

Antelope Valley Air Quality Management District Governing Board Regular Meeting

Agenda

LOCATION

**ANTELOPE VALLEY AQMD District Office
43301 Division Street, Suite 206
Lancaster, CA 93535
661.723.8070
TUESDAY, JULY 17, 2018
10:00 A.M.**

BOARD MEMBERS

Marvin Crist, Chair, City of Lancaster
Austin Bishop, Vice Chair, City of Palmdale
Ron Hawkins, Los Angeles County
Howard Harris, Los Angeles County
Ken Mann, City of Lancaster
Steven Hofbauer, City of Palmdale
Newton Chelette, Public Member

IF YOU CHALLENGE ANY DECISION REGARDING ANY OF THE LISTED PROPOSALS IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED DURING THE PUBLIC TESTIMONY PERIOD REGARDING THAT PROPOSAL OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE GOVERNING BOARD AT, OR PRIOR TO, THE PUBLIC HEARING.

DUE TO TIME CONSTRAINTS AND THE NUMBER OF PERSONS WISHING TO GIVE ORAL TESTIMONY, PUBLIC COMMENTS ARE LIMITED TO FIVE MINUTES PER SPEAKER. YOU MAY WISH TO MAKE YOUR COMMENTS IN WRITING TO ASSURE THAT YOU ARE ABLE TO EXPRESS YOURSELF ADEQUATELY.

Except where noted, all scheduled items will be heard in the District Office of the Governing Board, 43301 Division Street, Suite 206, Lancaster, CA 93535 and the teleconference location(s), if applicable. Please note that the Board may address items in the agenda in a different order than the order in which the item has been posted.

Public Comments on any Agenda Item will be heard at the time of discussion of the Agenda Item. Public Comments not pertaining to Agenda Items will be heard during the PUBLIC COMMENT period below.

CALL TO ORDER 10:00 A.M.

Pledge of Allegiance.

Roll Call

PUBLIC COMMENT

CONSENT CALENDAR

The following consent items are expected to be routine and non-controversial and will be acted upon by the Board at one time without discussion unless a Board Member, staff member or a member of the public request an item be held for discussion under DEFERRED ITEMS.

1. [Approve Minutes from Regular Governing Board Meeting of June 19, 2018.](#)
2. [Monthly Activity Report. Receive and File. Presenter: Bret Banks.](#)
3. [Approve payment to MDAQMD in the total amount of \\$119,549.51, subject to availability of funds, for services provided during the month of May 2018. Presenter: Bret Banks.](#)

ITEMS FOR DISCUSSION

DEFERRED ITEMS

PUBLIC HEARINGS

NEW BUSINESS

4. [Conduct a public hearing to consider the adoption of the Certification Table: 2008 Ozone National Ambient Air Quality Standards Nonattainment New Source Review State Implementation Plan Requirements \(O3 NANSR Certification\): a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the CEQA Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, adopting the Certification Table and directing staff actions. Presenter: Bret Banks.](#)
5. [Conduct a public hearing to consider the amendment of Rule 301 - Fees: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the CEQA Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, amending the Regulation and directing staff actions. Presenter: Bret Banks.](#)
6. [Conduct a public hearing to consider the amendment of Rule 1171 - Solvent Cleaning Operations: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the CEQA Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption](#)

amending Rule 1171 - Solvent Cleaning Operations and directing staff actions. Presenter: Bret Banks.

7. 1) Award an amount not to exceed \$294,494 in District grant program funds to Fine Grade Equipment for the replacement of an older diesel motor grader with cleaner technology; and 2) Authorize the Executive Director/APCO and staff to negotiate final award based on available funds, target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel. Presenter: Julie McKeehan.
8. Reports: Governing Board Counsel, Executive Director/APCO, Staff.
9. Board Member Reports and Suggestions for Future Agenda Items.
10. Adjourn to Regular Governing Board Meeting of Tuesday, August 21, 2018.

In compliance with the Americans with Disabilities Act, if special assistance is needed to participate in the Board Meeting, please contact the Executive Director during regular business hours at 661.723.8070 x2. Notification received 48 hours prior to the meeting will enable the District to make reasonable accommodations.

I hereby certify, under penalty of perjury, that this agenda has been posted 72 hours prior to the stated meeting in a place accessible to the public. Copies of this agenda and any or all additional materials relating thereto are available at the District Office at 43301 Division Street, Suite 206, Lancaster, CA 93535 or by contacting Deanna Hernandez at 760.245.1661 x6244 or by email at dhernandez@mdaqmd.ca.gov .

Mailed & Posted on: Tuesday, July 10, 2018

Bret Banks for

Deanna Hernandez

The following page(s) contain the backup material for Agenda Item: [Approve Minutes from Regular Governing Board Meeting of June 19, 2018.](#)

**ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
GOVERNING BOARD MEETING
TUESDAY, JUNE 19, 2018
ANTELOPE VALLEY DISTRICT OFFICE
LANCASTER, CA**

MINUTES

Board Members Present:

Marvin Crist, Chair, City of Lancaster
Austin Bishop, Vice Chair, City of Palmdale
Newton Chelette, Public Member
Howard Harris, Los Angeles County
Ron Hawkins, Los Angeles County
Steven Hofbauer, City of Palmdale
Kenneth Mann, City of Lancaster

Board Members Absent:

CALL TO ORDER

Chair **CRIST** called the meeting to order at 10:10 a.m. Board Member **CHELETTE** led the Pledge of Allegiance.

Chair **CRIST** moved to the swearing-in of new Board Member **HOWARD HARRIS**. Board Member **HOFBAUER** swore-in new Board Member **HOWARD HARRIS**.

Roll call was taken.

PUBLIC COMMENT

- Public Comment made by Mr. Bob Murphy regarding Tesla qualification for the Alternate Fuel Vehicle Incentive Program.
- Public Comment made by Mr. Kyle Ginn, Fine Grade Equipment, Inc., regarding consideration a project for the Carl Moyer Program.
- Public Comment made by Ms. Jacqueline Ayer, ARTC, providing an update to the Governing Board on AB 617 Community Clean Air Protection Program.
- Public Comment made by Mr. Morris Fuselier, III, Antelope Valley School Transportation Agency, regarding the agency's plan for acquiring electric school buses.
- Public Comment made by Mr. Jason E. Songer Sr., A-Z Bus and Mr. Matt Essex, Adomani Inc., regarding electric school buses. They also had an electric school bus on site to provide a demonstration and a ride to the Governing Board members.

CONSENT CALENDAR – Consent items were acted upon by the Board at one time without discussion.

Agenda Item #1 - Approve Minutes from Regular Governing Board Meeting of May 15, 2018.

Item #1

Upon motion by **MANN**, seconded by **BISHOP**, and unanimously approved, the Board **Approved** Minutes from Regular Governing Board Meeting of May 15, 2018.

Agenda Item #2 – Monthly Activity Report. Receive and file. Presenter: Bret Banks.
Upon motion by **MANN**, seconded by **BISHOP**, and unanimously approved, the Board **Received and Filed** the Monthly Activity Report.

Agenda Item #3 – Monthly Grant Fund Summary. Receive and file.
Presenter: Bret Banks.
Upon motion by **MANN**, seconded by **BISHOP**, and unanimously approved, the Board **Received and Filed** the Monthly Grant Fund Summary.

Agenda Item #4 - Reappoint Newton Chelette as the Public Member on the Governing Board of the Antelope Valley Air Quality Management District (AVAQMD).
Presenter: Bret Banks.
Upon motion by **MANN**, seconded by **BISHOP**, and unanimously approved, the Board **Reappointed** Newton Chelette as the Public Member on the Governing Board of the Antelope Valley Air Quality Management District (AVAQMD).

Agenda Item #5 - Amend Governing Board Policy 07-01 – Financial Reserves.
Presenter: Bret Banks.
Upon motion by **MANN**, seconded by **BISHOP**, and unanimously approved, the Board **Amended** Governing Board Policy 07-01 – Financial Reserves.

Agenda Item #6 - Approve payment to MDAQMD in the total amount of \$96,362.58, subject to availability of funds, for services provided during the month of April 2018.
Presenter: Bret Banks.
Upon motion by **MANN**, seconded by **BISHOP**, and unanimously approved, the Board **Approved** payment to MDAQMD in the total amount of \$96,362.58, subject to availability of funds, for services provided during the month of April 2018.

ITEMS FOR DISCUSSION

DEFERRED

None.

NEW BUSINESS

Agenda Item #7 - Conduct a Continued Public Hearing to receive comments and staff presentation for the proposed AVAQMD Budget for FY 2018-19: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Adopt a resolution approving and adopting the budget for FY 2018-19.

Presenter: Bret Banks.

Chair **CRIST** opened the public hearing. Executive Director/APCO Bret Banks presented background information and answered questions from the Board. After discussion, Chair **CRIST** solicited public comment, being none; Chair **CRIST** closed the public hearing. Upon motion by **CHELETTE**, seconded by **BISHOP**, and unanimously approved, the Board **adopted**

Item #1

Resolution 18-01, titled, “**A RESOLUTION OF THE GOVERNING BOARD OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT APPROVING AND ADOPTING THE PROPOSED OPERATING BUDGET FOR FISCAL YEAR 2018-19.**”

Agenda Item #8 - Approve spending authority for the District consistent with the Fiscal Year 2017-18 Budget until the FY 2018-19 Budget is adopted.

Presenter: Bret Banks.

Item was withdrawn as unnecessary as the previous item #7 was adopted.

Agenda Item #9 - 1) Authorize the acceptance of Community Air Protection (CAP) Funding and 2) Authorize the Executive Director/APCO and staff to execute the agreement, approved as to legal form, and to negotiate and execute agreements for eligible projects.

Presenter: Bret Banks.

Bret Banks shared background information and answered questions from the Board. After discussion and upon Motion by **HOFBAUER**, seconded by **BISHOP**, and unanimously approved, the Board: 1) **Authorized** the acceptance of Community Air Protection (CAP) Funding and 2) **Authorized** the Executive Director/APCO and staff to execute the agreement, approved as to legal form, and to negotiate and execute agreements for eligible projects.

Agenda Item #10 - 1) Authorize the acceptance of Voluntary NOx Remediation Measure (NRM) Funding and 2) Authorize the Executive Director/APCO and staff to execute the agreement, approved as to legal form, and to negotiate and execute agreement for eligible project.

Presenter: Bret Banks.

Bret Banks shared background information and answered questions from the Board. After discussion and upon Motion by **CHELETTE**, seconded by **HOFBAUER**, and unanimously approved, the Board: 1) **Authorized** the acceptance of Voluntary NOx Remediation Measure (NRM) Funding and 2) **Authorized** the Executive Director/APCO and staff to execute the agreement, approved as to legal form, and to negotiate and execute agreement for eligible project.

Agenda Item #11 - 1) Award an amount not to exceed \$94,211 in Carl Moyer Program funds to Gall Brothers General Engineering for the replacement of an older diesel excavator with newer, cleaner technology; and 2) Authorize the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel.

Presenter: Julie McKeehan.

Julie McKeehan shared background information and answered questions from the Board. After discussion and upon Motion by **MANN**, seconded by **HAWKINS**, and unanimously approved, the Board: 1) **Awarded** an amount not to exceed \$94,211 in Carl Moyer Program funds to Gall Brothers General Engineering for the replacement of an older diesel excavator with newer, cleaner technology; and 2) **Authorized** the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel.

Item #1

Agenda Item #12 - Reports

Governing Board Counsel –

- None.

Executive Director/APCO –

- Bret Banks update the Board on the Annual Lawn Mower Exchange Event “Mow Down Air Pollution” held Saturday, June 2, 2018 at the Antelope Valley Environmental Collection Center in Palmdale and upcoming on Saturday, June 23, 2018 at the City of Lancaster Maintenance Yard in Lancaster.
- Bret Banks informed the Board of two upcoming events, the Valley Fever Symposium at the City of Hope on June 23, 2018 and the Antelope Valley’s First All Electric School Bus ribbon cutting ceremony June 21, 2018 at Vista San Gabriel Elementary School in Palmdale.
- Bret Banks publicly acknowledge and congratulated Board Member Steven Hofbauer for receiving the Los Angeles County Fire Department’s Medal of Valor.

Staff – None.

Agenda Item #13 - Board Member Reports and Suggestions for Future Agenda Items.

- Board Member **Hawkins** publicly thanked staff for supporting the Valley Fever efforts and dedicating a page on the Antelope Valley AQMD website in addition to providing and supporting the information on AB 617.

Agenda Item #14 – Meeting Adjourned at 11:09 a.m. to Regular Governing Board Meeting of Tuesday, July 17, 2018.

The following page(s) contain the backup material for Agenda Item: [Monthly Activity Report. Receive and File. Presenter: Bret Banks.](#)

Item #2 Monthly Activity Report – June 2018

	<u>June 2018</u>	<u>June 2017</u>	<u>YTD (7/1/18)</u>
Complaints	6	1	16
Complaint Investigations	6	1	16
Asbestos Notifications	12	10	65
Asbestos Inspections	0	0	0
Permit Inspections	108	40	953
Permit Inspections in Compliance (%)	100	99	100
Notice of Violation (NOV)	2	2	6

***Outstanding NOVs**

- AV00000187, Issued 02/2016
- AV00000207, Issued 06/2017
- AV00000208, Issued 07/2017
- AV00000210, Issued 02/2018
- AV00000211, Issued 03/2018
- AV00000212, Issued 06/2018
- AV00000213, Issued 06/2018

Number of Active Companies: 276
Number of Active Facilities: 522
Number of Active Permits: 1,072

Project Comment Letters – June 2018

Attached

AVAQMD CEQA PROJECTS						
BOARD MEETING						
7/17/2018						
Date Rec'd	Location	Project Name	Description	Comment	Date Due	Date Sent
6/7/2018	COP	Senior Assisted living	Pre-Application 18-012 for a senior assisted living on 8.43 acres located northwest of Avenue N and 60th Street West	DCP, Rule 219 ARB Construction Equip	6/13/2018	6/11/2018
6/7/2018	COP	Ritter Ranch	Pre-Application 18-013 for subdivision of 114.9 acres into 579 single family lots located at Ranch Center Drive and Westland Dr.	No Comment	6/13/2018	6/11/2018
5/17/2018	COL	Lancaster Valley Partners, LLC	CUP 18-02 for medical cannabis cultivation and manufacturing at 45761 Division Street on 5.28 acres	Demo/Reno DCP Review with AVAQMD ARB Equipment	6/15/2018	6/11/2018
5/29/2018	AVC	AVC	Initial Study/Notice of Preparation for modifying the Lancaster campus over the next 30 years	Demo/Reno Review with AVAQMD ARB Equipment	6/27/2018	6/11/2018

AVAQMD CEQA PROJECTS						
BOARD MEETING						
7/17/2018						
6/1/2018	COL	Brian Shaumburg	SPR 18-02 for proposed 3200 sf building and 2400 sf building located on the southwest corner of L-4 and Wall St just west of Sierra Highway	Dust ARB Equipment	7/1/2018	6/11/2018
6/25/2018	COP	Las Islas Marias	CUP 09-015 Major Mod Expansion of existing restaurant located at 2133 East Palmdale Blvd	n/a	6/27/2018	6/26/2018
6/25/2018	COP	Palmdale corporate Center I, LLC	TPM 73299 Time Extension request for previously approved project to subdivide 6.9 acres into two commercial lots	DCP ARB Equipment	6/27/2018	6/26/2018
6/25/2018	COP	357, LLC	SPR 18-015 for two industrial buildings totaling 32560 sf on 2.64 acres	n/a	6/27/2018	6/26/2018
6/25/2018	COP	V and A Investment Property	Pre-Application to develop a 2-unit duplex building on a 6600 sf lot	n/a	6/27/2018	6/26/2018

		AVAQMD CEQA PROJECTS				
		BOARD MEETING				
		7/17/2018				
6/25/2018	COP	Saib Alrabadi-Alrabadi Gas and Mini-Mart	SPR 18-009 for the expansion of an existing building totaling 2550sf for a retail convenience market to allow the sale of beer and tobacco with a gasoline station located at 2680 E Palmdale Blvd	Asbestos Rule 219 ARB Equipment	6/27/2018	6/26/2018

The following page(s) contain the backup material for Agenda Item: [Approve payment to MDAQMD in the total amount of \\$119,549.51, subject to availability of funds, for services provided during the month of May 2018. Presenter: Bret Banks.](#)

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM 6

DATE: July 17, 2018

RECOMMENDATION: Approve payment to MDAQMD in the total amount of \$119,549.51, subject to availability of funds, for services provided during the month of May 2018.

SUMMARY: The District contracts for services with MDAQMD; invoices for services are presented for payment.

CONFLICT OF INTEREST: None

BACKGROUND: Key expenses are staff; five positions are assigned to the local office. Key expenses are staff; five positions are assigned to the local office. This payment request represents services rendered for May 2018 in the amount of \$119,549.51 including amounts accrued for services rendered or supplies purchased but not yet billed or paid this fiscal year.

REASON FOR RECOMMENDATION: The AVAQMD Governing Board must authorize all payments to the MDAQMD.

REVIEW BY OTHERS: This item was reviewed by Allison Burns, Special Counsel as to legal form; and by Bret Banks, Executive Director/APCO, on or before July 2, 2018.

FINANCIAL DATA: The contract and direct expenditure amounts are part of the approved District budget for FY 18. No change in appropriations is anticipated as a result of the approval of this item.

PRESENTER: Bret Banks, Executive Director/APCO



Mojave Desert AQMD
 14306 Park Avenue
 Victorville, CA 92392
 760.245.1661

Due Date **DUE UPON RECEIPT**
 Invoice Date **5/31/2018**
 Invoice Number **41915**

INVOICE

Bill To :
ANTELOPE VALLEY AQMD 43301 DIVISION ST. SUITE 206 LANCASTER, CA 93535
Company ID 10193

FY18	Amount	
Program Staff	83,266.67	
Professional Services	20,683.32	
Office Expenses	918.00	
Overhead	14,681.52	
<p>TO INSURE PROPER CREDIT - PLEASE INCLUDE A COPY OF THE INVOICE WITH YOUR PAYMENT</p> <p>FOR CREDIT CARD PAYMENTS PLEASE VISIT www.mdaqmd.ca.gov</p>		
MAKE CHECKS PAYABLE TO MOJAVE DESERT AQMD PLEASE INCLUDE THE INVOICE NUMBER ON THE CHECK	Invoice Total	119,549.51
	Amount Paid	0.00
	Balance Due	119,549.51

**ANTELOPE VALLEY AQMD
Program Staff
FY 2016-17**

Program	FY 16-17 Contracted Hours	Calendar Yr 2016 Actual Hours*	FY 17-18 Contracted Hours	Average Contract Cost/hr	Annual Contract Cost	FTE
Lancaster Office	12,480	11,723	12,480	\$70.00	\$873,600	6.00
Planning, Grants, and Rulemaking	265	146	175	80	\$14,000	0.08
Air Monitoring and Surveillance	440	279	300	95	\$28,500	0.14
Compliance	310	-	-	-		-
Stationary Sources	270	273	300	85	\$25,500	0.14
Executive Management and Legal	630	239	250	140	\$35,000	0.12
Community Relations & Education	80	56	65	100	\$6,500	0.03
Administration	1,115	1,139	1,169	100	\$116,900	0.56
TOTAL	15,590	13,855	14,739		\$ 1,100,000	7.09
Full Time Equivalents (FTE) Administrative Costs	7.50	6.66	7.09	14.00%		

Fiscal Year Comparison:	<u>Contract Cost</u>	<u>FTE</u>
Fiscal Year 2016-17	\$ 1,111,365	7.50
Fiscal Year 2017-18	\$ 1,100,000	7.09
Fiscal Year 17-18 Monthly	\$91,666.67	

*Hours for year 2017 are provided as a point of reference compared to last fiscal year and next fiscal year.

The following page(s) contain the backup material for Agenda Item: [Conduct a public hearing to consider the adoption of the Certification Table: 2008 Ozone National Ambient Air Quality Standards Nonattainment New Source Review State Implementation Plan Requirements \(O3 NANSR Certification\): a. Open public hearing; b. Re](#)

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #4

DATE: July 17, 2018

RECOMMENDATION: Conduct a public hearing to consider the adoption of the *Certification Table: 2008 Ozone National Ambient Air Quality Standards Nonattainment New Source Review State Implementation Plan Requirements (O₃ NANSR Certification)*: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the CEQA Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, adopting the *Certification Table* and directing staff actions.

SUMMARY: The Antelope Valley Air Quality Management District (AVAQMD) Governing Board is being requested to conduct a public hearing, make findings, and then adopt a resolution adopting the *O₃ NANSR Certification* to comply with requirements imposed under the Federal Clean Air Act (FCAA) as a result of the U.S. Environmental Protection Agency's (USEPA) 2008 revision of the Ozone National Ambient Air Quality Standards (NAAQS).

BACKGROUND: On March 27, 2008 USEPA issued a final action revising the Ozone NAAQS to 0.075 parts per million over an 8 hour average. On May 21, 2012 (77 FR 30088) and June 11, 2012 (77 FR 34221) the USEPA designated 46 areas nonattainment for this new standard. The AVAQMD was designated nonattainment and classified Severe-15 as part of the West Mojave Desert Federal Ozone Nonattainment Area. Pursuant to the FCAA once an area has been designated nonattainment certain air quality planning and control requirements become applicable. On March 6, 2015 (80 FR 12264) USEPA issued a regulation detailing the specific requirements, and deadlines for submission into the SIP for the nonattainment areas. The specific requirements for the 2008 NAAQS were due as a SIP submittal no later than 36 months after the effective date of the nonattainment designation, on or before July 20, 2015.

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #4

PAGE 2

USEPA initially indicated that the new standard did not trigger any District action for nonattainment areas which were already operating under USEPA approved SIP requirements for the prior 1 hour Ozone standard. However, in response to a consent decree in *Center for Biological Diversity v McCarthy*, Case No. 4:16-cv-04092-PJH (N.D. Cal) USEPA was required to make findings that 15 states and the District of Columbia failed to timely submit a variety of requirements in response to the 2008 Ozone NAAQS. This finding was published February 3, 2017 (82 FR 9158) and would result in a variety of sanctions including but not limited to a Federal Implementation Plan (FIP) being implemented if the submissions were not provided and determined to be complete by USEPA on or before September 6, 2018.

The AVAQMD is located in one of the nonattainment areas which were initially thought to not require any additional submissions. However, the finding of failure to submit indicated that the AVAQMD now needed to file a NANSR Program sufficient to meet the 2008 Ozone NAAQS requirements as found in 40 CFR 51.165.

During roughly the same time period the AVAQMD was developing revised NANSR Rules (Regulation XIII – *New Source Review*) to correct some minor issues, revise the noticing requirements and add provisions for Prevention of Significant Deterioration (PSD). This proposed revision would have satisfied the above requirement however due to a variety of issues with USEPA it was not adopted prior to the July 20, 2015 deadline. After the publication of the failure to submit and due to continued issues with USEPA regarding revisions to Regulation XIII – *New Source Review*, the AVAQMD will not be able to submit revised NANSR Rules before September 6, 2018.

However, the AVAQMD does have an NANSR Program currently in the SIP, as well as a pending submission amending the program. USEPA has indicated that an analysis and certification that the currently approved rules and their amendments as submitted meet the 2008 Ozone SIP requirements for NANSR rules would be sufficient to avoid any potential sanctions if submitted and determined to be complete on or before September 6, 2018. USEPA has also indicated that such certification is a SIP submittal and thus required to be adopted after a public notice and hearing.

Staff has reviewed the SIP version of AVAQMD's Regulation XIII – *New Source Review* as well as the subsequent SIP submissions and has determined that no additional changes are necessary to meet the 2008 Ozone SIP requirements. Therefore, the Governing Board is being requested to conduct a public hearing, make findings, and then adopt a resolution adopting the *O₃ NANSR Certification* and directing staff actions.

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #4

PAGE 3

A Notice of Exemption, Categorical Exemption (Class 8; 14 Cal. Code Reg. §15308) will be prepared by the AVAQMD for the adoption of the *Certification Table: 2008 Ozone National Ambient Air Quality Standards Nonattainment New Source Review State Implementation Plan Requirements* pursuant to the requirements of CEQA.

REASON FOR RECOMMENDATION: 42 U.S.C. §7410(l) (FCAA §110(l)) requires that all SIP revisions and related submissions be adopted after public notice and hearing.

REVIEW BY OTHERS: This item was reviewed as to legal form by Karen Nowak, District Counsel on or before July 2, 2018.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Bret Banks, Executive Director/APCO.

RESOLUTION 18-02

1 **A RESOLUTION OF THE GOVERNING BOARD OF THE ANTELOPE VALLEY AIR**
2 **QUALITY MANAGEMENT DISTRICT MAKING FINDINGS, CERTIFYING THE NOTICE OF**
3 **EXEMPTION, FOR THE CERTIFICATION OF 2008 OZONE NATIONAL AMBIENT AIR**
4 **QUALITY STANDARDS NONATTAINMENT NEW SOURCE REVIEW STATE**
5 **IMPLEMENTATION PLAN REQUIREMENTS (O₃ NANSR Certification) AND DIRECTING**
6 **STAFF ACTIONS.**

7 On July, 17 2018, on motion by Member Board Member Name, seconded by Member Board
8 Member Name, and carried, the following resolution is adopted:

9 **WHEREAS**, the Antelope Valley Air Quality Management District (AVAQMD) has authority
10 pursuant to California Health and Safety Code (H&S Code) §§40702, 40725-40728 to adopt, amend or
11 repeal rules and regulations and to do such acts which are necessary and proper to execute the powers and
12 duties granted to and imposed upon it by statute; and

13 **WHEREAS**, on March 27, 2008 USEPA issued a final action revising the Ozone NAAQS to .075
14 parts per million over an 8 hour average; and

15 **WHEREAS**, on May 21, 2012 (77 FR 30088) and June 11, 2012 (77 FR 34221) the USEPA
16 designated 46 areas nonattainment for this new standard; and

17 **WHEREAS**, the AVAQMD was designated nonattainment and classified Severe-15 as part of the
18 West Mojave Desert Ozone Nonattainment Area; and. Pursuant to the Federal Clean Air Act (FCAA)
19 once an area has been designated nonattainment certain air quality planning and control requirements
20 become applicable; and

21 **WHEREAS**, on March 6, 2015 (80 FR 12264) USEPA issued a regulation detailing the specific
22 requirements, and deadlines for submission into the SIP for the nonattainment areas under the 2008
23 Ozone NAAQS; and

24 **WHEREAS**, the specific requirements were due as a SIP Submittal no later than 36 months after
25 the effective date of the nonattainment designation; on or before July 20, 2015; and

26 **WHEREAS**, USEPA initially indicated that the new standard did not trigger any District action
27 for nonattainment areas which were already operating under USEPA approved SIP requirements for the
28 prior 1 hour Ozone standard; and

WHEREAS, in response to a consent decree in *Center for Biological Diversity v McCarthy*, Case
No. 4:16-cv-04092-PJH (N.D. Cal) USEPA was required to make findings that 15 states and the District

RESOLUTION 18-02

1 of Columbia failed to timely submit a variety of requirements in response to the 2008 Ozone NAAQS;
2 and

3 **WHEREAS**, this finding was published February 3, 2017 (82 FR9158) and would result in a
4 variety of sanctions including but not limited to a Federal Implementation Plan (FIP) being implemented
5 if the submissions were not provided and determined to be complete on or before September 6, 2018; and

6 **WHEREAS**, the AVAQMD is located in one of the nonattainment areas which were initially
7 thought to not require any additional submissions but the finding of failure to submit indicated that the
8 AVAQMD now needed to file a NANSR Program sufficient to meet the 2008 Ozone NAAQS
9 requirements as found in 40 CFR 51.165; and

10 **WHEREAS**, during roughly the same time period the AVAQMD was developing revised
11 NANSR Rules (Regulation XIII – *New Source Review*) to correct some minor issues, revise the noticing
12 requirements and add provisions for Prevention of Significant Deterioration (PSD); and

13 **WHEREAS**, the proposed revision would have satisfied the above submission requirement; and

14 **WHEREAS**, due to a variety of issues with USEPA the proposed revisions were not adopted prior
15 to the July 20, 2015 deadline; and

16 **WHEREAS**, after the publication of the failure to submit and due to continued issues with
17 USEPA regarding revisions to Regulation XIII – *New Source Review*, the AVAQMD will not be able to
18 adopt, submit or approve before the September 6, 2018 deadline; and

19 **WHEREAS**, the AVAQMD does have an NANSR Program currently in the SIP, as well as a
20 pending submission amending the program; and

21 **WHEREAS**, USEPA has indicated that an analysis and certification that the current SIP rules and
22 their amendments meet the 2008 Ozone SIP requirements for NANSR rules would be sufficient to avoid
23 any potential sanctions if submitted and approved as complete on or before September 6, 2018; and

24 **WHEREAS**, USEPA has also indicated that such certification is a SIP submission and thus
25 required to be adopted after a public notice and hearing; and

26 **WHEREAS**, staff has reviewed the SIP version of AVAQMD's Regulation XIII – *New Source*
27 *Review* as well as the subsequent SIP submissions and has determined that no additional changes are
28 necessary to meet the 2008 Ozone SIP requirements; and

RESOLUTION 18-02

1 **WHEREAS**, staff has prepared the *O₃ NANSR Certification* which is attached hereto and
2 incorporated herein by this reference; and

3 **WHEREAS**, the proposed adoption of the *O₃ NANSR Certification* is necessary to certify that the
4 current NANSR Program as approved in the SIP and the pending amendments thereto satisfy the 2008
5 Ozone SIP submission requirements as required pursuant the March 6, 2015 (80 FR 12264) regulation
6 and to clear the finding of failure to submit as published on February 3, 2017 (82 FR9158); and

7 **WHEREAS**, the AVAQMD has the authority pursuant to H&S Code §40702 to do such acts as
8 are necessary and proper to implement the duties imposed upon it by statute; and

9 **WHEREAS**, the proposed *O₃ NANSR Certification* is clear in that it specifically indicates which
10 provisions of the AVAQMD NANSR Program provide compliance with the 2008 Ozone SIP
11 requirements as set forth in 40 CFR 51.165; and

12 **WHEREAS**, the proposed adoption is in harmony with, and not in conflict with, or contradictory
13 to existing statutes, court decisions, or state or federal regulations because USEPA has specifically
14 required an official certification of compliance; and

15 **WHEREAS**, the proposed adoption does not impose the same requirements as any existing state
16 or federal regulation because no changes to the current NANSR Program are necessary to comply with the
17 2008 Ozone SIP requirements as set forth in 40 CFR 51.165; and

18 **WHEREAS**, 42 U.S.C. §7410(l) (FCAA §110(l)) requires that all SIP revisions and related
19 submissions be adopted after public notice and hearing; and

20 **WHEREAS**, a public hearing has been properly noticed and conducted, pursuant to H&S Code
21 §40725, concerning the proposed adoption of the *O₃ NANSR Certification*; and

22 **WHEREAS**, the Board has considered the evidence presented at the public hearing; and

23 **WHEREAS**, a Notice of Exemption, Categorical Exemption (Class 8; 14 Cal. Code Reg. §15308)
24 will be prepared by the AVAQMD for the adoption of the *Certification of 2008 Ozone National Ambient*
25 *Air Quality Standards Nonattainment New Source Review State Implementation Plan Requirements*
26 pursuant to the requirements of CEQA.

27 **NOW, THEREFORE, BE IT RESOLVED**, that the Governing Board of the AVAQMD finds
28 that the proposed adoption of the *Certification of 2008 Ozone National Ambient Air Quality Standards*

RESOLUTION 18-02

1 *Nonattainment New Source Review State Implementation Plan Requirements* is necessary, authorized,
2 clear, consistent, non-duplicative and properly referenced; and

3 **BE IT FURTHER RESOLVED**, that the Governing Board of the AVAQMD hereby makes a
4 finding that the Class 8 Categorical Exemption (14 CCR §15308) applies and certifies the Notice of
5 Exemption for the proposed adoption of the *Certification of 2008 Ozone National Ambient Air Quality*
6 *Standards Nonattainment New Source Review State Implementation Plan Requirements*; and

7 **BE IT FURTHER RESOLVED**, that the Board of the AVAQMD does hereby adopt, pursuant to
8 the authority granted by law, the *Certification of 2008 Ozone National Ambient Air Quality Standards*
9 *Nonattainment New Source Review State Implementation Plan Requirements*, as set forth in the
10 attachments to this resolution and incorporated herein by this reference; and

11 **BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately upon adoption,
12 that the Clerk of the Board is directed to file the Notice of Exemption in compliance with the provisions
13 of CEQA.

14 **BE IT FURTHER RESOLVED**, that an official copy of the *Certification of 2008 Ozone*
15 *National Ambient Air Quality Standards Nonattainment New Source Review State Implementation Plan*
16 *Requirements* and all attendant documents is forwarded to the California Air Resources Board for
17 submission to USEPA for inclusion in the SIP.

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RESOLUTION 18-02

1 **PASSED, APPROVED AND ADOPTED** by the Governing Board of the Antelope Valley Air Quality
2 Management District by the following vote:

- 3 AYES: MEMBER:
- 4 NOES: MEMBER:
- 5 ABSENT: MEMBER:
- 6 ABSTAIN: MEMBER:

7

8 STATE OF CALIFORNIA)
)
 9 COUNTY OF LOS ANGELES) SS:
)

11 I, Deanna Hernandez, Senior Executive Analyst of the Antelope Valley Air Quality Management
12 District, hereby certify the foregoing to be a full, true and correct copy of the record of the action as the
13 same appears in the Official Minutes of said Governing Board at its meeting of July 17, 2018.

