SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT

FINAL STAFF REPORT

District Rule 2250 (Permit-Exempt Equipment Registration)
District Rule 3155 (Permit-Exempt Equipment Registration Fees)

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I. SUMMARY

The San Joaquin Valley's severe air quality problems are requiring the Air Pollution Control District to look to new categories of emission sources that have not traditionally been regulated in our efforts to achieve healthy air quality in the valley. Two recent examples of the District's efforts in this area require emissions reductions from equipment that is exempt from District permitting requirements. Because the equipment is exempt from permits, the traditional enforceability associated with the District's permitting process is absent. Rule 2250 (Permit-Exempt Equipment Registration) is being developed for the purpose of assuring the enforceability of these rules and regulations, and future rules that require emissions reductions from permit-exempt equipment. The registration program will offer a streamlined process by which regulated sources can demonstrate compliance with such rules and requirements, and which assures the enforceability of the required reductions in emissions.

Rule 3155 (Permit-Exempt Equipment Registration Fees) is being developed to allow the District to collect fees as necessary to offset the administrative and compliance costs of the program.

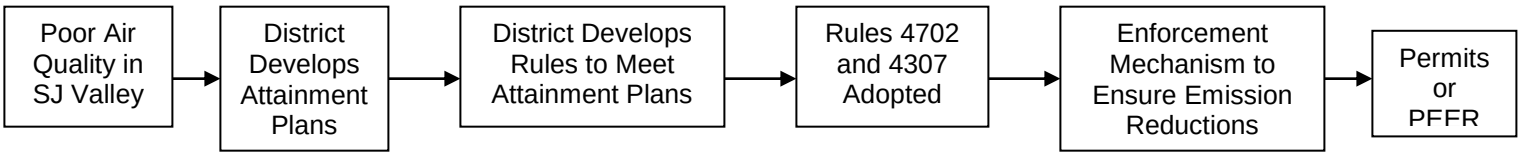
II. BACKGROUND

Historically, the District has focused its emission reduction efforts on equipment and processes that require District permits. The reductions in emissions generated by the related rules have traditionally been assured by the District's permitting requirements. In other words, the rules' requirements were enforced via conditions on the equipment's operating permits. Due to the San Joaquin Valley's current air quality nonattainment designations for ozone and PM_{10}, it has become necessary for the District to begin regulating some categories of permit-exempt sources, which as a group are a significant source of air pollution.

For instance, consider internal combustion engines located at agricultural operations. Historically, agricultural operations have been exempt from regulation. However, through the passage of SB 700, exemptions in the California Health and Safety Code (CH&SC) for agricultural operations were lifted, resulting in the need to adopt further rules and regulations impacting agricultural operations to assist in achieving our state and federal attainment requirements for ozone and PM_{10}. District Rule 4702 (*Internal Combustion Engines - Phase II*) was amended on June 16, 2005 to expand its applicability to agricultural engines. Rule 4702 could impact approximately 4,500 compression-ignition (diesel) and 900 spark-ignited (natural gas, LPG, or gasoline) IC engines used in agricultural operations, but many of these engines are located on smaller farms that remain exempt from permitting requirements.

In addition, the District has developed Rule 4307 (*Small Boilers, Steam Generators, and Process Heaters*). Rule 4307 applies to gaseous fuel fired and liquid fuel fired boilers, process heaters, and steam generators with rated heat inputs $\geq$ 2 MMBtu/hr and $\leq$ 5 MMBtu/hr. District Staff estimates that the requirements of Rule 4307 could impact approximately 1,200 small boilers, steam generators, and process heaters, but most gas-fired units smaller than 5 MMBtu/hr are exempt from the District's permitting requirements.

Without a mechanism to assure the enforceability of the reductions in emissions expected from District Rules 4702 and 4307, the District's attainment plans may not be accomplished. The Permit-Exempt Equipment Registration (PEER) program is necessary to ensure the San Joaquin Valley achieves the expected reductions from these rules. The basis for the PEER program may be summarized with the following diagram:



The traditional option for assuring these reductions would be to modify the District's permitting program (specifically by modifying Rule 2020, Exemptions) to allow permitting of these sources. However, traditional permitting is very resource-intensive. It contains several components that are not necessary to assure compliance with these reductions, such as frequent inspections and NSR (New and Modified Source Review) requirements like Best Available Control Technology and offsetting.

Instead, under the authority granted under the California Health and Safety Code Section 40702, the District is proposing an innovative and streamlined registration program that assures compliance with the emission reduction requirements of the rule, while minimizing the burden on the District and affected sources to achieve those goals.

III. DISCUSSION

A. Rule 2250 Permit-Exempt Equipment Registration (PEER)

In developing an alternative to traditional permitting for these permit-exempt sources of emissions, the District concentrated on two main goals:

- Ensure emission units comply with all applicable rules and regulations,
- Minimize workload for the District and affected sources of emissions.

