

ENVIRONMENTAL REVIEW GUIDELINES

Procedures for Implementing the California Environmental Quality Act

Prepared by
the Mobile Source/CEQA Section
of the Planning Division
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This document fulfills California Environmental Quality Act (CEQA) and CEQA Guidelines requirements for agencies to adopt procedures and guidelines for implementing CEQA. Copies and updates are available from the SJVUAPCD Planning Division at (559) 230-5800. Questions on content should be addressed to either the Mobile Source/ CEQA Section at (559) 230-5800 or the SJVUAPCD CEQA representative at the regional office that covers the county in which the project is located.

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1 PURPOSE

This document fulfills California Environmental Quality Act (CEQA) and CEQA Guidelines requirements for agencies to adopt procedures and guidelines for implementing CEQA. The document is intended to guide San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) staff in carrying out CEQA and to assure the public that environmental impacts related to SJVUAPCD actions are thoroughly and consistently addressed.

2 CEQA BACKGROUND INFORMATION

CEQA is California's most comprehensive environmental law. It was adopted by the state legislature in 1970 and has been amended on many occasions. CEQA applies to all discretionary activities approved or carried out by public agencies.

CEQA has six primary objectives:

1. To disclose to decision-makers and the public the significant environmental effects of proposed activities;
2. To identify ways to avoid or reduce environmental damage;
3. To prevent environmental damage by requiring implementation of feasible alternatives or mitigation measures;
4. To disclose to the public reasons for agency approvals of projects with significant environmental effects;
5. To foster interagency coordination; and
6. To enhance public participation.

The CEQA Statutes are contained in the Public Resources Code (PRC), Division 13, Sections 21000 *et seq.* In addition, the Secretary of Resources adopted CEQA Guidelines, which are the State's official interpretation of CEQA. The CEQA Guidelines are contained in the California Code of Regulations (CCR), Title 14, Chapter 3, Sections 15000 *et seq.*

Section 15022 of the CEQA Guidelines describes public agency implementing procedures for CEQA. Section 15022(d) allows public agencies to incorporate the State CEQA Guidelines by reference, and then to adopt only specific procedures or provisions necessary to tailor the general provisions of the CEQA Guidelines to specific agency operations. The SJVUAPCD adopted the CEQA Guidelines by reference on February 18, 1993. The SJVUAPCD will continue to rely on the CEQA Guidelines for topics not covered by this document.

“This document does not override or supercede the State CEQA Guidelines. Any place in this document where there may be a conflict between what is said in the ERG and what is said in the State CEQA Guidelines, always defer to the State CEQA Guidelines for official interpretation. If in doubt, the reader is encouraged to utilize State CEQA Guidelines as official reference.”

3 SJVUAPCD ROLES AND RESPONSIBILITIES

Air Pollution Control Districts have unique roles and responsibilities in implementing CEQA. The CEQA Guidelines describe air pollution control districts as single or limited purpose agencies [CCR §15051(b)(1)]. As such, CEQA limits the SJVUAPCD to addressing issues within its area of expertise—air quality—for most projects. However, when the SJVUAPCD is the Lead Agency as described below, it must examine all potential environmental impacts of a project it will be approving. The SJVUAPCD exercises authority over most aspects of air resources in the San Joaquin Valley Air Basin. Figure 3-1 shows the jurisdiction of the San Joaquin Valley Unified Air Pollution Control District.

Only SJVUAPCD activities meeting the CEQA definition of the term “project” are subject to CEQA. The CEQA Statutes [PRC §21065] define “project” as the whole of an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following:

- An activity directly undertaken by a public agency.
- An activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.
- An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

3.1 ROLES

The SJVUAPCD has three primary roles under CEQA:

Lead Agency: The SJVUAPCD is the Lead Agency for projects where no other public agency has greater responsibility for supervising or approving the project [CCR §15051]. The SJVUAPCD will be the Lead Agency for the adoption of all SJVUAPCD plans, regulations, and rules. The SJVUAPCD may be the Lead Agency for some permit approvals that will be described in detail in a later section.

Figure 3-1
San Joaquin Valley Unified Air Pollution Control District Boundaries



Responsible Agency: The SJVUAPCD is considered a Responsible Agency when the SJVUAPCD will issue a discretionary permit for a project and another agency such as a city or county is the Lead Agency. Lead agencies must consult informally with responsible agencies at the Initial Study stage to obtain recommendations on whether to prepare an Environmental Impact Report (EIR) or a Negative Declaration [CCR §15063(g)]. Lead agencies must also request comments from responsible agencies on draft EIRs and Negative Declarations [CCR §15072(a) and §15086]. The SJVUAPCD must consider the environmental document prepared by the Lead Agency prior to approving certain permits [CCR §15096(f)].

Commenting Agency: The SJVUAPCD comments on the air quality impacts of projects where another public agency is the Lead Agency, but for which the SJVUAPCD has no discretionary authority. CEQA requires lead agencies to consult with agencies that exercise authority over resources that may be affected by the project [CCR §15073(b) and §15086].

3.2 RESPONSIBILITIES

3.2.1 Responsibilities as a Lead Agency

The SJVUAPCD's basic responsibilities as a Lead Agency are listed below:

- Conduct preliminary reviews to determine if applications are subject to CEQA [CCR §15060].
- Conduct review to determine if project is exempt from CEQA [CCR §15061].
- Prepare initial studies for projects that may have adverse environmental impacts [CCR §15063].
- Determine the significance of the environmental effects caused by the project [CCR §15064].
- Prepare Negative Declarations or Mitigated Negative Declarations for projects with no significant environmental impacts [CCR §15070].
- Prepare, or contract to prepare, EIRs for projects with significant environmental impacts [CCR §15081].

- Adopt reporting or monitoring programs for the changes made to projects or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment [PRC §21081.6 & CCR §15097].
- Comply with CEQA noticing and filing requirements.