14 _____
15 Deanna Hernandez
16 Senior Executive Analyst

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CERTIFICATION OF 2008 OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS NONATTAINMENT NEW SOURCE REVIEW STATE IMPLEMENTATION PLAN REQUIREMENTS

The Antelope Valley Air Quality Management District (AVAQMD) is hereby certifying that the AVAQMD's Nonattainment New Source Review (NANSR) Program as submitted as an amendment to the SIP (10/30/01 and 12/29/06 for amendments adopted on 3/20/01 and 8/15/06 respectively) for the AVAQMD portion of the West Mojave Desert Federal Ozone Nonattainment Area (commonly known as the Desert Portion of Los Angeles County including but not limited to the cities of Lancaster and Palmdale) for the 2008 Ozone National Ambient Air Quality Standards (NAAQS), is at least as stringent as the requirements found in 40 CFR 51.165 for Ozone and its precursors, as amended by the final rule titled Implementation of the 2008 National Ambient Air Quality Standard for Ozone: State Implement Plan Requirements (80 FR 12264, March 6, 2015).

The requirements necessary to appropriately implement the AVAQMD's NANSR Program are included but not limited to the following:

#	40 CFR 51.165 cite	40 CFR 51.165 Requirement	AV Current Rule Citation	Notes
1	(a)(1)(iv)(A)(1)(i)-(iv); (a)(1)(iv)(A)(2)	Major source thresholds for VOC and NOx	1301(LL)	Defines "Major Facility" as one that emits or has potential to emit Regulated Air Pollutant or Precursor > amounts listed in 1303(B)
			1301(PPP)	Defines "Regulated Air Pollutant" to include "precursors"
			1301(GGG)	Defines "Precursor" to include NOx and VOC/ROC as precursor's to Ozone
			1301(VV)	Defines "Nonattainment Air Pollutant" as any Regulated Air Pollutant for with area has been designated nonattainment (state or Federal)
			1301(KKK)	Defines "Reactive Organic Compound" using California Definition which is currently the same as VOC.
			1301(ZZZ)	Defines "Volatile Organic Compound" using Federal definition 40 CFR 51.100(s)

CERTIFICATION OF 2008 OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS NONATTAINMENT NEW SOURCE REVIEW STATE IMPLEMENTATION PLAN REQUIREMENTS

#	40 CFR 51.165 cite	40 CFR 51.165 Requirement	AV Current Rule Citation	Notes
			1303(B)(1)	Table sets forth thresholds for major facility and offsets at 25tpy NOx and ROC/VOC
2	(a)(1)(iv)(A)(3)	Change constitutes a Major source by itself	1301(LL)(1)	Specifically sets out that any modification > threshold in 1303(B) = Major Facility (aka 25 tpy NOx/VOC)
			1303(B)(2)	Specifically sets out that any modification resulting in a change > threshold 1303(B)(1) regardless of whether it's a modification or new = Major Facility
3	(a)(1)(v)(E)	Significant net emissions increase of NOx is significant for O3	1301(MM)	Defines "Major Modification" as any modification resulting in "Significant" net emissions increase of a "Regulated Air Pollutant"
			1301(TTT)	Defines "Significant" changes. Please note "significant" for NOx and VOC/ROC is greater than the Major Facility threshold under 1303(B).
			1301(PPP)	Defines "Regulated Air Pollutant" to include "precursors"
			1301(GGG)	Defines "Precursor" to include NOx and VOC/ROC as precursor's to Ozone
			1301(VV)	Defines "Nonattainment Air Pollutant" as any Regulated Air Pollutant for with area has been designated nonattainment (state or Federal)

CERTIFICATION OF 2008 OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS NONATTAINMENT NEW SOURCE REVIEW STATE IMPLEMENTATION PLAN REQUIREMENTS

#	40 CFR 51.165 cite	40 CFR 51.165 Requirement	AV Current Rule Citation	Notes
			1303(B)(1)	Table sets forth thresholds for major facility and offsets at 25tpy NOx and ROC/VOC
4	(a)(1)(v)(F)	Any change of VOC in extreme area triggers NNSR	N/A	Not an extreme area
5	(a)(1)(x)(A-C) & (E)	Significant emissions rates for VOC and NOx as O3 precursors	1301(TTT)	Defines "Significant" changes. Please note "significant" for NOx and VOC/ROC is greater than the Major Facility threshold under 1303(B).
			1301(PPP)	Defines "Regulated Air Pollutant" to include "precursors"
			1301(GGG)	Defines "Precursor" to include NOx and VOC/ROC as precursor's to Ozone
			1301(VV)	Defines "Nonattainment Air Pollutant" as any Regulated Air Pollutant for with area has been designated nonattainment (state or Federal)
			1303(B)(1)	Table sets forth thresholds for major facility and offsets at 25tpy NOx and ROC/VOC

CERTIFICATION OF 2008 OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS NONATTAINMENT NEW SOURCE REVIEW STATE IMPLEMENTATION PLAN REQUIREMENTS

#	40 CFR 51.165 cite	40 CFR 51.165 Requirement	AV Current Rule Citation	Notes
6	(a)(3)(ii)(C)(1-2)	Provisions for ERCs	1301(AA)	Defines "Emission Reduction Credit" as credit granted per rule 1309.
			1309(C)(3)	Requires ERC's to be calculated per Rule 1304 before being "banked".
			1309(D)	Requires ERC's to be real, enforceable, permanent, quantifiable and surplus. Includes specific provisions to ensure these requirements are met.
			1304(D)	Calculation formula for ERCs as Historic Actual Emissions (HAE) for shutdowns, HAE - Proposed Emissions for modifications as adjusted to be surplus (including RACT).
			1304(E)	Specifies calculation of terms used to calculate ERCs specifically Historic Actual Emissions and Proposed Emissions.
			1305(B)	Specifies how ERC's are to be used as offsets including specific provisions for interdistrict, interbasin and interpollutant use.
			1305(C)	Contains applicable offset ratio of 1.3 to 1 in Ozone Nonattainment area for NOx/VOC. Provides for "RACT upon use" adjustment.
7	(a)(8)	Requirements for VOC apply to NOx	1301(PPP)	Defines "Regulated Air Pollutant" to include "precursors"
			1301(GGG)	Defines "Precursor" to include NOx and VOC/ROC as precursor's to Ozone
			1301(VV)	Defines "Nonattainment Air Pollutant" as any Regulated Air Pollutant for with area has been designated nonattainment (state or Federal)

CERTIFICATION OF 2008 OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS NONATTAINMENT NEW SOURCE REVIEW STATE IMPLEMENTATION PLAN REQUIREMENTS

#	40 CFR 51.165 cite	40 CFR 51.165 Requirement	AV Current Rule Citation	Notes
			Regulation XIII	All requirements containing the phrase "Regulated Air Pollutant" or "Nonattainment Air Pollutant" apply to precursors per the definitions. In addition many phrases throughout the regulation include "and its precursors" for clarity.
8	(a)(9)(i-iii)	Offset ratios for VOC and NOx for ozone nonattainment areas	1305(C)	Contains applicable offset ratio of 1.3 to 1 in Ozone Nonattainment area for NOx/VOC
9	(a)(12)	Anti-backsliding provisions	N/A	Implementation of the NANSR Program using the applicable major source and offset threshold for a severe nonattainment area, BACT requirements and statutory prohibitions against certain modification contained in the California Health & Safety Code §§42500 et seq. (SB 288 of 2003) ensure that the District remains in compliance with anti-backsliding measures.



Draft
Staff Report
Proposed Adoption of the
Certification of
2008 Ozone National Ambient Air Quality Standards
Nonattainment New Source Review State
Implementation Plan Requirements

For Adoption on
July 17, 2018

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STAFF REPORT
TABLE OF CONTENTS
Certification of 2008 Ozone National Ambient
Air Quality Standards Nonattainment New Source Review
State Implementation Plan Requirements

I. PURPOSE OF STAFF REPORT	1
II. EXECUTIVE SUMMARY	1
III. STAFF RECOMMENDATION	2
IV. LEGAL REQUIREMENTS CHECKLIST	3
V. DISCUSSION OF LEGAL REQUIREMENTS	4
A. REQUIRED ELEMENTS/FINDINGS.....	4
1. State Findings Required for Adoption of Rules & Regulations	4
a. Necessity	4
b. Authority	4
c. Clarity	4
d. Consistency	4
e. Non-duplication	5
f. Reference	5
g. Public Notice & Comment, Public Hearing.....	5
2. Federal Elements (SIP Submittals, Other Federal Submittals).....	5
a. Satisfaction of Underlying Federal Requirements	5
b. Public Notice and Comment	5
c. Availability of Document	6
d. Notice to Specified Entities	6
e. Public Hearing	6
f. Legal Authority to Adopt and Implement.....	6
g. Applicable State Laws and Regulations Were Followed.....	6
B. WRITTEN ANALYSIS OF EXISTING REQUIREMENTS	6
C. ECONOMIC ANALYSIS	7
1. General.....	7
2. Incremental Cost Effectiveness	7
D. ENVIRONMENTAL ANALYSIS (CEQA).....	7
E. SUPPLEMENTAL ENVIRONMENTAL ANALYSIS	7
1. Potential Environmental Impacts.....	7
2. Mitigation of Impacts	8
3. Alternative Methods of Compliance.....	8
F. PUBLIC REVIEW	8
VI. TECHNICAL DISCUSSION	8
A. O ₃ NANSR certification	8
B. SIP HISTORY of AVAQMD NANSR PROGRAM.....	8
1. SIP History	8
2. SIP Analysis	8
Appendix A – O ₃ NANSR Certification.....	A-1

Appendix B - Public Notice Documents..... B-1
Appendix C - Public Comments and Responses..... C-1
Appendix D - California Environmental Quality Act Documentation D-1
Appendix E - Bibliography.....E-1

STAFF REPORT
***Certification of 2008 Ozone National Ambient
Air Quality Standards Nonattainment New Source Review
State Implementation Plan Requirements***

I. PURPOSE OF STAFF REPORT

A staff report serves several discrete purposes. Its primary purpose is to provide a summary and background material to the members of the Governing Board. This allows the members of the Governing Board to be fully informed before making any required decision. It also provides the documentation necessary for the Governing Board to make any findings, which are required by law to be made prior to the approval or adoption of a document. In addition, a staff report ensures that the correct procedures and proper documentation for approval or adoption of a document have been performed. Finally, the staff report provides evidence for defense against legal challenges regarding the propriety of the approval or adoption of the document.

II. EXECUTIVE SUMMARY

The Antelope Valley Air Quality Management District (AVAQMD) Governing Board is being requested to conduct a public hearing, make findings, and then adopt a resolution adopting the *Certification of 2008 Ozone National Ambient Air Quality Standards Nonattainment New Source Review State Implementation Plan Requirements (O₃ NANSR Certification)* to comply with requirements imposed under the Federal Clean Air Act (FCAA) as a result of the U.S. Environmental Protection Agency's (USEPA) 2008 revision of the Ozone National Ambient Air Quality Standards (NAAQS).

On March 27, 2008 USEPA issued a final action revising the Ozone NAAQS to 0.075 parts per million over an 8 hour average. On May 21, 2012 (77 FR 30088) and June 11, 2012 (77 FR 34221) the USEPA designated 46 areas nonattainment for this new standard. The AVAQMD was designated nonattainment and classified Severe-15 as part of the West Mojave Desert Federal Ozone Nonattainment Area. Pursuant to the FCAA once an area has been designated nonattainment certain air quality planning and control requirements become applicable. On March 6, 2015 (80 FR 12264) USEPA issued a regulation detailing the specific requirements, and deadlines for submission into the SIP for the nonattainment areas. The specific requirements for the 2008 NAAQS were due as a SIP submittal no later than 36 months after the effective date of the nonattainment designation, on or before July 20, 2015.

USEPA initially indicated that the new standard did not trigger any District action for nonattainment areas which were already operating under USEPA approved SIP requirements for the prior 1 hour Ozone standard. However, in response to a consent decree in *Center for Biological Diversity v McCarthy*, Case No. 4:16-cv-04092-PJH (N.D. Cal) USEPA was required to make findings that 15 states and the District of Columbia failed to timely submit a variety of requirements in response to the 2008 Ozone NAAQS. This finding was published February 3, 2017 (82 FR 9158) and would result in a variety of sanctions including but not limited to a

Federal Implementation Plan (FIP) being implemented if the submissions were not provided and determined to be complete by USEPA on or before September 6, 2018.

The AVAQMD is located in one of the nonattainment areas which were initially thought to not require any additional submissions. However, the finding of failure to submit indicated that the AVAQMD now needed to file a NANSR Program sufficient to meet the 2008 Ozone NAAQS requirements as found in 40 CFR 51.165.

During roughly the same time period the AVAQMD was developing revised NANSR Rules (Regulation XIII – *New Source Review*) to correct some minor issues, revise the noticing requirements and add provisions for Prevention of Significant Deterioration (PSD). This proposed revision would have satisfied the above requirement however due to a variety of issues with USEPA it was not adopted prior to the July 20, 2015 deadline. After the publication of the failure to submit and due to continued issues with USEPA regarding revisions to Regulation XIII – *New Source Review*, the AVAQMD will not be able to submit revised NANSR Rules before September 6, 2018.

However, the AVAQMD does have an NANSR Program currently in the SIP, as well as a pending submission amending the program. USEPA has indicated that an analysis and certification that the currently approved rules and their amendments as submitted meet the 2008 Ozone SIP requirements for NANSR rules would be sufficient to avoid any potential sanctions if submitted and determined to be complete on or before September 6, 2018. USEPA has also indicated that such certification is a SIP submittal and thus required to be adopted after a public notice and hearing.

Staff has reviewed the SIP version of AVAQMD's Regulation XIII – New Source Review as well as the subsequent SIP submissions and has determined that no additional changes are necessary to meet the 2008 Ozone SIP requirements. Therefore, the Governing Board is being requested to conduct a public hearing, make findings, and then adopt a resolution adopting the *O₃ NANSR Certification* and directing staff actions.

III. STAFF RECOMMENDATION

Staff recommends that the Governing Board of the AVAQMD, after conducting a public hearing, adopt the *Certification of 2008 Ozone National Ambient Air Quality Standards Nonattainment New Source Review State Implementation Plan Requirements*. Such action is necessary to comply with requirements imposed under the FCAA as a result of USEPA's 2008 revision of the Ozone NAAQS.

IV. LEGAL REQUIREMENTS CHECKLIST

The findings and analysis as indicated below are required for the procedurally correct adoption of the *O₃ NANSR Certification*. Each item is discussed, if applicable, in Section V below. Copies of documents are included in the appropriate Appendix.

FINDINGS REQUIRED FOR RULES & REGULATIONS:

- Necessity
- Authority
- Clarity
- Consistency
- Non-duplication
- Reference
- Public Notice & Comment
- Public Hearing

REQUIREMENTS FOR STATE IMPLEMENTATION PLAN SUBMISSION (SIP):

- Public Notice & Comment
- Availability of Document
- Notice to Specified Entities (State, Air Districts, USEPA, Other States)
- Public Hearing
- Legal Authority to adopt and implement the document.
- Applicable State laws and regulations were followed.

ELEMENTS OF A FEDERAL SUBMISSION:

- Elements as set forth in applicable Federal law or regulations.

CALIFORNIA ENVIRONMENTAL QUALITY ACT REQUIREMENTS (CEQA):

- Ministerial Action
- Exemption
- Negative Declaration
- Environmental Impact Report
- Appropriate findings, if necessary.
- Public Notice & Comment

SUPPLEMENTAL ENVIRONMENTAL ANALYSIS (RULES & REGULATIONS ONLY):

- Environmental impacts of compliance.
- Mitigation of impacts.
- Alternative methods of compliance.

OTHER:

- Written analysis of existing air pollution control requirements
- Economic Analysis
- Public Review

V. DISCUSSION OF LEGAL REQUIREMENTS

A. REQUIRED ELEMENTS/FINDINGS

This section discusses the State of California statutory requirements that apply to the proposed adoption of the *O₃ NANSR Certification*. Since this document is required to be adopted pursuant to public notice and other requirements under 42 USC 7410(a)(2), the District considers the rule adoption process pursuant to Health & Safety (H&S) Code §40702 to be a proper way to meet these requirements. Therefore, these are actions, that need to be performed, and/or information, that must be provided in order to adopt this document in a procedurally correct manner.

1. State Findings Required for Adoption of Rules & Regulations

Before adopting, amending, or repealing a rule or regulation, the District Governing Board is required to make findings of necessity, authority, clarity, consistency, non-duplication, and reference based upon relevant information presented at the hearing. The information below is provided to assist the Board in making these findings.

a. Necessity

The proposed adoption of the *O₃ NANSR Certification* is necessary to certify that the current NANSR Program as approved in the SIP and the pending amendments thereto satisfy the 2008 Ozone SIP submission requirements pursuant to the March 6, 2015 (80 FR 12264) regulation and to clear the finding of failure to submit as published on February 3, 2017 (82 FR 9158).

b. Authority

AVAQMD has the authority pursuant to California H&S Code §40702, 40725-40728 to adopt, amend or repeal rules and regulations and to do such actions that are necessary or proper to execute the powers and duties granted to and imposed upon AVAQMD.

c. Clarity

The proposed adoption is clear in that it specifically indicates which provisions of the AVAQMD NANSR Program provide compliance with the 2008 Ozone SIP requirements as set forth in 40 CFR 51.165.

d. Consistency

The proposed adoption of the *O₃ NANSR Certification* is in harmony with, and not in conflict with or contradictory to any state

law or regulation, federal law or regulation, or court decisions. USEPA has specifically requested the adoption of the *O₃ NANSR Certification*.

e. Non-duplication

The proposed adoption of the *O₃ NANSR Certification* does not impose the same requirements as an existing state or federal law or regulation because no changes to the current NANSR Program are necessary to comply with the 2008 Ozone SIP Requirements as set forth in 40 CFR 51.165.

f. Reference

The District has the authority pursuant to H&S Code §40702 to adopt, amend or repeal rules and regulations and do such acts as necessary and proper to execute the powers and duties granted to and imposed upon the District.

g. Public Notice & Comment, Public Hearing

Notice for the public hearing for the proposed adoption of the *O₃ NANSR Certification* was published June 15, 2018. See Appendix “B” for a copy of the public notice. See Appendix “C” for copies of comments, if any, and AVAQMD responses.

2. Federal Elements (SIP Submittals, Other Federal Submittals)

Submittals to USEPA are required to include various elements depending upon the type of document submitted and the underlying federal law, which requires the submittal. The information below indicates which elements are required for the proposed adoption of the *O₃ NANSR Certification* and how they were satisfied.

a. Satisfaction of Underlying Federal Requirements

The proposed adoption of the *O₃ NANSR Certification* is subject to all the requirements for a SIP submittal because it will be included in the AVAQMD SIP. The criteria for determining completeness of SIP submissions are set forth in 40 CFR Part 51, Appendix V, 2.0.

b. Public Notice and Comment

Notice for the public hearing for the proposed adoption of the *O₃ NANSR Certification* was published June 15, 2018. See Appendix “B” for a copy of the public notice.

c. Availability of Document

Copies of the proposed *O₃ NANSR Certification* and the accompanying draft staff report were made available to the public on or before June 15, 2018.

d. Notice to Specified Entities

Copies of the proposed *O₃ NANSR Certification* and the accompanying draft staff report will be mailed/e-mailed to all affected agencies, including but not limited to the California Air Resources Board (CARB) and USEPA. The proposed amendments were sent to CARB and USEPA on or before June 15, 2018.

e. Public Hearing

A public hearing to consider the proposed adoption of the *O₃ NANSR Certification* has been set for July 17, 2018.

f. Legal Authority to Adopt and Implement

The AVAQMD has the authority pursuant to H&S Code §40702 to adopt, amend, or repeal rules and regulations and to do such acts as may be necessary or proper to execute the duties imposed upon the AVAQMD.

g. Applicable State Laws and Regulations Were Followed

Public notice and hearing procedures pursuant to H&S Code §§40725-40728 have been followed. See Section (V)(A)(1) above for compliance with state findings required pursuant to H&S Code §40727. See Section (V)(B) below for compliance with the required analysis of existing requirements pursuant to H&S Code §40727.2. See Section (V)(C) for compliance with economic analysis requirements pursuant to H&S Code §40920.6. See Section (V)(D) below for compliance with provisions of the California Environmental Quality Act (CEQA).

B. WRITTEN ANALYSIS OF EXISTING REQUIREMENTS

H&S Code §40727.2 requires air districts to prepare a written analysis of all existing federal air pollution control requirements that apply to the same equipment or source type as the rule proposed for modification by the district. The proposed adoption of *O₃ NANSR Certification* does not require this analysis since it is merely a certification that existing provisions of AVAQMD programs meet the SIP requirements imposed pursuant to the 2008 Ozone NAAQS.

C. ECONOMIC ANALYSIS

1. General

The adoption of the *O₃ NANSR Certification* will have no economic impact in that no changes are required to existing AVAQMD Rules and Regulations, policies or operations.

2. Incremental Cost Effectiveness

Pursuant to H&S Code §40920.6, incremental cost effectiveness calculations are required for rules and regulations which are adopted or amended to meet the California Clean Air Act requirements for Best Available Retrofit Control Technology (BARCT) or “all feasible measures” to control volatile compounds, oxides of nitrogen or oxides of sulfur. The proposed adoption of the *O₃ NANSR Certification* is not subject to incremental cost effectiveness calculations because this action is merely a certification that existing provisions of AVAQMD programs meet the SIP requirements imposed pursuant to the 2008 Ozone NAAQS and does not impose BARCT or “all feasible measures”.

D. ENVIRONMENTAL ANALYSIS (CEQA)

Through the process described below, it was determined that a Notice of Exemption would be the appropriate CEQA process for the proposed adoption of the *O₃ NANSR Certification*.

1. The proposed adoption of the *O₃ NANSR Certification* meets the CEQA definition of "project." It is not technically a "ministerial" action.

2. The proposed adoption of the *O₃ NANSR Certification* is exempt from CEQA review because it will not create any adverse impacts on the environment. There is no potential that the adoption might cause the release of additional air contaminants or create any adverse environmental impacts since this action is merely a certification that existing provisions of AVAQMD programs meet the SIP requirements imposed pursuant to the 2008 Ozone NAAQS. Therefore, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies.

E. SUPPLEMENTAL ENVIRONMENTAL ANALYSIS

1. Potential Environmental Impacts

There are no potential negative environmental impacts of compliance with the proposed adoption of the *O₃ NANSR Certification* because the action merely certifies that existing provisions of AVAQMD programs meet the SIP requirements imposed pursuant to the 2008 Ozone NAAQ.

2. Mitigation of Impacts

N/A

3. Alternative Methods of Compliance

N/A

F. PUBLIC REVIEW

See Staff Report Section (V)(A)(1)(g) and (2)(b), as well as Appendix “B”

VI. TECHNICAL DISCUSSION

A. O₃ NANSR CERTIFICATION

The *O₃ NANSR Certification* provides, in table form, references to the SIP approved AVAQMD NSR Rules (Regulation XIII – *New Source Review*) and to the rules comprising the current SIP submission showing that the mandatory provisions of 40 CFR 51.165 continue to be met. The table contains references to both the current SIP version of the AVAQMD Rules as well as to the current rule book version as submitted due to the fact that the latest revision substantially reorganized the location of certain provisions. While the locations have changed the underlying substance of the provisions did not.

B. SIP HISTORY OF AVAQMD NANSR PROGRAM

1. SIP History

The AVAPCD came into existence pursuant to statute on July 1, 1997 (Health & Safety Code §40106, A.B. 266-Knight Ch.542, statutes of 1996). The rules and regulations of the SCAQMD remain in effect within the AVAPCD until the AVAPCD Governing Board adopted, amended or rescinded new ones (Health & Safety Code §40106(e)). Since the SIP applies to the territory for which it was approved at the time it was approved, the AVAPCD also inherited the SCAQMD SIP applicable to the Los Angeles County portion of the South East Air Basin (now called the Mojave Desert Air Basin) prior to July 1, 1997. On January 1, 2002, the AVAQMD was created pursuant to statute (H&S Code §41300 et seq.) to replace the AVAPCD. Once again the SIP in effect at the time of the change remained in effect until the AVAQMD Governing Board superseded, amended or rescinded it.

2. SIP Analysis

The AVAQMD NANSR Program is primarily contained in Regulation XIII - *New Source Review*. The original provisions were adopted by SCAQMD on October 5, 1979 and amended thereafter in whole or in part on March 7, 1980, July 11, 1980, September 10, 1982, July 12, 1985, August 1, 1986, December 2, 1988, June 28, 1990, May 3 1991, December 7, 1995, May 10, 1996 and June 14, 1996.

The June 14, 1996 version was approved into the SCAQMD SIP on December 4, 1996 at 61 FR 64291 (40 CFR 52.220(c)(240)(i)(A)(1)) and was applicable to the area which eventually became the AVAQMD. On March 20, 2001 the AVAQMD Governing Board substantially reorganized Regulation XIII – *New Source Review* and it was submitted as a proposed SIP revision by CARB on October 30, 2001. The AVAQMD Governing Board subsequently amended various provisions on August 15, 2006 and those amendments were submitted as proposed SIP revisions by CARB on December 29, 2006. This last amendment constitutes the current AVAQMD Rule book version of Regulation XIII. Therefore the analysis required to show compliance with the 2008 SIP NANSR requirements was conducted using the current rule book version as submitted on October 30, 2001 and December 29, 2006.

Appendix “A”
***Certification of 2008 Ozone National Ambient Air Quality Standards
Nonattainment New Source Review State Implementation Plan Requirements***

1. *Certification of 2008 Ozone National Ambient Air Quality Standards Nonattainment New Source Review State Implementation Plan Requirements*

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July __, 2018

Ms. Carol Sutkus
California Environmental Protection Agency
Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

Re: Request for Approval of Certification That the SIP Approved AVAQMD Nonattainment New Source Review (NANSR) Program Meets the 2008 Ozone National Ambient Air Quality Standards (NAAQS) Implementation Requirements

Dear Ms. Sutkus:

This letter and supporting documentation will serve as certification that the existing Antelope Valley Air Quality Management District (AVAQMD) Nonattainment New Source Review Program (NANSR) submitted as an amendment to State Implementation Plan (SIP) for the Antelope Valley portion of the Western Mojave Desert Ozone Nonattainment Area is at least as stringent as the requirements found in 40 CFR 51.165 for Ozone and its precursors¹. The AVAQMD hereby requests that you submit this letter and its supporting documentation to the U.S. Environmental Protection Agency (USEPA) for approval.

USEPA previously approved the AVAQMD's Regulation XIII – New Source Review, specifically rules 1301 (as amended 12/7/95), 1302 (as amended 12/7/95), 1303 (as amended 5/10/96), 1304 (as amended 6/14/96), 1306 (as amended 6/14/96), 1309(as amended 12/7/95), 1309.1(as amended 12/7/95), 1310(as amended 12/7/95) and 1313(as amended 12/7/95) revision to the SIP on 12/4/1996 at 61 FR 64291. Since that approval Regulation XIII has been amended, substantially reorganized and submitted as a further revision to the SIP. Upon review of the SIP approved version and the subsequently amended provisions of the NANSR program the AVAQMD has determined that no additional changes are necessary to comply with the 2008 Ozone NAAQS implementation requirements. This determination has been finalized in the form of a Certification Table.

Attached please find the following documents:

Certification of 2008 Ozone NAAQS NSR SIP Requirements

Minute Item # __

Resolution # __

Staff Report: *Adoption of Certification of 2008 Ozone NAAQS NSR SIP Requirements*

These documents provide the justification and analysis behind the *Certification* as well as provide proof that the *Certification* was adopted in compliance with Federal Clean Air Act (FCAA) provisions regarding public notice, comment and hearing procedures.²

¹ The requirements are set forth in rule adopted at 80 FR 12264, March 6, 2015 titled *Implementation of the 2008 National Ambient Air Quality Standard for Ozone: State Implementation Plan Requirements*.

² 42 U.S.C. 7410(a)(2)(A); FCAA 110(a)(2)(A)

If you have any questions or need additional information please feel free to contact Karen Nowak of my office at K2Nowak@mdaqmd.ca.gov or (760) 245-1661 x6810.

Sincerely,

Bret Banks
Air Pollution Control Officer

Cc: Bret Banks, AVAQMD
Brad Poiriez, MDAQMD
Gerardo Rios, USEPA Region IX
Laura Yannayon, USPEA Region IX

CERTIFICATION OF 2008 OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS NONATTAINMENT NEW SOURCE REVIEW STATE IMPLEMENTATION PLAN REQUIREMENTS

The Antelope Valley Air Quality Management District (AVAQMD) is hereby certifying that the AVAQMD's Nonattainment New Source Review (NANSR) Program as submitted as an amendment to the SIP (10/30/01 and 12/29/06 for amendments adopted on 3/20/01 and 8/15/06 respectively) for the AVAQMD portion of the West Mojave Desert Federal Ozone Nonattainment Area (commonly known as the Desert Portion of Los Angeles County including but not limited to the cities of Lancaster and Palmdale) for the 2008 Ozone National Ambient Air Quality Standards (NAAQS), is at least as stringent as the requirements found in 40 CFR 51.165 for Ozone and its precursors, as amended by the final rule titled Implementation of the 2008 National Ambient Air Quality Standard for Ozone: State Implement Plan Requirements (80 FR 12264, March 6, 2015).

The requirements necessary to appropriately implement the AVAQMD's NANSR Program are included but not limited to the following:

#	40 CFR 51.165 cite	40 CFR 51.165 Requirement	AV Current Rule Citation	Notes
1	(a)(1)(iv)(A)(i)-(iv); (a)(1)(iv)(A)(2)	Major source thresholds for VOC and NOx	1301(LL)	Defines "Major Facility" as one that emits or has potential to emit Regulated Air Pollutant or Precursor > amounts listed in 1303(B)
			1301(PPP)	Defines "Regulated Air Pollutant" to include "precursors"
			1301(GGG)	Defines "Precursor" to include NOx and VOC/ROC as precursor's to Ozone
			1301(VV)	Defines "Nonattainment Air Pollutant" as any Regulated Air Pollutant for with area has been designated nonattainment (state or Federal)
			1301(KKK)	Defines "Reactive Organic Compound" using California Definition which is currently the same as VOC.
			1301(ZZZ)	Defines "Volatile Organic Compound" using Federal definition 40 CFR 51.100(s)

CERTIFICATION OF 2008 OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS NONATTAINMENT NEW SOURCE REVIEW STATE IMPLEMENTATION PLAN REQUIREMENTS

#	40 CFR 51.165 cite	40 CFR 51.165 Requirement	AV Current Rule Citation	Notes
			1303(B)(1)	Table sets forth thresholds for major facility and offsets at 25tpy NOx and ROC/VOC
2	(a)(1)(iv)(A)(3)	Change constitutes a Major source by itself	1301(LL)(1)	Specifically sets out that any modification > threshold in 1303(B) = Major Facility (aka 25 tpy NOx/VOC)
			1303(B)(2)	Specifically sets out that any modification resulting in a change > threshold 1303(B)(1) regardless of whether it's a modification or new = Major Facility
3	(a)(1)(v)(E)	Significant net emissions increase of NOx is significant for O3	1301(MM)	Defines "Major Modification" as any modification resulting in "Significant" net emissions increase of a "Regulated Air Pollutant"
			1301(TTT)	Defines "Significant" changes. Please note "significant" for NOx and VOC/ROC is greater than the Major Facility threshold under 1303(B).
			1301(PPP)	Defines "Regulated Air Pollutant" to include "precursors"
			1301(GGG)	Defines "Precursor" to include NOx and VOC/ROC as precursor's to Ozone
			1301(VV)	Defines "Nonattainment Air Pollutant" as any Regulated Air Pollutant for with area has been designated nonattainment (state or Federal)

CERTIFICATION OF 2008 OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS NONATTAINMENT NEW SOURCE REVIEW STATE IMPLEMENTATION PLAN REQUIREMENTS

#	40 CFR 51.165 cite	40 CFR 51.165 Requirement	AV Current Rule Citation	Notes
			1303(B)(1)	Table sets forth thresholds for major facility and offsets at 25tpy NOx and ROC/VOC
4	(a)(1)(v)(F)	Any change of VOC in extreme area triggers NNSR	N/A	Not an extreme area
5	(a)(1)(x)(A-C) & (E)	Significant emissions rates for VOC and NOx as O3 precursors	1301(TTT)	Defines "Significant" changes. Please note "significant" for NOx and VOC/ROC is greater than the Major Facility threshold under 1303(B).
			1301(PPP)	Defines "Regulated Air Pollutant" to include "precursors"
			1301(GGG)	Defines "Precursor" to include NOx and VOC/ROC as precursor's to Ozone
			1301(VV)	Defines "Nonattainment Air Pollutant" as any Regulated Air Pollutant for with area has been designated nonattainment (state or Federal)
			1303(B)(1)	Table sets forth thresholds for major facility and offsets at 25tpy NOx and ROC/VOC

CERTIFICATION OF 2008 OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS NONATTAINMENT NEW SOURCE REVIEW STATE IMPLEMENTATION PLAN REQUIREMENTS

#	40 CFR 51.165 cite	40 CFR 51.165 Requirement	AV Current Rule Citation	Notes
6	(a)(3)(ii)(C)(1-2)	Provisions for ERCs	1301(AA)	Defines "Emission Reduction Credit" as credit granted per rule 1309.
			1309(C)(3)	Requires ERC's to be calculated per Rule 1304 before being "banked".
			1309(D)	Requires ERC's to be real, enforceable, permanent, quantifiable and surplus. Includes specific provisions to ensure these requirements are met.
			1304(D)	Calculation formula for ERCs as Historic Actual Emissions (HAE) for shutdowns, HAE - Proposed Emissions for modifications as adjusted to be surplus (including RACT).
			1304(E)	Specifies calculation of terms used to calculate ERCs specifically Historic Actual Emissions and Proposed Emissions.
			1305(B)	Specifies how ERC's are to be used as offsets including specific provisions for interdistrict, interbasin and interpollutant use.
			1305(C)	Contains applicable offset ratio of 1.3 to 1 in Ozone Nonattainment area for NOx/VOC. Provides for "RACT upon use" adjustment.
7	(a)(8)	Requirements for VOC apply to NOx	1301(PPP)	Defines "Regulated Air Pollutant" to include "precursors"
			1301(GGG)	Defines "Precursor" to include NOx and VOC/ROC as precursor's to Ozone
			1301(VV)	Defines "Nonattainment Air Pollutant" as any Regulated Air Pollutant for with area has been designated nonattainment (state or Federal)

CERTIFICATION OF 2008 OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS NONATTAINMENT NEW SOURCE REVIEW STATE IMPLEMENTATION PLAN REQUIREMENTS

#	40 CFR 51.165 cite	40 CFR 51.165 Requirement	AV Current Rule Citation	Notes
			Regulation XIII	All requirements containing the phrase "Regulated Air Pollutant" or "Nonattainment Air Pollutant" apply to precursors per the definitions. In addition many phrases throughout the regulation include "and its precursors" for clarity.
8	(a)(9)(i-iii)	Offset ratios for VOC and NOx for ozone nonattainment areas	1305(C)	Contains applicable offset ratio of 1.3 to 1 in Ozone Nonattainment area for NOx/VOC
9	(a)(12)	Anti-backsliding provisions	N/A	Implementation of the NANSR Program using the applicable major source and offset threshold for a severe nonattainment area, BACT requirements and statutory prohibitions against certain modification contained in the California Health & Safety Code §542500 et seq. (SB 288 of 2003) ensure that the District remains in compliance with anti-backsliding measures.