The registration program will only be available to units that are currently exempt from the District's permitting requirements, but which must meet standards contained in applicable rules and regulations. It is important to note that the PEER rule applies to all emission units required to get a PEER per rule or regulation. Currently, only two classes of stationary source equipment have been identified for participation in the PEER program:

1. Per District Rule 4702: Internal combustion engines greater than 50 horsepower at agricultural operations with emissions less than one-half the major source thresholds (for instance, less than 12.5 tons of NOx or VOC per year). These units currently include stationary agricultural IC engines (example: those mounted on a pad) and transportable agricultural IC engines (example: those mounted on wheels or skids).

2. Per District Rule 4307: Small Boilers, Steam Generators and Process Heaters with a maximum rated heat input $\geq$ 2 MMBtu/hr and $\leq$ 5 MMBtu/hr, which do not require District permits (i.e. natural gas and/or LPG fired).

Rule 2250 (Permit-Exempt Equipment Registration), will outline the applicability, requirements, and limitations of the program and will be written to accommodate future emission reduction rules, as appropriate.

The components of the PEER rule include:

1. Purpose.

   As mentioned above, the purpose or goal of the PEER program is to ensure compliance with applicable rules and regulations, while minimizing the workload for District staff and affected sources.

2. Applicability.

   This rule applies to owners or operators of any emissions unit required to obtain a PEER by an applicable rule or regulation. As mentioned above, the

only applicable rules or regulations that currently require PEER are Rule 4702, Section 5.8 and Rule 4307, Section 6.4.

3. Definitions.

   Definitions are provided for rule explanation and guidance. The key definitions proposed are as follows:

   "Existing Emissions Unit: an emissions unit that has been operated prior to the PEER application date."

   "Modification: any action that necessitates a change to a valid PEER. Administrative changes shall not be considered modifications."

   "New Emissions Unit: an emissions unit that is initially operated on or after the PEER application date."

   "Permit-Exempt Equipment Registration Unit (PEER unit): an emissions unit that has been granted a PEER under District Rule 2250 (Permit-Exempt Equipment Registration) and that is operated as part of a stationary source."

   "Portable PEER Unit: a PEER unit that has been issued a portable PEER unit identification tag and is designed to be and is capable of being carried or moved from one location to another. Indications of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, platform or mounting."

   "Stationary PEER Unit: A PEER unit that is not a portable PEER unit."

4. Requirements.

   This section identifies the specific circumstances under which an owner or operator of an emissions unit subject to this rule should submit a PEER application. The draft rule includes the following proposed language:

   Section 4.1
   "The owner or operator of an existing emissions unit shall submit a complete PEER application to the District, in a format determined by the APCO, and according to the PEER application submittal deadlines of the applicable rule or regulation."

   Section 4.2
   "The owner or operator of a new or modified emissions unit shall submit a complete PEER application prior to the initial operation of the new or modified emissions unit, except as allowed by Section 4.3."

The terms "new" and "modified" apply on and after the PEER application date. Units may be installed or modified and operated, as long as a complete PEER application has been submitted prior to first operation.

It is important to note that most equipment that is eligible for PEER must be certified to meet the applicable emissions requirements. For instance, engines are certified to meet certain federal emissions standards, and these standards are referenced in Rule 4702. Similarly, boilers are certified by air districts to meet certain regulations' emissions requirements, including Rule 4307. Since all new or modified units must be in compliance with clearly defined applicable emission requirements, we are able to provide the flexibility of applying for registration prior to the operation of the equipment. This contrasts significantly with the traditional permitting program, in which an applicant must apply, and receive written approval in the form of a permit authorizing construction, before proceeding with installing and operating the equipment.

Section 4.3

"For a new emissions unit that replaces a PEER unit, the new emissions unit may be operated prior to the submittal of a complete PEER application provided that all of the following conditions are met:

4.3.1 A complete PEER application for the new emissions unit is submitted within thirty days after initial operation of the new emissions unit; and

4.3.2 The new emissions unit serves the same function as the PEER unit being replaced.

4.3.3 The new emissions unit complies with the emissions requirements of all applicable rules and regulations."

The purpose of Section 4.3 is to include an application deferral of 30 days for replacement units to allow for flexibility for the affected sources to replace equipment quickly, such as in the event of equipment failure, without the delays inherent in a traditional permitting scenario. Again, to allow this flexibility, we rely on the fact that all replacement PEER units must meet the applicable emissions requirements.

Section 4.7

"A stationary PEER unit shall not be transferable from one location to another, unless an application for transfer of PEER is filed with and approved by the District."