3.2.2 Responsibilities as a Responsible Agency

The SJVUAPCD's responsibilities as a Responsible Agency related to commenting on environmental documentation are specified in the SJVUAPCD's Guide for Assessing and Mitigating Air Quality Impacts (GAMAQI) document. Prior to approving the Authority to Construct the SJVUAPCD must also, as a Responsible Agency, do the following:

- Decide on the adequacy of the EIR or Negative Declaration for use by the SJVUAPCD [CCR §15096(e)].
- Consider the environmental effects of the project as shown in the EIR or Negative Declaration [CCR §15096(f)].
- Adopt feasible alternative or mitigations for the direct or indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve [CCR §15096(g)].
- Prepare and submit mitigation monitoring and reporting programs where appropriate [PRC §21081.6 & CCR §15097].
- Make appropriate findings [CCR §15096(h)].
- File appropriate notices [CCR §15096(i)].

3.2.3 Delegation of Tasks

CEQA [CCR §15025] allows SJVUAPCD to delegate certain tasks to staff but also requires that other functions can not be delegated, but must be undertaken by the decision-making body. The SJVUAPCD Governing Board is the decision-making body for the adoption of rules, regulations, and plans. The Air Pollution Control Officer (APCO), Deputy APCO, or Acting APCO is the decision-making body for approvals of SJVUAPCD Authorities to Construct.

Tasks that May Not be Delegated: The decision-making body may not delegate the following functions [CCR §15025(b)]:

- reviewing and considering a final EIR or approving a Negative Declaration prior to approving a project and
- making findings required by CCR Sections 15091 and 15093. These findings relate to mitigation of significant impacts and to statements of overriding consideration when impacts cannot be mitigated but the project will be approved.

Tasks that are Delegated to Staff: The SJVUAPCD Governing Board delegates the following CEQA functions to staff:

- conducting preliminary reviews to determine whether a project is exempt from CEQA;
- conducting an Initial Study and deciding whether to prepare a draft EIR or a Negative Declaration;
- preparing a proposed Negative Declaration or EIR;
- accomplishing environmental reviews within the time frames required by CEQA;
- preparing responses to comments on SJVUAPCD prepared environmental documents;
- preparing mitigation reporting and monitoring programs;
- filing all notices required or allowed by CEQA; and
- reviewing and commenting on projects where another agency is Lead Agency (see GAMAQI).

Tasks that are Delegated to the Planning Director: The SJVUAPCD delegates the following CEQA functions to the Planning Director or his or her designee:

- Signing all draft documents
- Signing Notices of Exemption
- Signing Notices of Determination

3.2.4 Independent Judgment

The SJVUAPCD must exercise independent judgment in preparing environmental documents and considering environmental impacts. In accordance with CEQA [PRC §21082.1(c)], the SJVUAPCD will do all of the following:

- independently review and analyze any report or declaration required by CEQA;
- circulate draft documents that reflect the Lead Agency's independent judgment; and
- as part of the adoption of a Negative Declaration or certification of an EIR, find that the report or declaration reflects the independent judgment of the Lead Agency.

4 POLICIES AND PROCEDURES

This section provides SJVUAPCD policies and procedures for implementing CEQA. The section is not intended to be all encompassing. It restates or expands on parts of the CEQA Guidelines most frequently encountered when reviewing SJVUAPCD projects.

4.1 REVIEW STREAMLINING

It is SJVUAPCD policy to avoid unnecessary delay in carrying out CEQA review while ensuring that significant environmental effects are thoroughly and consistently addressed. The SJVUAPCD strongly supports actions to streamline the review process through the measures listed in the CEQA Guidelines [CCR §15006]. To implement this policy, the SJVUAPCD will provide land use approving agencies with sufficient information to address air quality impacts at the land use approval stage and thereby avoid the need for additional review when it is time for SJVUAPCD permit approval. When SJVUAPCD permit approvals require further review, the SJVUAPCD will use environmental information from previously adopted EIRs and Negative Declarations whenever possible. The SJVUAPCD will use all exemptions authorized by CEQA for qualifying projects.

4.2 EXEMPTIONS FROM CEQA

The State Legislature recognized that certain types of projects will not have significant environmental impacts or have overriding benefits that make compliance with CEQA unwarranted, and provided a variety of ways to qualify for exemptions from CEQA. The following section provides an overview of the most common exemptions applicable to projects where the SJVUAPCD is the Lead Agency or a Responsible Agency. Additional exemptions may be found in the CEQA Guidelines. Some projects may qualify for more than one exemption. In those cases, the exemptions most strongly related to the project should be identified in the project file and on the notice of exemption, if one is filed.

4.2.1 Statutory Exemptions

The Legislature granted a number of exemptions from CEQA. The following exemptions often apply to SJVUAPCD projects:

Ministerial Projects: Ministerial projects are those where the SJVUAPCD's decision involves little or no personal judgment as to the wisdom or manner of carrying out the project [CCR §15369]. Ministerial projects are entitled to a blanket exemption from all of CEQA's

policies and procedures. The SJVUAPCD, in the absence of any discretion, and based upon analysis of its own laws, generally considers the following approvals to be ministerial:

- **Permit to Operate**
Under the SJVUAPCD's two-step permitting system for new and modified equipment, an Authority to Construct (ATC) is issued first. When all conditions of the ATC have been met, a Permit to Operate (PTO) is issued. Any discretion in the action is applied at the ATC stage and therefore a PTO issued pursuant to an ATC is ministerial. PTOs issued pursuant to a change in the permit exemptions in Rule 2020 and exempt from new source review by Section 6 are ministerial.

- **ATCs for Projects Covered by the Permit Services Procedures Manual**
Under the SJVUAPCD's streamlined permit processing program set forth in the Permit Services Procedures Manual in the Guidelines for Expedited Application Review (GEAR) there are standard application reviews and standard ATC documents which must be used in acting on applications for ATC for the equipment identified therein. Little or no discretion is utilized in issuing ATCs under these GEAR documents; thus issuance of such ATCs is ministerial.

Emergency Projects: The following projects are exempt from CEQA per CCR §15269:

- Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been declared by the Governor.

- Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety or welfare.

- Specific actions necessary to prevent or mitigate an emergency. An example is the installation of a temporary emergency diesel water pump used to alleviate or avoid an immediate threat of flooding. This exemption would not apply to equipment installed in the normal course of construction to prevent long-term hazards.