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Appendix “B”
Public Notice Documents

1. Proof of Publication – Antelope Valley Press, June 15, 2018

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AFFIDAVIT OF PUBLICATION

(2015.5 C.C.P.)

STATE OF CALIFORNIA

County of Los Angeles

} ss

The space above for filing stamp only

**NOTICE OF HEARING
AV 2008 03 CERTIFICATION HEARING**

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of the **Antelope Valley Press**, a newspaper of general circulation, printed and published daily in the City of Palmdale, County of Los Angeles, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California, under date of October 24, 1931, Case Number 328601; Modified Case Number 657770 April 11, 1956; also operating as the Ledger-Gazette, adjudicated a legal newspaper June 15, 1927, by Superior Court decree No. 224545; also operating as the Desert Mailer News, formerly known as the South Antelope Valley Foothill News, adjudicated a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California on May 29, 1967, Case Number NOC564 and adjudicated a newspaper of general circulation for the City of Lancaster, State of California on January 26, 1990, Case Number NOC10714, Modified October 22, 1990; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

June 15, 2018

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

Signature

Dated: June 15, 2018
Executed at Palmdale, California

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the Governing Board of the Antelope Valley Air Quality Management District (AVAQMD) will conduct a public hearing on July 17, 2018 at 10:00 A.M. to consider the proposed adoption of Certification of 2008 Ozone National Ambient Air Quality Standards Nonattainment New Source Review State Implementation Plan Requirements (O3 NANSR Certification).

SAID HEARING will be conducted in the Governing Board Chambers located at the AVAQMD offices, 43301 Division Street, Suite 206, Lancaster, CA 93535-4649 where all interested persons may be present and be heard. Copies of the proposed O3 NANSR Certification and the Staff Report are on file and may be obtained from the AVAQMD Offices. Written comments may be submitted to Bret Banks, Executive Director at the above office address. Written comments must be received no later than July 16, 2018 to be considered. If you have any questions, you may contact Karen Nowak, District Counsel at (760) 245-1661 extension 9810 for further information.

The proposed adoption of the O3 NANSR Certification is required to satisfy certain requirements for Ozone nonattainment areas imposed pursuant to the 2008 revision to the Ozone National Ambient Air Quality Standards as set forth in 80 FR 12264 (March 6, 2015). Specifically, the AVAQMD is required to either submit a new Source Review Program (NANSR Program) is at least as stringent as required by law. Staff has examined the AVAQMD NANSR Program and has determined that the currently submitted program will meet this requirement and has prepared the O3 NANSR Certification for adoption.

Pursuant to the California Environmental Quality Act (CEQA) the AVAQMD has determined that a Categorical Exemption (Class 8 - 14 Cal. Code Reg §15308) applies and has prepared a Notice of Exemption for this action.

Bret Banks
Executive Director
Antelope Valley Air Quality Management District
Publish: June 15, 2018

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Appendix “C”
Public Comments and Responses

None Received

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Appendix “D”

California Environmental Quality Act
Documentation

1. Draft Notice of Exemption – Los Angeles County

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NOTICE OF EXEMPTION

TO: Los Angeles County Clerk
12400 E. Imperial Hwy, #1001
Norwalk, CA 90650

FROM: Antelope Valley
Air Quality Management District
43301 Division Street, Suite 206
Lancaster, CA 93535-4649

AVAQMD Clerk of the Governing Board

PROJECT TITLE: Adoption of the *Certification of 2008 Ozone National Ambient Air Quality Standards Nonattainment New Source Review State Implementation Plan Requirements (O₃ NAAQS Certification)*

PROJECT LOCATION – SPECIFIC: Los Angeles County portion of the Mojave Desert Air Basin.

PROJECT LOCATION – COUNTY: Los Angeles County

DESCRIPTION OF PROJECT: The Federal Clean Air Act (FCAA) requires areas designated non-attainment under revisions to the National Ambient Air Quality Standards (NAAQS) to submit items for inclusion in the State Implementation Plan. This action certifies that the current AVAQMD Rules satisfy the requirements for submission of a Nonattainment New Source Review (NANSR) Program with requirements which are at least as stringent as those found in 40 CFR 51.165 and complies with the submission requirement contained in 80 FR 12264 (March 6, 2015).

NAME OF PUBLIC AGENCY APPROVING PROJECT: Antelope Valley AQMD

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Antelope Valley AQMD

EXEMPT STATUS (CHECK ONE)

Ministerial (Pub. Res. Code §21080(b)(1); 14 Cal Code Reg. §15268)

Emergency Project (Pub. Res. Code §21080(b)(4); 14 Cal Code Reg. §15269(b))

Categorical Exemption – Class 8 (14 Cal Code Reg. §15308)

REASONS WHY PROJECT IS EXEMPT: The proposed adoption of the *O₃ NAAQS Certification* is exempt from CEQA review because it this action is merely a certification that existing provisions of AVAQMD Rules and Regulations comprising the New Source Review program meet the SIP requirements imposed pursuant to the 2008 Ozone NAAQS. Therefore, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies.

LEAD AGENCY CONTACT PERSON: Bret Banks **PHONE:** (661) 723-8070

SIGNATURE: _____ **TITLE:** Executive Director/APCO **DATE:** July 17, 2018

DATE RECEIVED FOR FILING:

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Appendix “E” Bibliography

The following documents were consulted in the preparation of this staff report.

1. 61 FR 64291 (December 4, 1996)
2. 77 FR 30088 (May 21, 2012)
3. 77 FR 34221 (June 11, 2012)
4. 80 FR 12264 (March 6, 2015)
5. 82 FR 9158 (February 3, 2017)
6. SCAQMD Agenda Package, Item 39, July 7, 2017
7. SJVUAPCD Agenda Package, Item 24, April 19, 2018
8. AVAQMD Regulation XIII – *New Source Review*, SIP Version as approved December 4, 1996 (Rules as adopted December 7, 1995, May 10 1996 and June 14, 1996).
9. USEPA Suggested Template for Certification

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The following page(s) contain the backup material for Agenda Item: [Conduct a public hearing to consider the amendment of Rule 301 - Fees: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the CEQA Categorical Exemption applies; f. Waive rea](#)

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #5

DATE: July 17, 2018

RECOMMENDATION: Conduct a public hearing to consider the amendment of Rule 301 – *Fees*: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the CEQA Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, amending the Regulation and directing staff actions.

SUMMARY: The AVAQMD is proposing a 10% increase on Rule 301 – *Permit Fees*. The District’s proposed fee increase will recover the increase projected for expenditures related to the costs of the permitting program and implementing district rules and regulations; issuing air quality permits; performing facility inspections, and public complaint investigations and rule development activities. Funds from other sources including the use of AB2766 (Motor Vehicle Registration Fee Program) fees, State subvention funds and implementation of cost reductions will be utilized for non-permitting program related expenses.

CONFLICT OF INTEREST: None.

BACKGROUND: Rule 301 – *Permit Fees* was last amended 07/18/2017. The 07/18/2017 effective 01/01/18 version is the current version in the AVAQMD rulebook.

At its May 15, 2018 meeting, the Governing Board discussed fee increases during the budgetary hearing and directed staff to adjust Rule 301 by 10%. Since this amount was different than the original proposed fee adjustment, additional notification of permit holders was deemed necessary for proper adoption.

To allow time to implement the proposed fee changes, the amendment of Rule 301 – *Permit Fees* is proposed to be effective on January 1, 2019.

cc: Barbara Lods

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #5

PAGE 2

A Notice of Exemption, Categorical Exemption (Class 8; 14 Cal. Code Reg. §15308) will be prepared by the AVAQMD for the amendment of Rule 301 – *Permit Fees* pursuant to the requirements of CEQA.

REASON FOR RECOMMENDATION: Health & Safety Code §§40702 and 40703 require the Governing Board to hold a public hearing before adopting rules and regulation. Also, 42 U.S.C. §7410(l) (FCAA §110(l)) requires that all State Implementation Plan (SIP) revisions be adopted after public notice and hearing.

REVIEW BY OTHERS: This item was reviewed by Karen Nowak, District Counsel, Allison E. Burns, Governing Counsel and by Bret Banks, Executive Director/APCO on or about July 2, 2018.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Bret Banks, Executive Director

RESOLUTION 18-03

A RESOLUTION OF THE GOVERNING BOARD OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT MAKING FINDINGS, CERTIFYING THE NOTICE OF EXEMPTION, AMENDING RULE 301 – PERMIT FEES AND DIRECTING STAFF ACTIONS.

On July 17, 2018, on motion by Member _____, seconded by Member _____, and carried, the following resolution is adopted:

WHEREAS, the Antelope Valley Air Quality Management District (AVAQMD) has authority pursuant to California Health and Safety Code (H & S Code) §§40702, 40725-40728 to adopt, amend or repeal rules and regulations; and

WHEREAS, on July 1, 1997 the Antelope Valley Air Pollution Control District (AVAPCD) was created pursuant to statute (former Health & Safety (H&S) Code §40106, A.B. 266-Knight Ch. 542, statutes of 1996) and assumed all air pollution control responsibilities from the South Coast Air Quality Management District (SCAQMD) for the area of Los Angeles County outside the South Coast Air Basin; and

WHEREAS, the SCAQMD rules in effect within the jurisdiction of the AVAPCD remained in effect until the AVAPCD Governing Board superseded or amended them; and

WHEREAS, on January 1, 2002 the AVAQMD was created pursuant to statute (H&S Code §41300 et seq.) to replace the AVAPCD; and

WHEREAS, once again the rules in effect at the time of the change remained in effect until the AVAQMD Governing Board superseded or amended them; and

WHEREAS, Rule 301 – *Permit Fees* as last amended July 18, 2017 effective January 1, 2018; and

WHEREAS, the District’s proposed 10% fee increase will recover the projected \$54k increase in expenditures related to the costs of the permitting program and implementing district rules and regulations; issuing air quality permits; performing facility inspections, and public complaint investigations and rule development activities; and

WHEREAS, funds from other sources including the use of AB2766 (Motor Vehicle Registration Fee Program) fees, State subvention funds and implementation of cost reductions will be utilized for district operating expenditures; and

//

RESOLUTION 18-03

1 **WHEREAS**, a Public hearing on the budget and proposed fee adjustment was held on May 15,
2 2018 and continued to June 19, 2018 to receive comment from members of industry and the general
3 public; and

4 **WHEREAS**, proposed amended Rule 301 has been made available for public comments, and
5 appropriate notices were published on April 13, 2018 in compliance with the 30-day notice and comment
6 period requirement; and

7 **WHEREAS**, at its May 15, 2018 meeting, the Governing Board discussed fee increases during the
8 budgetary hearing and directed staff to adjust Rule 301 by 10%

9 **WHEREAS**, since this amount was different than the original proposed fee adjustment, additional
10 notification of permit holders was deemed necessary for proper adoption

11 **WHEREAS**, an additional public notice was published on June 15, 2018 to allow the 30-day
12 notice and comment period.

13 **WHEREAS**, to allow time to implement the proposed fee changes, the amendment of Rule 301 –
14 *Permit Fees* is proposed to be effective on January 1, 2019

15 **WHEREAS**, the proposed amendments to Rule 301 are clear in that the meaning can be easily
16 understood by the persons impacted by the rule; and

17 **WHEREAS**, the proposed amendments to Rule 301 are in harmony with, and not in conflict with,
18 or contradictory to existing statutes, court decisions, or state or federal regulations because these laws and
19 regulations allow for the proposed amendments to the fee rules; and

20 **WHEREAS**, the proposed amendment of Rule 301 does not impose the same requirements as any
21 existing state or federal regulation because H&S Code §40702 allows the District to adopt, amend or
22 repeal rules and regulations, and H&S Code §42311 and various other sections merely authorize the
23 imposition of such fees but do not specify the types and amounts of fees to be imposed; and

24 **WHEREAS**, the proposed fee increase will recover the increase projected for expenditures related
25 to the costs of the permitting program and implementing district rules and regulations; issuing air quality
26 permits; performing facility inspections, and public complaint investigations and rule development
27 activities.; and

28 //

RESOLUTION 18-03

1 **WHEREAS**, a public hearing has been properly noticed and conducted, pursuant to H & S Code
2 §40725, concerning the proposed amendments to Rule 301; and

3 **WHEREAS**, a Notice of Exemption, a Categorical Exemption (Class 8, 14 CCR §15308) for the
4 proposed amendments to Rule 301, completed in compliance with the California Environmental Quality
5 Act (CEQA), has been presented to the AVAQMD Board; each member having reviewed, considered and
6 approved the information contained therein prior to acting on the proposed amendments to Rule 301, and
7 the AVAQMD Board having determined that the proposed amendments will not have any potential for
8 resulting in any adverse impact upon the environment; and

9 **WHEREAS**, the Board of the AVAQMD has considered the evidence presented at the public
10 hearing; and

11 **NOW, THEREFORE, BE IT RESOLVED**, that the Governing Board of the AVAQMD finds
12 that the proposed amendments to Rule 301 – *Permit Fees* are necessary, authorized, clear, consistent, non-
13 duplicative and properly referenced; and

14 **BE IT FURTHER RESOLVED**, that the Governing Board of the AVAQMD hereby makes a
15 finding that the Class 8 Categorical Exemption (14 CCR §15308) applies and certifies the Notice of
16 Exemption for the proposed amendments to Rule 301 – *Permit Fees*; and

17 **BE IT FURTHER RESOLVED**, that the Board of the AVAQMD does hereby adopt, pursuant to
18 the authority granted by law, the proposed amendments to Rule 301 – *Permit Fees* as set forth in the
19 attachments to this resolution and incorporated herein by this reference; and

20 **BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately upon adoption,
21 that the Clerk of the Board is directed to file the Notice of Exemption in compliance with the provisions
22 of CEQA.

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RESOLUTION 18-03

1 **PASSED, APPROVED AND ADOPTED** by the Governing Board of the Antelope Valley Air Quality
2 Management District by the following vote:

3 AYES: MEMBER:
4 NOES: MEMBER:
5 ABSENT: MEMBER:
6 ABSTAIN: MEMBER:

7
8 STATE OF CALIFORNIA)
9 COUNTY OF LOS ANGELES) SS:
10)

11 I, Deanna Hernandez, Senior Executive Analyst of the Governing Board of the Antelope Valley Air Quality
12 Management District, hereby certify the foregoing to be a full, true and correct copy of the record of the action as
13 the same appears in the Official Minutes of said Governing Board at its meeting of July 17, 2018.

14 _____
15 Senior Executive Analyst
16 Antelope Valley Air Quality Management District.
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(Adopted: 02/04/77; Amended: 05/27/77; Amended: 01/06/78; Amended: 06/16/78; Amended: 04/04/80; Amended: 09/05/80; Amended: 06/05/81; Amended: 09/09/82; Amended: 12/03/82; Amended: 06/03/83; Amended: 05/04/84; Amended: 07/06/84; Amended: 11/02/84; Amended: 12/06/85; Amended: 05/01/87; Amended: 06/03/88; Amended: 12/02/88; Amended: 01/06/89; Amended: 06/02/89; Amended: 06/01/90; Amended: 06/07/91; Amended: 12/06/91; Amended: 06/05/92; Amended: 07/10/92; Amended: 06/11/93; Amended: 10/08/93; Amended: 06/10/94; Amended: 05/12/95; Amended: 10/13/95; Amended: 05/10/96; Amended: 05/09/97; Amended: 03/17/98; Amended: 11/15/05 effective 01/01/06; Amended: 09/18/07 effective 01/01/08; Amended: 06/17/08 effective 01/01/09; Amended: 06/15/10 effective 01/01/11; Amended: 06/19/12 effective 01/01/13; Amended 06/18/13 effective 01/01/14; Amended: 07/15/14 effective 01/01/15; Amended: 07/21/15 effective 01/01/16; Amended 07/19/16 effective 01/01/17); Amended 07/18/17, effective 01/01/18); Amended 07/17/18, effective 01/01/19)

RULE 301 PERMIT FEES

(A) General

(1) Purpose

- (a) This rule sets forth the fees required for various permit activities required pursuant to the provisions of Regulation II – *Permits*, and Regulation XIII – *New Source Review*.

(2) Applicability

- (a) This rule applies to:
 - (i) Any person subject to the provisions of Regulation II – *Permits*, Regulation XIII – *New Source Review*, or Regulation XVII – *Prevention of Significant Deterioration*.
 - (ii) Any governmental entity.
 - a. Federal, State or local governmental agencies or public districts shall pay the fees to the extent allowed pursuant to the provisions of Chapter 2, Division 7, Title 1 of the Government Code (commencing with Section 6103); Part 4, Division 26 of the Health and Safety Code (commencing with Section 41500) and Part 6, Division 26 of the Health and Safety Code (commencing with Section 44300)
 - (iii) Any facility subject to the Provisions of Regulation XXX – *Federal Operating Permits (Title V)*.

- a. Any facility subject to the provisions of Regulation XXX – *Federal Operating Permits (Title V)* shall also be subject to the provisions of District Rule 312.

(3) Limitations

- (a) Revenue derived from permit fees shall be limited as required by Health and Safety Code Sections 42311, 42311.2 and 42311.5.

(4) Effective Date

- (a) The amendments to this rule adopted on 07/17/2018 shall be effective on 01/01/2019.

(B) Definitions

For the purpose of this rule, the following definitions shall apply:

- (1) “Alteration Or Modification” – Any physical change, change in method of operation of, or addition to, an existing equipment requiring an application for Permit to Construct pursuant to Rule 201. Routine maintenance and/or repair shall not be considered a physical change. A change in the method of operation of equipment, unless previously limited by an enforceable permit condition, shall not include:
 - (a) An increase in the production rate, unless such increase will cause the maximum design capacity of the equipment to be exceeded; or
 - (b) An increase in the hours of operation.
- (2) “Cancellation” (or Cancel) – An administrative action taken by the District which nullifies or voids a previously pending application for a permit.
- (3) “Emission Reduction Credit” (ERC) – The amount of emissions reduction which is verified and determined by the APCO to be eligible for credit in an emissions reduction bank pursuant to District Rule 1309.
- (4) “Equipment” – Any article, machine, or other contrivance, or combination thereof, which may cause the issuance or control the issuance of air contaminants, and which:
 - (a) Requires a permit pursuant to Rules 201 and/or 203; or
 - (b) Is in operation pursuant to the provisions of Rule 219.
- (5) “Expiration” – The end of the period of validity for an application, Permit to Operate, or a temporary Permit to Operate.

- (6) “Facility” – Any source, equipment, or grouping of equipment or sources, or other air contaminant-emitting activities which are located on one or more contiguous properties within the District, in actual physical contact or separated solely by a public roadway or other public right-of-way, and are owned or operated by the same person (or persons under common control). Such above-described groupings, if on noncontiguous properties but connected only by land carrying a pipeline, shall not be considered one facility.
- (7) “Small Business” - A business which is independently owned and operated and meets the following criteria, or if affiliated with another concern, the combined activities of both concerns shall meet these criteria:
 - (a) the number of employees is ten (10) or less; and
 - (b) the total gross annual receipts are \$500,000 or less; or
 - (c) not-for-profit training center.

For the purpose of qualifying for assistance offered by the District's Small Business Assistance Office only, a small business means a business with total gross annual receipts of \$5,000,000 or less, or a business with a total number of employees of 100 or less. *[as per AVAQMD Rule 102, (OO)]*
- (8) “Stationary Source” (or Source) – Any article, machine, equipment, contrivance or combination thereof which emits or has the potential to emit any regulated air pollutant and is required to have a permit pursuant to the provisions of District Rules 201, 202 and 203.
- (9) “Temporary Permit to Operate” – An interim authorization to operate equipment until the Permit to Operate is granted or denied. A temporary Permit to Operate is not issued by the District but may exist pursuant to District Rule 202.

(C) Requirements and Procedures

- (1) Fees, as specified herein, are required for the following activities:
 - (a) Filing of a permit application.
 - (b) Evaluation of new or modified equipment and/or Facilities that may cause air pollution or equipment intended to control air pollution.
 - (c) Issuance of authority to construct(s).
 - (d) Issuance of permit(s) to operate.
 - (e) Annual permit to operate renewal.
 - (f) Annual authority to construct renewal.

- (g) Change of location or ownership of a permit.
 - (h) Alteration, modification, addition or revisions to equipment.
 - (i) Permit granted or denied by Hearing Board.
 - (j) Issuance of signed duplicate or corrected permit.
 - (k) Issuance of permit(s) for previously unpermitted or altered equipment.
 - (l) Filing of application for issuance or modification of ERCs pursuant to District Rule 1309.
 - (m) Reinstatement of a delinquent permit.
 - (n) Any fees applicable to equipment located at a facility subject to Regulation XXX – *Federal Operating Permits (Title V)*.
 - (i) Any facility subject to the provisions of Regulation XXX – *Federal Operating Permits (Title V)* shall also be subject to the provisions of District Rule 312.
- (2) Fees shall be paid when due as specified herein.
- (a) Application and Duplicate Permit Fees
 - (i) Application filing fees required pursuant to Section (D)(1) shall be submitted in conjunction with the application.
 - (ii) Fees for signed duplicate or corrected permit fees required pursuant to Section (D)(9) shall be submitted in conjunction with the request for the duplicate or corrected permit.
 - (b) Project Evaluation Fees for Complex Sources.
 - (i) Project evaluation fees for complex sources required pursuant to Section (D)(2) shall be submitted not later than thirty (30) days of written notification to the applicant that the application is subject to this fee.
 - (ii) If the applicant fails to pay the project evaluation fee for complex sources when due the APCO shall, after written notice to the applicant, cancel the application.
 - (c) Initial and Annual Permit fees.
 - (i) Permit fees shall be invoiced as follows:
 - a. At least thirty (30) days before the expiration date as shown on the permit; or

- b. In the case of an initial permit fee thirty (30) days after issuance of the permit or the due date on the invoice produced after issuance of the permit, whichever is later.
- (ii) The permit owner/operator or applicant will be notified by First Class mail, postage prepaid, of the amount to pay and the due date of the invoice.
- (iii) If the fee is not paid on or before the due date of the invoice the permit shall become delinquent on the due date of the invoice or expiration date on the permit, whichever occurs first, and shall no longer be valid.
- (iv) If the applicable fees remain unpaid, within thirty (30) days after the due date of the invoice or expiration date of the permit, whichever occurs first, the owner/operator or applicant shall be notified in writing by first class mail, postage prepaid:
 - a. That the permit has become delinquent for non-payment of fees and is no longer valid; and
 - b. The consequences of continuing to construct or operate with an invalid permit.
- (v) If, after notification, the permit remains delinquent for more than three (3) months, the permit shall become inactive in the District's records.

(3) Reinstatement of Permits

- (a) A permit which is delinquent but has not become inactive may be reinstated by payment in full of all outstanding fees, fines and penalties, including but not limited to other fees imposed pursuant to District Regulation III and fines or penalties imposed pursuant to the provisions of Article 3, Chapter 4, Part 4 of Division 26 of the Health and Safety Code (commencing with section 42400).

(4) Inactive Permits

- (a) A permit which has become inactive is null and void. The equipment which was the subject of the inactive permit may be permitted again by the District so long as the owner/operator submits a new permit application. Such new permit application will be processed as if the equipment was an entirely new unit requiring a permit.

(5) Refunds

- (a) No claim for refund for any fee required by this rule shall be honored unless:
 - (i) For initial permit fees, such claim is submitted within ninety (90) days after the permit was issued.
 - (ii) For renewal permit fees, such claim is submitted within ninety (90) days after the prior permit expiration date.

- (b) Refunds shall be pro-rated for the period between the date the request is received or prior permit expiration date, whichever is applicable, and the current permit expiration date.
 - (c) Fees established as surcharges are not refundable and are assessed in addition to the schedules established for permit fees. Surcharges are assessed and applicable as specified herein.
 - (d) The application filing fee set forth in section (D)(1) is non-refundable.
- (6) Pro-rated fees
- (a) The APCO may pro-rate any of the following fees excluding any applicable filing fee:
 - (i) Initial Permit Fee;
 - (ii) Annual Permit to Operate Renewal Fee;
 - (iii) Permit to Construct Renewal Fee;
 - (iv) Alteration, Modification, Addition or Revision Fees.
 - (b) Pro-rated fees shall be calculated based upon the fees and fee schedule in effect on the date of issuance of the permit to which the fees apply.
 - (c) Fees shall be pro-rated for the period between the date of the issuance of the affected permit and the expiration of the permit.
- (7) Service Charge for Returned Checks
- (a) Any person who submits a check to the District on insufficient funds or on instructions to stop payment on the check, absent an overcharge or other legal entitlement to withhold payment, shall be subject to a \$25.00 service charge.
- (8) Credit Card Payments
- (a) If any person wishes to pay using a credit card the person shall also pay any costs imposed by the company processing the credit card transaction.

(D) Fees

- (1) Application Filing Fee
- (a) Except as otherwise provided, any person who applies for the issuance of a new or modified permit shall be assessed a fee as follows:
 - (i) \$690.00 for any Small Business application, or; *[Lower application fee structure added for the Small Business owner.]*

- (ii) \$759.00 for all other applications.

This application filing fee shall be submitted with the application.

- (b) The application filing fee is non-refundable and shall not be applied to any subsequent application.
- (c) Applications shall not be accepted unless they are accompanied by the application filing fee.

(2) Project Evaluation Fee for Complex Sources

- (a) Any person who submits an application which is related to projects to construct or modify any of the following, shall be assessed a project evaluation fee for complex sources.
 - (i) Equipment associated with landfills;
 - (ii) Equipment associated with resource recovery projects;
 - (iii) Equipment associated with energy cogeneration projects;
 - (iv) Equipment associated with electrical power plants;
 - (v) Other permit units subject to the provisions of District Rule 1303(B);
 - (vi) Emissions of hazardous and toxic material requiring a Health Risk Assessment pursuant to District Rule 1401(E)(3) or a Case-By-Case MACT determination pursuant to District Rule 1401(F)(2) and/or waste disposal or treatment facilities;
 - (vii) Any facility requiring a permit under Regulation XVII – *Prevention of Significant Deterioration*; and
 - (viii) Any other permit units where the APCO or his or her designee has determined that an analysis required pursuant to these Rules or Regulations would require over twenty-four (24) hours of staff time to complete.
- (b) A deposit of \$6,500.00 to be applied toward the project evaluation fee for complex sources shall be paid within 30 days of written notification by the District that the application is subject to this fee.
- (c) The project evaluation fee for complex sources shall be based on the District's total actual and reasonable labor time and other reasonable expenses for the evaluation required to develop a permit to construct and/or permit to operate.
 - (i) This fee shall be calculated at a labor rate of \$158.00 hour plus actual expenses.
 - (ii) The fee shall accrue and be applied against the deposit.
 - (iii) Should the District's costs as calculated pursuant to subsection (i) above not exceed the deposit; the remainder of the deposit will be returned to the applicant.

- (iv) Should the District's costs as calculated pursuant to subsection (i) above exceed the deposit the excess will be billed to the applicant.
 - a. The applicant shall be notified, in writing, of the amount of any such excess fee and the due date for payment of the fee.
 - b. An accounting of costs and written notice to the applicant shall be issued to the applicant at least quarterly.
 - (d) Actual expenses of the District include consultant services which are engaged by the District for the purpose of project evaluations. When project evaluations are performed for the District under such a contract, the applicant will be assessed fees for the actual total and reasonable costs incurred by the District staff to oversee, review and approve the evaluation as well as the actual cost to the District of the contractor evaluation.
 - (e) Actual expenses of the District include project notice fees which are incurred on behalf of project public notices.
 - (f) The provisions of Section (C)(2) do not apply to this fee. If the applicant fails to pay the project evaluation fee for complex sources when due the APCO shall, after written notice to the applicant, cancel the application.
- (3) Initial Permit Fee
- (a) Except as otherwise provided in this Rule, any person who applies for a new or modified permit shall, upon notification that the application has been approved, be assessed the initial permit fee for the issuance of a permit to construct or permit to operate in the amount prescribed in schedules set forth in section (E)(1).
 - (i) For applications containing mutually exclusive alternative construction scenarios the APCO may, upon written request of the applicant, assess an alternate initial permit fee. Such alternate initial permit fee shall not be less than the highest initial permit fee for any single alternative scenario set forth in the application and shall not be more than the sum of the initial permit fees for all alternative scenarios set forth in the application.
 - (b) After the provisions for granting permits as set forth in Division 26 of the Health and Safety Code and these Rules and Regulations have been complied with, the applicant shall be notified, in writing, of the amount of the fee to be paid as the initial permit fee.
 - (i) Notice may be given by personal service or by mail, postage prepaid.

- (4) Annual Permit to Operate Renewal Fee
 - (a) Permits to operate shall be annually renewable, upon payment of fees.
 - (b) The annual permit to operate renewal fee shall be calculated pursuant to the schedules set forth in section (E)(1).
 - (c) The annual permit to operate renewal fee shall be invoiced as specified in Section (C)(2)(c) above.
- (5) Permit to Construct Renewal Fee
 - (a) Authorities to construct may be renewed, upon payment of fees, pursuant to the provisions of District Rule 201.
 - (b) The authority to construct renewal fee shall be calculated pursuant to the schedules set forth in section (E)(1).
 - (i) For applications containing mutually exclusive alternative construction scenarios the APCO may, upon written request of the applicant, assess an alternate authority to construct renewal fee. Such alternate authority to construct renewal fee shall not be less than the highest authority to construct renewal fee for any single alternative scenario set forth in the application and shall not be more than the sum of the authority to construct renewal fees for all alternative scenarios set forth in the application.
 - (c) Authorities to construct may only be renewed for two (2) years after the initial date of issuance, unless the application is canceled or an extension of time pursuant to the provisions of District Rule 205 has been granted by the APCO.
 - (d) The authority to construct renewal fee shall be invoiced as specified in Section (C)(2)(c) above.
 - (e) When construction is completed prior to the expiration of the authority to construct, the authority to construct may thereupon act as a temporary permit to operate pursuant to the provisions of District Rule 202. The residual fee for the authority to construct, calculated as a pro-rated fee for the period between the completion of construction and the expiration date of the permit, shall be applied to a pro-rated initial permit fee for the same period. Any positive difference between the residual fee and the pro-rated initial permit fee shall be invoiced as set forth in Section (C)(2).
- (6) Change of Location or Ownership Fees
 - (a) Permits, pursuant to the provisions of District Rule 209, are only valid for the location specified in the permit.