District PEER site inspections may be categorized two ways: planned inspections and unplanned inspections (for example, complaint investigations). For planned inspections, which are normally coordinated with the facility owner or operator, each piece of equipment to be inspected is identified, and the owner or operator will show the inspector to each location. In such situations, there is no need to differentiate between portable units and stationary units.

However, in the event of an unplanned inspection (for instance, in response to a complaint, or when an inspector notices a plume of smoke when driving by a facility and investigates), the inspector first must identify the unit. For stationary units, the inspector can identify the location of the device, and can search the database for the locations to identify the applicable PEER or permit information. If such stationary equipment changes locations, our database must be updated to correctly identify the new location(s). Therefore, Section 4.7 requires that PEER holders apply to notify the District of such a change to a location not already specified, within thirty days after moving the equipment.

On the other hand, identification and inspection of portable units offers some unique considerations. One option for dealing with portable equipment is to require the same type of notification of transfer of location that is required of stationary equipment. In other words, the District would require an application notifying the District of the new location within thirty days of the move.

The District believes that this scenario would create a resource-intensive abundance of paper work without a corresponding improvement in air quality or enforceability of the applicable rules and regulations. For instance, many portable agricultural pumps may be relocated every few days. Asking for a new application for each move is clearly not consistent with our goal of reducing the resources necessary to enforce the emissions reduction regulations.

Therefore, the District is proposing an identification system for portable units that does not inhibit the operator's ability to quickly move portable units from one location to another. We are proposing that each registered piece of equipment that is portable be equipped with an identification tag that is to be located in a readily visible location on the equipment

In the event on an unplanned inspection of a PEER unit, an identification tag on the unit would quickly let inspectors know that the owner or operator has obtained a PEER for it. The proposed ID tags will be permanent nameplates and/or stickers, and will be made to be mounted and seen from a distance. Owners and operators will not be required to submit transfer of PEER applications upon a transfer of location of portable PEER units. Those actions are considered administrative changes (per Sections 3.1.3 and 4.9).

Section 4.8
"A PEER shall not be transferable from one person to another, or from one business name to another, unless an application for transfer of PEER ownership or name change, as appropriate, is filed with and approved by the District."

Ownership and name change applications must be filed in order to appropriately identify the responsible party for each PEER unit.

5. PEER Application Content.

   This section of rule describes the information necessary for the District to properly process a PEER application.

6. PEER Content.

   This section of the rule describes the information the District will include on each PEER issued to ensure compliance with applicable rules and regulations.

In summary, the registration program sets up an enforceable streamlined process for affected sources to follow, while meeting the emission reduction goals of the applicable rules. Upon issuance of a PEER, the owner or operator will have clearly defined guidance on how to comply with any applicable emissions, monitoring, and recordkeeping requirements.

B. Rule 3155 Permit Exempt Equipment Registration (PEER) Fees

The District is proposing a schedule of fees based on an estimate of the cost of review and processing of the applications, and enforcement of the applicable requirements.

Industry has expressed an interest in assurance that the fees identified in this rule are appropriate to the work required, and are not excessive. To assure ourselves and affected industry that the fees are appropriate, the District will hold a meeting with industry within one year of adoption of the rule. This meeting will address the costs of implementing the rule, the streamlining measures implemented by the District to reduce costs, any hardship issues that the industry is facing because of the fees, and any recommended changes to the fee rule as may be appropriate.

a. PEER Application Filing Fee Categories

i. Application Filing Fee "A" - General ($72)

Rule 3155 will contain a fixed application-filing fee of $72 per PEER application. The fee is based on an estimate of average number of hours

required for processing applications and inspecting the related equipment, including the following processing steps:

1. Log in project to electronic application tracking program;

2. Conduct a review of the application to determine completeness (i.e., does the application contain all information necessary to determine compliance with applicable rules), contact applicant and draft letters as necessary to obtain additional information, follow up on incompleteness letters;

3. Conduct a review of the application to verify compliance with all applicable rules and regulations; draft registration evaluations, registrations, and letters;

4. Copy and mail incompleteness letters, copy and mail registration packets; and

5. Round trip travel to facility, conduct start-up inspections, write inspection reports and other related in-house compliance work. (Note: the previous staff report did not account for in-house compliance time.)

These processing steps will take an average of three hours: one hour for processing an individual application, and two hours for the inspection and follow-up. At the District's weighted labor rate of approximately $80/hr, an average initial registration would cost the District approximately $240 to process and issue. However, to streamline the process and to minimize the impact on both District and applicant resources, we will be taking several steps, as follows:

- We will develop streamlined applications, processing documents, inspection procedures, and electronic aides to reduce District processing time to a minimum.

- We will develop streamlined compliance inspection reporting forms and computer-entry processes.

- We will develop a list of frequently asked questions and electronic screening tools (for website) that will enable applicants to quickly determine whether registration is required.