Title V Permits: The issuance, modification, amendment, or renewal of any permit pursuant to Title V of the federal Clean Air Act (42 U.S.C. Secs. 7661 to 7661f, incl.) or pursuant to the SJVUAPCD's Title V program is exempt from CEQA **unless the permit activity authorizes a physical or operational change** [PRC §21080.24].

4.2.2 Categorical Exemptions

The State Secretary of Resources has determined that certain classes of projects do not have a significant effect on the environment and are exempt from the provisions of CEQA. These exemptions are listed in the CEQA Guidelines Sections 15300 to 15329. The exemptions most frequently applied to SJVUAPCD approvals are listed below:

Minor Alterations to Existing Facilities: [CCR §15301] Projects consisting of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographic features, involving negligible or no expansion of use or emissions beyond that existing at the time of the lead agency's determination. This exemption includes the following SJVUAPCD permit actions:

- ATC applications to install air pollution control or abatement equipment and there are no possible significant environmental effects and
- ATC applications to alter permitted equipment or to change processes that will involve only negligible increases or decreases in pollutant emissions and no other possible significant environmental effects.

Replacement or Reconstruction: [CCR §15302] Replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity. This would include replacement or reconstruction of existing permitted facilities and equipment involving no expansion of capacity.

Actions by Regulatory Agencies for Protection of the Environment: [CCR §15308] Actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment. This exemption may apply to the adoption of SJVUAPCD rules and regulations that tighten requirements or performance standards and have no significant environmental effect on other resources.

Cogeneration Projects at Existing Facilities: [CCR §15329] The installation of cogeneration equipment with a capacity of 50 megawatts or less that meet the following conditions:

- Industrial facilities where the installation of cogeneration equipment will result in no net increase in air emissions, or will produce emissions lower than the amount that would require review under the new source review rules of the SJVUAPCD, and comply with all applicable state, federal, and local air quality laws.

- Commercial and institutional facilities that meet all the criteria listed above, result in no noticeable noise to nearby residential structures, and are contiguous to other commercial or institutional uses.

4.2.3 Exceptions to Categorical Exemptions

Projects that meet the criteria for one of the categorical exemptions are still subject to CEQA under several circumstances [CCR §15300.2]:

- projects that are ordinarily considered insignificant in their impacts on the environment are not exempt if the project is located in a particularly sensitive environment;
- when the cumulative impact of successive projects of the same type in the same place, over time is significant;
- when unusual circumstances exist that may cause a significant effect on the environment;
- when a project may result in damage to scenic resources within a highway designated as a state scenic highway;
- when a project is located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code (Hazardous Waste Sites); or
- when a project may cause a substantial adverse change in the significance of a historical resource.

4.2.4 “General Rule” Exemption

CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA [CCR §15061(b)(3)]. The “General Rule” exemption is used when, during preliminary review, the SJVUAPCD finds that a discretionary project is of a type and size known through previous environmental reviews, analysis, and experience to have no significant effects. This exemption cannot be used if the project has circumstances that are out of the ordinary, or if the project has the potential to cause a localized exceedance of any pollutant emission standard. Examples of projects normally qualifying for this exemption include, but are not limited to, the following:

New Stationary Sources with Emissions less than New Source Review Offset

Thresholds: New projects with criteria pollutant emissions in amounts less than new source review offset thresholds of SJVUAPCD Rule 2201, for which there may be an increase in the emissions of any toxic air contaminant, but any such increase conforms with the SJVUAPCD's Risk Management Policy, and for which there will be no other significant environmental effects.

New or Modified Stationary Sources Offsetting Criteria Pollutant Emissions: New or modified projects satisfying the offset requirements of SJVUAPCD Rule 2201, for which there may be an increase in the emissions of any toxic air contaminant, but any such increase conforms with the SJVUAPCD's Risk Management Policy, and for which there will be no other significant environmental effects. Projects defined as a major source or a Title I modification by SJVUAPCD Rule 2201 are generally not exempt.

Minor Rule Amendments: Rule amendments that make administrative changes and corrections to rules that do not relax emission standards nor cause significant emissions increases, and have no other significant environmental effects.

Rules with no Significant Environmental Effect: New and amended rules where it can be seen with certainty that implementation will result in no significant environmental effects.

Adoption of Federal or State Rules or Regulations by Reference: The SJVUAPCD sometimes adopts United States Environmental Protection Agency (EPA) and California Air Resources Board (ARB) rules and regulations that will be enforced by the SJVUAPCD. By placing the rule in the SJVUAPCD Rulebook, potential sources are more likely to be aware of the requirements. SJVUAPCD adoption of these rules has no impact on the environment since they are in effect whether or not the SJVUAPCD takes action. Examples include the General Conformity Rule (Rule 9020) and rules adopted to comply with the National Emission Standards for Hazardous Air Pollutants (NESHAP) (Rule 4002). If the SJVUAPCD modifies a state or federal rule in a way that substantially differs from the state or federal regulation it must be examined for potential impacts.

Plans Using Only Previously Adopted Measures: New and amended SJVUAPCD plans proposing no new control measures or programs and these existing previously adopted measures and programs were found to have no significant environmental effects during a previous environmental review.

Plans with no Significant Adverse Effect: New and amended SJVUAPCD plans where it can be seen with certainty that proposed measures or programs will have no significant environmental effects.

4.2.5 Filing Notices of Exemption

The CEQA Guidelines [CCR §15062] allow the SJVUAPCD to file a Notice of Exemption for projects determined to be exempt from CEQA. Filing a Notice of Exemption starts a 35-day statute of limitations period on legal challenges of an agency's decision that a project is exempt from CEQA. If no Notice of Exemption is filed the statute of limitations is 180 days.

The notice can be filed only after the project is approved. The SJVUAPCD shall file Notices of Exemption for plans and rules with all eight counties. The SJVUAPCD shall file a Notice of Exemption for a permit approval only when deemed necessary or at the request of an applicant. The notice shall be filed only with the County Clerk of the county where the project is located. The notice shall contain all information required by CCR §15062.