- (i) Any person who applies for a permit requesting a change in the location of equipment included on a currently valid permit shall request in writing a change of location for the equipment and may be assessed an initial permit fee if the change in location also creates additional alteration(s), modification(s), addition(s) or revision(s) in either the subject permit or other permits at the same facility.
 - (ii) The person will be notified by mail, postage prepaid, of the amount of the initial permit fee due as a result of the change of location and the due date for payment of the fee.
 - (iii) The APCO or his or her designee may, upon the applicant's written request, waive the initial permit fee.
- (b) Permits, pursuant to the provisions of District Rule 209, are only valid as to the person named on the permit.
- (i) Any person who applies for a permit requesting a change of ownership of equipment included on a currently valid permit shall be assessed a transfer fee of \$266.00 for each permit being transferred from one person to another.
 - (ii) The filing fee set forth in Section (D)(1) are waived for applications solely requesting a change of ownership
 - (iii) The transfer fee for applications solely requesting a change of ownership is due at the time the application is filed.
- (c) Any person submitting an application for a permit requesting a change of location and/or change of ownership which also requests alterations, additions or revisions to the permit shall be assessed either the fees set forth in this Section or in Section (D)(7) whichever is greater.
- (7) Alteration, Modification, Addition or Revision Fees
- (a) Any person who applies for a permit requesting alterations, modifications, additions, or revisions of the permit resulting from a change to equipment included on a currently valid permit shall be assessed an application filing fee pursuant to Section (D)(1) and a permit revision fee.
 - (b) The permit revision fee shall be calculated as follows:
 - (i) The initial permit fee for a permit which includes the alteration, addition or revision minus the previous years annual permit to operate renewal fee pro-rated for the period between the date of issuance for the permit containing the alteration addition or revisions and the original permit(s) expiration date.
 - (c) The permit revision fee shall be invoiced as set forth in Section (C)(2)(c)(i).

- (d) Any person submitting an application for a permit requesting a change of location and/or change of ownership which also requests alterations, additions or revisions to the permit shall be assessed either the fees set forth in this Section or in Section (D)(6) whichever is greater.
- (8) Fees Applicable when Permit Granted or Denied by Hearing Board
- (a) If a permit is granted by the Hearing Board after denial of an application by the APCO or after the application has been deemed denied pursuant to District Rule 215, the applicant shall be assessed the appropriate fees set forth in this Rule.
 - (b) The applicant shall be notified, in writing, of the amount of the fee and the due date for payment of the fee.
 - (c) Previously paid fees are not refundable if the Hearing Board denies the issuance of a permit which was granted by the APCO.
- (9) Signed Duplicate or Corrected Permit Fees
- (a) A request for a signed duplicate permit or for administrative corrections to a permit shall be made in writing by the permit holder.
 - (b) The permit holder may be assessed a fee of \$132.00 for issuing each signed duplicate or corrected permit.
 - (c) The fee for a signed duplicate or corrected permit is due at the time the permit is requested.
- (10) Previously Unpermitted or Altered Equipment Fee.
- (a) When equipment is built, erected, installed, altered, or replaced (except for identical replacement) without the owner or operator obtaining a permit to construct in accordance with Rule 201, the owner or operator shall be assessed a previously unpermitted equipment fee.
 - (b) The previously unpermitted equipment fee shall be calculated as fifty percent (50%) of all applicable permit fees which would have been required for each year of unpermitted activity, plus the full amount of all applicable permit fees for the year immediately preceding the year when the permit to operate is granted.
 - (c) The unpermitted equipment fee is due when the permit to operate is granted.
 - (d) The assessment of an unpermitted equipment fee shall not limit the District's right to pursue any other remedy provided for by law.

- (e) The provisions of this subsection shall not apply if a permit is required solely due to a change in Rule 219.
 - (f) The APCO may waive the unpermitted equipment fee for good cause upon the written application of the person assessed the fee.
- (11) Fees for Issuance of Emission Reduction Credits
- (a) Any person submitting an application for Emission Reduction Credits pursuant to District Rule 1309 shall pay the following fees:
 - (i) An initial application fee of \$790.00 for each application submitted.
 - (ii) An analysis fee based upon the actual and reasonable labor time in excess of ten (10) hours labor billed at the rate of \$158.00 per hour.
 - (iii) The actual cost of publication of notice if such is required pursuant to District Rule 1309.
 - (b) Any person submitting a document effecting an encumbrance or transfer of Emission Reduction Credits pursuant to District Rule 1309 shall pay a fee of \$158.00 for each document submitted.
- (12) Reinstatement Fee for a Delinquent Permit
- (a) Any person who applies for delinquent permit reinstatement pursuant to the provisions of subsection (C)(3)(a) shall be assessed a fee equal to the amount of all outstanding fees, fines and penalties for the particular unit that is the subject of the permit and an initial permit fee for that unit for the current year.

(E) Schedules for Fees

- (1) Initial Permit and Annual Permit to Operate Renewal and Authority to Construct Renewal Fees.
- (a) Any Equipment or Process subject to the provisions of this rule shall be assigned a fee classification based upon the equipment and/or process type as set forth in Table 1 of this rule.
 - (b) Any Equipment or Process subject to the provisions of this rule which is not otherwise listed in Table 1 of this rule shall be assigned fee classification B.
 - (c) All applicable fees shall be assessed pursuant to the fee classifications listed in Table 1 according to the following schedule:

Equipment/Process Classification	Fee Amount
Classification A	\$440.02
Classification B	\$1,575.92
Classification C	\$3,780.41
Electrical Generating Equipment (non-emergency) rated 100,000,000 Btu/hr and less	\$5,239.30 plus \$124.97 per each 1,000,000 Btu/hr
Electrical Generating Equipment (non-emergency) rated greater than 100,000,000 Btu/hr	\$14,545.09 plus \$31.87 per each 1,000,000 Btu/hr
Nozzles (Rule 461)	\$47.60 per product/per nozzle

[SIP: Not SIP.]

**Table 1
Equipment/Process Classifications**

Equipment	Classification A	Classification B	Classification C
Basic Process Systems including ancillary equipment	Any Abrasive Blasting; Anodizing; Blending; Chemical (no toxics, hazardous) Milling; Cooling Tower; Any Degreaser; Deposition Ceramics; Dry Cleaning; Etching; Film Cleaner; Grinder; Ink Mfg; Laundry; Liquid Container Filling; Packaging; Polystyrene Extrusion; Polyurethane Mfg; Refrigerant Handling and/or Processing; Smoke Generator; Soldering; Stripping; Vacuum Metalling	Adhesives; Air Stripper; Ammonia Process; Asphalt Process; Auto Body Shredding; Battery Charging/Mfg; Chemical (toxics, hazardous) Milling; Degreaser; Plastic/Resins Handling; Soil Vapor Extraction; Vacuum Generator; Any process not otherwise listed under any category	Landfill Gas Treatment; Liquid Hazardous Waste Processing; LPG Distiller
<i>Other Processes</i>			
Bulk and Crustal Material Handling	Aggregate Conveying, Loading and/or Unloading; Bulk Chemical Terminal; Green Waste Screening; Paper Conveying; Weigh Station	Aggregate Production; Concrete Batch Plant; Concrete/Asphalt Crushing; Other Conveying; Loading/unloading; Other Screening; Soil Treatment	All others including Asphalt Batch Plant
Coating including Printing and Coating Within Spray Booths	Asphalt/Tar Pot; Asphaltic; Can/Coil; Any Dip Tank; Fabric; Film; Flow; Paper; Printing Press, IR/UV Over, Air Dry or Screen; Roller; Spray; Stereolithography; Striping; Tablet	Asphalt Saturator; Printing Press Other; Spraying Resin/Gel Coat; Wood	
Feed/Food Preparation and Handling	Charbroiler with integral control; Feed Handling; Restaurant Charbroiler	Bakery Oven; Charbroiler no integral control; Feed Processing	All others
Fuel Handling and Storage	Bulk Loading/Unloading <50,000 gpd; Fuel Oil; LPG; Spill Sump Tank; Waste Oil; Railcar unloading to Truck; Tank with no controls	Aircraft Fueling; Bulk Loading/Unloading Rack 50,000 to <200,000 gpd; Fuel Gas Mixer; Hydrant Fueling; Natural Gas Odorizer; Toxics or Hazardous Storage Tank; Fixed Roof Tank; Tank with control system; LPG Tank with Vaporizing System; LPG Tank Truck Loading; LPG Treatment	Bulk Loading/Unloading Rack 200,000+ gpd; Gasoline Blending Plant; All others

**Table 1
Equipment/Process Classifications**

Incinerators		Crematory	All others
Sewage, Stormwater, Wastewater and Water Treatment	<10,000 gpd; Fluid Elimination; Landfill Condensate/Leachate Collection/Storage	10,000 to <50,000 gpd; Up to 5 million gpd sewage treatment; Aeration; Groundwater treatment; Landfill Gas Collection; Sewage sludge composting; Sludge Handling	All others
Storage, Non-Fuel	Asphalt <50,000 gal; Baker-Type; Dry Material; Sump Tank; Tank with control; Tank with sparging	Aqueous Ammonia; Asphalt 50,000+ gal; Catalyst	
<u>Air Pollution Control Devices</u>			
Afterburner	Non-catalytic; no more than one MMBtu per hour (supplemental fuel); single source	All others (including boilers and incinerators)	
Biofilter	No more than 100 cfm	All others	
Carbon Absorber/Adsorber	single source no toxics	All others (non-regenerating)	All others
Catalytic Reduction	Non-selective	Selective	
Dust Control including Baghouses and Cyclones	No more than 500 ft ² of filter area; all cyclones and settling chambers; All negative air machines	More than 500 ft ² of filter area; Any size hot baghouse (special filter material)	
Electrostatic Precipitators (ESP)	Less than 3000 cfm or any extruder or any restaurant	All others	
Flares	Portable	All others	Enclosed landfill/digester gas
Scrubbers and/or Mist Control including Sparging	No toxics, NO _x or SO _x control and single source and single stage; or for acid or any restaurant or any sparger	All others, including Ultraviolet Oxidation	

**Table 1
Equipment/Process Classifications**

Sterilizers	Hospital ethylene oxide	All others	
Vapor Control		All	
<i>Fuel Burning Equipment (Not Cogeneration or Generating Electricity Equipment Other Than Emergency Equipment)</i>			
Autoclaves; Chillers; Distiller; Dryers, Furnaces, Heaters, Kilns, Ovens, Roasters, Stills	<5 MMBtu/hr; Glass Furnace less than one tpd pull; Laundry; Metal Recovery; Non-Organics Dryer; Non-Toxics Evaporator; Pavement Heater	5 to <50 MMBtu/hr; Arc; Burn-Off; Catalyzed Metal Recovery; Chip Dryer; Cupola; Curing Oven with toxics/hazardous; Electric; Evaporator (Toxics); Frit; Galvanizing; Glass Furnace one to <50 tpd pull; Organics Dryer; Pot/Crucible; Natural Gas Kiln; Reverbatory	All others
Boilers	<5 MMBtu/hr	5 to <50 MMBtu/hr; Up to 10 MMBtu landfill or digester gas	All others
Reciprocating Internal Combustion Engines	<500 hp; 500+ hp Emergency	All others	
Turbines	<0.3 MW(e) Emergency	0.3+ MW(e) Emergency; <50 MW(e) not on Landfill or Digester Gas	All others
Cogeneration and Electrical Generating Equipment (including Duct Burners) Equipment under this category shall be assessed a permit renewal fee calculated based on design maximum fuel consumption of the equipment expressed in British thermal units per hour, using gross heating value (See (E)(1)(c))			
Nozzles (Rule 461) Permits subject to District Rule 461 shall be assessed a single permit renewal fee calculated as follows: the number of fuel dispensing nozzles multiplied by the number of products dispensed through each nozzle at the facility.			

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Antelope Valley
Air Quality Management District



Draft
Staff Report

Proposed Amendments to
Rule 301 – *Permit Fees*

For adoption on
July 17, 2018

43301 DIVISION ST., SUITE 206,
LANCASTER, CALIFORNIA 93535-4649
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STAFF REPORT
TABLE OF CONTENTS
Rule 301 – *Permit Fees*

I. PURPOSE OF STAFF REPORT 1

II. EXECUTIVE SUMMARY 1

III. STAFF RECOMMENDATION 2

IV. LEGAL REQUIREMENTS CHECKLIST 3

V. DISCUSSION OF LEGAL REQUIREMENTS 4

 A. REQUIRED ELEMENTS/FINDINGS 4

 1. State Findings Required for Adoption of Rules & Regulations 4

 a. Necessity 4

 b. Authority 4

 c. Clarity 5

 d. Consistency 5

 e. Non-duplication 5

 f. Reference 5

 g. Public Notice & Comment, Public Hearing 5

 2. Federal Elements (SIP Submittals, Other Federal Submittals) 6

 B. WRITTEN ANALYSIS OF EXISTING REQUIREMENTS 6

 C. ECONOMIC ANALYSIS 6

 1. General 6

 2. Economic Analysis for Rule 301 – *Permit Fees* 6

 4. Incremental Cost Effectiveness 7

 D. ENVIRONMENTAL ANALYSIS (CEQA) 7

 E. SUPPLEMENTAL ENVIRONMENTAL ANALYSIS 7

 1. Potential Environmental Impacts 7

 2. Mitigation of Impacts 7

 3. Alternative Methods of Compliance 7

 F. PUBLIC REVIEW 7

VI. TECHNICAL DISCUSSION 8

 A. SOURCE DESCRIPTION 8

B. EMISSIONS	8
C. CONTROL REQUIREMENTS	8
D. PROPOSED RULE SUMMARY	8
1. AV Rule 301 – <i>Permit Fees</i>	8
E. Rule HISTORY.....	9
F. PROPOSITION 26 ANALYSIS.....	10
1. Justification for Fee Adjustment to Rule 301 – <i>Permit Fees</i>	10
Appendix A – Rule Iterated Version	A-1
Appendix B - Public Notice Documents	B-1
Appendix C - Public Comments and Responses	C-1
Appendix D - California Environmental Quality Act Documentation.....	D-1
Appendix E - Bibliography.....	E-1

STAFF REPORT

Rule 301 – *Permit Fees*

I. PURPOSE OF STAFF REPORT

A staff report serves several discrete purposes. Its primary purpose is to provide a summary and background material to the members of the Governing Board. This allows the members of the Governing Board to be fully informed before making any required decision. It also provides the documentation necessary for the Governing Board to make any findings, which are required by law to be made prior to the approval or adoption of a document. In addition, a staff report ensures that the correct procedures and proper documentation for approval or adoption of a document have been performed. Finally, the staff report provides evidence for defense against legal challenges regarding the propriety of the approval or adoption of the document.

II. EXECUTIVE SUMMARY

On July 1, 1997 the Antelope Valley Air Pollution Control District (AVAPCD) was created pursuant to statute (former Health & Safety (H&S) Code §40106, A.B. 266-Knight Ch. 542, statutes of 1996) and assumed all air pollution control responsibilities from the South Coast Air Quality Management District (SCAQMD) for the area of Los Angeles County outside the South Coast Air Basin. The SCAQMD rules in effect within the jurisdiction of the AVAPCD remained in effect until the AVAPCD Governing Board superseded or amended them. On January 1, 2002 the AVAQMD was created pursuant to statute (H&S Code §41300 et seq.) to replace the AVAPCD. Once again the rules in effect at the time of the change remained in effect until the AVAQMD Governing Board superseded or amended them.

The District's proposed 10% fee increase will recover the projected \$54k increase in expenditures related to the costs of the permitting program and implementing district rules and regulations; issuing air quality permits; performing facility inspections, and public complaint investigations and rule development activities. Funds from other sources including the use of AB2766 (Motor Vehicle Registration Fee Program) fees, State subvention funds and implementation of cost reductions will be utilized for district operating expenditures.

A Public hearing on the budget and proposed fee adjustment was held on May 15, 2018 and continued to June 19, 2018 to receive comment from members of industry and the general public. Proposed amended Rule 301 has been made available for public comments, and appropriate notices were published on April 13, 2018 in compliance with the 30-day notice and comment period requirement.

At its May 15, 2018 meeting, the Governing Board discussed fee increases during the budgetary hearing and directed staff to adjust Rule 301 by 10%. Since this amount was different than the original proposed fee adjustment additional notification of permit holders was deemed necessary for proper adoption. An additional public notice was published on June 15, 2018 to allow the 30-day notice and comment period.

To allow time to implement the proposed fee changes, the amendment of Rule 301 – *Permit Fees* is proposed to be effective on January 1, 2019.

III. STAFF RECOMMENDATION

Staff recommends that the Governing Board of the AVAQMD adopt amendments to Rule 301 – *Permit Fees* and approve the appropriate CEQA documentation.

IV. LEGAL REQUIREMENTS CHECKLIST

The findings and analysis as indicated below are required for the procedurally correct amendments to Rule 301-*Permit Fees*. Each item is discussed, if applicable, in Section V below. Copies of documents are included in the appropriate Appendix.

FINDINGS REQUIRED FOR RULES & REGULATIONS

- X Necessity
- X Authority
- X Clarity
- X Consistency
- X Non-duplication
- X Reference
- X Public Notice & Comment
- X Public Hearing

REQUIREMENTS FOR STATE IMPLEMENTATION PLAN SUBMISSION (SIP):

- N/A Public Notice & Comment
- N/A Availability of Document
- N/A Notice to Specified Entities (State, Air Districts, USEPA, Other States)
- N/A Public Hearing
- N/A Legal Authority to adopt and implement the document.
- N/A Applicable State laws and regulations were followed.

ELEMENTS OF A FEDERAL SUBMISSION

- N/A Elements as set forth in applicable Federal law or regulations.

CALIFORNIA ENVIRONMENTAL QUALITY ACT REQUIREMENTS (CEQA):

- N/A Ministerial Action
- X Exemption
- N/A Negative Declaration
- N/A Environmental Impact Report
- X Appropriate findings, if necessary.
- X Public Notice & Comment

SUPPLEMENTAL ENVIRONMENTAL ANALYSIS (RULES & REGULATIONS ONLY):

- X Environmental impacts of compliance.
- N/A Mitigation of impacts.
- N/A Alternative methods of compliance.

OTHER:

- N/A Written analysis of existing air pollution control requirements
- X Economic Analysis
- X Public Review

V. DISCUSSION OF LEGAL REQUIREMENTS

A. REQUIRED ELEMENTS/FINDINGS

This section discusses the State of California statutory requirements that apply to the proposed amendments to Rule 301 – *Permit Fees*. These are actions, that need to be performed, and/or information, that must be provided in order to amend the Regulation in a procedurally correct manner.

1. State Findings Required for Adoption of Rules & Regulations:

Before adopting, amending, or repealing a rule or regulation, the AVAQMD Governing Board is required to make findings of necessity, authority, clarity, consistency, non-duplication, and reference based upon relevant information presented at the hearing. The information below is provided to assist the Board in making these findings.

a. Necessity:

The District’s proposed fee increase will recover the increase projected for expenditures related to the costs of the permitting program and implementing district rules and regulations; issuing air quality permits; performing facility inspections, and public complaint investigations and rule development activities. Funds from other sources including the use of AB2766 (Motor Vehicle Registration Fee Program) fees, State subvention funds and implementation of cost reductions will be utilized for non-permitting program related expenses.

b. Authority:

The District has the authority pursuant to California Health and Safety Code (H&S Code) §40702 to adopt, amend or repeal rules and regulations. The AVAQMD also has the authority to adopt and amend annual fees for the evaluation, issuance and renewal of permits (H&S Code §§41240, 41330, 41512.7, 40711(a), 42310.5, 42311, and 42311.2), enforcement, inspections and air monitoring (H&S Code §§41240, 41330, 40701, 40715, 41512, 41512.5, 42311, 42311.2, 42707, and 42400 et seq.), planning and rule development (H&S Code §§41240, 41330, 41512.7, 40727.2 and 42311), public records act compliance (Government Code 6253), toxic “Hot Spots” (H&S Code §§44344.4, 44380, 44381 and 17 CCR 90703) and “Title V Permitting” (40 CFR 70.9, H&S Code §§41330, 41512.7 and 42311).

c. Clarity:

The proposed amendments to Rule 301 – *Permit Fees* are clear in that they are written so that the persons subject to the rule can easily understand the meaning. Any person or organization applying for and/or holding an AVAQMD Authority to Construct (ATC) or Permit to Operate (PTO) is affected by the proposed amendments to Rule 301. This rule amendment has been developed to adjust fees to Rule 301 by 10% to recover the rising costs associated with issuing and enforcing both District and Federal permits and to increase clarity for each of the affected groups.

d. Consistency:

The proposed amendment of Rule 301 – *Permit Fees* is in harmony with, and not in conflict with or contradictory to any state law or regulation, federal law or regulation, or court decisions because these laws and regulations allow for the proposed amendments to the fee rules.

e. Non-duplication:

The proposed amendment of Rule 301 – *Permit Fees* does not impose the same requirements as any existing state or federal law or regulation because H&S Code §40702 allows the District to adopt, amend or repeal rules and regulations and H&S §42311 and various other sections merely authorize the imposition of such fees but does not specify the types and amounts of fees to be imposed.

f. Reference:

AVAQMD has the authority pursuant to H&S Code §40702 to adopt, amend or repeal rules and regulations and the authority pursuant to H&S Code §42311 to adopt a schedule of annual fees.

g. Public Notice & Comment, Public Hearing:

Notice for the public hearing for the proposed amendment of Rule 301 – *Permit Fees* was published on 04/13/2018 for the 05/15/2018 Governing Board meeting. At the May 15, 2018 meeting the Governing Board discussed fee increases during the budgetary hearing and directed staff to adjust Rule 301 by 10%. Since this amount was different than the original proposed fee adjustment, additional notification of permit holders was deemed necessary for proper adoption. Notice for the public hearing for the proposed amendment of Rule 301 – *Permit Fees* was published on 06/15/2018 for the 07/17/2018 Governing Board meeting See Appendix “B” for

a copy of the public notice. See Appendix “C” for copies of comments, if any, and District responses.

2. Federal Elements (SIP Submittals, Other Federal Submittals).

Submittals to USEPA are required to include various elements depending upon the type of document submitted and the underlying federal law that requires the submittal. Rule 301 – *Permit Fees* is a fee rule and does not ordinarily require submission to USEPA. Various prior versions of Rule 301 were previously included in the State Implementation Plan (SIP). USEPA removed these rules from the SIP on November 16, 2004 (69 FR 67062; 40 CFR 52.220(c)(137)(vii)(F)). Therefore, these rules are not required to be a federal submittal.

B. WRITTEN ANALYSIS OF EXISTING REQUIREMENTS

H&S Code §40727.2 requires air districts to prepare a written analysis of all existing federal air pollution control requirements that apply to the same equipment or source type as the rule proposed for modification by the district. The proposed amendments to Rule 301 – *Permit Fees* only modify fees and provide minor clarification. These proposed amendments do not in themselves impose air pollution control requirements. Therefore, the preparation of a written analysis of existing pollution control requirements that apply to the same equipment or source type is not required.

C. ECONOMIC ANALYSIS

1. General.

Fees are a primary revenue source that supports the District’s efforts to implement and enforce the provisions of the Federal Clean Air Act (FCAA), the California Clean Air Act (CCAA) and District Rules and Regulations. Permit fee schedules reflect the expenditure required to provide analysis of applications, inspections of the regulated community, tracking the inventory of pollutants produced by the regulated industry, and enforcement of federal, state and local mandates regarding air pollution among other mandatory District functions.

2. Economic Analysis for Rule 301 – *Permit Fees* - .

Staff is recommending adjustment to Rule 301 – *Permit Fees* to recover the increase in the District’s projected overall operating expenditures related to the costs of issuing air quality permits; performing facility inspections, public complaint investigations and rule development activities; as part of implementing district rules and regulation.

The proposed 10% permit fee adjustment is projected to result in an overall added cost to industry of approximately \$70,000. This amount is based on applying the proposed cost increase to fee revenue received during the 12 months April 1, 2017

to March 31, 2018, on fees derived from applications, asbestos, and operating permit fee revenues.

3. Incremental Cost Effectiveness.

Pursuant to H&S Code §40920.6, incremental cost effectiveness calculations are required for rules and regulations which are adopted or amended to meet the CCAA requirements for Best Available Retrofit Control Technology (BARCT) or “all feasible measures” to control volatile compounds, oxides of nitrogen or oxides of sulfur. The proposed amendments to *Rule 301 – Permit Fees* only affect fees and rule structure, and therefore do not require this analysis.

D. ENVIRONMENTAL ANALYSIS (CEQA)

1. Through the process described below, it was determined that a Notice of Exemption would be the appropriate CEQA process for the proposed amendments to *Rule 301 – Permit Fees*.

a. The proposed amendments to *Rule 301 – Permit Fees* meet the CEQA definition of “project.” They are not “ministerial” actions.

b. The proposed amendments to *Rule 301 – Permit Fees* are exempt from CEQA review because they merely adjust fees and fee methodologies and there is not potential that the amendments might cause the release of additional air contaminants or create any adverse environmental impacts, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies.

E. SUPPLEMENTAL ENVIRONMENTAL ANALYSIS

1. Potential Environmental Impacts

The proposed amendments to *Rule 301 – Permit Fees* do not have any potential environmental impacts because the amendments merely adjust fees, make minor format corrections and provide clarification. The amendments do not have any impact upon emissions of air contaminants.

2. Mitigation of Impacts

N/A

3. Alternative Methods of Compliance

N/A

F. PUBLIC REVIEW

See Staff Report Section (V)(A)(1)(g) as well as Appendix B.

VI. TECHNICAL DISCUSSION

A. SOURCE DESCRIPTION

The proposed amendments will affect permit holders and applicants subject to Rule 301 – *Permit Fees*.

B. EMISSIONS

The proposed amendments to Rule 301 – *Permit Fees* only adjust fees, and thus will have no impact on emissions.

C. CONTROL REQUIREMENTS

The proposed amendments to Rule 301 – *Permit Fees* do not impose any control requirements.

D. PROPOSED RULE SUMMARY

This section gives a brief overview of the proposed amendments to Rule 301 – *Permit Fees*. Only a brief summary of each section is included. Readers are encouraged to examine the *[bracketed and italicized]* notations contained in the iterated version of the rule contained in Appendix “A” for notations regarding movement and modification of specific sections and subsections.

1. AVAQMD Rule 301 – *Permit Fees*:

Rule 301 – *Permit Fees*, includes a 10% increase in most fees to recover a portion of the increase in the District’s projected overall operating expenditures related to the costs of issuing air quality permits, performing facility inspections, public complaint investigations and rule development activities, as part of implementing district rules and regulation required pursuant to the provisions of Regulation II – *Permits* and Regulation XIII – *New Source Review*.

(A)(4) is proposed for modification to reflect an effective date of January 1, 2019.

(B)(7) is being added to define “Small Business”.

(D)(1)(a)(i) is being added to allow for a modified fee structure for any “Small Business”.

(D)(1)(a)(ii) has a proposed adjustment of 10%, rounded to the nearest dollar, for the application filing fee.

(D)(2)(c)(i) is proposed for modification to reflect an increase of 10%, rounded to the nearest dollar, added to the labor rate.

(D)(6)(b)(i) has a proposed fee adjustment of 10%, rounded to the nearest dollar, for the change of ownership fee .

(D)(9)(b) is proposed for a 10% increase, rounded to the nearest dollar, for duplicate permits.

(D)(11)(a)(i) is proposed for a 10% adjustment, rounded to the nearest dollar, for Emission Reduction Credit fees.

(D)(11)(a)(ii) is proposed for modification to reflect an increase of 10%, rounded to the nearest dollar, added to the labor rate.

(D)(11)(b) is proposed for a 10% adjustment, rounded to the nearest dollar, for an encumbrance or transfer of Emission Reduction Credits.

(E) is proposed for a 10% adjustment to all fees in this section.

E. RULE HISTORY

Prior to July 1, 1997 the Antelope Valley was contained within the SCAQMD. On July 1, 1997 the AVAPCD replaced the SCAQMD as the agency with jurisdiction over the Los Angeles County portion of the Mojave Desert Air Basin (MDAB). On January 1, 2001 the AVAPCD was replaced by the AVAQMD. Pursuant to both statutory changes, the rule and regulations of the predecessor district were retained until the Governing Board adopted, amended or rescinded them. At the first meeting both the AVAPCD and the AVAQMD, the respective Governing Boards reaffirmed all the rules and regulations in effect at the time the agency changed.

The jurisdiction of the AVAPCD and the AVAQMD were specified in the statutes as the portion of the Los Angeles County contained within the MDAB. The MDAB was formerly known as the Southeast Desert Air Basin (SEDAB). In 1997 the SEDAB was split into the MDAB and the Salton Sea Air Basin. Descriptions of these air basins can be found in 17 Cal. Code Regs. §§60109 and 60144. Since USEPA adopts SIP revisions in California as effective within jurisdictional boundaries of local air districts, when the local air district boundaries change the SIP as approved by USEPA for that area up to the date of the change remains as the SIP in that particular area. Thus, upon creation of the AVAPCD on July 1, 1997 the AVAPCD acquired the SIP applicable to the Antelope Valley portion of the SCAQMD that was affected as of June 30, 1997. Likewise the AVAQMD acquired the SIP that was effective in the jurisdiction of the AVAPCD as of December 31, 2000. Therefore, the SIP history for this region is based upon the rules adopted, effective, and approved for the Antelope Valley by SCAQMD.

Rule 301 was originally adopted by the SCAQMD on 02/04/1977. It has been subsequently amended 05/27/77, 01/06/78, 06/16/78, 04/04/80, 09/05/80, 06/05/81, 09/09/82, 12/03/82, 06/03/83, 05/04/84, 07/06/84, 11/02/84, 12/06/85, 05/01/87, 06/03/88, 12/02/88, 01/06/89, 06/02/89, 06/01/90, 06/07/91, 12/06/91, 06/05/92, 07/10/92, 06/11/93, 10/08/93, 06/10/94, 05/12/95, 10/13/95, 05/10/96, 05/09/97, 03/17/98, 11/15/05 effective 01/01/06, 09/18/07 effective 01/01/08, 06/17/08 effective 01/01/09, 06/15/10 effective 01/01/11, 06/19/12 effective 01/01/13, 06/18/13 effective 01/01/14, 07/15/14 effective 01/01/15, 07/21/15 effective 01/01/16, 07/19/16; effective

01/01/17 and 07/18/17; effective 01/01/18. The 07/18/17 effective 01/01/18 version is the current version in the AVAQMD rulebook.

Rule 301 is proposed for amendment to adjust fees by 10% to ensure that the costs of issuing air quality permits; performing inspections, investigations and audits; and enforcing district rules and regulation are aligned with the reasonable regulatory costs of the permit program. A “Small Business” definition, (B)(7), and “Small Business” application filing fee has been added, (D)(a)(i), to allow for a lower fee structure for applications submitted by a Small Business owner.

F. PROPOSITION 26 ANALYSIS

On November 2, 2010 the California voters added Article XIII C §1(e) to the California Constitution (commonly referred to as Proposition 26). This provision added a new definition of “tax” which resulted in a variety of fees and charges imposed by local governmental entities to be subject to voter approval. The provisions also provided several exceptions to this voter approval requirement including but not limited to:

A charge imposed for a specific benefit conferred or privilege granted directly to the payer that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

A charge imposed for a specific government service or product provided directly to the payer that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.

A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

If a fee increase falls within one or more of these exceptions it is considered not a tax and thus not subject to voter approval.

1. Justification for Fee Adjustment to Rule 301 – *Permit Fees*

In general, air district permit fees would fall under this exemption so long as they are reasonably related to the costs of issuance and enforcement of the permits. A similar requirement that air district fees be reasonably related to costs of district programs is found in Health & Safety Code §42311(a) and includes language indicating that a CPI adjustment is part of a measure of the reasonable increase in district costs. In addition, the California League of Cities in its April 2011 implementation guide for Prop 26¹ opined that a CPI increase is part of the

¹ <http://www.cacities.org/Resources-Documents/Policy-Advocacy-Section/Hot-Issues/Proposition-26-Implementation-Guide>

reasonable regulatory cost of issuing a license or permits and thus does not need voter approval.

The proposed fee increases will cover the total projected cost increases for fiscal year 2018/2019. Eighty (80%) of the District's 6.25 contracted staff positions are involved in the full time issuance of permits, the inspection and enforcement of such permits or the administration of the permit issuance, management and/or renewal process; other District employees are partially involved in these activities. The District's mandated functions such as compliance, permit issuance, and permit administration are labor intensive, therefore the related revenue should be structured to support the relevant regulatory and administrative activities. The District's proposed 10% fee increase will recover a projected \$54k increase in direct expenditures related to the costs of the permitting program and implementing district rules and regulations; issuing air quality permits, performing facility inspections, and public complaint investigations and certain rule development activities. The remaining funds realized by this increase will be used to cover a portion of the indirect costs associated with permitting activities. Funds from other sources including the use of AB2766 (Motor Vehicle Registration Fee Program) fees, State subvention funds, and implementation of cost reductions will be utilized for district non-permit related operating expenditures. Therefore, the proposed fee adjustment is well within the provisions of Health & Safety Code §42311(a) and falls within the exemption found in Article XIII C §1(e)(3) of the California Constitution.

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APPENDIX "A"
Rule 301 – *Permit Fees*
Iterated Version

The iterated version is provided so that the changes to an existing rule may be easily found. The manner of differentiating text is as follows:

1. Underlined text identifies new or revised language.
2. ~~—Lined out text~~ identifies language which is being deleted.
3. Normal text identifies the current language of the current rule which will remain unchanged by the adoption of the proposed amendments.
4. *Italicized text* identifies explanatory material that is not part of the proposed language

Rule 301 – *Permit Fees*

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(Adopted: 02/04/77; Amended: 05/27/77; Amended: 01/06/78; Amended: 06/16/78; Amended: 04/04/80; Amended: 09/05/80; Amended: 06/05/81; Amended: 09/09/82; Amended: 12/03/82; Amended: 06/03/83; Amended: 05/04/84; Amended: 07/06/84; Amended: 11/02/84; Amended: 12/06/85; Amended: 05/01/87; Amended: 06/03/88; Amended: 12/02/88; Amended: 01/06/89; Amended: 06/02/89; Amended: 06/01/90; Amended: 06/07/91; Amended: 12/06/91; Amended: 06/05/92; Amended: 07/10/92; Amended: 06/11/93; Amended: 10/08/93; Amended: 06/10/94; Amended: 05/12/95; Amended: 10/13/95; Amended: 05/10/96; Amended: 05/09/97; Amended: 03/17/98; Amended: 11/15/05 effective 01/01/06; Amended: 09/18/07 effective 01/01/08; Amended: 06/17/08 effective 01/01/09; Amended: 06/15/10 effective 01/01/11; Amended: 06/19/12 effective 01/01/13; Amended 06/18/13 effective 01/01/14; Amended: 07/15/14 effective 01/01/15; Amended: 07/21/15 effective 01/01/16; Amended 07/19/16 effective 01/01/17); Amended 07/18/17, effective 01/01/18); **Amended mm/dd/yy, effective 01/01/19)**

RULE 301 PERMIT FEES

(A) General

(1) Purpose

- (a) This rule sets forth the fees required for various permit activities required pursuant to the provisions of Regulation II – *Permits*, and Regulation XIII – *New Source Review*.