These measures will collectively reduce the average cost of the initial application fee by approximately 70%, and so we are proposing an initial application-filing fee of $72.00 per registered unit.

ii. Application Filing Fee "B" - Special ($20)

Rule 3155 will contain an special application filing fee category for those units that were installed as a result of a District funding program, such as the "Carl Moyer" program. Under a grant program, the District already receives and processes much of the emissions information necessary to determine compliance with applicable rules, and we believe that by careful streamlining and internal coordination between District departments, much of the intial costs to the District to issue a registration can be avoided.

The District intends to design internal spreadsheets and application processing documents that will be common to both the District's grant funding programs and the PEER program, enabling significant streamlining. It has been estimated that PEER application processing, with such close coordination with the grant funding programs and other streamlining mechanisms, will add an average of only 15 minutes (0.25 hours) to the grant evaluation process. At the Permitting Department's weighted labor rate of approximately $80/hr, an average initial registration would then cost the District only $20 to process and issue.

b. Annual PEER Fee Categories

i. Annual Fee "A" - General ($48)

Rule 3155 will also contain a general registration renewal annual fee of $48 per registration. The fee is based on an average processing and inspection estimation, which includes the following processing steps:

1. Round trip travel to facility, inspection of emission unit and records, write inspection reports and other related in-house compliance work. (Note: the previous staff report did not account for in-house compliance time.)

2. Perform PEER renewal by verifying compliance with all new and updated rules and regulations, verify continued compliance with all existing rules, contact owner/operator and/or draft letter if PEER should be updated, issue renewed PEER, and

3. Administrative processes such as: copy and mail letters, copy and mail renewed registration packets.

These processing steps are also expected to take approximately three hours, as the administrative and inspection-related activities are similar to those required for the initial registration. The related cost to the District is then $240.

However, the District is proposing to inspect each PEER unit a minimum of once every five years. PEER-eligible equipment is required to meet certain emissions certification requirements, and is expected to operate in compliance with those certification requirements over extended periods of time, and so annual inspections are not considered necessary to maintain long-term compliance with the emissions requirements of the applicable rules.

The proposed fee is based on the average inspection, post inspection processing, and registration renewal processing time, which all occur once every five years. The five-year fee will be annualized to spread the costs across the five years, so the proposed fee is $48 per year.

ii. Annual PEER Fee "B" – Special Fee, for facilities with PTOs or CMPs, for units subject to a District grant inspection program, or for portable registered units ($19)

In many cases, PEER units will be co-located with units that require permits, or at facilities that are required to utilize District-approved Conservation Management Practices, are units that received District grant funding, or are units that also have a state or District portable registration. In order to minimize cost to the registered owners/operators, the District will utilize the existing inspection schedules for sources with approved and valid Permits to Operate (PTOs), Conservation Management Practice (CMP) Plans, and District or state portable equipment registrations. That is, inspections for the various programs will occur concurrently. The District will also utilize the inspection cycles for those facilities with units issued under a District grant program, such as the Moyer program. This allows the District to subtract most of the inspection costs for facilities that are already inspected by the District.

Therefore, we are proposing a special fee for such units – "Annual PEER Fee "B" – Special Fee" for facilities with PTOs, CMPs, units subject to a District grant inspection program, has a SJVAPCD portable equipment registration, or has a state portable equipment registration with the SJVAPCD identified as the home district.

Since we will be including these units under existing inspection plans (site visits and post inspection processing), the District estimates this to reduce total inspection-related fees by 90%. At the new labor rates discussed above, this results in a total five-year cost of $95, which would be $19 per year if annualized.

However, due to limited District resources and the minimal $19 annual fee, invoicing each year is not preferred. Therefore, this category is subject to a $95 renewal fee once every five years.

c. PEER Identification Tag

As mentioned above, a PEER ID tag will be issued to portable PEER units in lieu of requiring a PEER application for every location change. For the District to recover the cost of the ID, the applicant will be responsible for the cost to issue an ID tag, and any replacement ID tags if necessary. The District is proposing permanent metal nameplates with identification stickers as an effective ID method. Current estimate of the cost of a metal nameplate and a sticker is approximately $10, including mailing charges, etc., and so the District is proposing that portable units be assessed a one-time charge of $10 for each portable PEER identification tag.

d. Transfer of PEER

Rule 3155 will also identify the costs associated with the transfer of ownership of a PEER unit, the name change of a stationary source containing one or more PEER units, and the transfer of location of a non-portable PEER unit. District Rule 3010 (Permit Fee), Section 5.0 requires a $20 transfer of ownership fee per permit unit, and a $20 stationary source name change fee.