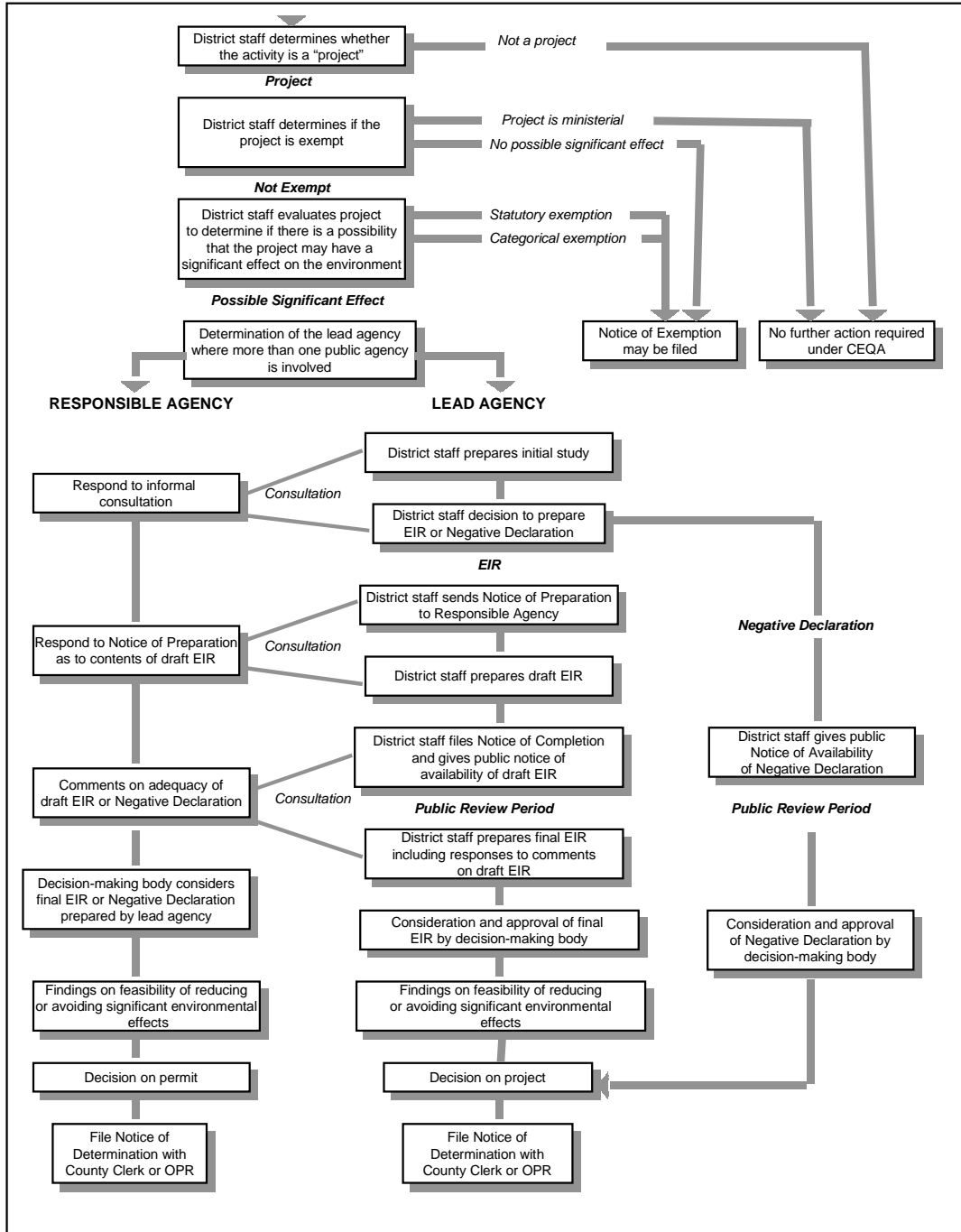
4.3 PROJECTS SUBJECT TO CEQA REVIEW

Projects not falling under any of the exemptions either listed above or in the CEQA Guidelines are subject to CEQA review. For a step-by-step flow chart depicting the CEQA review process, please refer to Figure 4-1. The following describes SJVUAPCD actions needed to comply with CEQA.

4.3.1 Lead Agency Determination

The first action that the SJVUAPCD must take is to determine which agency is the Lead Agency. A Lead Agency is the public agency with the principal responsibility for approving a project. The SJVUAPCD is the Lead Agency for the approval of all its plans, rules, and regulations. Often, projects that require SJVUAPCD permit approvals will also require land use approvals from another public agency. The Lead Agency will normally be the agency with general governmental powers such as a city or county, rather than an agency with a single or limited purpose such as an air pollution control district [CCR §15051(b)(1)]. When a city or county is the Lead Agency and the project requires SJVUAPCD permits, the city, or county analyzes all impacts of the project including impacts to air quality. When this occurs, the SJVUAPCD is considered a Responsible Agency. The SJVUAPCD's actions as a Responsible Agency are discussed beginning in Section 4.3.10.

Figure 4-1
SJVUAPCD's CEQA Process Flow Chart



4.3.2 The Initial Study

The next step after determining that the SJVUAPCD must conduct further CEQA review is to prepare an Initial Study. The purpose of the Initial Study is to determine if the project may have a significant effect on the environment. An Initial Study provides a framework to systematically examine all potential environmental effects. If it is clear that an EIR is required, an Initial Study is not required.

SJVUAPCD CEQA staff will prepare initial studies in accordance with CCR Section 15063. An Initial Study will normally include a complete project description, an environmental checklist, a discussion of potentially significant impacts and mitigation measures, and references to applicable previous environmental documents, professional studies, and technical reports.

The SJVUAPCD will consult informally with all responsible agencies and trustee agencies responsible for resources affected by the project to obtain recommendations to prepare either an EIR or a Negative Declaration.