(2) Applicability

- (a) This rule applies to:

- (i) Any person subject to the provisions of Regulation II – *Permits*, Regulation XIII – *New Source Review*, or Regulation XVII – *Prevention of Significant Deterioration*.
- (ii) Any governmental entity.
- a. Federal, State or local governmental agencies or public districts shall pay the fees to the extent allowed pursuant to the provisions of Chapter 2, Division 7, Title 1 of the Government Code (commencing with Section 6103); Part 4, Division 26 of the Health and Safety Code (commencing with Section 41500) and Part 6, Division 26 of the Health and Safety Code (commencing with Section 44300)
- (iii) Any facility subject to the Provisions of Regulation XXX – *Federal Operating Permits (Title V)*.

- a. Any facility subject to the provisions of Regulation XXX – *Federal Operating Permits (Title V)* shall also be subject to the provisions of District Rule 312.

(3) Limitations

- (a) Revenue derived from permit fees shall be limited as required by Health and Safety Code Sections 42311, 42311.2 and 42311.5.

(4) Effective Date

- (a) The amendments to this rule adopted on ~~07/18/2017~~07/17/2018 shall be effective on 01/01/~~2018~~2019.

(B) Definitions

For the purpose of this rule, the following definitions shall apply:

- (1) “Alteration Or Modification” – Any physical change, change in method of operation of, or addition to, an existing equipment requiring an application for Permit to Construct pursuant to Rule 201. Routine maintenance and/or repair shall not be considered a physical change. A change in the method of operation of equipment, unless previously limited by an enforceable permit condition, shall not include:
 - (a) An increase in the production rate, unless such increase will cause the maximum design capacity of the equipment to be exceeded; or
 - (b) An increase in the hours of operation.
- (2) “Cancellation” (or Cancel) – An administrative action taken by the District which nullifies or voids a previously pending application for a permit.
- (3) “Emission Reduction Credit” (ERC) – The amount of emissions reduction which is verified and determined by the APCO to be eligible for credit in an emissions reduction bank pursuant to District Rule 1309.
- (4) “Equipment” – Any article, machine, or other contrivance, or combination thereof, which may cause the issuance or control the issuance of air contaminants, and which:
 - (a) Requires a permit pursuant to Rules 201 and/or 203; or
 - (b) Is in operation pursuant to the provisions of Rule 219.
- (5) “Expiration” – The end of the period of validity for an application, Permit to Operate, or a temporary Permit to Operate.

(6) “Facility” – Any source, equipment, or grouping of equipment or sources, or other air contaminant-emitting activities which are located on one or more contiguous properties within the District, in actual physical contact or separated solely by a public roadway or other public right-of-way, and are owned or operated by the same person (or persons under common control). Such above-described groupings, if on noncontiguous properties but connected only by land carrying a pipeline, shall not be considered one facility.

(7) “Small Business” - A business which is independently owned and operated and meets the following criteria, or if affiliated with another concern, the combined activities of both concerns shall meet these criteria:

(a) the number of employees is ten (10) or less; and

(b) the total gross annual receipts are \$500,000 or less; or

(c) not-for-profit training center.

For the purpose of qualifying for assistance offered by the District's Small Business Assistance Office only, a small business means a business with total gross annual receipts of \$5,000,000 or less, or a business with a total number of employees of 100 or less. [as per AVAQMD Rule 102, (OO)]

(78) “Stationary Source” (or Source) – Any article, machine, equipment, contrivance or combination thereof which emits or has the potential to emit any regulated air pollutant and is required to have a permit pursuant to the provisions of District Rules 201, 202 and 203.

(89) “Temporary Permit to Operate” – An interim authorization to operate equipment until the Permit to Operate is granted or denied. A temporary Permit to Operate is not issued by the District but may exist pursuant to District Rule 202.

(C) Requirements and Procedures

(1) Fees, as specified herein, are required for the following activities:

(a) Filing of a permit application.

(b) Evaluation of new or modified equipment and/or Facilities that may cause air pollution or equipment intended to control air pollution.

(c) Issuance of authority to construct(s).

(d) Issuance of permit(s) to operate.

(e) Annual permit to operate renewal.

(f) Annual authority to construct renewal.

- (g) Change of location or ownership of a permit.
 - (h) Alteration, modification, addition or revisions to equipment.
 - (i) Permit granted or denied by Hearing Board.
 - (j) Issuance of signed duplicate or corrected permit.
 - (k) Issuance of permit(s) for previously unpermitted or altered equipment.
 - (l) Filing of application for issuance or modification of ERCs pursuant to District Rule 1309.
 - (m) Reinstatement of a delinquent permit.
 - (n) Any fees applicable to equipment located at a facility subject to Regulation XXX – *Federal Operating Permits (Title V)*.
 - (i) Any facility subject to the provisions of Regulation XXX – *Federal Operating Permits (Title V)* shall also be subject to the provisions of District Rule 312.
- (2) Fees shall be paid when due as specified herein.
- (a) Application and Duplicate Permit Fees
 - (i) Application filing fees required pursuant to Section (D)(1) shall be submitted in conjunction with the application.
 - (ii) Fees for signed duplicate or corrected permit fees required pursuant to Section (D)(9) shall be submitted in conjunction with the request for the duplicate or corrected permit.
 - (b) Project Evaluation Fees for Complex Sources.
 - (i) Project evaluation fees for complex sources required pursuant to Section (D)(2) shall be submitted not later than thirty (30) days of written notification to the applicant that the application is subject to this fee.
 - (ii) If the applicant fails to pay the project evaluation fee for complex sources when due the APCO shall, after written notice to the applicant, cancel the application.
 - (c) Initial and Annual Permit fees.
 - (i) Permit fees shall be invoiced as follows:
 - a. At least thirty (30) days before the expiration date as shown on the permit; or

- b. In the case of an initial permit fee thirty (30) days after issuance of the permit or the due date on the invoice produced after issuance of the permit, whichever is later.
- (ii) The permit owner/operator or applicant will be notified by First Class mail, postage prepaid, of the amount to pay and the due date of the invoice.
- (iii) If the fee is not paid on or before the due date of the invoice the permit shall become delinquent on the due date of the invoice or expiration date on the permit, whichever occurs first, and shall no longer be valid.
- (iv) If the applicable fees remain unpaid, within thirty (30) days after the due date of the invoice or expiration date of the permit, whichever occurs first, the owner/operator or applicant shall be notified in writing by first class mail, postage prepaid:
 - a. That the permit has become delinquent for non-payment of fees and is no longer valid; and
 - b. The consequences of continuing to construct or operate with an invalid permit.
- (v) If, after notification, the permit remains delinquent for more than three (3) months, the permit shall become inactive in the District's records.

(3) Reinstatement of Permits

- (a) A permit which is delinquent but has not become inactive may be reinstated by payment in full of all outstanding fees, fines and penalties, including but not limited to other fees imposed pursuant to District Regulation III and fines or penalties imposed pursuant to the provisions of Article 3, Chapter 4, Part 4 of Division 26 of the Health and Safety Code (commencing with section 42400).

(4) Inactive Permits

- (a) A permit which has become inactive is null and void. The equipment which was the subject of the inactive permit may be permitted again by the District so long as the owner/operator submits a new permit application. Such new permit application will be processed as if the equipment was an entirely new unit requiring a permit.

(5) Refunds

- (a) No claim for refund for any fee required by this rule shall be honored unless:
 - (i) For initial permit fees, such claim is submitted within ninety (90) days after the permit was issued.

- (ii) For renewal permit fees, such claim is submitted within ninety (90) days after the prior permit expiration date.
 - (b) Refunds shall be pro-rated for the period between the date the request is received or prior permit expiration date, whichever is applicable, and the current permit expiration date.
 - (c) Fees established as surcharges are not refundable and are assessed in addition to the schedules established for permit fees. Surcharges are assessed and applicable as specified herein.
 - (d) The application filing fee set forth in section (D)(1) is non-refundable.
- (6) Pro-rated fees
- (a) The APCO may pro-rate any of the following fees excluding any applicable filing fee:
 - (i) Initial Permit Fee;
 - (ii) Annual Permit to Operate Renewal Fee;
 - (iii) Permit to Construct Renewal Fee;
 - (iv) Alteration, Modification, Addition or Revision Fees.
 - (b) Pro-rated fees shall be calculated based upon the fees and fee schedule in effect on the date of issuance of the permit to which the fees apply.
 - (c) Fees shall be pro-rated for the period between the date of the issuance of the affected permit and the expiration of the permit.
- (7) Service Charge for Returned Checks
- (a) Any person who submits a check to the District on insufficient funds or on instructions to stop payment on the check, absent an overcharge or other legal entitlement to withhold payment, shall be subject to a \$25.00 service charge.
- (8) Credit Card Payments
- (a) If any person wishes to pay using a credit card the person shall also pay any costs imposed by the company processing the credit card transaction.
- (D) Fees
- (1) Application Filing Fee
- (a) Except as otherwise provided, any person who applies for the issuance of a new or modified permit shall be assessed a fee **as follows:**

- (i) \$690.00 for any Small Business application, or; [Lower application fee structure added for the Small Business owner.]
- (ii) \$759.00 for all other applications

~~of \$690.00.~~ This application filing fee shall be submitted with the application.

- (b) The application filing fee is non-refundable and shall not be applied to any subsequent application.
- (c) Applications shall not be accepted unless they are accompanied by the application filing fee.

(2) Project Evaluation Fee for Complex Sources

- (a) Any person who submits an application which is related to projects to construct or modify any of the following, shall be assessed a project evaluation fee for complex sources.
 - (i) Equipment associated with landfills;
 - (ii) Equipment associated with resource recovery projects;
 - (iii) Equipment associated with energy cogeneration projects;
 - (iv) Equipment associated with electrical power plants;
 - (v) Other permit units subject to the provisions of District Rule 1303(B);
 - (vi) Emissions of hazardous and toxic material requiring a Health Risk Assessment pursuant to District Rule 1401(E)(3) or a Case-By-Case MACT determination pursuant to District Rule 1401(F)(2) and/or waste disposal or treatment facilities;
 - (vii) Any facility requiring a permit under Regulation XVII – *Prevention of Significant Deterioration*; and
 - (viii) Any other permit units where the APCO or his or her designee has determined that an analysis required pursuant to these Rules or Regulations would require over twenty-four (24) hours of staff time to complete.
- (b) A deposit of \$6,500.00 to be applied toward the project evaluation fee for complex sources shall be paid within 30 days of written notification by the District that the application is subject to this fee.
- (c) The project evaluation fee for complex sources shall be based on the District's total actual and reasonable labor time and other reasonable expenses for the evaluation required to develop a permit to construct and/or permit to operate.
 - (i) This fee shall be calculated at a labor rate of ~~\$144~~158.00 hour plus actual expenses.
 - (ii) The fee shall accrue and be applied against the deposit.

- (iii) Should the District's costs as calculated pursuant to subsection (i) above not exceed the deposit; the remainder of the deposit will be returned to the applicant.
 - (iv) Should the District's costs as calculated pursuant to subsection (i) above exceed the deposit the excess will be billed to the applicant.
 - a. The applicant shall be notified, in writing, of the amount of any such excess fee and the due date for payment of the fee.
 - b. An accounting of costs and written notice to the applicant shall be issued to the applicant at least quarterly.
 - (d) Actual expenses of the District include consultant services which are engaged by the District for the purpose of project evaluations. When project evaluations are performed for the District under such a contract, the applicant will be assessed fees for the actual total and reasonable costs incurred by the District staff to oversee, review and approve the evaluation as well as the actual cost to the District of the contractor evaluation.
 - (e) Actual expenses of the District include project notice fees which are incurred on behalf of project public notices.
 - (f) The provisions of Section (C)(2) do not apply to this fee. If the applicant fails to pay the project evaluation fee for complex sources when due the APCO shall, after written notice to the applicant, cancel the application.
- (3) Initial Permit Fee
- (a) Except as otherwise provided in this Rule, any person who applies for a new or modified permit shall, upon notification that the application has been approved, be assessed the initial permit fee for the issuance of a permit to construct or permit to operate in the amount prescribed in schedules set forth in section (E)(1).
 - (i) For applications containing mutually exclusive alternative construction scenarios the APCO may, upon written request of the applicant, assess an alternate initial permit fee. Such alternate initial permit fee shall not be less than the highest initial permit fee for any single alternative scenario set forth in the application and shall not be more than the sum of the initial permit fees for all alternative scenarios set forth in the application.
 - (b) After the provisions for granting permits as set forth in Division 26 of the Health and Safety Code and these Rules and Regulations have been complied with, the applicant shall be notified, in writing, of the amount of the fee to be paid as the initial permit fee.

- (i) Notice may be given by personal service or by mail, postage prepaid.
- (4) Annual Permit to Operate Renewal Fee
- (a) Permits to operate shall be annually renewable, upon payment of fees.
 - (b) The annual permit to operate renewal fee shall be calculated pursuant to the schedules set forth in section (E)(1).
 - (c) The annual permit to operate renewal fee shall be invoiced as specified in Section (C)(2)(c) above.
- (5) Permit to Construct Renewal Fee
- (a) Authorities to construct may be renewed, upon payment of fees, pursuant to the provisions of District Rule 201.
 - (b) The authority to construct renewal fee shall be calculated pursuant to the schedules set forth in section (E)(1).
 - (i) For applications containing mutually exclusive alternative construction scenarios the APCO may, upon written request of the applicant, assess an alternate authority to construct renewal fee. Such alternate authority to construct renewal fee shall not be less than the highest authority to construct renewal fee for any single alternative scenario set forth in the application and shall not be more than the sum of the authority to construct renewal fees for all alternative scenarios set forth in the application.
 - (c) Authorities to construct may only be renewed for two (2) years after the initial date of issuance, unless the application is canceled or an extension of time pursuant to the provisions of District Rule 205 has been granted by the APCO.
 - (d) The authority to construct renewal fee shall be invoiced as specified in Section (C)(2)(c) above.
 - (e) When construction is completed prior to the expiration of the authority to construct, the authority to construct may thereupon act as a temporary permit to operate pursuant to the provisions of District Rule 202. The residual fee for the authority to construct, calculated as a pro-rated fee for the period between the completion of construction and the expiration date of the permit, shall be applied to a pro-rated initial permit fee for the same period. Any positive difference between the residual fee and the pro-rated initial permit fee shall be invoiced as set forth in Section (C)(2).
- (6) Change of Location or Ownership Fees

- (a) Permits, pursuant to the provisions of District Rule 209, are only valid for the location specified in the permit.
 - (i) Any person who applies for a permit requesting a change in the location of equipment included on a currently valid permit shall request in writing a change of location for the equipment and may be assessed an initial permit fee if the change in location also creates additional alteration(s), modification(s), addition(s) or revision(s) in either the subject permit or other permits at the same facility.
 - (ii) The person will be notified by mail, postage prepaid, of the amount of the initial permit fee due as a result of the change of location and the due date for payment of the fee.
 - (iii) The APCO or his or her designee may, upon the applicant's written request, waive the initial permit fee.

 - (b) Permits, pursuant to the provisions of District Rule 209, are only valid as to the person named on the permit.
 - (i) Any person who applies for a permit requesting a change of ownership of equipment included on a currently valid permit shall be assessed a transfer fee of \$~~242~~266.00 for each permit being transferred from one person to another.
 - (ii) The filing fee set forth in Section (D)(1) are waived for applications solely requesting a change of ownership
 - (iii) The transfer fee for applications solely requesting a change of ownership is due at the time the application is filed.

 - (c) Any person submitting an application for a permit requesting a change of location and/or change of ownership which also requests alterations, additions or revisions to the permit shall be assessed either the fees set forth in this Section or in Section (D)(7) whichever is greater.
- (7) Alteration, Modification, Addition or Revision Fees
- (a) Any person who applies for a permit requesting alterations, modifications, additions, or revisions of the permit resulting from a change to equipment included on a currently valid permit shall be assessed an application filing fee pursuant to Section (D)(1) and a permit revision fee.
 - (b) The permit revision fee shall be calculated as follows:
 - (i) The initial permit fee for a permit which includes the alteration, addition or revision minus the previous years annual permit to operate renewal fee pro-rated for the period between the date of issuance for the permit containing the alteration addition or revisions and the original permit(s) expiration date.

- (c) The permit revision fee shall be invoiced as set forth in Section (C)(2)(c)(i).
 - (d) Any person submitting an application for a permit requesting a change of location and/or change of ownership which also requests alterations, additions or revisions to the permit shall be assessed either the fees set forth in this Section or in Section (D)(6) whichever is greater.
- (8) Fees Applicable when Permit Granted or Denied by Hearing Board
- (a) If a permit is granted by the Hearing Board after denial of an application by the APCO or after the application has been deemed denied pursuant to District Rule 215, the applicant shall be assessed the appropriate fees set forth in this Rule.
 - (b) The applicant shall be notified, in writing, of the amount of the fee and the due date for payment of the fee.
 - (c) Previously paid fees are not refundable if the Hearing Board denies the issuance of a permit which was granted by the APCO.
- (9) Signed Duplicate or Corrected Permit Fees
- (a) A request for a signed duplicate permit or for administrative corrections to a permit shall be made in writing by the permit holder.
 - (b) The permit holder may be assessed a fee of ~~\$120~~132.00 for issuing each signed duplicate or corrected permit.
 - (c) The fee for a signed duplicate or corrected permit is due at the time the permit is requested.
- (10) Previously Unpermitted or Altered Equipment Fee.
- (a) When equipment is built, erected, installed, altered, or replaced (except for identical replacement) without the owner or operator obtaining a permit to construct in accordance with Rule 201, the owner or operator shall be assessed a previously unpermitted equipment fee.
 - (b) The previously unpermitted equipment fee shall be calculated as fifty percent (50%) of all applicable permit fees which would have been required for each year of unpermitted activity, plus the full amount of all applicable permit fees for the year immediately preceding the year when the permit to operate is granted.
 - (c) The unpermitted equipment fee is due when the permit to operate is granted.

- (d) The assessment of an unpermitted equipment fee shall not limit the District's right to pursue any other remedy provided for by law.
- (e) The provisions of this subsection shall not apply if a permit is required solely due to a change in Rule 219.
- (f) The APCO may waive the unpermitted equipment fee for good cause upon the written application of the person assessed the fee.

(11) Fees for Issuance of Emission Reduction Credits

- (a) Any person submitting an application for Emission Reduction Credits pursuant to District Rule 1309 shall pay the following fees:
 - (i) An initial application fee of ~~\$718790.00~~ for each application submitted.
 - (ii) An analysis fee based upon the actual and reasonable labor time in excess of ten (10) hours labor billed at the rate of ~~\$144158.00~~ per hour.
 - (iii) The actual cost of publication of notice if such is required pursuant to District Rule 1309.
- (b) Any person submitting a document effecting an encumbrance or transfer of Emission Reduction Credits pursuant to District Rule 1309 shall pay a fee of ~~\$144158.00~~ for each document submitted.

(12) Reinstatement Fee for a Delinquent Permit

- (a) Any person who applies for delinquent permit reinstatement pursuant to the provisions of subsection (C)(3)(a) shall be assessed a fee equal to the amount of all outstanding fees, fines and penalties for the particular unit that is the subject of the permit and an initial permit fee for that unit for the current year.

(E) Schedules for Fees

- (1) Initial Permit and Annual Permit to Operate Renewal and Authority to Construct Renewal Fees.
 - (a) Any Equipment or Process subject to the provisions of this rule shall be assigned a fee classification based upon the equipment and/or process type as set forth in Table 1 of this rule.
 - (b) Any Equipment or Process subject to the provisions of this rule which is not otherwise listed in Table 1 of this rule shall be assigned fee classification B.

- (c) All applicable fees shall be assessed pursuant to the fee classifications listed in Table 1 according to the following schedule:

Equipment/Process Classification	Fee Amount
Classification A	\$400.02 <u>440.02</u>
Classification B	\$1432.68 <u>1,575.92</u>
Classification C	\$3436.74 <u>3,780.41</u>
Electrical Generating Equipment (non-emergency) rated 100,000,000 Btu/hr and less	\$4763.00 <u>5,239.30</u> plus \$113.61 <u>124.97</u> per each 1,000,000 Btu/hr
Electrical Generating Equipment (non-emergency) rated greater than 100,000,000 Btu/hr	\$13222.81 <u>14,545.09</u> plus \$28.97 <u>31.87</u> per each 1,000,000 Btu/hr
Nozzles (Rule 461)	\$43.27 <u>47.60</u> per product/per nozzle

[SIP: Not SIP.]

**Table 1
Equipment/Process Classifications**

Equipment	Classification A	Classification B	Classification C
Basic Process Systems including ancillary equipment	Any Abrasive Blasting; Anodizing; Blending; Chemical (no toxics, hazardous) Milling; Cooling Tower; Any Degreaser; Deposition Ceramics; Dry Cleaning; Etching; Film Cleaner; Grinder; Ink Mfg; Laundry; Liquid Container Filling; Packaging; Polystyrene Extrusion; Polyurethane Mfg; Refrigerant Handling and/or Processing; Smoke Generator; Soldering; Stripping; Vacuum Metallurgy	Adhesives; Air Stripper; Ammonia Process; Asphalt Process; Auto Body Shredding; Battery Charging/Mfg; Chemical (toxics, hazardous) Milling; Degreaser; Plastic/Resins Handling; Soil Vapor Extraction; Vacuum Generator; Any process not otherwise listed under any category	Landfill Gas Treatment; Liquid Hazardous Waste Processing; LPG Distiller
<u>Other Processes</u>			
Bulk and Crustal Material Handling	Aggregate Conveying, Loading and/or Unloading; Bulk Chemical Terminal; Green Waste Screening; Paper Conveying; Weigh Station	Aggregate Production; Concrete Batch Plant; Concrete/Asphalt Crushing; Other Conveying; Loading/unloading; Other Screening; Soil Treatment	All others including Asphalt Batch Plant
Coating including Printing and Coating Within Spray Booths	Asphalt/Tar Pot; Asphaltic; Can/Coil; Any Dip Tank; Fabric; Film; Flow; Paper; Printing Press, IR/UV Over, Air Dry or Screen; Roller; Spray; Stereolithography; Striping; Tablet	Asphalt Saturator; Printing Press Other; Spraying Resin/Gel Coat; Wood	
Feed/Food Preparation and Handling	Charbroiler with integral control; Feed Handling; Restaurant Charbroiler	Bakery Oven; Charbroiler no integral control; Feed Processing	All others
Fuel Handling and Storage	Bulk Loading/Unloading <50,000 gpd; Fuel Oil; LPG; Spill Sump Tank; Waste Oil; Railcar unloading to Truck; Tank with no controls	Aircraft Fueling; Bulk Loading/Unloading Rack 50,000 to <200,000 gpd; Fuel Gas Mixer; Hydrant Fueling; Natural Gas Odorizer; Toxics or Hazardous Storage Tank; Fixed Roof Tank; Tank with control system; LPG Tank with Vaporizing System; LPG Tank Truck Loading; LPG Treatment	Bulk Loading/Unloading Rack 200,000+ gpd; Gasoline Blending Plant; All others

**Table 1
Equipment/Process Classifications**

Incinerators		Crematory	All others
Sewage, Stormwater, Wastewater and Water Treatment	<10,000 gpd; Fluid Elimination; Landfill Condensate/Leachate Collection/Storage	10,000 to <50,000 gpd; Up to 5 million gpd sewage treatment; Aeration; Groundwater treatment; Landfill Gas Collection; Sewage sludge composting; Sludge Handling	All others
Storage, Non-Fuel	Asphalt <50,000 gal; Baker-Type; Dry Material; Sump Tank; Tank with control; Tank with sparging	Aqueous Ammonia; Asphalt 50,000+ gal; Catalyst	
<u>Air Pollution Control Devices</u>			
Afterburner	Non-catalytic; no more than one MMBtu per hour (supplemental fuel); single source	All others (including boilers and incinerators)	
Biofilter	No more than 100 cfm	All others	
Carbon Absorber/Adsorber	single source no toxics	All others (non-regenerating)	All others
Catalytic Reduction	Non-selective	Selective	
Dust Control including Baghouses and Cyclones	No more than 500 ft ² of filter area; all cyclones and settling chambers; All negative air machines	More than 500 ft ² of filter area; Any size hot baghouse (special filter material)	
Electrostatic Precipitators (ESP)	Less than 3000 cfm or any extruder or any restaurant	All others	
Flares	Portable	All others	Enclosed landfill/digester gas
Scrubbers and/or Mist Control including Sparging	No toxics, NO _x or SO _x control and single source and single stage; or for acid or any restaurant or any sparger	All others, including Ultraviolet Oxidation	

**Table 1
Equipment/Process Classifications**

Sterilizers	Hospital ethylene oxide	All others	
Vapor Control		All	
<i>Fuel Burning Equipment (Not Cogeneration or Generating Electricity Equipment Other Than Emergency Equipment)</i>			
Autoclaves; Chillers; Distiller; Dryers, Furnaces, Heaters, Kilns, Ovens, Roasters, Stills	<5 MMBtu/hr; Glass Furnace less than one tpd pull; Laundry; Metal Recovery; Non-Organics Dryer; Non-Toxics Evaporator; Pavement Heater	5 to <50 MMBtu/hr; Arc; Burn-Off; Catalyzed Metal Recovery; Chip Dryer; Cupola; Curing Oven with toxics/hazardous; Electric; Evaporator (Toxics); Frit; Galvanizing; Glass Furnace one to <50 tpd pull; Organics Dryer; Pot/Crucible; Natural Gas Kiln; Reveratory	All others
Boilers	<5 MMBtu/hr	5 to <50 MMBtu/hr; Up to 10 MMBtu landfill or digester gas	All others
Reciprocating Internal Combustion Engines	<500 hp; 500+ hp Emergency	All others	
Turbines	<0.3 MW(e) Emergency	0.3+ MW(e) Emergency; <50 MW(e) not on Landfill or Digester Gas	All others
Cogeneration and Electrical Generating Equipment (including Duct Burners) Equipment under this category shall be assessed a permit renewal fee calculated based on design maximum fuel consumption of the equipment expressed in British thermal units per hour, using gross heating value (See (E)(1)(c))			
Nozzles (Rule 461) Permits subject to District Rule 461 shall be assessed a single permit renewal fee calculated as follows: the number of fuel dispensing nozzles multiplied by the number of products dispensed through each nozzle at the facility.			

APPENDIX "B"
PUBLIC NOTICE DOCUMENTS

1. Draft Notice of Public Hearing – Antelope Valley Press 04/13/2018
2. Notice of Public Hearing – Antelope Valley Press 06/15/2018

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**NOTICE OF HEARING
PROPOSED BUDGET FOR FISCAL YEAR 2018-19**

NOTICE IS HEARBY GIVEN that the Governing Board of the Antelope Valley Air Quality Management District (AVAQMD) will conduct a public hearing on May 15, 2018 at 10:00 A.M. to consider the Proposed Budget for Fiscal Year 2018-19. Comments regarding the Proposed Budget may be submitted in writing before, during, or after the hearing.

SAID HEARING will be conducted in the Governing Board Chambers located at the AVAQMD offices, 43301 Division Street, Suite 206, Lancaster, CA 93535-4649 where all interested persons may be present and be heard.

Copies of the Proposed Budget for 2018-19 are posted on the AVAQMD website at www.avaqmd.ca.gov and are also available at the AVAQMD Office at the above address.

Contact Bret Banks at (661) 723-8070 ext 2 for further information.

**NOTICE OF AVAILABILITY OF DRAFT RULE AND PUBLIC HEARING REGARDING
PROPOSED AMENDMENTS TO
RULE 301 – PERMIT FEES**

NOTICE IS HEARBY GIVEN that the Governing Board of the Antelope Valley Air Quality Management District (AVAQMD) will conduct a public hearing on May 15, 2018 at 10:00 A.M. regarding proposed amendments to Rule 301 – *Permit Fees* to comply with the requirements of Health & Safety Code §42311(e). An additional public hearing will be held on June 19, 2018 at 10:00 A.M. at the same place mentioned above.

Overall increases in operating expenses require adjustments in permit fees. The AVAQMD is proposing a fee increase of 5% to recover the rising costs of issuing air quality permits; performing inspections, investigations, enforcing district rules and regulations.

To allow time to implement the proposed fee changes in the computerized billing system, this amendment is proposed to be effective on January 1, 2019.

SAID HEARING will be conducted in the Governing Board Chambers located at the AVAQMD offices, 43301 Division Street, Suite 206, Lancaster, CA 93535-4649 where all interested persons may be present and be heard. Copies of the proposed amendment on Rule 301 – *Permit Fees* and the Staff Report are posted on the AVAQMD website at www.avaqmd.ca.gov and are also available at the AVAQMD Office at 43301 Division Street Avenue, Suite 206, Lancaster, CA 93535. Written comments may be submitted to Bret Banks, APCO at the above office address, and should be received no later than June 18, 2018 to be considered.

If you have any questions you may contact Barbara Lods at (661) 723-8070 x3 or via E-mail at blods@avaqmd.ca.gov for further information. Traducción esta disponible por solicitud.

Pursuant to the California Environmental Quality Act (CEQA) the AVAQMD has determined that a Categorical Exemption (Class 8 – 14 Cal. Code Reg §15308) applies and has prepared a Notice of Exemption for this action

AFFIDAVIT OF PUBLICATION

(2015.5 C.C.P.)

STATE OF CALIFORNIA

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The space above for filing stamp only

County of Los Angeles

**NOTICE OF HEARING
RULE 301**

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of the **Antelope Valley Press**, a newspaper of general circulation, printed and published daily in the City of Palmdale, County of Los Angeles, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California, under date of October 24, 1931, Case Number 328601; Modified Case Number 657770 April 11, 1956; also operating as the Ledger-Gazette, adjudicated a legal newspaper June 15, 1927, by Superior Court decree No. 224545; also operating as the Desert Mailer News, formerly known as the South Antelope Valley Foothill News, adjudicated a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California on May 29, 1967, Case Number NOC564 and adjudicated a newspaper of general circulation for the City of Lancaster, State of California on January 26, 1990, Case Number NOC10714, Modified October 22, 1990; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

June 15, 2018

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

Signature

Dated: June 15, 2018
Executed at Palmdale, California

Valley Press

37404 SIERRA HWY., PALMDALE CA 93550
Telephone (661)267-4112/Fax (661)947-4870

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the Governing Board of the Antelope Valley Air Quality Management District (AVAQMD) will conduct a public hearing on July 17, 2018 at 10:00 A.M. to consider the proposed amendment to Rule 301 - Permit Fees.

Overall increases in operating expenses require adjustments in permit fees. The AVAQMD is proposing a 10% fee increase to Rule 301 - Permit Fees to recover the rising costs of issuing air quality permits, performing inspections, investigations, and enforcing district rules and regulations.

At its May 15, 2018 meeting, the Governing Board discussed fee increases during the budgetary hearing and directed staff to adjust Rule 301 by 10%. Since this amount was different than the original proposed fee adjustment, additional notification of permit holders was deemed necessary for proper adoption.

To allow time to implement the proposed fee changes in the computerized billing system, this amendment is proposed to be effective on January 1, 2019.

SAID HEARING will be conducted in the Governing Board Chambers located at the AVAQMD offices, 43301 Division Street, Suite 208, Lancaster, CA 93536-4649 where all interested persons may be present and be heard. Copies of the proposed amendment to Rule 301 - Permit Fees and the Staff Report are posted on the AVAQMD website at www.avaqmd.ca.gov and are also available at the AVAQMD Office at 43301 Division Street Avenue, Suite 208, Lancaster, CA 93535. Written comments may be submitted to Bret Banks, APCO, at the above office address, and should be received no later than July 16, 2018 to be considered. If you have any questions you may contact Barbara Lods at (661) 723-8970 x3 or via E-mail at blods@avaqmd.ca.gov for further information. Traducción esta disponible por solicitud.

Pursuant to the California Environmental Quality Act (CEQA) the AVAQMD has determined that a Categorical Exemption (Class 8 - 14 Cal. Code Reg 15308) applies and has prepared a Notice of Exemption for this action.

Publish: June 15, 2018

AVAQMD
JUN 25 2018
RECEIVED

APPENDIX "C"
PUBLIC COMMENTS AND RESPONSES

None received to date.