Due to the administrative complexities associated with permitted stationary sources, the District is proposing a fee schedule specific to the above-listed PEER transfers. The District estimates the processing time for PEER name, ownership, and location transfers will be approximately 50% less when compared to permitted stationary sources. Therefore, the fee to transfer ownership of a PEER unit is proposed at $10, the fee to change the name of a stationary source containing one or more PEER units is proposed at $10, and the fee to change the location of a non-portable PEER unit is $10. In the event a stationary source is subject to both District PEER and District permitting requirements, the governing fee for name and ownership changes shall be according to Rule 3010 (Permit Fee).

IV. COST EFFECTIVENESS AND SOCIOECONOMIC IMPACT ANALYSES

Pursuant to State law, the District is required to analyze the cost effectiveness of any proposed rule that implements Best Available Retrofit Control Technology (BARCT). The draft rule does not add BARCT requirements; therefore, is not subject to the cost effectiveness analysis mandate.

Pursuant to State law, the District is required to analyze the socioeconomic impacts of any proposed rule amendment that significantly affects air quality or

strengthens an emission limitation. The draft rule will have neither effect, since it is merely setting forth an administrative process by which to comply with existing rules (4307 and 4702); therefore, is not subject to the socioeconomic analysis mandate.

V. RULE CONSISTENCY

Pursuant to CH&SC Section 40727.2, a rule consistency analysis is not required. The draft rule does not strengthen emission limits or impose more stringent monitoring, reporting, or recordkeeping requirements.

VI. ENVIRONMENTAL IMPACTS

No significant adverse impacts are expected as a result of these new rules, which are designed to assure emissions reductions required by existing rules. Pursuant to the California Environmental Quality Act (CEQA), staff will prepare a Notice of Exemption for this project.

VII. RULE DEVELOPMENT PROCESS

As part of the rule development process, District staff conducted public scoping meetings on February 28th and March 1st of 2005, and public workshops on December 13th and 14th of 2005, and August 2nd and 3rd of 2006. During the scoping and workshop meetings, the objectives of the proposed rulemaking project were presented to affected sources and other interested parties. District staff solicited comments in order to assist in the development of the rules. To encourage compliance with these rules and regulations, staff will conduct outreach to affected sources by utilizing compliance assistance bulletins and other outreach techniques. The notice of the public hearing for this rule project was published in a general circulation newspaper in each of the eight San Joaquin Valley counties, and mailed to all known interested parties. District staff plans to present Rules 2250 and 3155 for adoption in October of 2006.

Appendices

Appendix A: Summary of Comments and Responses from 2/28/05 - 3/22/05 comment period
Appendix B: Summary of Comments and Responses from 12/13/05 - 1/13/06 comment period
Appendix C: Summary of Comments and Responses from 8/2/06 - 8/25/06 comment period

APPENDIX A

Summary of Significant Comments from Open Commenting Period (2/28/05 - 3/22/05)

ARB Comment:

1. **Comment:** The Air Resources Board staff has reviewed the Preliminary Draft Staff Report, and, based on the information available to us at this time, we have no comments.

   Response: Comment has been noted.

Stakeholders submitting written comments:
ChevronTexaco (CT)
Kern Oil & Refining Co. (KO&RC)
Vintage Petroleum, Inc. (VPI)

2. **Comment:** Based on the scooping meeting held and the 01/18/2005 Preliminary Draft Staff Report, we wish to commend the District on several fronts:

   a. The District's recognition of the new number of units being brought under regulation, and the potential impacts to the current permitting system.
   b. The District's willingness to evaluate and propose a registration process.
   c. The District's desire to minimize the administration of the program but still meet the intent of the regulations. (CT)

   Response: The District appreciates the show of support for this rulemaking project.

3. **Comment:** Kern supports the concept of a stationary equipment registration program. One suggestion is that the District consider including portable equipment within the subject program. (KO&RC)

   Response: The District appreciates the show of support for this rulemaking project.

   In regard to including portable equipment within this program, PEER is only available to equipment that is not currently subject to District permits. Therefore, portable equipment that is not subject to permits, but is subject to Rules 4702 or 4307, is included within the PEER program.

4. **Comment:** The compliance registration system that was presented by District Staff at the workshop has the potential to be a very good method of economically demonstrating compliance. Although the details of the system were not presented, as explained it would allow certain makes/models of

burners to be certified as a group once compliance was demonstrated. This approach may be expanded so every small boiler or heater can economically demonstrate compliance. (VPI)

Response: The District appreciates the show of support for this rulemaking project.

APPENDIX B

Summary of Significant Comments
from Open Commenting Period (12/13/05 - 1/13/06)

Independent Oil Producers Agency (IOPA) - Les Clark:

1. **Comment (written):** The proposed rule should have a list of rules that require units to be registered, such as District Rule 4307 and 4702. If the registration requirements are not clear, this could lead to confusion.

