quality Standards.
3. USDA will continue to develop new and/or improve existing technical standards and best management practices to meet air quality objectives across the nation. The EPA will work with USDA to identify air quality areas or rules that may have an impact on

agriculture to ensure USDA's ability to prioritize the development of new and/or improved measures. The EPA will continue to consult with the technical experts at the USDA on regulatory matters that may impact agriculture.

4. The EPA and USDA will work together in a coordinated manner on all air quality regulatory issues that affect agricultural production. The two agencies will also work together to provide a mechanism pursuant to the CAA to quantify for state implementation plan credit emissions reductions from farm equipment, achieved through voluntary incentive programs at the state/local level. These programs and reductions must meet all criteria (i.e., surplus, quantifiable, enforceable and permanent) for creditable emission reductions and be consistent with the CAA as interpreted in various written policies including the EPA's Economic Incentive Program and/or voluntary measures policies.

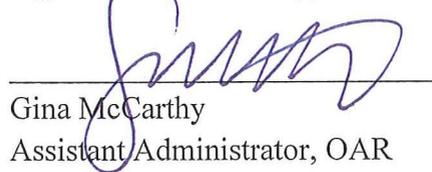
Signed for USDA by,



Dave White  
Chief, NRCS

7-26-12  
Date

Signed for U.S. EPA by,



Gina McCarthy  
Assistant Administrator, OAR

7/12/12  
Date

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