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APPENDIX "D"
CALIFORNIA ENVIRONMENTAL QUALITY ACT
DOCUMENTATION

1. Notice of Exemption (Draft) – Los Angeles County

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NOTICE OF EXEMPTION

TO: Los Angeles County Clerk
12400 E. Imperial Hwy, #1001
Norwalk, CA 90650

FROM: Antelope Valley
Air Quality Management District
43301 Division Street, Suite 206
Lancaster, CA 93535-4649

AVAQMD Clerk of the Governing Board

PROJECT TITLE: Amendment of Rule 301 – *Permit Fees*

PROJECT LOCATION – SPECIFIC: Los Angeles County portion of the Mojave Desert Air Basin.

PROJECT LOCATION – COUNTY: Los Angeles County

DESCRIPTION OF PROJECT: The District's proposed 10% fee increase will recover the projected \$54k increase in expenditures related to the costs of the permitting program and implementing district rules and regulations; issuing air quality permits; performing facility inspections, and public complaint investigations and rule development activities. Funds from other sources, including the use of AB2766 (Motor Vehicle Registration Fee Program) fees, State subvention funds and implementation of cost reductions will be utilized for district operating expenditures. At its May 15, 2018 meeting, the Governing Board discussed fee increases during the budgetary hearing and directed staff to adjust Rule 301 by 10%. Since this amount was different than the original proposed fee adjustment, additional notification of permit holders was deemed necessary for proper adoption.

To allow time to implement the proposed fee changes in the computerized billing system, this amendment is proposed to be effective on January 1, 2019.

NAME OF PUBLIC AGENCY APPROVING PROJECT: Antelope Valley AQMD

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Antelope Valley AQMD

EXEMPT STATUS (CHECK ONE)

Ministerial (Pub. Res. Code §21080(b)(1); 14 Cal Code Reg. §15268)

Emergency Project (Pub. Res. Code §21080(b)(4); 14 Cal Code Reg. §15269(b))

Categorical Exemption – Class 8 (14 Cal Code Reg. §15308)

REASONS WHY PROJECT IS EXEMPT: The proposed amendments to Rule 301 – *Permit Fees* are exempt from CEQA review because they merely adjust fees and there is not potential that the amendments might cause the release of additional air contaminants or create any adverse environmental impacts, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies.

LEAD AGENCY CONTACT PERSON: Bret Banks **PHONE:** (661) 723-8070

SIGNATURE: _____

TITLE: Executive Director/APCO **DATE:** July 17, 2018

DATE RECEIVED FOR FILING:

AVAQMD Rule 301
Staff Report D2, 06/12/2018

D-3

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APPENDIX "E" BIBLIOGRAPHY

The following documents were consulted in the preparation of this staff report and the proposed amendments to Rule 301 – *Permit Fees*:

1. AVAQMD Proposed Budget for Fiscal Year 2018-19

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The following page(s) contain the backup material for Agenda Item: [Conduct a public hearing to consider the amendment of Rule 1171 - Solvent Cleaning Operations: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the CEQA Categorical Exempti](#)

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #6

DATE: July 17, 2018

RECOMMENDATION: Conduct a public hearing to consider the amendment of Rule 1171 – *Solvent Cleaning Operations*: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the CEQA Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption amending Rule 1171 – *Solvent Cleaning Operations* and directing staff actions.

SUMMARY: Rule 1171 is proposed for amendment to enhance work practices, adjust categories for consistency with source specific rules, reduce VOC limits and address the alternative composite vapor pressure.

BACKGROUND: The Antelope Valley Air Pollution Control District (AVAPCD) was created by statute on July 1, 1997, with a jurisdiction of the Los Angeles County portion of the South Coast Air Quality Management District (SCAQMD) that was not within the South Coast Air Basin. SCAQMD rules in effect in the AVAPCD remained in effect until the AVAPCD Governing Board superseded or amended them. On January 1, 2002 the AVAQMD was formed pursuant to statute (Health & Safety Code §§41300 et seq.) to replace the AVAPCD. The rules of the AVAPCD also remain in effect until the AVAQMD Governing Board supersedes or amends them.

The Federal Clean Air Act (FCAA) requires areas designated non-attainment and classified moderate and above to implement Reasonably Available Control Technology (RACT) for sources subject to Control Technique Guidelines (CTG) documents issued by United States Environmental Protection Agency (USEPA) and for “major sources” of Volatile Organic Compounds (VOCs) and Oxides of Nitrogen (NO_x) which are ozone precursors. The District adopted the *8-Hour Reasonably Available Control Technology – State Implementation Plan Analysis (RACT SIP Analysis)* in July 2015 for the 2008, 75 ppb ozone National Ambient Air Quality Standards (NAAQS). This document committed to amending Rule 1171 to enhance work practices, adjust categories for consistency with source specific rules, reduce VOC limits and address the alternative composite vapor pressure.

Cc: Barbara Lods

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #6

PAGE 2

This rule is subject to the CTG's titled *Industrial Cleaning Solvents (EPA-453/R-06-001, September 2006)*. The AVAQMD is now proposing to amend Rule 1171 – *Solvent Cleaning Operations* to reflect current federal RACT.

Rule 1171 was originally adopted on 08/02/91 by the SCAQMD and subsequently amended on 05/12/95, 09/13/96, and 06/13/97. The version of Rule 1171, as amended by SCAQMD on 06/13/97, was the initial rule of the AVAPCD. On 11/17/98 the AVAPCD amended Rule 1171. The 11/17/98 version is the current version in the AVAQMD rule book.

AVAQMD submitted the 11/17/98 version of Rule 1171 for inclusion to the SIP. USEPA finalized approval on 05/24/01 (66 FR 28666).

The proposed amendment of Rule 1171 – *Solvent Cleaning Operations* addresses the 2015 *RACT SIP Analysis* commitment to amend Rule 1171 and also addresses work practices, adjusting categories for consistency with source specific rules, reducing VOC limits and addressing the alternative composite vapor pressure. The proposed amendments are based on the CTG, South Coast Air Quality Management District Rule 1171 - *Solvent Cleaning Operations*, amended 02/01/08, Yolo-Solano AQMD Rule 2.31 – *Solvent Cleaning and Degreasing*, amended 04/12/17, and San Joaquin Valley Air Pollution Control District Rule 4663 - *Organic Solvent Cleaning Storage and Disposal*, amended 09/20/07 and Rule 4605 - *Aerospace Assembly and Component Manufacturing Operations*, amended 06/16/11. A Notice of Exemption, Categorical Exemption (Class 8; 14 Cal. Code Reg. §15308) will be prepared by the AVAQMD for the Amendment of Rule 1171 pursuant to the requirements of CEQA.

REASON FOR RECOMMENDATION: Health & Safety Code §§40702 and 40703 require the Governing Board to hold a public hearing before adopting rules and regulations. Also, 42 U.S.C. §7410(l) (FCAA §110(l)) requires that all SIP revisions be adopted after public notice and hearing.

REVIEW BY OTHERS: This item was reviewed as to legal form by Karen Nowak, District Counsel and by Bret Banks, Executive Director/APCO on or before July 2, 2018.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Bret Banks, Executive Director/APCO

RESOLUTION 18-04

A RESOLUTION OF THE GOVERNING BOARD OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT MAKING FINDINGS, CERTIFYING THE NOTICE OF EXEMPTION, AMENDING RULE 1171-SOLVENT CLEANING OPERATIONS AND DIRECTING STAFF ACTIONS.

On, July 17, 2018, on motion by Member Board Member Name, seconded by Member Board Member Name, and carried, the following resolution is adopted:

WHEREAS, the Antelope Valley Air Quality Management District (AVAQMD) has authority pursuant to California Health and Safety Code (H&S Code) §§40702, 40725-40728 to adopt, amend or repeal rules and regulations; and

WHEREAS, the Antelope Valley Air Pollution Control District (AVAPCD) was created by statute on July 1, 1997, with a jurisdiction of the Los Angeles County portion of the South Coast Air Quality Management District (SCAQMD) that was not within the South Coast Air Basin; and

WHEREAS, SCAQMD rules in effect in the AVAPCD remained in effect until the AVAPCD Governing Board superseded or amended them; and

WHEREAS, on January 1, 2002 the AVAQMD was formed pursuant to statute (H&S Code §§41300 et seq) to replace the AVAPCD; and

WHEREAS, the rules of the AVAPCD also remain in effect until the AVAQMD Governing Board supersedes or amends them; and

WHEREAS, the Federal Clean Air Act (FCAA) requires areas designated non-attainment and classified moderate and above to implement Reasonably Available Control Technology (RACT) for sources subject to Control Technique Guidelines (CTG) documents issued by United States Environmental Protection Agency (USEPA) and for “major sources” of Volatile Organic Compounds (VOCs) and Oxides of Nitrogen (NO_x) which are ozone precursors; and

WHEREAS, the District adopted the *8-Hour Reasonably Available Control Technology – State Implementation Plan Analysis (RACT SIP Analysis)* in July 2015 for the 2008, 75 ppb ozone National Ambient Air Quality Standards (NAAQS); and

WHEREAS, this document committed to amending Rule 1171 to enhance work practices, adjust categories for consistency with source specific rules, reduce VOC limits and address the alternative composite vapor pressure; and

RESOLUTION 18-04

1 **WHEREAS**, this rule is subject to the CTG titled *Control Techniques Guidelines: Industrial*
2 *Cleaning Solvents, (EPA-453/R-06-001, September 2006; and*

3 **WHEREAS**, the AVAQMD is now proposing to amend Rule 1171 – *Solvent Cleaning*
4 *Operations* to reflect current federal RACT; and

5 **WHEREAS**, rule 1171 was originally adopted on 08/02/91 by the SCAQMD and subsequently
6 amended on 05/12/95, 09/13/96, and 06/13/97; and

7 **WHEREAS**, the version of Rule 1171, as amended by SCAQMD on 06/13/97, was the initial rule
8 of the AVAPCD; and

9 **WHEREAS**, on 11/17/98 the AVAPCD amended Rule 1171; and

10 **WHEREAS**, the 11/17/98 version is the current version in the AVAQMD rule book; and

11 **WHEREAS**, AVAQMD submitted the 11/17/98 version of Rule 1171 for inclusion to the SIP;
12 and

13 **WHEREAS**, USEPA finalized approval of the 11/17/98 version of Rule 1171 on 05/24/01 (66 FR
14 28666); and

15 **WHEREAS**, the proposed amendment of Rule 1171 – *Solvent Cleaning Operations* addresses the
16 2015 *RACT SIP Analysis* commitment; and

17 **WHEREAS**, the proposed amendments are based on the Control Technique Guidelines: Industrial
18 *Cleaning Solvents, South Coast Air Quality Management District Rule 1171 - Solvent Cleaning*
19 *Operations, amended 02/01/08, Yolo-Solano AQMD Rule 2.31 – Solvent Cleaning and Degreasing,*
20 *amended 04/12/17, and San Joaquin Valley Air Pollution Control District Rule 4663 - Organic Solvent*
21 *Cleaning Storage and Disposal, amended 09/20/07 and Rule 4605 - Aerospace Assembly and Component*
22 *Manufacturing Operations, amended 06/16/11; and*

23 **WHEREAS** the District has the authority pursuant to California Health and Safety Code (H&S
24 Code) §40702 to adopt, amend or repeal rules and regulations; and

25 **WHEREAS**, the proposed amendments to Rule 1171 are clear in that they are written so that the
26 persons subject to the rule can easily understand the meaning; and

27 **WHEREAS**, the proposed amendments to Rule 1171 are in harmony with, and not in conflict
28 with or contradictory to any state law or regulation, federal law or regulation, or court decisions; and

RESOLUTION 18-04

1 **WHEREAS**, the proposed rule is consistent with the CTG provisions and other District rules
2 deemed to meet RACT; and

3 **WHEREAS**, the proposed amendments do not impose the same requirements as any existing state
4 or federal regulation because CTGs are primarily guidance documents and not enforceable in and of
5 themselves and a rule is necessary to implement the applicable provisions of these documents; and

6 **WHEREAS**, a public hearing has been properly noticed and conducted, pursuant to H&S Code
7 §40725, concerning the proposed amendments to Rule 1171; and

8 **WHEREAS**, a Notice of Exemption, a Categorical Exemption (Class 8, 14 CCR §15308) for the
9 proposed amendments to Rule 1171, completed in compliance with the California Environmental Quality
10 Act (CEQA), has been presented to the AVAQMD Board; each member having reviewed, considered and
11 approved the information contained therein prior to acting on the proposed amendments to Rule 1171, and
12 the AVAQMD Board having determined that the proposed amendments will not have any potential for
13 resulting in any adverse impact upon the environment; and

14 **WHEREAS**, the Board has considered the evidence presented at the public hearing; and

15 **NOW, THEREFORE, BE IT RESOLVED**, that the Governing Board of the AVAQMD finds
16 that the proposed amendments to Rule 1171 – *Solvent Cleaning Operations* are necessary, authorized,
17 clear, consistent, non-duplicative and properly referenced; and

18 **BE IT FURTHER RESOLVED**, that the Governing Board of the AVAQMD hereby makes a
19 finding that the Class 8 Categorical Exemption (14 CCR §15308) applies and certifies the Notice of
20 Exemption for the proposed amendments to Rule 1171; and

21 **BE IT FURTHER RESOLVED**, that the Board of the AVAQMD does hereby adopt, pursuant to
22 the authority granted by law, the proposed amendments to Rule 1171, as set forth in the attachments to
23 this resolution and incorporated herein by this reference; and

24 **BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately upon adoption,
25 that the Clerk of the Board is directed to file the Notice of Exemption in compliance with the provisions
26 of CEQA.

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28 //

RESOLUTION 18-04

1 **PASSED, APPROVED AND ADOPTED** by the Governing Board of the Antelope Valley Air Quality
2 Management District by the following vote:

- 3 AYES: MEMBER:
- 4 NOES: MEMBER:
- 5 ABSENT: MEMBER:
- 6 ABSTAIN: MEMBER:

7

8 STATE OF CALIFORNIA)
)
 9 COUNTY OF LOS ANGELES) SS:
)

11 I, Deanna Hernandez, Senior Executive Analyst of the Antelope Valley Air Quality Management
12 District, hereby certify the foregoing to be a full, true and correct copy of the record of the action as the
13 same appears in the Official Minutes of said Governing Board at its meeting of July 17, 2018.

14 _____
 15 Senior Executive Analyst
 16 Antelope Valley Air Quality Management District.

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RULE 1171

Solvent Cleaning Operations

(A) General

(1) Purpose

- (a) The purpose of this rule is to limit emissions of Volatile Organic Compounds (VOCs) from Solvent Cleaning operations and activities, and from the storage and disposal of these materials used for such operations.

(2) Applicability

- (a) This rule applies to all Persons who use VOC-containing materials in Solvent Cleaning operations during the production, repair, maintenance, or servicing of parts, products, tools, machinery, equipment, or general work areas, and to all Persons who store and dispose of VOC containing materials used in Solvent Cleaning.

(B) Definitions

For the purpose of this rule, the following definitions shall apply:

- (1) “Aerosol Product” - A hand-held, non-refillable container which expels pressurized product by means of a propellant-induced force.
- (2) “Aerospace Vehicle or Components”: - Any fabricated part, processed part, assembly of parts or completed unit, with the exception of electronic components, of any Aircraft, including but not limited to airplanes, helicopters, missiles, rockets, Space Vehicles. Including, but not limited to, integral equipment such as models, mock-ups, prototypes, molds, jigs, tooling, hardware jackets, and test coupons.
- (3) “Aircraft” - Any machine designed to travel through the air, without leaving the earth's atmosphere, whether heavier or lighter than air, including airplanes, balloons, dirigibles, helicopters, and missiles.
- (4) “Air Pollution Control Officer (APCO)” - The Person appointed to the position of Air Pollution Control Officer of the District pursuant to the provisions of the California Health & Safety Code §40750, and his or her designee.
- (5) “Application Equipment” - A device used to apply adhesive, coating, ink, or polyester resin materials.

- (6) “Cured Coatings, Cured Inks, and Cured Adhesives” - Coatings, inks, and adhesives which are dry to the touch.
- (7) “District” - The Antelope Valley Air Quality Management District that includes the geographical area described in District Rule 103.
- (8) “Electrical Apparatus Components” - All internal components such as wires, windings, stators, rotors, magnets, contacts, relays, energizers, and connections in apparatus that generates or transmits electrical energy including, but not limited to generators, transformers, and electric motors.
- (9) “Electronic Components” - All portions of an assembly, including circuit card assemblies, printed wire assemblies, printed circuit boards, soldered joints, ground wires, bus bars, and other electrical fixtures, except for the actual cabinet in which the components are housed.
- (10) “Exempt Compounds” - Those compounds listed in 40 CFR 51.100(s).
- (11) “Facility” - A business or businesses engaged in Solvent Cleaning Operations which are owned or operated by the same Person or Persons and are located on the same or contiguous parcels.
- (12) “Grams of VOC Per Liter Of Material” - The weight of VOC per volume of material, calculated by the following equation:

$$\text{Grams of VOC per liter of material} = \frac{W_s - W_w - W_{ec}}{V_m}$$

Where:

W_s	=	Weight of volatile compounds in grams
W_w	=	Weight of water in grams
W_{ec}	=	Weight of Exempt Compounds in grams
V_m	=	Volume of material in liters

- (13) “High Precision Optics” - Optical elements used in electro-optical devices which are designed to sense, detect, or transmit light energy, including specific wavelengths of light energy and changes in light energy levels.
- (14) “Janitorial Cleaning” - The cleaning of building or Facility components, such as floors, ceilings, walls, windows, doors, stairs, bathrooms, etc.
- (15) “Liquid Leak” - The visible liquid solvent leak from the container at a rate of more than three (3) drops per minute, or a visible liquid mist.
- (16) “Manufacturing Process” - The process of making goods or articles by hand or by machinery.

- (17) “Medical Device” - An instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar article, including any component or accessory, that meets one of the following conditions:
- (a) Is intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease; or
 - (b) Is intended to affect the structure or any function of the body; or
 - (c) Is defined in the National Formulary or the United States Pharmacopeia, or any supplement to them.
- (18) “Non-Absorbent Containers”: - Containers made of nonporous material which does not allow the migration of the liquid Solvent through them.
- (19) “Non-Atomized Solvent Flow”: - The use of a solvent in the form of a liquid stream without atomization to remove uncured adhesives, uncured inks, uncured coatings, and contaminants from an article.
- (20) “Non-Leaking Containers”: - Containers without Liquid Leaks.
- (21) “Person”: - Any firm, business establishment, association, partnership, corporation or individual, whether acting as principal, agent, employee, or other capacity including any governmental entity or charitable organization.
- (22) “Pharmaceutical Facility”: - Any facility producing or blending chemicals for use in pharmaceutical products and/or employing chemical processes in the manufacture of pharmaceutical products or medical devices. Pharmaceutical facilities may include, but are not limited to, establishments primarily engaged in manufacturing, fabricating, or processing medicinal chemicals and pharmaceutical products for human or veterinary use.
- (23) “Radiation Effect Coating”: - A material that prevents radar detection.
- (24) “Remote Reservoir Cleaner”: - A cleaning device in which liquid solvent is pumped from a solvent container to a sink-like work area and the solvent from the sink-like area drains into an enclosed solvent container while parts are being cleaned.
- (25) “Repair and Maintenance Cleaning”: - A Solvent Cleaning Operation or activity carried out to:
- (a) Return a damaged object or an object not operating properly to good condition; or
 - (b) Maintain tools, machinery equipment (excluding Application Equipment) or general work areas, in clean and good operational condition.

- (26) “Scientific Instruments”: - Instruments (including the components, assemblies, and subassemblies used in their manufacture) and associated accessories and reagents which are used for the detection, measurement, analysis, separation, synthesis, or sequencing of various compounds.
- (27) “Screen Printing”: - A process in which ink passes through a web or a fabric to which a refined form of stencil has been applied. The stencil openings determine the form and dimensions of the imprint.
- (28) “Solvent”: - A VOC-containing liquid used to perform Solvent Cleaning.
- (29) “Solvent Cleaning”: - The removal of loosely held uncured adhesives, uncured inks, uncured coatings, and contaminants which include, but are not limited to, dirt, soil, and grease from parts, products, tools, machinery, equipment, and general work areas. Each distinct method of cleaning in a cleaning process, which consists of a series of cleaning methods, shall constitute a separate Solvent Cleaning operation.
- (30) “Solvent Flushing”: - The use of a Solvent to remove uncured adhesives, uncured inks, uncured coatings, or contaminants from the internal surfaces and passages of the equipment by flushing Solvent through the equipment.
- (31) “Space Vehicle” – A vehicle designed to travel beyond earth's atmosphere.
- (32) “Sterilization Indicating Ink”: - Ink that changes color to indicate that sterilization has occurred. Such ink is used to monitor the sterilization of medical instruments, autoclave efficiency, and the thermal processing of foods for prevention of spoilage.
- (33) “Stripping”: - The removal of Cured Coatings, Cured Inks, and Cured Adhesives.
- (34) “Surface Preparation”: - The removal of contaminants such as dust, soil, oil, grease, etc., prior to coating, adhesive, or ink applications.
- (35) “United States Environmental Protection Agency (USEPA)”: - The United States Environmental Protection Agency, the Administrator of the USEPA and his or her authorized representative.

- (36) “VOC Composite Partial Pressure”: - The sum of the partial pressures of the compounds defined as VOCs. VOC Composite Partial Pressure is calculated as follows:

$$PP_c = \frac{\sum_{i=1}^n \frac{(W_i)(VP_i)}{MW_i}}{\frac{W_w}{MW_w} + \frac{W_e}{MW_e} + \sum_{i=1}^n \frac{W_i}{MW_i}}$$

- Where:
- W_i = Weight of the "i"th VOC compound, in grams
 - W_w = Weight of water in grams
 - W_e = Weight of exempt compound, in grams
 - MW_i = Molecular weight of the "i"th VOC compound, in grams per gram-mole
 - MW_w = Molecular weight of water, in grams per gram-mole
 - MW_e = Molecular weight of exempt compound, in grams per gram-mole
 - PP_c = VOC Composite Partial Pressure at 20°C, in mm Hg
 - VP_i = Vapor pressure of the "i"th VOC compound at 20°C, in mm Hg

- (40) “Volatile Organic Compound (VOC)”: - Any volatile compound of carbon, excluding methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate, and Exempt Compounds.
- (41) “Wipe Cleaning”: - The method of cleaning a surface by physically rubbing it with a material such as a rag, paper, sponge or a cotton swab moistened with a Solvent.

(C) Requirements

(1) Solvent Requirements

(a) A Person shall not perform Solvent Cleaning unless the Solvent complies with the applicable requirements set forth below or:

Solvent Cleaning Activity		VOC Content Limit* grams/liter (lb/gal)	
		Limit	
(i) Product Cleaning During Manufacturing Process or Surface Preparation for Adhesive, Coatings or Ink Application	General	50 (0.42)	
	Electrical Components and Electronic Apparatus Components	100 (0.83)	
	Medical Devices & Pharmaceuticals	800 (6.7)	
(ii) Repair and Maintenance Cleaning	General	50 (0.42)	
	Electrical Components and Electronic Apparatus Components	100 (0.83)	
	Medical Devices & Pharmaceuticals	Tools, Equipment & Machinery	800 (6.7)
		General Work Surface	600 (5.0)
(iii) Cleaning of Adhesives or Coating Application Equipment	General	50 (0.42)	
	Aerospace Vehicle or Component	200 g/L (1.67) or 45 mmHg	
(iv) Cleaning of Ink Application Equipment	General	50 (0.42)	
	Screen Printing	100 (0.83)	
(v) Cleaning of Polyester Resin Application Equipment		50 (0.42)	

*For Aerospace Vehicle or Components, the solvent must comply with either the VOC Content limit in grams/Liter (g/L) or the VOC Composite Partial Pressure limit in millimeters mercury (mmHg).

(b) Has a VOC Composite Partial Pressure of 8 mmHg at 20° C (68° F), calculated using the equation in subsection (B)(36) of this rule:

(i) Except for Cleaning of Ink Application Equipment, Screen Printing which has a VOC Composite Partial Pressure of 5 mmHg at 20° C (68° F).

(2) Cleaning Devices and Methods Requirements

- (a) A Person shall not perform Solvent Cleaning unless one of the following cleaning devices or methods is used:
- (i) Wipe Cleaning;
 - (ii) Cleaning within closed containers or by using hand held spray bottles from which Solvents are applied without a propellant-induced force;
 - (iii) Cleaning equipment which has a Solvent container that is closed during cleaning operations, except when depositing and removing objects to be cleaned, and is closed during nonoperation with the exception of maintenance and repair to the cleaning equipment itself;
 - (iv) Remote Reservoir Cleaner used pursuant to the provisions of subsection (C)(3);
 - (v) Non-Atomized Solvent Flow method where the cleaning Solvent is collected in a container or a collection system which is closed except for Solvent collection openings and, if necessary, openings to avoid excessive pressure build-up inside the container; or
 - (vi) Solvent Flushing method where the cleaning Solvent is discharged into a container which is closed except for Solvent collection openings and, if necessary, openings to avoid excessive pressure build-up inside the container. The discharged Solvent from the equipment must be collected into containers without atomizing into the open air. The Solvent may be flushed through the system by air or hydraulic pressure, or by pumping.
- (b) A Person shall not atomize any Solvent unless it is vented to an air pollution control equipment which meets the requirements of subsection (C)(5).
- (c) A Person shall not specify or require any Person to use Solvent or equipment subject to the provisions of this rule that does not meet the requirements of this rule.
- (d) A Person shall not perform Solvent Cleaning activities or operations subject to the provisions of this rule with any material which contains any of the following compounds:
- 1,1,1-trichloroethane (methyl chloroform);
 - trichlorofluoromethane (CFC-11);
 - dichlorodifluoromethane (CFC-12);

- 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
- 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114);
- chloropentafluoroethane (CFC-115);
- ethylfluoride (HFC-161);
- 1,1,1,3,3,3-hexafluoropropane (HFC-236fa);
- 1,1,2,2,3-pentafluoropropane (HFC-245ca);
- 1,1,2,3,3-pentafluoropropane (HFC-245ea);
- 1,1,1,2,3-pentafluoropropane (HFC-245eb);
- 1,1,1,3,3-pentafluoropropane (HFC-245fa);
- 1,1,1,2,3,3-hexafluoropropane (HFC-236ea);
- 1,1,1,3,3-pentafluorobutane (HFC-365mfc);
- chlorofluoromethane (HCFC-31);
- 1-chloro-1-fluoroethane (HCFC-151a); or
- 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a).

(3) Remote Reservoir Cleaners

- (a) Any Person owning or operating a Remote Reservoir Cleaner shall comply with all of the following requirements, in addition to the VOC limits for Repair and Maintenance Cleaning specified in subsection (C)(1)(a)(ii):
- (i) Prevent Solvent vapors from escaping from the Solvent container by using such devices as a cover or a valve when the remote reservoir is not being used, cleaned, or repaired;
 - (ii) Direct Solvent flow in a manner that will prevent liquid Solvent from splashing outside of the Remote Reservoir Cleaner;
 - (iii) Do not clean porous or absorbent materials, such as cloth, leather, wood, or rope; and
 - (iv) Use only Solvent containers free of all Liquid Leaks. Auxiliary equipment, such as pumps, pipelines, or flanges, shall not have any Liquid Leaks, visible tears, or cracks. Any Liquid Leak, visible tear, or crack detected shall be repaired within one (1) calendar day, or the leaking section of the remote reservoir cold cleaner shall be drained of all Solvent and shut down until it is replaced or repaired.

(4) Storage and Disposal

- (a) All VOC-containing Solvents, used in Solvent Cleaning operations, or a waste or used product, including items such as cloth or paper laden with VOC containing materials, shall be stored in Non-Absorbent, Non-Leaking Containers which shall be kept closed at all times except when filling or emptying, and disposed of in a manner to prevent evaporation of VOCs into the atmosphere at the facility.

(5) Control Equipment

- (a) In lieu of complying with the requirements in subsection (C)(1)(a) or (C)(2), a Person may comply by using a VOC emission collection and control system in association with the Solvent Cleaning operation provided:
- (i) The emission control system shall collect at least 90 percent, by weight, of the emissions generated by the Solvent Cleaning operation; and
1. have a destruction efficiency of at least 95 percent, by weight, or
 2. have an output of less than 50 parts per million (PPM) calculated as carbon with no dilution; or
- (ii) The emission control system meets the requirements of the applicable source specific rule of the District's Regulation XI. The collection system for cleaning in Screen Printing and cleaning of Application Equipment used for Screen Printing materials shall collect at least 70 percent, by weight, of the emissions generated. This control system shall reduce emissions from the emission collection system by at least 95 percent.

(D) Recordkeeping Requirements

- (1) Records shall be maintained pursuant to Rule 109 for all applications subject to this rule, including those exempted under section (F), except the following:
- (a) Facilities are required to keep records of VOC used pursuant to any other Regulation XI rules.
- (2) Records shall be maintained to record the amount and type of each solvent used at each process on a daily basis. The following information should be included:
- (a) The name of the solvent;
 - (b) The name of the solvent manufacturer;
 - (c) The VOC content of the solvent expressed in grams/liter or lb/gallon;
 - (d) Solvent usage; and
 - (e) The mix ratio for the cleaning solvent as applied.

- (3) If compliance with this rule is achieved through the use of an Emission Control System, in addition to the provisions of subsection (D)(2), records shall also include:
- (a) Daily records of temperatures, pressures, flowrates, and hours of operation of the control device to verify compliance of the capture and control device; and
 - (b) Records of maintenance work which interferes with the operation of the control device.
- (4) All records shall be maintained and on site for a period of five (5) years and made available to the APCO or District staff upon request.

(E) Test Methods

- (1) For the purpose of this rule, the following test methods shall be used. Other test methods determined to be equivalent after review by District staff, the Air Resources Board, and the USEPA, and approved in writing by the APCO and the USEPA, may also be used.
- (a) The VOC content of materials subject to the provisions of this rule shall be determined by the following methods:
 - (i) USEPA Reference Method 24 (Code of Federal Regulations, Title 40, Part 60, Appendix A) and subsection (B)(12) of this rule.
 - (b) Exempt Perfluorocarbon Compounds
 - (i) The following classes of compounds will be analyzed as Exempt Compounds for compliance with Section (C), only when manufacturers specify which individual compounds are used in the Solvent formulation and identify the USEPA, California Air Resources Board, and other USEPA-approved test methods used to quantify the amount of each exempt compound:
 1. cyclic, branched, or linear, completely fluorinated alkanes;
 2. cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
 3. cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
 4. sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

- (c) Determination of VOC Composite Partial Pressure
 - (i) The identity and quantity of components in Solvents shall be determined by ASTM Method D323-94. The VOC Composite Partial Pressure is calculated using the equation in subsection (B)(36) of this rule.
- (d) Determination of Presence of VOC in Cleaning Materials
 - (i) The presence of VOC in liquid cleaning materials shall be determined by SCAQMD Method 308 (Quantitation of Compounds by Gas Chromatography) contained in the SCAQMD "Laboratory Methods of Analysis for Enforcement Samples" manual.
- (e) Determination of Efficiency of Emission Control System
 - (i) The efficiency of the collection device of the emission control system as specified in subsection (C)(5)(a)(i) shall be determined by the USEPA method cited in USEPA's publication entitled "Guidelines for Determining Capture Efficiency", January 9, 1995, in conjunction with USEPA Method 204, 204A, 204B, 204C, 204D, 204E or 204F, as appropriate, or any other alternative method approved by USEPA, the California Air Resources Board, and the District.
 - (ii) The efficiency of the control device of the emission control system as specified in subsection (C)(5)(a)(i) and the VOC content in the control device exhaust gases, measured and calculated as carbon, shall be determined by USEPA Test Method 25 or 25A, as applicable. USEPA Test Method 18, or ARB Method 422 shall be used to determine emissions of Exempt Compounds.
- (f) Multiple Test Methods
 - (i) When more than one test method or set of test methods is specified for any testing, a violation of any requirement of this rule established by any one of the specified test methods or set of test methods shall constitute a violation of this rule.
- (g) Unless otherwise specified, all test methods referenced in this section shall be the version most recently approved by USEPA.

(F) Exemptions

- (1) The following Solvent Cleaning operations or activities are not subject to any provision of this rule:
 - (a) Rule 1102 - *Petroleum Solvent Dry Cleaners*.
 - (b) Rule 1113 – *Architectural Coatings*.
 - (c) Rule 1122 – *Solvent Degreasers*.
 - (d) Rule 1124 - *Aerospace Assembly and Component Manufacturing Operations*, except coating Application Equipment cleaning, and storage and disposal of VOC-containing materials used in Solvent Cleaning operations.
 - (e) Rule 1141.1 – *Coatings and Ink Manufacturing*.
 - (f) Rule 1151 – *Motor Vehicle and Mobile Equipment Coating Operations*.
 - (g) Rule 1151.1 – *Motor Vehicle Assembly Coating Operations*.
 - (h) Rule 1164 - *Semiconductor Manufacturing*.
 - (i) Janitorial, including graffiti removal.
 - (j) Stripping of Cured Coatings, Cured Adhesives, and Cured Inks.
 - (k) Cleaning operations using Solvents with a water content of 98% or more, by weight.
- (2) The provisions of subsection (C)(1)(a) shall not apply when carried out for any of the following applications:
 - (a) Cleaning of solar cells, laser hardware, Scientific Instruments, and High Precision Optics.
 - (b) Cleaning for: conducting performance laboratory tests on coatings, adhesives, or inks; research and development programs; and laboratory tests in quality assurance laboratories.
 - (c) Cleaning of polycarbonate plastics.
 - (d) Cleaning of cotton swabs to remove cottonseed oil before cleaning of high-precision optics.
- (3) Cleaning of the nozzle tips of automated spray equipment systems, except for robotic systems, and cleaning with spray bottles or containers described in subsection (C)(2)(a)(ii), are not subject to the provisions of subsection (D)(1).