   Response: Each rule (4307 and 4702) contains specific language for PEER applicability. Rule 2250 has been kept general in order to accommodate future rules that may require PEER, without having to revise Rule 2250. Section 2.0 of Rule 2250 reads, *"This rule applies to owners or operators of any emissions unit required to obtain a Permit-Exempt Equipment Registration (PEER) by an applicable rule or regulation."* Therefore, the reader of the "applicable rule of regulation", e.g. 4702 or 4307, is prompted to visit Rule 2250. Eliminating this flexibility, by listing the applicable rules in the PEER rule, would require us to reopen the PEER rule each time a new applicable rule was adopted. No change is proposed as a result of this comment.

2. **Comment (written):** This proposed rule will again impact a number of sources that are already regulated and inspected by the District on an annual basis. Those types of sources that are already in your system should not have to pay the PEER fees that you have suggested. They already pay permit renewal fees and other fees associated with source testing and compliance. The District should consider simply sending a registration form with the annual renewal invoice. Then those sources could simply fill out the registration form and pay a small flat fee if necessary. This type of process could, in fact, lower your overall costs of implementing this rule.

   Response: The District agrees that PEER does impact a number of sources currently under District permitting requirements. As a result, the PEER fees have been reduced for those facilities since the District will be taking advantage of existing facility inspections (see Section III.B.b.ii of this document for further detail).

California Cotton Ginners and Growers Association, California Grape and Tree Fruit League, Fresno County Farm Bureau, Kings County Farm Bureau, and Nisei Farmers League:

3. **Comment (written):** Let us start by stating our concern that this is really requirement to obtain a permit to operate. While the District calls this a registration, the only difference between this and permit is the name itself and NSR exemption provisions for registration. The registration will have operating, recordkeeping, and reporting conditions just like a permit. The holder of the registration will pay an annual renewal fee, the same as a permit holder. Growers in the San Joaquin Valley are already paying a Conservation Management Plan (CMP) fee to the District. In the past couple years, the

District has passed several rules and regulations on farms, such as burning restrictions, CMP requirements and now engine replacement mandates. All of this, without any ability to pass along the cost. Growers have had to absorb the cost and reduce their profit accordingly, unlike any other industry in the District. The adoption of Rule 2250 and 3155 will only serve to add to the economic burden already placed onto this industry, without any air quality benefit.

The District has refuted this claim, and provided a legal basis for such requirements. This is contained in the California Health & Safety Code (CH&SC), Section 40702. Essentially, the District claims that this allows the District to adopt any rule or regulation necessary to "enforce" their current rules and regulations, such as Rule 4702. We disagree, and would ask the District to review section 42301.16 of the CH&SC, which mandates the District to hold a public hearing, whereby the District would have to make certain findings that demonstrate the permit or "registration" is "necessary to impose or enforce reductions of emissions of air pollutants…"

Response: Unless exempt from District permits via District Rule 2020 (*Exemptions*) or another regulation (e.g. state law - previously known as SB700), any emission source operation that may emit air contaminants is subject to District permits via Rule 2010 (*Permits Required*). The emission units identified for PEER are exempt from District permitting requirements. Of equal importance, Rule 2201 (*New and Modified Stationary Source Rule*) applies only to units subject to District permitting requirements. The District does not consider the PEER program a permitting program, nor are PEER units subject to Rule 2201.

In addition, Rules 4702 and 4307 were adopted with language clearly indicating that PEER applies solely to those units which do not need permits. Clearly it follows that PEERs are not permits, and the findings outlined in Section 42301.16 of the CH&SC are not necessary in order to implement the PEER program. The point of the PEER program is to enforce the requirements of applicable rules such as 4702 and 4307 without triggering resource-intensive permitting requirements, which are unnecessary to achieve Rule 4702 and 4307 emissions reductions.

4. **Comment (written):** We don't believe the registration rule is necessary for several reasons. First, the District has other rules that set forth similar requirements and permits or registration are not required of them. For example, Rule 4901 – Wood Burning Fireplaces and Rule 4902 – Residential Water Heaters have similar emissions standards, but do not require permits. Similarly, District rules 4662 and 4663 also set forth emission standards and requirements; yet do not require a permit or registration.

Response: You are correct in that the District does have several rules that do not require a permit or registration. The reasons each of those rules do not require a permit or registration are as follows:

Rule 4901 (*Wood Burning Fireplaces and Wood Burning Heaters*)
This rule is partially a point of sale rule. As shown in Section 2.0 of the rule, any person who manufactures or sells a fireplace, whether it be part of a property sale, transfer or new residential development is subject to the rule. Section 5.0 of the rule identifies the certification requirements for the manufacturers and sellers.