4.3.3 Decision to Prepare an EIR or Negative Declaration

Following completion of the Initial Study, the SJVUAPCD will review the potential impacts along with the recommendations of the trustee agencies and responsible agencies to determine if substantial evidence exists that the project will have a significant effect on the environment. If there are no significant effects, the SJVUAPCD will prepare a Negative Declaration. If there are significant effects, but those effects can be mitigated to a level considered less than significant, the SJVUAPCD will prepare a Mitigated Negative Declaration and incorporate the mitigation measures into the project. When an individual or entity other than the SJVUAPCD is undertaking the project, the project applicant must agree to the incorporation of the measures into the project. If there are unavoidable significant effects, the SJVUAPCD will prepare an EIR. The Director of Planning or his designee shall make this determination.

If at any time during the approval process the decision-making body determines that an EIR must be prepared for a project for which a Negative Declaration has been filed, the project shall not be approved until such a time as an EIR has been completed. However, EIRs must be completed within one year of an application being accepted as complete [CCR §15108].

4.3.4 Criteria for Determining Significant Environmental Effect

The CEQA Guidelines defines significant effect on the environment as “a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic and aesthetic significance.” When “substantial evidence exists, in the light of the whole record before the Lead Agency, that a project may have a significant effect on the environment”, the agency must prepare a draft EIR [CCR §15064(a)(1)].

The SJVUAPCD is limited to examining air quality effects only when it acts as a Responsible or Commenting Agency but must evaluate all environmental effects when acting as a Lead Agency. The District will enlist the assistance of Trustee and Responsible Agencies for determination of environmental significance for areas other than air quality. For air quality, CEQA Guidelines, Appendix G [Environmental Checklist Form], states that a project may have a significant effect if it will:

- conflict with or obstruct implementation of the applicable air quality plan;
- violate any ambient air quality standard or contribute substantially to an existing or projected air quality violation;
- result in a cumulatively considerable net increase of any criteria pollutant for which a region is non-attainment;
- expose sensitive receptors to substantial pollutant concentrations; or
- create objectionable odors affecting a substantial number of people.

The significance of each of these impacts can be based on quantitative measures of pollutant emissions as well as qualitative measures. SJVUAPCD criteria and methods for determining significance will be found in the SJVUAPCD’s GAMAQI document.

CEQA allows EIRs to include information on economic or social effects caused by the project, but these effects shall not be treated as significant effects on the environment [CCR §15131]. However, economic and social effects stemming from a physical effect can be used as a basis for determining significant impact.

4.3.5 Determining Significant Effects of SJVUAPCD Projects

Plans: Federal and state law requires the SJVUAPCD to prepare plans for attaining air quality standards. The plans identify control measures needed to comply with emission reduction goals and attainment deadlines. For many control measures, details on actual

methods that will be used are not available at the time the plan is prepared. For this reason, environmental analysis for plans focuses on general impacts of the potential range of control methods and reasonably foreseeable indirect and secondary impacts. Quantification of most impacts will not be feasible at the Plan stage.

Most air pollution control measures are beneficial to the environment, although some may have secondary impacts. An example is fugitive dust controls that increase the use of water. The SJVUAPCD must examine secondary impacts to determine if they are significant. Agencies responsible for other resources, such as the Regional Water Quality Control Board, can help identify potentially significant impacts and measures to reduce these impacts.

When plans propose new strategies, the SJVUAPCD may obtain information on potential impacts from other air districts that have already adopted the strategy, the ARB, the EPA, and industry. The SJVUAPCD may also obtain information on potential impacts through consultation with other public agencies during the Initial Study or early consultation process. The agencies that will be consulted will depend upon the nature of each individual project and may vary from project to project. They will be determined on a case-by-case basis.

Rules and Regulations: Staff implements control measures contained in SJVUAPCD plans by developing rules and regulations. During the rule development process, SJVUAPCD staff will conduct an environmental analysis [CCR §15187] of the reasonably foreseeable methods by which compliance with that rule or regulation will be achieved. The environmental analysis will take into account a reasonable range of environmental, economic, and technical factors, population, and geographic areas, and specific sites and shall include at least the following:

- An analysis of reasonably foreseeable environmental impacts of the methods of compliance;
- An analysis of reasonably foreseeable feasible mitigation measures relating to those impacts; and
- An analysis of reasonably foreseeable alternative means of compliance with the rule or regulation, which would avoid or eliminate the identified impacts.

SJVUACD staff shall evaluate the environmental analysis and use the results of the evaluation to determine the appropriate CEQA action. Rules and regulations with possible adverse impacts will undergo further CEQA review to more closely examine these impacts.

SJVUAPCD ATCs and PTOs: The SJVUAPCD issues ATCs and PTOs for many types of commercial and industrial activities, processes, and equipment. All SJVUAPCD ATCs

undergo a preliminary review to determine if any possibility of a significant environmental effect exists. This review applies even to projects that are normally considered ministerial or exempt as described earlier in this document. After this preliminary review, District staff will determine whether the project requires further environmental review. When the SJVUAPCD is a Responsible Agency, it will review projects for significant effects related to areas within its expertise or which are required to be carried out or approved by the SJVUAPCD or subject to the exercise of powers by the SJVUAPCD, and provide this information to the Lead Agency during the consultation process [CCR §15096(d)]. When the SJVUAPCD is the Lead Agency, it will examine all potential significant environmental effects of the permit approval and prepare an environmental document when appropriate.

Due to the SJVUAPCD's regulatory authority over air pollutant emissions, most air quality impacts from ATCs are reduced to a level that is less than significant. This is supported by CEQA Guidelines Section 15064(h) that states that a change in environment is not significant if it complies with a standard meeting conditions listed therein and in Section 15064(I). In short, District rules and regulations constitute adopted performance standards that must be met to obtain approval of an ATC. The emission limits and control requirements contained in the rules and regulations, in effect, prohibit a regulated source from causing a significant air quality impact. For example, all large permitted sources must offset all emissions above the new source review offset thresholds in SJVUAPCD Rule 2201; therefore, cumulative effects on regional pollution levels are reduced to less than significant. Similarly, Rule 2201 prohibits new or modified sources of emissions from causing local effects such as pollutant hot spots and significant increases in cancer risk, and Rule 4102 (Nuisance) prohibits the creation of offensive odors.