- (4) Cleaning with Aerosol Products shall not be subject to the provisions of subsections (C)(1)(a) and (D)(1) if 160 fluid ounces or less of Aerosol Product are used per day, per Facility.
- (5) Medical Device and pharmaceutical facilities may use up to 1.5 gallons per day of Solvents that are not in compliance with subsection (C)(1)(a).
- (6) The provisions of subsection (C)(1)(a)(iii) shall not apply to cleaning of coating and adhesive application processes utilized to manufacture transdermal drug delivery product using less than 3 gallons per day of ethyl acetate averaged over a 30 calendar day period.
- (7) Cleaning of application equipment used to apply coatings on satellites and radiation effect coatings shall not be subject to (C)(1)(a)(iii).
- (8) The provisions of subsection (C)(1)(a)(iv) shall not apply to Persons or Facilities using less than 1.5 gallons per day of solvents to clean Sterilization Indicating Ink Application Equipment.

(G) Rule 442 Applicability

Any Solvent, Solvent Cleaning activity, Solvent Cleaning unit operation, or Person, which is exempt from all or a portion of this rule except section (D), shall be subject to the applicable requirements of the applicable Regulation XI source specific rule or Rule 442 - *Usage of Solvent*.

See SIP Table at www.avaqmd.ca.gov

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Antelope Valley
Air Quality Management District



Draft
Staff Report
Proposed Amendments to
Rule 1171 – *Solvent Cleaning Operations*

For adoption on
July 17, 2018

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STAFF REPORT
TABLE OF CONTENTS
Rule 1171 – Solvent Cleaning Operations

I. PURPOSE OF STAFF REPORT	1
II. EXECUTIVE SUMMARY	1
III. STAFF RECOMMENDATION	2
IV. LEGAL REQUIREMENTS CHECKLIST	3
V. DISCUSSION OF LEGAL REQUIREMENTS	4
A. REQUIRED ELEMENTS/FINDINGS.....	4
1. State Findings Required for Adoption of Rules & Regulations	4
a. Necessity	4
b. Authority	4
c. Clarity	4
d. Consistency	4
e. Nonduplication.....	4
f. Reference	5
g. Public Notice & Comment, Public Hearing.....	5
2. Federal Elements (SIP Submittals, Other Federal Submittals).....	5
a. Satisfaction of Underlying Federal Requirements	5
b. Public Notice and Comment	6
c. Availability of Document	6
d. Notice to Specified Entities	6
e. Public Hearing	6
f. Legal Authority to Adopt and Implement.....	6
g. Applicable State Laws and Regulations Were Followed.....	6
B. WRITTEN ANALYSIS OF EXISTING REQUIREMENTS	7
C. ECONOMIC ANALYSIS	7
1. General.....	7
2. Incremental Cost Effectiveness.....	8
D. ENVIRONMENTAL ANALYSIS (CEQA).....	8
E. SUPPLEMENTAL ENVIRONMENTAL ANALYSIS	8
1. Potential Environmental Impacts	8
2. Mitigation of Impacts.....	8
3. Alternative Methods of Compliance	8
F. PUBLIC REVIEW	8
VI. TECHNICAL DISCUSSION	9
A. SOURCE DESCRIPTION	9
B. EMISSIONS	9
C. CONTROL REQUIREMENTS.....	9
D. PROPOSED RULE SUMMARY	9
E. SIP HISTORY	10
1. SIP History.....	10
2. SIP Analysis.....	11
Appendix A - Iterated Version.....	A-1

Appendix B - Public Notice Documents..... B-1
Appendix C - Public Comments and Responses..... C-1
Appendix D - California Environmental Quality Act Documentation D-1
Appendix E - Bibliography.....E-1

STAFF REPORT

Rule 1171– *Solvent Cleaning Operations*

I. PURPOSE OF STAFF REPORT

A staff report serves several discrete purposes. Its primary purpose is to provide a summary and background material to the members of the Governing Board. This allows the members of the Governing Board to be fully informed before making any required decision. It also provides the documentation necessary for the Governing Board to make any findings, which are required by law to be made prior to the approval or adoption of a document. In addition, a staff report ensures that the correct procedures and proper documentation for approval or adoption of a document have been performed. Finally, the staff report provides evidence for defense against legal challenges regarding the propriety of the approval or adoption of the document.

II. EXECUTIVE SUMMARY

The Antelope Valley Air Pollution Control District (AVAPCD) was created by statute on July 1, 1997, with a jurisdiction of the Los Angeles County portion of the South Coast Air Quality Management District (SCAQMD) that was not within the South Coast Air Basin. SCAQMD rules in effect in the AVAPCD remained in effect until the AVAPCD Governing Board superseded or amended them. On January 1, 2002 the AVAQMD was formed pursuant to statute (Health & Safety Code §§41300 et seq.) to replace the AVAPCD. The rules of the AVAPCD also remain in effect until the AVAQMD Governing Board supersedes or amends them.

The Federal Clean Air Act (FCAA) requires areas designated non-attainment and classified moderate and above to implement Reasonably Available Control Technology (RACT) for sources subject to CTG documents issued by United States Environmental Protection Agency (USEPA) and for “major sources” of Volatile Organic Compounds (VOCs) and Oxides of Nitrogen (NO_x) which are ozone precursors. The District adopted the *8-Hour Reasonably Available Control Technology – State Implementation Plan Analysis (RACT SIP Analysis)* in July, 2015 for the 2008 75 ppb ozone National Ambient Air Quality Standards (NAAQS). This document committed to amending Rule 1171 to enhance work practices, adjust categories for consistency with source specific rules, reduce VOC limits and address the alternative composite vapor pressure. This rule is subject to the CTG titled *Control Techniques Guidelines: Industrial Cleaning Solvents, (EPA-453/R-06-001), September 2006*. The AVAQMD is now proposing to amend Rule 1171 – *Solvent Cleaning Operations* to reflect current federal RACT.

Rule 1171 was originally adopted on 08/02/91 by the SCAQMD and subsequently amended on 05/12/95, 09/13/96, and 06/13/97. The version of Rule 1171, as amended by SCAQMD on 06/13/97, was the initial rule of the AVAPCD. On 11/17/98 the AVAPCD amended Rule 1171. The 11/17/98 version is the current version in the AVAQMD rule book.

AVAQMD submitted the 11/17/98 version of Rule 1171 for inclusion to the SIP. USEPA finalized approval of the 11/17/98 version of Rule 1171 on 05/24/01 (66 FR 28666).

The proposed amendment of Rule 1171 – *Solvent Cleaning Operations* addresses the 2015 *RACT SIP Analysis* commitment. The proposed amendments are based on the Control Technique Guidelines: Industrial Cleaning Solvents, South Coast Air Quality Management District Rule 1171 - *Solvent Cleaning Operations*, amended 02/01/08, Yolo-Solano AQMD Rule 2.31 – *Solvent Cleaning and Degreasing*, amended 04/12/17, and San Joaquin Valley Air Pollution Control District Rule 4663 - *Organic Solvent Cleaning Storage and Disposal*, amended 09/20/07 and Rule 4605 - *Aerospace Assembly and Component Manufacturing Operations*, amended 06/16/11.

III. STAFF RECOMMENDATION

Staff recommends that the Governing Board of the Antelope Valley Air Quality Management District (AVAQMD or District) amend proposed Rule 1171 – *Solvent Cleaning Operations* and approve the appropriate California Environmental Quality Act (CEQA) documentation. This action is necessary satisfy 42 U.S.C. §§7511a (FCAA) §182) which requires that ozone non-attainment areas implement RACT for sources that are subject to CTGs and for major sources of ozone precursors.

IV. LEGAL REQUIREMENTS CHECKLIST

The findings and analysis as indicated below are required for the procedurally correct amendments to Rule 1171 – *Solvent Cleaning Operations*. Each item is discussed, if applicable, in Section V. Copies of related documents are included in the appropriate appendices.

FINDINGS REQUIRED FOR RULES & REGULATIONS:

- Necessity
- Authority
- Clarity
- Consistency
- Nonduplication
- Reference
- Public Notice & Comment
- Public Hearing

REQUIREMENTS FOR STATE IMPLEMENTATION PLAN SUBMISSION (SIP):

- Public Notice & Comment
- Availability of Document
- Notice to Specified Entities (State, Air Districts, USEPA, Other States)
- Public Hearing
- Legal Authority to adopt and implement the document.
- Applicable State laws and regulations were followed.

ELEMENTS OF A FEDERAL SUBMISSION:

- Elements as set forth in applicable Federal law or regulations.

CALIFORNIA ENVIRONMENTAL QUALITY ACT REQUIREMENTS (CEQA):

- N/A Ministerial Action
- N/A Exemption
- Negative Declaration
- N/A Environmental Impact Report
- Appropriate findings, if necessary.
- Public Notice & Comment

SUPPLEMENTAL ENVIRONMENTAL ANALYSIS (RULES & REGULATIONS ONLY):

- Environmental impacts of compliance.
- N/A Mitigation of impacts.
- N/A Alternative methods of compliance.

OTHER:

- Written analysis of existing air pollution control requirements
- Economic Analysis
- Public Review

V. DISCUSSION OF LEGAL REQUIREMENTS

A. REQUIRED ELEMENTS/FINDINGS

This section discusses the State of California statutory requirements that apply to the proposed amendments Rule 1171. These are actions that need to be performed and/or information that must be provided in order to amend the rule in a procedurally correct manner.

1. State Findings Required for Adoption of Rules & Regulations:

Before adopting, amending, or repealing a rule or regulation, the District Governing Board is required to make findings of necessity, authority, clarity, consistency, non-duplication, and reference based upon relevant information presented at the hearing. The information below is provided to assist the Board in making these findings.

a. Necessity:

The proposed amendments to Rule 1171 are necessary to enhance work practices, adjust categories for consistency with source specific rules, reduce VOC limits and address the alternative composite vapor pressure.

b. Authority:

The District has the authority pursuant to California Health and Safety Code (H & S Code) §40702 to adopt, amend or repeal rules and regulations.

c. Clarity:

The proposed amendments to Rule 1171 are clear in that they are written so that the persons subject to the rule can easily understand the meaning.

d. Consistency:

The proposed amendments to Rule 1171 are in harmony with, and not in conflict with or contradictory to any state law or regulation, federal law or regulation, or court decisions. The proposed rule is consistent with the CTG provisions and other District rules deemed to meet RACT.

e. Nonduplication:

The proposed amendments to Rule 1171 do not impose the same requirements as any existing state or federal law or regulation, or

court decision. CTGs are primarily guidance documents and not enforceable in and of themselves. A rule is necessary to implement the applicable provisions of these documents.

f. Reference:

The District has the authority pursuant to H & S Code §40702 to adopt, amend or repeal rules and regulations.

g. Public Notice & Comment, Public Hearing:

Notice for the public hearing for the proposed amendments to Rule 1171 will be published on June 15, 2018. See Appendix “B” for a copy of the public notice. See Appendix “C” for copies of comments, if any, and District responses.

2. Federal Elements (SIP Submittals, Other Federal Submittals).

Submittals to USEPA are required to include various elements depending upon the type of document submitted and the underlying Federal law that requires the submittal. The information below indicates which elements are required for the proposed amendments to Rule 1171 and how they were satisfied.

a. Satisfaction of Underlying Federal Requirements:

The FCAA requires areas designated non-attainment and classified moderate and above to implement RACT for sources subject to CTG documents issued by USEPA and for “major sources” of VOCs and NO_x that are ozone precursors. Because the District has an existing SIP rule for this CTG category, the District committed to adopting an updated RACT rule for solvent cleaning operations as part of the *RACT SIP Analysis*. The AVAQMD is proposing to update Rule 1171 – *Solvent Cleaning Operations* to reflect current federal RACT as determined by comments from USEPA, CTG requirements, other related national rules and guidance, and the rules of other California air districts with nonattainment designations. USEPA approved AVAQMD Rule 1171 – *Solvent Cleaning Operations* amended 11/17/98 as a RACT rule on 05/24/01 (66 FR 28666) and this rule was used as a basis for amendment

b. Public Notice and Comment:

Notice for the public hearing for the proposed amendments to Rule 1171 will be published on June 15, 2018. See Appendix “B” for a copy of the public notice. See Appendix “C” for copies of comments, if any, and District responses.

c. Availability of Document:

Copies of the proposed amendments to Rule 1171 and the accompanying draft staff report were made available to the public on June 15, 2018.

d. Notice to Specified Entities:

Copies of the proposed amendments to Rule 1171 and the accompanying draft staff report were sent to all affected agencies. The proposed amendments were sent to the California Air Resources Board (CARB) and U.S. Environmental Protection Agency (USEPA) on June 15, 2018.

e. Public Hearing:

A public hearing to consider the proposed amendments to Rule 1171 has been set for July 17, 2018.

f. Legal Authority to Adopt and Implement:

The District has the authority pursuant to H&S Code §40702 to adopt, amend, or repeal rules and regulations and to do such acts as may be necessary or proper to execute the duties imposed upon the District.

g. Applicable State Laws and Regulations Were Followed:

Public notice and hearing procedures pursuant to H&S Code §§40725-40728 have been followed. See Section (V)(A)(1) above for compliance with state findings required pursuant to H&S Code §40727. See Section (V)(B) below for compliance with the required analysis of existing requirements pursuant to H&S Code §40727.2. See Section (V)(C) for compliance with economic analysis requirements pursuant to H&S Code §40920.6. See Section (V)(D) below for compliance with provisions of the CEQA.

B. WRITTEN ANALYSIS OF EXISTING REQUIREMENTS

H & S Code §40727.2 requires air districts to prepare a written analysis of all existing federal air pollution control requirements that apply to the same equipment or source type as the rule proposed for modification by the district.

The FCAA requires areas designated non-attainment for ozone and classified moderate and above to adopt and maintain RACT rules to control the emissions of VOCs and NO_x for categories which the USEPA has adopted a CTG and for all categories where there are major stationary sources of air pollution (42 U.S.C. §7511a(b)(2), FCAA 182(b)(2)). For purposes of the FCAA, the District has been designated non-attainment for ozone and classified Severe-17.

The AVAQMD committed to amending Rule 1171 – *Solvent Cleaning Operations* as part of the recently adopted *RACT SIP Analysis*.

The AVAQMD has a solvent cleaning operations rule which was amended November 17, 1998 and approved as RACT into the SIP on May 24, 2001 (66 FR 28666). This rule is subject to the CTG titled Industrial Cleaning Solvents.

The proposed amendments are based on the CTG: *Industrial Cleaning Solvents*, and various district rules deemed as fulfilling RACT requirements, including but not limited to: South Coast Air Quality Management District Rule 1171 - *Solvent Cleaning Operations*, amended 02/01/08 (76 FR 60376), Yolo-Solano AQMD Rule 2.31 – *Solvent Cleaning and Degreasing*, amended 04/12/17, and San Joaquin Valley Air Pollution Control District Rule 4663 - *Organic Solvent Cleaning Storage and Disposal*, amended 09/20/07 (74 FR 37948) and Rule 4605 - *Aerospace Assembly and Component Manufacturing Operations*, amended 06/16/11 (76 FR 70886).

C. ECONOMIC ANALYSIS

1. General

RACT is defined as the lowest emissions limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762, September 17, 1979). Rule 1171 is equivalent to rules that were determined by USEPA to be RACT¹. This determination by USEPA means that the provisions of Rule 1171 are, by definition, cost effective. In addition, all sources are currently in compliance with this RACT limit without additional control equipment or cost. As a result, no cost impacts are expected from the proposed amendments.

¹ Yolo-Solano AQMD Rule 2.31 – Solvent Cleaning and Degreasing, (Amended 05/08/13, 80 FR 23449)

2. Incremental Cost Effectiveness

Pursuant to H&S Code §40920.6, incremental cost effectiveness calculations are required for rules and regulations which are adopted or amended to meet the California Clean Air Act (CCAA) requirements for Best Available Retrofit Control Technology (BARCT) or “all feasible measures” to control volatile compounds (VOCs), oxides of nitrogen (NO_x) or oxides of sulfur (SO_x). This requirement does not apply to the proposed amendments to Rule 1171 since it does not require BARCT or “all feasible measures.”

D. ENVIRONMENTAL ANALYSIS (CEQA)

Through the process described below the appropriate CEQA process for the proposed amendments to Rule 1171 was determined.

1. The proposed amendments to Rule 1171 meet the CEQA definition of “project”. They are not “ministerial” actions.

2. The proposed amendments to Rule 1171 are exempt from CEQA review because they will not create any adverse impacts on the environment. The proposed rule amendments are more stringent than the previous rule version. This rule has been strengthened by reducing VOC limits, establishing work practices and addressing the alternative composite vapor pressure limit. Because there is no potential that the amendment might cause the release of additional air contaminants or create any adverse environmental impacts, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies. Copies of the documents relating to CEQA can be found in Appendix “D”.

E. SUPPLEMENTAL ENVIRONMENTAL ANALYSIS

1. Potential Environmental Impacts

The District does not anticipate any potential environmental impacts of compliance with the proposed amendments to Rule 1171, as the amendments will enhance work practices, adjust categories for consistency with source specific rules, reduce VOC limits and address the alternative composite vapor pressure.

2. Mitigation of Impacts

N/A

3. Alternative Methods of Compliance

N/A

F. PUBLIC REVIEW

See Staff Report Section (V)(A)(1)(g) and (2)(b), as well as Appendix “B”

VI. TECHNICAL DISCUSSION

A. SOURCE DESCRIPTION

This rule applies to all Persons who use VOC-containing materials in Solvent Cleaning operations during the production, repair, maintenance, or servicing of parts, products, tools, machinery, equipment, or general work areas and all persons who store and dispose of VOC-containing materials used in Solvent Cleaning Operations. This rule also exempts source operations subject to or specifically exempted by existing source specific District rules.

B. EMISSIONS

As an administrative action, this rule amendment would not have any direct impact on the issuance of air contaminants. This rule has been strengthened by enhancing work practices, adjusting categories for consistency with source specific rules, reducing VOC limits and addressing the alternative composite vapor pressure.

C. CONTROL REQUIREMENTS

Please see section (C) of the rule for control requirements. Control requirements consist of loading requirements for Class “A”, “B” and “C” facilities, transport vessels, switch loading, and leak inspection.

D. PROPOSED RULE SUMMARY

This section gives a brief overview of the proposed amendments to Rule 1171.

The rule formatting has been updated for consistency with other District rules.

Section (B) The following definitions have been added or updated:

- Aerospace Component
- Aerospace Vehicle or Components
- Aircraft
- District
- Pharmaceutical Facility
- Radiation Effect Coating
- Space Vehicle

Section (C) has been amended as follows:

- The table in (C)(1)(a) has been revised to reflect lower VOC limits.
- (C)(1)(b) now contains the Composite Partial Pressure limit, as that limit was removed from the table in (C)(1)(a).
- Subsection (C)(2)(b thru d) was moved from previous section (D).

- Subsection (C)(4)(a) has clarification on waste or used product and disposal.
- Subsection (C)(5)(a)(ii) removed Graphic Arts as it is cover by a source specific rule 1130.

Section (D) has been moved to (C)((2)(d) and new Section (D), previously (6) has been amended to require more comprehensive record keeping.

Section (F) Rule 442 Applicability is now Section (G).

Section (F) Exemptions

- Source specific Rules have been added, removed or renumbered for ascending order.
- (F)(1)(i) removed “Institutional cleaning” as per USEPA suggestion that it may provide a broader exemption than intended.

Work practices are currently in place within the existing document, but not specifically identified. The following subsections address each of the four recommended work practices:

- Cover open containers and used applicators is addressed in (C)(2)(a)(iii) and (C)(4)(a).
- Minimize air circulation around cleaning operations is addressed in (C)(2)(a)(ii).
- Properly dispose of used solvent and shop towels is addressed in (C)(4)(a).
- Implement equipment practices that minimize emissions is addressed in (C)(2).

E. SIP HISTORY

1. SIP History.

Prior to 1975 the original air district for the Antelope Valley region was the Los Angeles County Air Pollution Control District that had a jurisdiction covering the entire county of Los Angeles. In 1975, the Southern California APCD was created. It was a joint powers authority that had a jurisdiction covering all of the counties of Los Angeles, Orange, Riverside and San Bernardino. The SCAQMD came into existence pursuant to statute on February 1, 1976 and originally covered only the areas within the South Coast Air Basin (SCAB). The legislation was thereafter amended to allow non-SCAB areas to “opt in.” Los Angeles County exercised this option and thus the Antelope Valley became a part of SCAQMD. On July 1, 1997 the AVAPCD replaced the SCAQMD as the agency with jurisdiction over the Los Angeles County portion of the Mojave Desert Air Basin (MDAB). On January 1, 2002 the AVAPCD was replaced by the AVAQMD. Pursuant to both statutory changes, the rule and regulations of the

predecessor district were retained until the Governing Board adopted, amended or rescinded them. At the first meeting of both the AVAPCD and the AVAQMD, the respective Governing Boards reaffirmed all the rules and regulations in effect at the time the agency changed.

The jurisdiction of the AVAPCD and the AVAQMD were specified in the statutes as the portion of the Los Angeles County contained within the MDAB. The MDAB was formerly known as the Southeast Desert Air Basin (SEDAB). In 1997 the SEDAB was split into the MDAB and the Salton Sea Air Basin. Descriptions of these air basins can be found in 17 Cal. Code Regs. §§60109 and 60144. Since USEPA adopts SIP revisions in California as effective within jurisdictional boundaries of local air districts, when the local air district boundaries change the SIP as approved by USEPA for that area up to the date of the change remains as the SIP in that particular area. Thus, upon creation of the AVAPCD on July 1, 1997 the AVAPCD acquired the SIP applicable to the Antelope Valley portion of the SCAQMD that was effective as of June 30, 1997. Likewise the AVAQMD acquired the SIP that was effective in the jurisdiction of the AVAPCD as of December 31, 2000. Therefore, the SIP history for this region is based upon the rules adopted, effective, and approved for the Antelope Valley by SCAQMD.

Rule 1171 was originally adopted on 08/02/91 by the SCAQMD and subsequently amended on 05/12/95, 09/13/96, and 06/13/97. The version of Rule 1171, as amended by SCAQMD on 06/13/97, was the initial rule of the AVAPCD. On 11/17/98 the AVAPCD amended Rule 1171.

The 11/17/98 version is the current version in the AVAQMD rule book.

SCAQMD submitted the 05/12/95 version of Rule 1171 to USEPA for inclusion in the SIP on 06/16/1995 and received final approval on 07/14/95 (60 FR 36230). AVAQMD submitted the 11/17/98 version of Rule 1171 to USEPA for inclusion in the SIP on 12/10/98 and received final approval on 05/24/01 (66 FR 28666). Therefore the 11/17/98 version of Rule 1171 is the current version in the AVAQMD SIP

2. SIP Analysis.

The District will request CARB to submit the proposed amendments to Rule 1171 – *Solvent Cleaning Operations* to USEPA for inclusion into the State Implementation Plan. This submission is necessary to satisfy 42 U.S.C. §§7511a (FCAA §182) which requires that ozone non-attainment areas implement RACT for sources that are subject to CTGs and for major sources of ozone precursors. The District will request that this version, upon approval, supersede the current SIP version as well as any potential outstanding SIP submissions made prior to the adoption date.

The proposed amendments to Rule 1171 – *Solvent Cleaning Operations* are more stringent in that the rule has been strengthened by enhancing work practices, adjusting categories for consistency with source specific rules, reducing VOC limits and addressing the alternative composite vapor pressure.

Appendix “A”
Rule 1171 – *Solvent Cleaning Operations* Iterated Version

The iterated version is provided so that the changes to an existing rule may be easily found. The manner of differentiating text is as follows:

1. Underlined text identifies new or revised language.
2. ~~Lined-out text~~ identifies language which is being deleted.
3. Normal text identifies the current language of the rule which will remain unchanged by the adoption of the proposed amendments.
4. [*Bracketed italicized text*] is explanatory material that is not part of the proposed language. It is removed once the proposed amendments are adopted.

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RULE 1171

Solvent Cleaning Operations

(A) General

(1) Purpose

- (a) The purpose of this rule is to ~~limit~~~~reduce~~ emissions of ~~v~~Volatile ~~e~~Organic ~~e~~Compounds (VOCs) ~~and stratospheric ozone-depleting or global-warming compounds~~ from Solvent Cleaning operations and activities, and from the storage and disposal of these materials used ~~in Solvent Cleaning~~for such operations. *[Derived from Yolo Solano AQMD Rule 2.31]*

(2) Applicability

- (a) This rule applies to all Persons who use VOC-containing materials in Solvent Cleaning operations during the production, repair, maintenance, or servicing of parts, products, tools, machinery, equipment, or general work areas, and to all Persons who store and dispose of VOC-containing materials used in Solvent Cleaning.

(B) Definitions

For the purpose of this rule, the following definitions shall apply:

- (1) “Aerosol Product”: - ~~a~~ hand-held, non-refillable container which expels pressurized product by means of a propellant-induced force.
- (2) “Aerospace Vehicle or Components”: - ~~Any fabricated part, processed part, assembly of parts or completed unit, with the exception of electronic components, of any Aircraft, including but not limited to airplanes, helicopters, missiles, rockets, Space Vehicles. Including, but not limited to, integral equipment such as models, mock-ups, prototypes, molds, jigs, tooling, hardware jackets, and test coupons. [Derived from Yolo Solano Rule 2.31 and AVAQMD Rule 1124, (B)(6). Added to define sub-category added to (C)(1)(a)(iii).]~~
- (3) “Aircraft” - ~~Any machine designed to travel through the air, without leaving the earth's atmosphere, whether heavier or lighter than air, including airplanes, balloons, dirigibles, helicopters, and missiles. [Derived from AVAQMD Rule 1124, (B)(9). Added to define verbiage in (B)(2).]~~

- (24) “Air Pollution Control Officer (APCO)”: - ~~¶~~The pPerson appointed to the position of Air Pollution Control Officer of the District pursuant to the provisions of the California Health & Safety Code §40750, and his or her designee.
- (35) “Application Equipment”: - ~~a~~A device used to apply adhesive, coating, ink, or polyester resin materials.
- (46) “Cured Coatings, Cured Inks, and Cured Adhesives”: - ~~e~~Coatings, inks, and adhesives which are dry to the touch.
- (7) “District” - The Antelope Valley Air Quality Management District that includes the geographical area described in District Rule 103. [Derived from AVAQMD Rule 102 (M)].
- (58) “Electrical Apparatus Components”: - ~~a~~All internal components such as wires, windings, stators, rotors, magnets, contacts, relays, energizers, and connections in apparatus that generates or transmits electrical energy including, but not limited to generators, transformers, and electric motors.
- (69) “Electronic Components”: - ~~a~~All portions of an assembly, including circuit card assemblies, printed wire assemblies, printed circuit boards, soldered joints, ground wires, bus bars, and other electrical fixtures, except for the actual cabinet in which the components are housed.
- (710) “Exempt Compounds”: - ~~¶~~Those compounds listed in 40 CFR 51.100(~~S~~s)(~~+~~).
- (811) “Facility”: - ~~a~~A business or businesses engaged in ~~s~~Solvent ~~e~~Cleaning ~~o~~operations which are owned or operated by the same Person or Persons and are located on the same or contiguous parcels.
- ~~(9) — Flexographic Printing:— the method in which the image area is raised relative to the nonimage area and utilizes flexible rubber or other elastomeric plate and rapid drying liquid inks. [Term was included in the amendment of AV Rule 1130 on 11/19/13, no longer necessary in Rule 1171]~~
- (~~10~~12) “Grams ~~O~~of ~~V~~oeOC Per Liter Of Material”: - ~~¶~~The weight of VOC per volume of material, ~~and can be~~ calculated by the following equation:

$$\text{Grams of VOC per liter of material} = \frac{W_s - W_w - W_{ec}}{V_m}$$

Where: W_s = Weight of volatile compounds in grams
 W_w = Weight of water in grams
 W_{ec} = Weight of Exempt Compounds in grams
 V_m = Volume of material in liters

- (11) ~~Graphic Arts: all Gravure, Letterpress, Flexographic, and Lithographic Printing processes. [Term was included in the amendment of AV Rule 1130 on 11/19/13, no longer necessary in Rule 1171.]~~
- (12) ~~Gravure Printing: an intaglio process in which the ink is carried in minute etched or engraved wells on a roll or cylinder. The excess ink is removed from the surface by a doctor blade. [Term was included in the amendment of AV Rule 1130 on 11/19/13, no longer necessary in Rule 1171]~~
- (13) “High Precision Optics”: - ~~e~~O~~o~~ptical elements used in electro-optical devices which are designed to sense, detect, or transmit light energy, including specific wavelengths of light energy and changes in light energy levels.
- (14) ~~Institutional Cleaning: cleaning activities conducted at organizations, societies, or corporations including, but not limited to schools, hospitals, sanitariums, and prisons. [Definition deleted per USEPA suggestion via email on 11/28/17, #1, as it includes “cleaning activities conducted at organizations, societies, or corporations...” which may provide a broader exemption than intended. All reference to Institutional Cleaning will be removed.]~~
- (15) “Janitorial Cleaning”: - ~~t~~The cleaning of building or Facility components, such as ~~the~~ floors, ceilings, walls, windows, doors, stairs, bathrooms, etc.
- (16) ~~Letterpress Printing: the method in which the image area is raised relative to the nonimage area and the ink is transferred to the paper directly from the image surface. [Term was included in amendment of Rule 1130 on 11/19/13, no longer necessary in Rule 1171]~~
- (17) “Liquid Leak”: - ~~t~~The visible liquid solvent leak from the container at a rate of more than three (3) drops per minute, or a visible liquid mist.
- (18) ~~Liquid-Tight Food Container: a paperboard container that can hold liquid food and food products without leaking even when it is held upside-down. [Definition is only here and in red-lined definition #36-Specialty Flexographic Printing- definition #36 is being deleted]~~
- (19) ~~Lithographic Printing: a plane o graphic method in which the image and nonimage areas are on the same plane. [Term was included in the amendment of AV Rule 1130 on 11/19/13, no longer necessary in Rule 1171.]~~
- (20) ~~Maintenance Cleaning: a Solvent Cleaning operation or activity carried out to keep tools, machinery, equipment excluding Application Equipment, or general work areas in clean and good operational condition. [Moved to definition for “Repair and Maintenance Cleaning” definition #26 for clarity.]~~
- (21) “Manufacturing Process”: - ~~t~~The process of making goods or articles by hand or by machinery.

- (2217) “Medical Device”: - ~~a~~An instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar article, including any component or accessory, that meets one of the following conditions:
- (a) ~~i~~Is intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease; or
 - (b) ~~i~~Is intended to affect the structure or any function of the body; or
 - (c) ~~i~~Is defined in the National Formulary or the United States Pharmacopeia, or any supplement to them.
- (2318) “Non-Absorbent Containers”: - ~~e~~Containers made of nonporous material which ~~do~~does not allow the migration of the liquid Solvent through them.
- (2419) “Non-Atomized Solvent Flow”: - ~~t~~The use of a solvent in the form of a liquid stream without atomization to remove uncured adhesives, uncured inks, uncured coatings, and contaminants from an article.
- (2520) “Non-Leaking Containers”: - ~~e~~Containers without Liquid Leaks.
- (2621) “Person”: - ~~a~~Any firm, business establishment, association, partnership, corporation or individual, whether acting as principal, agent, employee, or other capacity including any governmental entity or charitable organization.
- (22) “Pharmaceutical Facility”: - Any facility producing or blending chemicals for use in pharmaceutical products and/or employing chemical processes in the manufacture of pharmaceutical products or medical devices. Pharmaceutical facilities may include, but are not limited to, establishments primarily engaged in manufacturing, fabricating, or processing medicinal chemicals and pharmaceutical products for human or veterinary use. [Derived from Yolo Solano Rule 2.31, 240]
- ~~(27) Printing: - in the Graphic Arts is any operation that imparts color, design, alphabet, or numerals on a substrate. [Term was included in the amendment of AV Rule 1130 on 11/19/13, no longer necessary in Rule 1171.]~~
- (23) “Radiation Effect Coating”: - A material that prevents radar detection. [Derived from SCAQMD Rule 1171, (b)(42)]
- (2824) “Remote Reservoir Cleaner”: - ~~a~~A cleaning device in which liquid solvent is pumped from a solvent container to a sink-like work area and the solvent from the sink-like area drains into an enclosed solvent container while parts are being cleaned.
- (2925) “Repair and Maintenance Cleaning”: - ~~a~~A Solvent Cleaning ~~o~~Operation or activity carried out during:

- (a) Return a damaged object or an object not operating properly to good condition; or
- (b) Maintain tools, machinery equipment (excluding Application Equipment) or general work areas, in clean and good operational condition. ~~a Repair Process. [Throughout the rule Repair Cleaning it is referred to as Repair and Maintenance Cleaning. This definition combines #20 “Maintenance Cleaning” and #29 “Repair Cleaning” for clarification. “Repair Process” definition #30 is only used in the rule in the definition of Repair Cleaning. “Repair Cleaning” language has now been included in “Repair and Maintenance Cleaning” definition.]~~
- ~~(30) Repair Process: the process of returning a damaged object or an object not operating properly to good condition. [Only used to define #29 above. Combined definitions #29 & #30 for clarification.]~~
- (~~31~~26) “Scientific Instruments”: - ~~i~~Instruments (including the components, assemblies, and subassemblies used in their manufacture) and associated accessories and reagents which are used for the detection, measurement, analysis, separation, synthesis, or sequencing of various compounds.
- (~~32~~27) “Screen Printing”: - ~~a~~A process in which ~~the Printing~~ ink passes through a web or a fabric to which a refined form of stencil has been applied. The stencil openings determine the form and dimensions of the imprint.
- (~~33~~28) “Solvent”: - ~~a~~A VOC-containing liquid used to perform Solvent Cleaning.
- (~~34~~29) “Solvent Cleaning”: - ~~t~~The removal of -loosely held uncured adhesives, uncured inks, uncured coatings, and contaminants which include, but are not limited to, dirt, soil, and grease from parts, products, tools, machinery, equipment, and general work areas. Each distinct method of cleaning in a cleaning process, which consists of a series of cleaning ~~methods, methods,~~ shall constitute a separate Solvent Cleaning operation.
- (~~35~~30) “Solvent Flushing”: - ~~t~~The use of a Solvent to remove uncured adhesives, uncured inks, uncured coatings, or contaminants from the internal surfaces and passages of the equipment by flushing Solvent through the equipment.
- (31) “Space Vehicle” – A vehicle designed to travel beyond earth's atmosphere. [Derived from AVAQMD Rule 1124, (B)(85), to clarify verbiage in Rule 1171 (B)(2).]
- ~~(36) Specialty Flexographic Printing: Flexographic Printing on polyethylene or polypropylene food packaging, fertilizer bags, or Liquid Tight Food Containers. [Term was included in the amendment of AV Rule 1130 on 11/19/13, no longer necessary in Rule 1171]~~

(3732) “Sterilization Indicating Inks”: - ~~i~~inks that changes color to indicate that sterilization has occurred. Such inks ~~are~~is used to monitor the sterilization of medical instruments, autoclave efficiency, and the thermal processing of foods for prevention of spoilage.