The rule also allows for episodic wood burning curtailments. Since inception in 2003, wood burning has been prohibited in selective counties less than 30 days. During these episodic wood burning curtailment days, the District relies on two primary enforcement mechanisms: 1) reports or complaints of violations, and 2) all District inspectors perform a minimum of two hours of surveillance in the county that has a burning prohibition for that day.

Finally, requiring all the valley residences to obtain a permit or registration as the enforcement mechanism in lieu of the methods stated above is potentially very cumbersome for little or no air quality gain. There are no requirements for existing wood burning fireplaces to be retrofit or replaced, until that residence is sold. That is, any wood burning fireplace may be used by the current owner as long as they own that property. This cannot be said for Rules 4702 and 4307, which require compliant replacements or retrofits.

Rule 4902 (*Residential Water Heaters*)
The certification requirements of this rule apply only to residential water heaters manufactured after 1993. Further, only manufacturers are subject to the administrative requirement to show certification. Beginning in 1994, residential water heaters for the SJ Valley are manufactured as compliant units. Enforcement is performed at the manufacturer and retailer level, not the user level. Therefore, there is no need to require a District permit or registration for this category of source.

Rule 4662 (*Organic Solvent Degreasing*)
The District does have organic solvent degreasing operations under permit. Rule 2020 (*Exemptions*) sets an exemption level for unheated, non-conveyorized cleaning operations with 92.5 gallon capacity tanks, 10.0 ft^2 of open top tank surface area, and that use 25 gal/year. This level was set since the VOC emissions from cold cleaning operations of this size/capacity or smaller are minimal. This also means permits *are* required for any heated cleaning operation, any conveyorized cleaning operation, or any cold cleaning operation with a tank greater than 92.5

gallons, greater than 10.0 ft^2 surface area, or use more than 25 gal-solvent/year.

You are correct though, there is a category of source subject to Rule 4662 and not subject to permits. These are cold cleaning degreaser units above 2.0 gallon capacity, 1.0 ft^2 surface area, and 5 gal/month, and that under the above-mentioned permit level of 92.5 gallon capacity, 10.0 ft^2 surface area, and 25 gal/year. Keep in mind, it is crucial for attainment purposes to target emissions reductions or enforce emissions reductions from those categories of source that produce significant quantities of air pollution, like agricultural IC engines. An older diesel fired IC engine subject to PEER can produce hundreds of pounds per day of ozone and smog forming pollution. In comparison, a small cold cleaning degreaser operation subject to Rule 4662 but exempt from permits typically produces less than one pound of VOC emissions per day. The District will examine the need for permits or PEER for this source category in greater depth however; during the 8-hour ozone attainment planning process.

Rule 4663 (*Organic Solvent Cleaning, Storage, and Disposal*)
This category of source is in fact subject to District permitting. The Rule 4663 exemption level is 55 gal-solvent/year. One of the Rule 2020 permit exemption qualifiers for solvent cleaning is 25 gal/year. Therefore, any unit subject to the requirements of Rule 4663 is also above the permit exemption level and subject to District permits.

5. **Comment (written):** During the workshops, we expressed our concerns that most, if not all, of the information the District was seeking in the proposed regulations, would be provided to the District through the Carl Moyer Heavy Duty Incentive Program or through USDA NRCS's Environmental Quality Incentive Program (EQIP). We note the District's attempt to give some recognition for this effort by providing a "discount". However, it is our opinion that a fee is unnecessary and the cost is covered through the administration portion of the aforementioned programs.

   Response: The District further investigated the use of administrative grant funds and lowered the PEER application filing fees for those engines installed under a District funding program due to your comment (see section III.B.a.ii. of this document for further detail). The fees have not been reduced to zero though, since the funding programs are not designed to ensure ongoing compliance with Rule 4702. That is, obtaining grant funding does not assure ongoing compliance with Rule 4702.

   Also, owners or operators of engines that require a PEER and that have submitted information to NRCS for EQIP funding are not eligible for the PEER application-filing fee Discount. The District cannot process and evaluate that information submitted to NRCS under EQIP, so there is no time savings.

Further, the applicant's EQIP information submitted to NRCS is confidential under the Farm Bill. In the event that such information can be released to the District, it is not likely to do so in a form that would streamline the District's PEER process. For comparison, we intend to design internal spreadsheets and application processing documents that will be common to both the District's grant funding programs and the PEER program, enabling significant streamlining.

6. **Comment (written):** It should also be noted that there is a potential conflict with natural gas engines. District Rule 4702 – Internal Combustion Engines, Section 7.4.1.2 requires that the application for PEER be submitted at least 18 months prior to the emissions compliance date. Rule 4702 also requires that the engine be controlled by January 1, 2008, which would be a constraint considering the District has yet to adopt Rule 2250 and most likely won't do so until at least March of 2006. The District should revise Rule 4702 at the same time as these rules are adopted to eliminate any potential conflicts. This would amount to a technical, non-substantive revision.