SJVUAPCD ATCs would only cause significant air quality impacts when SJVUAPCD rules and regulations are not adequate to address the impact or if a project is approved that does not comply with all provisions of the rules and regulations, and the impact cannot be mitigated by some other means. The factors that must be weighed when determining significant air quality effects include the following:

- the potential to cause a local exceedance of any ambient air quality standard;
- the potential to cause a local odor problem;
- the proximity of the source to sensitive receptors;
- the potential to increase the maximum individual cancer risk beyond 10 in one million;
or
- the potential to expose people to acutely hazardous air pollutants.

When the SJVUAPCD is the Lead Agency, the determination of significant impact will be made in consultation with other agencies with expertise in the various natural resources potentially impacted by the project. When available, the SJVUAPCD will use quantifiable thresholds for determining significant impact.

4.3.6 Mitigating Significant Impacts

One of the most important responsibilities for public agencies under CEQA is the duty to identify feasible alternatives or mitigation measures to reduce significant effects on the environment [CCR §15021]. CEQA gives lead agencies the authority to require feasible changes in all activities related to the project to substantially lessen or avoid significant effects on the environment, consistent with applicable constitutional requirements such as “nexus” and “rough proportionality” standards established by case law [CCR §15041] and allows lead agencies to disapprove projects where significant effects cannot be avoided [CCR §15042]. Responsible agencies are restricted to mitigating effects directly or indirectly related to the part of the project which the agency will carry out or approve [CCR §15041(b)].

When the SJVUAPCD, acting as a Lead Agency, identifies a possible significant effect during early consultation or in the Initial Study, responsible agencies and agencies responsible for the natural resource impacted by the project may recommend mitigation measures to reduce these impacts. However, the SJVUAPCD retains the authority to determine if recommended measures or alternatives are feasible.

When the SJVUAPCD finds that significant environmental effects remain despite applying all feasible mitigation measures, two options are available. First, the SJVUAPCD may disapprove the project to avoid the significant effect [CCR §15042]. Second, the SJVUAPCD may approve the project despite significant effects [CCR §15043] and make the environmental findings, or Statement of Overriding Considerations (SOC) pursuant to CCR Section 15093. A SOC, however, can only be made when an EIR has been prepared. All SOCs will get Governing Board concurrence.

4.3.7 Negative Declaration Process

The SJVUAPCD shall prepare Negative Declarations in accordance with CCR Sections 15071-15075. The public review period for projects submitted to the State Clearinghouse is thirty (30) days, unless a shorter period is approved by the State Clearinghouse. Public review periods for other projects will be not less than 20 days. All Negative Declarations for SJVUAPCD plans, rules, regulations, and regionally significant projects requiring SJVUAPCD permits shall be submitted to the State Clearinghouse.

4.3.8 EIR Process

The SJVUAPCD shall prepare, or cause to be prepared, EIRs in accordance with CCR Sections 15080-15095. The public review period for draft EIRs submitted to the State Clearinghouse is at least 45 days unless a shorter period is approved by the State Clearinghouse. All EIRs for SJVUAPCD projects shall be submitted to the State Clearinghouse.

4.3.9 Notice of Determination (NOD)

After approving a project, the SJVUAPCD shall file a NOD with the County Clerk of the county where the project will be located, and in some cases with the Office of Planning and Research (OPR) within five working days. The purpose of the NOD is to inform the public of the agency's environmental determination and to begin a 30-day statute of limitations period on court challenges. The NOD will be prepared per CCR Section 15075 for Negative Declarations and per CCR Section 15094 for EIRs. A NOD shall be filed with the County Clerks of all eight counties and OPR in the case of SJVUAPCD rules and plans. Projects requiring later approval by a state agency shall be filed with OPR.

4.3.10 SJVUAPCD Use of Environmental Documents Prepared by Another Public Agency

When the SJVUAPCD is acting as a Responsible Agency, it must review the environmental document prepared by the Lead Agency to determine if it adequately describes and mitigates impacts related to the SJVUAPCD permit approval. When the Lead Agency's land use permit and the SJVUAPCD's permit are processed concurrently, SJVUAPCD concerns can usually be addressed during the regular environmental review process. However, when a Lead Agency fails to address concerns of the SJVUAPCD, and approves a project, the SJVUAPCD has four options as listed in Section 15096(e) of the CEQA Guidelines:

- 1) Take the issue to court within 30 days after the Lead Agency files a Notice of Determination;
- 2) Be deemed to have waived any objection to the adequacy of the EIR or Negative Declaration;
- 3) Prepare a subsequent EIR or Negative Declaration, if permissible under CEQA Guidelines Section 15162; or
- 4) Assume the Lead Agency role as provided in CEQA Guidelines Section 15052(a)(3).

CEQA Guidelines Section 15162 states that a subsequent EIR or Negative Declaration can only be prepared if, on the basis of substantial evidence in the light of the whole record, one or more of the following:

- **Changes in the Project**

Substantial changes are proposed in the project that will require major revisions of the EIR or negative declaration. This may occur when the EIR or Negative Declaration is general and no specific use was proposed for the site at the time of land use approval, and the operation or use now proposed could have significant environmental effects that were not previously addressed.

- **Changes in Circumstances**

Substantial changes occur with respect to the circumstances under which the project is being undertaken, which will require major revisions in the EIR or Negative Declaration. An example would be where residential development has now encroached on the project site, or processes not discussed in the EIR or Negative Declaration will be used and there is the potential for a significant impact.

- **New Information**

New information that was not known and could not have been known at the time the EIR was certified as complete or the Negative Declaration was adopted, becomes available. This may occur when new scientific data is available, when new impacts are identified, and when new standards have been imposed since the EIR was certified or the Negative Declaration was adopted.