(3833) “Stripping”: - ~~t~~The removal of Cured Coatings, Cured Inks, and Cured Adhesives.

(3934) “Surface Preparation”: - ~~t~~The removal of contaminants such as dust, soil, oil, grease, etc., prior to coating, adhesive, or ink applications.

~~(40) “Ultraviolet Inks”: - inks which dry by polymerization reaction induced by ultraviolet energy. [Term was included in the amendment of AV Rule 1130 on 11/19/13, no longer necessary in Rule 1171]~~

(4135) “United States Environmental Protection Agency (USEPA)”: - ~~t~~The United States Environmental Protection Agency, the Administrator of the USEPA and his or her authorized representative.

(4236) “VOC Composite Partial Pressure”: - ~~t~~The sum of the partial pressures of the compounds defined as VOCs. VOC Composite Partial Pressure is calculated as follows:

$$PP_c = \sum_{i=1}^n \frac{(W_i)(VP_i)}{MW_i} \frac{1}{\frac{W_w}{MW_w} + \frac{W_e}{MW_e} + \sum_{i=1}^n \frac{W_i}{MW_i}}$$

Where: W_i = Weight of the "i"th VOC compound, in grams
 W_w = Weight of water in grams
 W_e = Weight of exempt compound, in grams
 MW_i = Molecular weight of the "i"th VOC compound, in grams per gram-mole
 MW_w = Molecular weight of water, in grams per gram-mole
 MW_e = Molecular weight of exempt compound, in grams per gram-mole
 PP_c = VOC Composite Partial Pressure at 20°C, in mm Hg
 VP_i = Vapor pressure of the "i"th VOC compound at 20°C, in mm Hg

(4340) “Volatile Organic Compound (VOC)”: - ~~a~~Any volatile compound of carbon, excluding methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate, and Exempt Compounds.

(4441) “Wipe Cleaning”: - ~~†~~The method of cleaning a surface by physically rubbing it with a material such as a rag, paper, sponge or a cotton swab moistened with a Solvent.

(C) Requirements

(1) Solvent Requirements

- (a) A Person shall not ~~use a Solvent to~~ perform Solvent Cleaning unless the Solvent complies with the applicable requirements set forth below or:

SOLVENT CLEANING ACTIVITY	CURRENT LIMITS		Effective 1/1/1997		Effective 1/1/1999	
	VOE g/l (lb/gal)	VOE Composite Partial Pressure mm Hg @ 20°C (68°F)	VOE g/l (lb/gal)	VOE Composite Partial Pressure mm Hg @ 20°C (68°F)	VOE g/l (lb/gal)	VOE Composite Partial Pressure mm Hg @ 20°C (68°F)
(i) Product Cleaning During Manufacturing Process Or Surface Preparation For Coating, Adhesive, Or Ink Application						
1. General	70 (0.58)					
2. Electronic Components or Medical Devices	900 (7.5)	33				
(ii) Repair and Maintenance Cleaning						
1. General	900 (7.5)	20				
2. Electrical Apparatus Components	900 (7.5)	20				
3. Medical Devices	900 (7.5)	33				
(iii) Cleaning of Coatings, or Adhesives Application Equipment	950 (7.9)	35				
(iv) Cleaning of Ink Application Equipment						
1. General	100 (0.83)	3				
2. Flexographic or Gravure Printing	100 (0.83)	3				
3. Lithographic or Letter Press Printing	900 (7.5)	25				10
4. Screen Printing	1070 (8.9)	5				
5. Ultraviolet Inks (except Screen Printing)	800 (6.7)	33				
6. Specialty Flexographic Printing	810 (6.8)	21				
(v) Cleaning of Polyester Resin Application Equipment	200 (1.7)		50 (0.42)			
or		+				

[Subsection (C)(1)(a)(iv)(1)(2),(3),(5) and (6) have limits stated in AV Rule 1130 – Graphic Arts, subsection (C)(7)(a) Table 5 (D).]

<u>Solvent Cleaning Activity</u>		<u>VOC Content Limit*</u>		
		<u>grams/liter</u> <u>(lb/gal)</u>	<u>Limit</u>	
<u>(i) Product Cleaning During Manufacturing Process or Surface Preparation for Adhesive, Coatings or Ink Application</u>	<u>General</u>	<u>50</u> <u>(0.42)</u>		
	<u>Electrical Components and Electronic Apparatus Components</u>	<u>100</u> <u>(0.83)</u>		
	<u>Medical Devices & Pharmaceuticals</u>	<u>800</u> <u>(6.7)</u>		
<u>(ii) Repair and Maintenance Cleaning</u>	<u>General</u>	<u>50</u> <u>(0.42)</u>		
	<u>Electrical Components and Electronic Apparatus Components</u>	<u>100</u> <u>(0.83)</u>		
	<u>Medical Devices & Pharmaceuticals</u>	<u>Tools, Equipment & Machinery</u>	<u>800</u> <u>(6.7)</u>	
		<u>General Work Surface</u>	<u>600</u> <u>(5.0)</u>	
<u>(iii) Cleaning of Adhesives or Coating Application Equipment</u>	<u>General</u>	<u>50</u> <u>(0.42)</u>		
	<u>Aerospace Vehicle or Component</u>	<u>200 g/L (1.67) or</u> <u>45 mmHg</u>		
<u>(iv) Cleaning of Ink Application Equipment</u>	<u>General</u>	<u>50</u> <u>(0.42)</u>		
	<u>Screen Printing</u>	<u>100</u> <u>(0.83)</u>		
<u>(v) Cleaning of Polyester Resin Application Equipment</u>		<u>50</u> <u>(0.42)</u>		

*For Aerospace Vehicle or Components, the solvent must comply with either the VOC Content limit in grams/Liter (g/L) or the VOC Composite Partial Pressure limit in millimeters mercury (mmHg). [New VOC limits Derived from CTG - Industrial Cleaning Solvents, EPA 453/R-06-001, September 2006. Limits in (i), (ii) (iii) and (iv) and Aerospace Vehicle or Component sub-category are derived from Yolo-Solano AQMD Rule 2.31, (C)(1)(a), Revised May 8, 2013 and recorded on 04/28/15, 80 FR 23449. Aerospace sub-category limits derived from the CTG for Aerospace, EPA-453/R-97-004, 1997/12, model rule page B-5, subsection (c)(ii). New limits effective upon amendment.]

(b) Has a VOC Composite Partial Pressure of 8 mmHg at 20° C (68° F), calculated using the equation in subsection (B)(36) of this rule:

(i) Except for Cleaning of Ink Application Equipment, Screen Printing, which has a VOC Composite Partial Pressure of 5 mmHg at 20° C (68° F). [Derived from the CTG-Industrial Cleaning Solvents, EPA 453/R-06-001, September 2006]

(2) Cleaning Devices and Methods Requirements

(a) A Person shall not perform Solvent Cleaning unless one of the following cleaning devices or methods is used:

(i) Wipe Cleaning;

(ii) Cleaning within ~~C~~losed containers or by using hand held spray bottles from which Solvents are applied without a propellant-induced force;

(iii) Cleaning equipment which has a Solvent container that ~~can be, and~~ is closed during cleaning operations, except when depositing and removing objects to be cleaned, and is closed during nonoperation with the exception of maintenance and repair to the cleaning equipment itself;

(iv) Remote Reservoir Cleaner used pursuant to the provisions of subsection (C)(3);

(v) Non-Atomized Solvent Flow method where the cleaning Solvent is collected in a container or a collection system which is closed except for Solvent collection openings and, if necessary, openings to avoid excessive pressure build-up inside the container; or

(vi) Solvent Flushing method where the cleaning Solvent is discharged into a container which is closed except for Solvent collection openings and, if necessary, openings to avoid excessive pressure build-up inside the container. The discharged Solvent from the equipment must be collected into containers without atomizing into the open air. The Solvent may be flushed through the system by air or hydraulic pressure, or by pumping.

(b) A Person shall not atomize any Solvent unless it is vented to an air pollution control equipment which meets the requirements of subsection (C)(5). [Moved from (D) General Prohibitions]

(c) A Person shall not specify or require any Person to use Solvent or equipment subject to the provisions of this rule that does not meet the requirements of this rule. [Moved from (D) General Prohibitions]

(d) A Person shall not perform Solvent Cleaning activities or operations subject to the provisions of this rule with any material which contains any of the following compounds:

1,1,1-trichloroethane (methyl chloroform);
trichlorofluoromethane (CFC-11);
dichlorodifluoromethane (CFC-12);
1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114);
chloropentafluoroethane (CFC-115);
ethylfluoride (HFC-161);
1,1,1,3,3,3-hexafluoropropane (HFC-236fa);
1,1,2,2,3-pentafluoropropane (HFC-245ca);
1,1,2,3,3-pentafluoropropane (HFC-245ea);
1,1,1,2,3-pentafluoropropane (HFC-245eb);
1,1,1,3,3-pentafluoropropane (HFC-245fa);
1,1,1,2,3,3-hexafluoropropane (HFC-236ea);
1,1,1,3,3-pentafluorobutane (HFC-365mfc);
chlorofluoromethane (HCFC-31);
1-chloro-1-fluoroethane (HCFC-151a); or
1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a).[moved from (D) General
Prohibitions]

(3) Remote Reservoir Cleaners

- (a) ~~Regardless of Rule 1122 requirements, a~~Any Person owning or operating a Remote Reservoir Cleaner shall comply with all of the following requirements, in addition to the VOC limits for Repair and Maintenance Cleaning specified in ~~clause subsection~~(C)(1)(a)(ii):
- (i) Prevent Solvent vapors from escaping from the Solvent container by using such devices as a cover or a valve when the remote reservoir is not being used, cleaned, or repaired;
 - (ii) Direct Solvent flow in a manner that will prevent liquid Solvent from splashing outside of the Remote Reservoir Cleaner;
 - (iii) Do not clean porous or absorbent materials, such as cloth, leather, wood, or rope; and
 - (iv) Use only Solvent containers free of all Liquid Leaks. Auxiliary equipment, such as pumps, pipelines, or flanges, shall not have any Liquid Leaks, visible tears, or cracks. Any Liquid Leak, visible tear, or crack detected shall be repaired within one (1) calendar day, or the leaking section of the remote reservoir cold cleaner shall be drained of all Solvent and shut down until it is replaced or repaired.

(4) Storage and Disposal

- (a) All VOC-containing Solvents, used in Solvent Cleaning operations, or a waste or used product, including items such as cloth or paper laden with VOC containing materials, shall be stored in ~~n~~Non-~~a~~Absorbent, Non-Leaking Containers which shall be kept closed at all times except when

filling or emptying, and disposed of in a manner to prevent evaporation of VOCs into the atmosphere at the facility. It is recommended that cloth and paper moistened with VOC-containing Solvents be stored in closed, non-absorbent, Non-Leaking Containers. [Derived from Yolo-Solano Rule 2.31, 302.1 (f)]

(5) Control Equipment

(a) In lieu of complying with the requirements in ~~subsection paragraphs~~ (C)(1)(a) or ~~(C)~~(2), a Person may comply by using a VOC emission collection and control system in association with the Solvent Cleaning operation provided:

- (i) ~~¶~~The emission control system shall collect at least ~~ninety percent (90%)~~percent, by weight, of the emissions generated by the Solvent Cleaning operation; and
 1. have a destruction efficiency of at least 95 percent, by weight, or
 2. have an output of less than 50 parts per million (PPM) calculated as carbon with no dilution; or
- (ii) ~~¶~~The emission control system meets the requirements of the applicable source specific rule of the District's Regulation XI. The collection system for cleaning in ~~Graphic Arts and~~ Screen Printing and cleaning of Application Equipment used for ~~Graphic Arts materials and~~ Screen Printing materials; shall collect at least 70 percent, by weight, of the emissions generated. This control system shall reduce emissions from the emission collection system by at least 95 percent. [Graphic Arts collection system requirements and cleaning of Application Equipment for Graphic Arts have been included in amended Rule 1130, subsection (C)(4) and (C)(7)]

~~(6D)~~ Recordkeeping Requirements

~~(a1)~~ Records shall be maintained pursuant to Rule 109 for all applications subject to this rule, including those exempted under section ~~(6F)~~, except the following:

(a) Facilities required to keep records of VOC used pursuant to any other not subject to recordkeeping requirements from any other Regulation XI rules. [Per USEPA suggestion via email, #2, 11/28/17. Derived from SC 1171, 05/01/2009]

~~(b)~~ Cleaning performed with a Solvent which has a water content of 98 percent or more, by weight, or a VOC Composite Partial Pressure of 0.1 mm Hg or less at 20°C (68°F), or contains VOC consisting of more than 12 carbon atoms [Removed per USEPA suggestion via email #3, 11/28/17, that the existing verbiage may provide a broader exemption than intended.]

(e2) Records shall be maintained to record the amount and type of each solvent used at each process on a daily basis. The following information should be included:

(ia) The name of the solvent;

(iib) The name of the solvent manufacturer;

(iiic) The VOC content of the solvent expressed in grams/liter or lb/gallon;

(d) Solvent usage; and

The mix ratio for the cleaning solvent as applied. [Derived from Yolo Solano Rule 2.31, section 501.2]

(d3) If compliance with this rule is achieved through the use of an Emission Control System, in addition to the provisions of subsection (D)(2), records shall also include:

(a) Daily records of temperatures, pressures, flowrates, and hours of operation of the control device to verify compliance of the capture and control device; and

(b) Records of maintenance work which interferes with the operation of the control device.

(24) All records shall be maintained and on site for a period of five (5) years and made available to the APCO or District staff upon request. [Derived from Yolo Solano Rule 2.31, section 501.2]

~~(D) General Prohibitions~~

~~(1) A Person shall not atomize any Solvent unless it is vented to air pollution control equipment which meets the requirements of subsection (C)(5). [moved to (C)(2)(b)]~~

~~(2) A Person shall not specify or require any Person to use Solvent or equipment subject to the provisions of this rule that does not meet the requirements of this rule.~~

~~(3) On and after January 1, 1997, a Person shall not perform Solvent Cleaning activities or operations subject to the provisions of this rule with any material which contains any of the following compounds: 1,1,1-trichloroethane (methyl chloroform); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113); 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ea); 1,1,2,3,3-~~

~~pentafluoropropane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); or 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a).~~*[moved to (C)(2)(d)]*

(E) Test Methods

(1) For the purpose of this rule, the following test methods shall be used. Other test methods determined to be equivalent after review by ~~the staffs of the~~ District ~~staff~~, the Air Resources Board, and the USEPA, and approved in writing by the APCO and the USEPA, may also be used. *[Abbreviation changed per USEPA suggestion via email, #4, 11/28/17.]*

(a) The VOC content of materials subject to the provisions of this rule shall be determined by the following methods:

(i) USEPA Reference Method 24 (Code of Federal Regulations, Title 40, Part 60, Appendix A) and subsection (B)(12) of this rule. ~~The Exempt Compounds' content shall be determined by the South Coast Air Quality Management District's (SCAQMD) Method 303 (Determination of Exempt Compounds) contained in the SCAQMD "Laboratory Methods of Analysis for Enforcement Samples" manual; or,~~

(b) Exempt Perfluorocarbon Compounds

(i) The following classes of compounds will be analyzed as Exempt Compounds for compliance with Section (C), only when manufacturers specify which individual compounds are used in the Solvent formulation and identify the USEPA, California Air Resources Board, and other USEPA-approved test methods used to quantify the amount of each exempt compound:

1. cyclic, branched, or linear, completely fluorinated alkanes;
2. cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
3. cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
4. sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(c) Determination of VOC Composite Partial Pressure

(i) The identity and quantity of components in Solvents shall be determined by ASTM Method D323-94. The VOC Composite Partial Pressure is calculated using the equation in subsection (B)(~~4236~~) of this rule.

- (d) Determination of Presence of VOC in Cleaning Materials
 - (i) The presence of VOC in liquid cleaning materials shall be determined by SCAQMD Method 308 (Quantitation of Compounds by Gas Chromatography) contained in the SCAQMD "Laboratory Methods of Analysis for Enforcement Samples" manual.
- (e) Determination of Efficiency of Emission Control System
 - (i) The efficiency of the collection device of the emission control system as specified in subsection (C)(5)(a)(i) shall be determined by the USEPA method cited in USEPA's publication entitled "Guidelines for Determining Capture Efficiency", January 9, 1995, in conjunction with USEPA Method 204, 204A, 204B, 204C, 204D, 204E or 204F, as appropriate, or any other alternative method approved by USEPA, the California Air Resources Board, and the District.
 - (ii) The efficiency of the control device of the emission control system as specified in subsection (C)(5)(a)(i) and the VOC content in the control device exhaust gases, measured and calculated as carbon, shall be determined by USEPA Test Method 25 or 25A, as applicable. USEPA Test Method 18, or ARB Method 422 shall be used to determine emissions of Exempt Compounds.
- (f) Multiple Test Methods
 - (i) When more than one test method or set of test methods is specified for any testing, a violation of any requirement of this rule established by any one of the specified test methods or set of test methods shall constitute a violation of this rule.
- (g) Unless otherwise specified, all test methods referenced in this section shall be the version most recently approved by USEPA, version: [Per USEPA suggestion via email, #6, 11/03/17.]

~~(F) Rule 442 Applicability~~

~~Any Solvent, Solvent Cleaning activity, Solvent Cleaning unit operation, or Person, which is exempt from all or a portion of this rule except subsection (C)(6), shall be subject to the applicable requirements of the applicable Regulation XI source specific rule or Rule 442—Usage of Solvent. [moved to (G)]~~

~~(G)~~ Exemptions

(1) The following Solvent Cleaning operations or activities are not subject to any provision of this rule:

- ~~(a) Cleaning carried out in batch-loaded cold cleaners, open-top vapor degreasers, conveyORIZED degreasers, or film cleaning machines which are regulated under Rule 1122—Solvent Degreasers. [Rule 1122 was moved to (F)(1)(c) for ascending Rule order]~~
- (a) Rule 1102 - Petroleum Solvent Dry Cleaners
- (b) Rule 1113 – Architectural Coatings
- (c) Rule 1122 – Solvent Degreasers [moved from
- (d) Rule 1124 - Aerospace Assembly and Component Manufacturing Operations, except coating Application Equipment cleaning, and storage and disposal of VOC-containing materials used in Solvent Cleaning operations.
- (e) Rule 1141.1 – Coatings and Ink Manufacturing
- (f) Rule 1151 – Motor Vehicle and Mobile Equipment Coating Operations
- (g) Rule 1151.1 – Motor Vehicle Assembly Coating Operations
- (h) Rule 1164 - Semiconductor Manufacturing.
- ~~(b) Cleaning operations subject to Rules 1102—Petroleum Solvent Dry Cleaners, and 1421—Control of Perchloroethylene Emissions from Dry Cleaning Operations [Rule 1102 is being moved to (a) for ascending rule order and Rule 1421 will be removed as an exempt rule in amended Rule 1171 as it is not SIP approved, per USEPA via email, #7, dated 11/03/2017]~~
- ~~(c) Cleaning operations subject to Rule 1164—Semiconductor Manufacturing. [moved to (h) for ascending Rule order]~~
- ~~(d) Cleaning operations subject to Rule 1124—Aerospace Assembly and Component Manufacturing Operations, except coating Application Equipment cleaning, and storage and disposal of VOC-containing materials used in Solvent Cleaning operations. [moved to (d) for ascending rule order]~~
- ~~(e)) Cleaning operations subject to Rule 1141—Control of Volatile Organic Compound Emissions from Resin Manufacturing, and Rule 1141.1—Coatings and Ink Manufacturing. [Rule 1141 was rescinded 03/06/92 and Rule 1141.1 was moved to (e) for ascending Rule order]~~

- (fi) Janitorial ~~and Institutional cleaning~~, including graffiti removal. *[Removed Institutional cleaning to address suggestion per USEPA via email 11/28/17 #1., as it includes “cleaning activities conducted at organizations, societies, or corporations...” which may provide a broader exemption than intended.]*
 - (gi) Stripping of Cured Coatings, Cured Adhesives, and Cured Inks.
 - (hk) Cleaning operations using Solvents with a water content of 98% or more, by weight.
- (2) The provisions of subsection (C)(1)(a) shall not apply when carried out for any of the following applications:
- (a) Cleaning of solar cells, laser hardware, Scientific Instruments, and High Precision Optics.
 - (b) Cleaning for: conducting performance laboratory tests on coatings, adhesives, or inks; research and development programs; and laboratory tests in quality assurance laboratories.
 - (c) Cleaning of polycarbonate plastics.
 - ~~(d) Cleaning of cotton swabs to remove cottonseed oil before cleaning of high-precision optics. [Moved from original (G)(5)]~~
- (3) Cleaning of the nozzle tips of automated spray equipment systems, except for robotic systems, and cleaning with spray bottles or containers described in subsection (C)(2)(a)(ii), are not subject to the provisions of subsection (D)(1).
- (4) Cleaning with Aerosol Products shall not be subject to the provisions of subsections (C)(1)(a) and (D)(1) if 160 fluid ounces or less of Aerosol Product are used per day, per Facility.
- ~~(5) Cleaning of cotton swabs to remove cottonseed oil before cleaning of high-precision optics shall not be subject to subsection (C)(1)(a). [Moved to (F)(2)(d) for consistency.]~~
- (65) Medical Device and pharmaceutical facilities may use up to 1.5 gallons per day of Solvents that are not in compliance with subsection (C)(1)(a).
- (76) The provisions of subsection (C)(1)(a)(iii) shall not apply to cleaning of coating and adhesive application processes utilized to manufacture transdermal drug delivery product using less than 3 gallons per day of ethyl acetate averaged over a 30 calendar day period.
- ~~(7) Cleaning of application equipment used to apply coatings on satellites and radiation effect coatings shall not be subject to (C)(1)(a)(iii).. [Derived from~~

SCAQMD Rule 1171, section (g)(5)(B), May 1, 2009 and SJVAPCD Rule 4663, section 4.6, amended September 20, 2007.]

- (8) The provisions of subsection (C)(1)(a)(iv) shall not apply to Persons or Facilities using less than 1.5 gallons per day of solvents to clean Sterilization Indicating Ink Application Equipment.

(FG) Rule 442 Applicability

Any Solvent, Solvent Cleaning activity, Solvent Cleaning unit operation, or Person, which is exempt from all or a portion of this rule except ~~subsection (C)(6)(D)~~, shall be subject to the applicable requirements of the applicable Regulation XI source specific rule or Rule 442 - *Usage of Solvent*.

[SIP: Submitted as amended 11/17/98 on _____; Submitted as amended 06/13/97 on _____; Approved 5/24/01, 66 FR 28666, 40 CFR 52.220(e)(262)(i)(e)(2); Approved 07/14/95, 60 FR 36230, 40 CFR 52.220(e)(222)(i)(A)(1); Approved 12/20/93, 58 FR 66285, 40 CFR 52.220(e)(188)(i)(e)(1)]

See SIP Table at www.avaqmd.ca.gov

Appendix “B”
Public Notice Documents

1. Proof of Publication – Antelope Valley Press 06/15/2018

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AFFIDAVIT OF PUBLICATION

(2015.5 C.C.P.)

STATE OF CALIFORNIA

County of Los Angeles

} ss

The space above for filing stamp only

**NOTICE OF HEARING
SOLVENT CLEANING OPERATIONS**

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of the **Antelope Valley Press**, a newspaper of general circulation, printed and published daily in the City of **Palmdale**, County of Los Angeles, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California, under date of October 24, 1931, Case Number 328601; Modified Case Number 657770 April 11, 1956; also operating as the **Ledger-Gazette**, adjudicated a legal newspaper June 15, 1927, by Superior Court decree No. 224545; also operating as the **Desert Mailer News**, formerly known as the **South Antelope Valley Foothill News**, adjudicated a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California on May 29, 1967, Case Number NOC564 and adjudicated a newspaper of general circulation for the City of **Lancaster**, State of California on January 26, 1990, Case Number NOC10714, Modified October 22, 1990; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

June 15, 2018

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

Signature

Dated: June 15, 2018
Executed at Palmdale, California

37404 SIERRA HWY., PALMDALE CA 93550
Telephone (661)267-4112/Fax (661)947-4870

NOTICE OF HEARING

NOTICE IS HERBY GIVEN that the Governing Board of the Antelope Valley Air Quality Management District (AVAQMD) will conduct a public hearing on July 17, 2018 at 10:00 A.M. to consider the proposed amendment of Rule 1171 - Solvent Cleaning Operations.

SAID HEARING will be conducted in the Governing Board Chambers located at the AVAQMD offices, 43301 Division Street, Suite 206, Lancaster, CA 93535-4649 where all interested persons may be present and be heard. Copies of the proposed amendment of Rule 1171 - Solvent Cleaning Operations and the Staff Report are on file and may be obtained at the AVAQMD Office, at the above address. Written comments may be submitted to Bret Banks, Executive Officer/APCO at the above office address, and should be received no later than July 16, 2018 to be considered. If you have any questions, you may contact Barbara Lods at (661) 723-8070 x3 or via E-mail at blods@avaqmd.ca.gov for further information. Traducción esta disponible por solicitud.

The proposed amendment of Rule 1171 - Solvent Cleaning Operations will satisfy 42 U.S.C. §17531a (Federal Clean Air Act §192) which requires that ozone non-attainment areas implement Reasonably Available Control Technology (RACT) for sources that are subject to Control Techniques Guidelines (CTG) documents issued by United States Environmental Protection Agency (USEPA) and for "major sources" of volatile organic compounds (VOC) and oxides of nitrogen (NOx) which are ozone precursors.

The proposed amendments to Rule 1171 are necessary to enhance work practices, adjust categories for consistency with source specific rules, reduce VOC limits and address the alternative composite vapor pressure.

Pursuant to the California Environmental Quality Act (CEQA) the AVAQMD has determined that a Categorical Exemption (Class 8 - 14 Cal. Code Reg. §15309) applies and has prepared a Notice of Exemption for this action.

Deanna Hernandez
Senior Executive Analyst
Antelope Valley Air Quality Management District

Publish: June 15, 2018

**AVAQMD
JUN 25 2018
RECEIVED**

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Appendix “C”
Public Comments and Responses

No comments received at this time.

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Appendix “D”
California Environmental Quality Act
Documentation

1. Draft Notice of Exemption – Los Angeles County

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NOTICE OF EXEMPTION

TO: Los Angeles County Clerk
12400 E. Imperial Hwy, #1001
Norwalk, CA 90650

FROM: Antelope Valley
Air Quality Management District
43301 Division Street, Suite 206
Lancaster, CA 93535-4649

X AVAQMD Senior Executive Analyst

PROJECT TITLE: Amendment of Rule 1171 – *Solvent Cleaning Operations*

PROJECT LOCATION – SPECIFIC: Los Angeles County portion of the Mojave Desert Air Basin.

PROJECT LOCATION – COUNTY: Los Angeles County

DESCRIPTION OF PROJECT: The proposed amendment of Rule 1171 – *Solvent Cleaning Operations* will satisfy 42 U.S.C. §§7511a (Federal Clean Air Act §182) which requires that ozone non-attainment areas implement Reasonably Available Control Technology (RACT) for sources that are subject to Control Techniques Guidelines (CTG) documents issued by United States Environmental Protection Agency (USEPA) and for “major sources” of volatile organic compounds (VOCs) and oxides of nitrogen (NOX) which are ozone precursors.

NAME OF PUBLIC AGENCY APPROVING PROJECT: Antelope Valley AQMD

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Antelope Valley AQMD

EXEMPT STATUS (CHECK ONE)

Ministerial (Pub. Res. Code §21080(b)(1); 14 Cal Code Reg. §15268)

Emergency Project (Pub. Res. Code §21080(b)(4); 14 Cal Code Reg. §15269(b))

X Categorical Exemption – Class 8 (14 Cal Code Reg. §15308)

REASONS WHY PROJECT IS EXEMPT: The proposed amendments to Rule 1171 are exempt from CEQA review because they will not create any adverse impacts on the environment. This rule has been strengthened by enhancing work practices, adjusting categories for consistency with source specific rules, reducing VOC limits and addressing the alternative composite vapor pressure. Because there is no potential that the amendments might cause the release of additional air contaminants or create any adverse environmental impacts, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies. Copies of the documents relating to CEQA can be found in Appendix “D”.

LEAD AGENCY CONTACT PERSON: Bret Banks **PHONE:** (661) 723-8070

SIGNATURE: _____
TITLE: Executive Director/APCO **DATE:** July 17, 2018

DATE RECEIVED FOR FILING:

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Appendix “E” Bibliography

The following documents were consulted in the preparation of this staff report.

1. *Control Techniques Guidelines: Industrial Cleaning Solvents*, (EPA 453/R-06-001 September 2006).
2. Yolo-Solano AQMD Rule 2.31 – *Solvent Cleaning and Degreasing*, Revised May 8, 2013.
3. SJVUAPCD Rule 4663 – *Organic Solvent Cleaning, Storage, and Disposal*, Amended September 20, 2007.
4. SCAQMD Rule 1171 – *Solvent Cleaning Operations*, Amended February 1, 2008.

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The following page(s) contain the backup material for Agenda Item: 1) Award an amount not to exceed \$294,494 in District grant program funds to Fine Grade Equipment for the replacement of an older diesel motor grader with cleaner technology; and 2) Authorize the Executive Director/APCO and staff to negotiate final award

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #7

DATE: July17, 2018

RECOMMENDATION: 1) Award an amount not to exceed \$294,494 in District grant program funds to Fine Grade Equipment for the replacement of an older diesel motor grader with cleaner technology; and 2) Authorize the Executive Director/APCO and staff to negotiate final award based on available funds, target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel.

SUMMARY: This item awards an amount not to exceed \$294,494 in District grant program funds to Fine Grade Equipment for the replacement of one (1) 1982 diesel motor grader with a new lower-emission diesel motor grader certified to the Final Tier 4 current emission standards. Funding shall consist of Carl Moyer Program and NOx Remediation Measure (NMR) funding.

BACKGROUND: AVAQMD received an application from Fine Grade Equipment requesting grant funding pursuant to the Carl Moyer Program (CMP) towards retirement and replacement of older diesel-powered construction equipment. Fine Grade Equipment proposes voluntary participation in emission reduction programs in effort to reduce emissions. Grantee proposes to retire one (1) 1982 CAT 16G motor grader to receive an amount not to exceed \$294,494 in grant funding to off-set the costs to purchase one (1) new 2017 CAT 160M3 motor grader with the cleanest off-road engine technology. Staff has evaluated the project for Carl Moyer eligibility pursuant to the guidelines for the use of Carl Moyer Program and NOx Remediation Measure funding. The District proposes a maximum 61% percent toward the replacement costs. The new equipment proposed in this project replaces the operation of the existing equipment creating significant emission reductions of 7.11 tons/yr. claimed for 5 years project life. Early fleet turnover provides emission reductions that help the Valley towards attainment of the national ambient air quality standards.

cc: Jean Bracy
Laquita Cole
Michelle Powell
Julie McKeehan

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #7

PAGE 2

REASON FOR RECOMMENDATION: Governing Board approval is needed to fund Carl Moyer projects. Additionally, Governing Board authorization is needed for the Executive Director/APCO to negotiate and execute an agreement with the grant recipient.

REVIEW BY OTHERS: This item was reviewed by Allison E. Burns, Special Counsel to the Governing Board as to legal form, and by Bret Banks, Executive Director/APCO – Antelope Valley Operations on or about July 2, 2018.

FINANCIAL DATA: Sufficient funds are available from the District’s Carl Moyer Program and NOx Remediation Measure funds.

PRESENTER: Julie McKeehan, Grants Analyst