

APPENDIX G

Rule Consistency Analysis for Proposed Rule 9510 (Indirect Source Review) and Rule 3180 (Administrative Fees for Air Impact Assessment Applications)

November 17, 2005

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

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RULE CONSISTENCY ANALYSIS FOR DRAFT RULE 9510 (INDIRECT SOURCE REVIEW) AND RULE 3180 (ADMINISTRATIVE FEES FOR AIR IMPACT ASSESSMENT APPLICATIONS)

I. REQUIREMENTS OF ANALYSIS

Pursuant to Section 40727.2 of the California Health and Safety Code, prior to adopting, amending, or repealing a rule or regulation, the District is required to perform a written analysis that identifies and compares the air pollution control elements of draft Rules 3180 and 9510 with the corresponding elements of existing or proposed District and United States Environmental Protection Agency (US EPA) rules, regulations, and guidelines that apply to the same source category.

For this analysis, the comparison with other District and US EPA rules and guidelines mainly cover the rules' purpose and applicability. Unlike other District prohibitory rules, Rule 9510 reduces emissions from area sources, not from distinct units considered as point sources that are amenable to analysis in terms of emissions limits, source testing, or recordkeeping requirements. This approach analyzes whether Rule 9510 is in conflict or is redundant with the purpose of other District or federal rules and guidelines already in place, and it also clarifies the applicability of other rules relevant to the development projects covered by Rule 9510.

II. RESULTS OF ANALYSIS

A. District Rules

Consistency with District Fee Rules

The stated purpose of Rule 3180 is to recover District cost for administering the requirements of Rule 9510 and the applicability of Rule 3180 is specific to developments projects subject to the requirements of Rule 9510. There are no other District fee rules with a similar purpose and applicability. The fee requirements stated in District Rule 3100 (California Environmental Quality Act Fee) is specifically for permitted sources subject to District rules and regulations and does not apply to development projects subject to Rule 9510. The process for Rule 9510 is different from the District Permit Program---development projects are required to submit an Air Impact Assessment application, which the District evaluates and approves, and assesses a off-site emission reduction fee if emissions are not reduced on-site. The exact role Rule 9510 in the CEQA process will be determined when the District revises its Guidelines for Assessing and Mitigating the Air Quality Impacts (GAMAQI) document.

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Consistency with Rule 2010 (Permits Required)

The applicability of Rule 9510 concerns development projects that have not been traditionally under the purview of District Permit Requirements. In lieu of permitting requirements, development projects covered by Rule 9510 are required to submit an Air Impact Assessment application, which the District evaluates and approves, and assesses a off-site emission reduction fee if emissions are not reduced on-site. There may be some new developments that could be subject to Rule 2010 for particular piece(s) of equipment, however, Rule 9510 will only apply to the area and operational (motor vehicle) emissions, and will not apply to the stationary sources of emissions from a particular development. Therefore, Rule 9510 requirements will not duplicate the requirements in Rule 2010.

Consistency with Rule 9110 (General Conformity)

Proposed Rule 9510 is designed to reduce emissions of PM10 and PM10 precursors and fulfills commitments in the 2003 PM10 Plan, which has been SIP-approved. After Rule 9510 is adopted, it will be submitted for SIP approval. With the approval of Rule 9510 into the SIP, District Rule 9110 (General Conformity) is triggered. The District's Rule 9110 adopted by reference the federal conformity rule which states that (40 CFR 51.850): "No department, agency or instrumentality of the Federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to an applicable implementation plan." Therefore any development project subject to Rule 9110 (General Conformity) must make a determination of conformity with the District's SIP-approved rules and regulations, including Rule 9510. A federal actions that result in direct and indirect emissions equal to or exceeding 10 tons of ozone precursors (VOCs or NOx) in extreme nonattainment areas or 70 tons of PM10 in serious nonattainment areas is required to perform conformity determination (40 CFR 51.853).

There is no provision in Rule 9510 exempting federal actions in total. Federally sanctioned actions subject to Rule 9110 are exempt from the requirements of Rule 9510 if they fall under any of the following categories: (1) transportation projects that meet specific conditions, (2) transit projects, (3) reconstruction of any development project that is damaged or destroyed and is rebuilt to essentially the same use, or (4) a development project whose primary emission source are from stationary sources subject to Rule 2201 (New and Modified Stationary Source Review) and Rule 2010 (Permits Required). In the event that a project that is subject to Rule 9110 and 9510, any action or emissions used to demonstrate general conformity, can also be used as credit towards the required emission reductions, as long as they meet the requirements in Rule 9510. In the event that there is a shortfall in meeting the emission reduction requirements, the project will need to reduce the remaining emissions either with additional on-site measures or with off-site measures to be in full compliance with the requirements of Rule 9510.

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Consistency with Regulation VIII Rules

The baseline emissions for construction, as used in this rule's emission reduction analysis, do not include emissions from fugitive dust, as required by Regulation VIII. However, any control technique performed for purposes of complying with Regulation VIII that reduces the project's construction equipment exhaust emissions will reduce the required reduction and the corresponding fee amount required under Rule 9510.

Consistency with Other District Rules

The baseline emissions attributed to sources subject to Rule 9510 include emissions from area sources that are assumed to be already in compliance with the requirements of other District rules (for residential sources) such as: Rule 4601 (Architectural Coatings), Rule 4901 (Wood Burning Fireplaces and Wood Burning Heaters), Rule 4902 (Residential Water Heaters), and Proposed Rule 4905 (Residential Central-Heating Furnaces). These rules don't require permits for affected units, and the enforcement mechanism is through certification by manufacturers or distributors prior to the sale and installation of these units within the San Joaquin Valley. Other District rules, which regulate non-residential sources and apply to and control specific stationary or area source emissions that are assumed to be already in compliance with other District rules requirements, are not included in the emissions baseline for Rule 9510. These include but may not be limited to: Rule 4351, 4305, 4306 (Boilers, Steam Generators, and Process Heaters), Rule 4622 (Gasoline Transfer into Motor Vehicle Fuel Tanks), Rule 4672 (Petroleum Solvent Dry Cleaning Operations), Rule 4692 (Commercial Charbroiling), and other process-specific District rules.

Consistency with Rule 1070

Rule 1070 provides the basis of authority for the District enforcement activities such as site inspections to verify compliance with mitigation measures.

B. US EPA RULES AND GUIDELINES

There are no specific federal guidelines applying to development projects as a source of NO_x, PM₁₀, or PM₁₀ precursors in terms of New Source Performance Standards (NSPS), Control Technique Guidelines (CTG), Maximum Achievable Control Technology (MACT) and National Emission Standards for Hazardous Pollutants (NESHAP).

As previously mentioned, District's Rule 9110 adopted by reference the federal conformity rule which states that (40 CFR 51.850): "No department, agency or instrumentality of the Federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to an applicable implementation plan." Its relationship to Rule 9501 is discussed above.