4.3.11 Other SJVUAPCD Actions when Acting as a Responsible Agency

If the environmental document is adequate per the criteria listed in CCR 15096 (see Section 4.3.10) the SJVUAPCD must take the following actions prior to approving the SJVUAPCD permit as required by CCR Sections 15096 and 15097 and PRC Section 21081.6:

- **Consider Environmental Effects**
The SJVUAPCD must consider the environmental effects as shown in the EIR or Negative Declaration.
- **Adopt Feasible Alternatives or Mitigation**
The SJVUAPCD must adopt feasible alternatives and feasible mitigation measures that would substantially lessen or avoid any significant effect the project would have on the environment. When the SJVUAPCD is a Responsible Agency, the mitigation measures must be related to the direct and indirect effects of only those parts of the project that it decides to approve [CCR §15096(g)].
- **Prepare and Submit Mitigation Monitoring and Reporting Programs**
When the SJVUAPCD requests mitigation measures be incorporated into a project, it shall prepare a mitigation monitoring and reporting program if so requested by the Lead Agency or a Responsible Agency [PRC §21081.6 & CCR §15097].
- **Make Findings**
The SJVUAPCD shall make findings required by CCR Section 15091 and by 15093 if necessary.
- **File Notices**
The SJVUAPCD shall file a notice of determination following project approval in accordance with CCR Sections 15075 and 15094.

4.4 TIME LIMITS

CEQA requires the SJVUAPCD to comply with various time limits for completing the different steps in the environmental review process. The following timelines correspond with those established by the CEQA Guidelines:

Review of Applications for Completeness: The SJVUAPCD shall determine whether an application for a discretionary permit or other entitlement for use is complete within 30 days of receipt [CCR §15101].

Initial Study: The SJVUAPCD shall determine within 30 days after accepting an application whether it intends to prepare an EIR or a Negative Declaration or use a previously prepared EIR or Negative Declaration [CCR §15102].

Contracts to Prepare Environmental Impact Reports: Contracts to prepare environmental impact reports shall be executed within 45 days from the date on which the SJVUAPCD sends a Notice of Preparation pursuant to PRC Section 21080.4 [PRC §21151.5(b)]. The SJVUAPCD may take longer to execute the contract in the event that compelling circumstances justify additional time and the project applicant consents thereto.

Response to Notice of Preparation: The SJVUAPCD when acting as a Responsible Agency or commenting agency will respond to a notice of preparation within 30 days of receipt of the notice [CCR §15103].

Convening of Meetings: The SJVUAPCD shall convene a meeting with agency representatives to discuss the scope and content of the environmental information a Responsible Agency will need in the EIR as soon as possible, but not later than 30 days after receiving a request for a meeting [CCR §15104].

Public Review of a Draft EIR: The SJVUAPCD shall provide a public review period for a draft EIR of not less than 30 days nor longer than 60 days except in unusual circumstances. EIRs submitted to the State Clearinghouse require at least a 45-day review period [CCR §15105, 15106].

Public Review for a Proposed Negative Declaration or a Mitigated Negative Declaration: The SJVUAPCD shall provide not less than a 20 day public review period for a proposed Negative Declaration or a Mitigated Negative Declaration, but will provide at least 30 days for projects submitted to the State Clearinghouse [CCR §15105].

Response to Comments: At least 10 days prior to certifying an EIR, the SJVUAPCD shall provide a written proposed response to a public agency on comments made by that agency [PRC §21092.5].

Completion of Negative Declarations: The SJVUAPCD shall complete and approve a Negative Declaration within 180 days of accepting an application as complete.

Completion and Certification of EIR: The SJVUAPCD shall complete and certify a final EIR within one year after the date the SJVUAPCD accepted the application as complete. The one-year time limit may be extended by 90 days upon consent of the Lead Agency and the applicant [CCR §15108].

Suspension of Time Periods: The SJVUAPCD may suspend the running of time periods for EIRs and Negative Declarations when applicants create an unreasonable delay in meeting requests by the SJVUAPCD for information necessary to prepare the environmental documents [CCR §15109].

4.5 MITIGATION MONITORING AND REPORTING PROGRAMS

4.5.1 Requirements

In order to ensure that the mitigation measures and project revisions identified in the EIR or Negative Declaration are implemented, the SJVUAPCD shall adopt a program for monitoring or reporting on the revisions that have been required in the project and the measures that have been imposed to mitigate or avoid significant environmental effects [CCR §15097]. The SJVUAPCD may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the SJVUAPCD, in the Lead Agency role, remains responsible for ensuring implementation of the mitigation measures. This is required to ensure that mitigation measures are actually accomplished and that they reduce impacts to the extent committed to in the environmental document.

The SJVUAPCD shall obtain or prepare a mitigation monitoring program for each mitigation measure required in an EIR or Mitigated Negative Declaration. The programs shall contain the following information:

- A description of the mitigation measure containing adequate information to identify actions required.
- A listing of the public agency or agencies and department within the agency responsible for monitoring implementation of the mitigation measure.
- A list of the steps required to comply with the mitigation measure; including timing and enforcement mechanisms.
- A description of any long term monitoring or testing requirements and the funding source.

4.5.2 Mitigation Measures for SJVUAPCD Permit Approvals

The SJVUAPCD's Compliance Program provides adequate monitoring of all requirements included as conditions of approval of an ATC or PTO. Mitigation measures required for SJVUAPCD permits shall be included as conditions of approval of the ATC and shall be verified for compliance by SJVUAPCD staff prior to issuing a PTO. Most permitted sources are subject to periodic inspections to ensure that all permit conditions are being met. This provides the opportunity for long term monitoring.

Measures to mitigate impacts to natural resources other than air will usually require other agencies to participate in monitoring. For example, a measure to mitigate water quality

impacts may require the project applicant to obtain proof of compliance from the Regional Water Quality Control Board prior to issuing the SJVUAPCD permit.

5 FEES

When Lead Agency, the SJVUACPD may charge fees to recover the estimated cost of preparing a Negative Declaration or EIR in accordance with Rule 3100 California Environmental Quality Act Fee in the SJVUAPCD Rules and Regulations. The fee shall be based on hours expended by staff and the prevailing weighted labor rate.

APPENDIX A – DEFINITIONS AND ACRONYMS

DEFINITIONS

Air Pollution Control Officer (APCO) - The executive officer of the SJVUAPCD appointed by the Governing Board. The APCO is the approving authority for permits issued by the SJVUAPCD, and therefore is the decision-making body for CEQA purposes for these approvals.