   Response: As a result of this comment, the District has revised Rules 4702 and 4307 to address application timeline issues. These amended versions were adopted by the District board on April 20, 2006.

McKean Farms - Mark McKean:

7. **Comment (verbal, summarized):** Minimize impact on affected sources by including the IC engines in the Conservation Management Practice (CMP) plans.

   Response: In order to include IC engines in the CMP program, the CMP program would need to be modified to include IC engines. However, CMPs are fugitive dust control measures, and are not designed to control combustion emissions. In addition, not all units subject to PEER will be subject to the CMP program, and so we would then be a in a position of having to develop two programs – one for CMP facilities, and one for everyone else. Finally, issuing the PEER along with a CMP does not eliminate the process of issuing that PEER and the time spent to issue that PEER, and therefore no real benefit is gained by combining the programs. Note that the District is proposing a simplified implementation process for PEER units, drawing from years of streamlining experience, and as a result CMP facilities are subject to reduced PEER fees (see Section III.B.b.ii of this document for further detail).

Kern Oil and Refining Co. - Jerry Frost:

8. **Comment (verbal, summarized):** Update the "Identical Replacement" definition to account for cases where the same model is not available.

Response: By policy, “Identical Replacements” may include, when the same model is not available, other units of the same manufacturer, provided the size and emissions do not increase.

APPENDIX C

Summary of Significant Questions and Comments from Open Commenting Period (8/2/06 - 8/25/06)

Jason Dean:

1. **Comment (verbal - summarized):** The rule should account for temporary replacement units.

   Response: The District agrees with your comment and has revised draft Rule 2250 to incorporate temporary replacement units. See sections 3.13 and 4.10 of Rule 2250.

CA Citrus Mutual - Shirley Batchman:

2. **Question (verbal - summarized):** Is the first annual fee collected immediately?

   Response: The first annual fee will not be collected until one year after issuance of a registration. As a result of this question, the District has revised draft Rule 2250 to clearly identify that intent. See section 5.2 of Rule 3155.

3. **Question (verbal - summarized):** If I meet Rule 4702 with a Tier 3 or Tier 4 engine, why is there an annual fee?

   Response: Rule 4702 has more obligations than just replacement, such as ongoing monitoring, maintenance, and recordkeeping requirements. The District will verify annual rule compliance by checking each registration for the latest emissions, monitoring, maintenance, and recordkeeping requirements, as well as periodic site inspections to verify the owner or operator is complying with the registration requirements. See section III.B.b.i of the staff report for more detail.

Quinn Caterpillar - Charlie Simpson:

4. **Comment (verbal - summarized):** State PERP units may be able to take advantage of District inspection streamlining to lower annual fees.

   Response: The District agrees with your comment and has revised draft Rule 3155 to incorporate portable registered units (District and state) into the streamlined annual fees category. See section 4.2.2 of Rule 3155.

California Cotton Ginners and Growers Association - Casey Creamer:

5. **Question (verbal - summarized):** How will PEER apply to rental equipment?

   Response: If the rental equipment falls under the applicability of PEER via Rule 4702 or 4307, and is operated as part of a stationary source, the equipment is required to obtain a PEER. By “operate as part of a stationary source”, we mean that the unit is part of primary, ongoing function of the facility; such as an irrigation pump engine at a farm. Both the current operator and the rental company could be responsible for a violation. However, in practice, the District

will make case-by-case determinations of the responsible party, depending on the nature of the violation.

City of Manteca - Derek LaMont:

6. **Question (verbal - summarized):** Is there any conflict between the District requiring PEER fees (Rule 3155) and a state law requiring voter approval?

   Response: The District currently has the legal authority to establish fees according to the California Health and Safety Code, Section 42311(g), which states, "A district may adopt, by regulation, a schedule of fees to be assessed on areawide or indirect sources of emissions which are regulated, but for which permits are not issued, by the district to recover the costs of district programs related to these sources." We are aware of no state law that supersedes that authority.

MKP Environmental - Mike Polyniak:

7. **Comment (verbal - summarized):** Regarding classification of PEER equipment as either portable or stationary (one location), PEER should allow for multiple specified locations.

   Response: The District agrees with your comment and has updated the definition of a stationary PEER unit to allow multiple specified locations.

Kern Oil and Refining Co. - Jerry Frost:

8. **Question (verbal - summarized):** Is a PEER necessary for state portable registered units?

   Response: A unit registered under the state portable equipment registration program (PERP) cannot operate under that state registration as part of a stationary source. By "operate as part of a stationary source", we mean that the unit is part of primary, ongoing function of the facility; such as an irrigation pump engine at a farm. Therefore, a PEER is required for state registered units if they are operated as part of a stationary source.