Categorical Exemption - An exemption from CEQA for a class of projects based on a finding by the Secretary for Resources that the class of projects does not have a significant effect on the environment [CCR §15354].

CEQA Guidelines - Regulations prepared for the State Secretary for Resources to be followed by all state and local agencies in California in the implementation of CEQA, beginning at Section 15000, California Code of Regulations [CCR].

CEQA Statutes - California Environmental Quality Act, as amended, beginning at Section 21000 of the Public Resources Code [PRC].

Commenting Agency – CEQA grants authority to any person or entity other than a Responsible Agency to submit comments to a Lead Agency concerning any environmental effects of a project being considered by the Lead Agency [CCR §15044]. The SJVUAPCD acts as a commenting agency for any project within its jurisdictional boundaries that has the potential to impact air quality and for which it is not a Lead or Responsible Agency.

Decision-Making Body - Any person or group of people within a public agency permitted by law to approve or disapprove the project at issue [CCR §15356].

Discretionary Project - A project that requires the exercise of judgment or deliberation when an agency or body decides to approve or disapprove a particular activity [CCR §15357].

EIR - Environmental Impact Report is a detailed statement prepared under CEQA describing and analyzing the significant effects of a project and discussing ways to mitigate or avoid the effects [CCR §15362].

EIS - Environmental Impact Statement is an environmental impact document prepared pursuant to the National Environmental Policy Act (NEPA). NEPA applies to projects carried out, financed, or approved by federal agencies [CCR §15220].

Governing Board - The Governing Board of the San Joaquin Valley Unified Air Pollution Control District. One board member is appointed from each of the eight County Boards of Supervisors. Three members representing cities are appointed from the City Councils of a small, medium, and large city on a rotating basis. The Governing Board is the approving authority for rules and plans by the SJVUAPCD, and therefore is the decision-making body for the purpose of these approvals.

Guide for Assessing and Mitigating Air Quality Impacts (GAMAQI) - The GAMAQI is an SJVUAPCD advisory document that provide Lead Agencies, consultants, and project applicants with uniform procedures for addressing air quality in environmental documents.

Guidelines for Expedited Application Review (GEAR) - The SJVUAPCD's streamlined permit processing program set forth in a Permit Services Department Procedures Manual. In this document, there are standard application reviews and standard ATC documents which must be used in acting on applications for ATC for the equipment identified therein. No discretion is utilized in issuing ATCs under these GEAR documents; thus issuance of such ATCs is ministerial.

Lead Agency - The public agency which has the principal responsibility for carrying out or approving a project [CCR §15367].

Ministerial Project - A project requiring a governmental decision involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. A ministerial project involves only the use of fixed standards or objective measurements in deciding whether and how the project should be carried out [CCR §15369].

Mitigated Negative Declaration - A Negative Declaration prepared for a project when the Initial Study has identified potentially significant effects on the environment, but (1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed Negative Declaration and Initial Study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment [CCR §21064.5].

Mitigation - Measures taken to avoid or reduce a significant effect including:

- Avoiding the impact altogether by not taking a certain action or parts of an action.
- Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

- Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- Compensating for the impact by replacing or providing substitute resources or environments [CCR §15370].

Mitigation Monitoring Program - A program adopted by the decision-making body to ensure compliance with adopted or required changes of a project to mitigate or avoid significant environmental effects.

Negative Declaration - A written statement briefly describing the reasons that a proposed project will not have a significant effect on the environment and does not require the preparation of an EIR [CCR §21064].

Office of Planning and Research - The Governor's Office of Planning and Research (OPR) is the state agency with jurisdiction over implementation of the California Environmental Quality Act. OPR's responsibilities are defined in CEQA Guidelines Section 15023.

Project - An activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following:

- An activity directly undertaken by a public agency.
- An activity, undertaken by a person, which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.
- An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies [PRC §21065].

Responsible Agency - A public agency which proposes to carry out or approve a project, for which a Lead Agency is preparing or has prepared an EIR or Negative Declaration. This includes all public agencies other than the Lead Agency with discretionary approval power over the project [CCR §15381].

Sensitive Receptor - Sensitive receptors are facilities that house or attract children, the elderly, people with illnesses, or others who are especially sensitive to the effects of air pollutants. Hospitals, schools, convalescent facilities, and residential areas are examples of sensitive receptors.

Significant Effect on the Environment - A phrase used to indicate that an environmental effect of a project is at a level requiring the detailed analysis of an EIR and that the effect is severe enough to consider disapproving or changing the project to avoid the effect. The terms “significant effect” and “significant impact” are interchangeable under CEQA [CCR §15382].

SJVUAPCD - The San Joaquin Valley Unified Air Pollution Control District is a unified air pollution control district as defined by the Health and Safety Code Section 40150. The SJVUAPCD is comprised of the counties of San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare, and the San Joaquin Valley portion of Kern County.

SJVUAPCD Risk Management Policy - The SJVUAPCD’s Risk Management Policy, which applies to the permitting of new and modified sources of air pollution, is designed to minimize increases in the public’s exposure to toxic air contaminants. The policy describes how potential health risks are to be considered in SJVUAPCD evaluations of air permit applications and requires that Toxic Best Available Control Technology be applied whenever any “greater than *de minimus*” increases in health risk are proposed.

ACRONYMS

APCO	– Air Pollution Control Officer
ARB	– Air Resources Board
ATC	– Authority to Construct
CCR	– California Code of Regulations
CEQA	– California Environmental Quality Act
EIR	– Environmental Impact Report
EIS	– Environmental Impact Statement
EPA	– Environmental Protection Agency
GAMAQI	– Guide for Assessing and Mitigating Air Quality Impacts
GEAR	– Guidelines for Expedited Application Review
NEPA	– National Environmental Protection Act
NESHAP	– National Emission Standards for Hazardous Air Pollutants
NOD	– Notice of Determination
NOP	– Notice of Preparation
OPR	– Office of Planning and Research
PRC	– Public Resources Code
PTO	– Permit to Operate
SJVUAPCD	– San Joaquin Valley Unified Air Pollution Control District
SOC	– Statement of Overriding Consideration