

TECHNICAL NOTES

U.S. Department of Agriculture

Natural Resources Conservation Service

Air Quality – CA – 03

December 2015

State Implementation Plan Creditability of Voluntary Incentive-Based Emission Reductions from Replacing Off-Road Mobile Agricultural Equipment

CPS 372-Combustion System Improvement

It is long recognized that the voluntarily installation of conservation measures can significantly reduce and improve air pollution. To address the air quality resource concerns on farms and ranches, the USDA Natural Resources Conservation Service (NRCS) provides eligible producers with technical and financial support through the Environmental Quality Incentives Program (EQIP). The incentive payments offered through EQIP together with the investment from participating producers help accelerate the implementation of conservation practices and installation of cleaner air technologies.

Voluntary emission reductions achieved through incentive-based programs like EQIP have generally not received credit in State Implementation Plans (SIPs) for protecting air quality per the Clean Air Act (CAA). If incentive-based emission reductions were to become SIP-creditable, the benefits could better account for improvements to air quality, public health and welfare, and progress towards achieving attainment of the National Ambient Air Quality Standards (NAAQS). This concept might delay or avoid the air quality authorities from developing new prohibitions and regulations that could require producers to reduce air pollutants from their agricultural operations.

The purpose of this Technical Note is to summarize the criteria for ensuring that incentive-based emission reductions become SIP-creditable and to memorialize the collaboration and agreements for making this process even possible. NRCS recognizes the air quality benefits and is committed towards seeking SIP credit for the emission reductions achieved through EQIP while explicitly maintaining the voluntary principles of its programs.

For California, NRCS places its SIP creditability priorities on replacing in-use off-road mobile agricultural equipment powered by old, high polluting diesel engines and operating within the eight counties of the San Joaquin Valley [Fresno, Kern (Valley or Western portion), Kings, Madera, Merced, Stanislaus, San Joaquin, and Tulare counties] due to the air basin's "extreme nonattainment" designation for the 8-hour ozone NAAQS. This concept of seeking SIP creditability through voluntary measures may expand to other nonattainment areas or NRCS conservation practices that yield quantifiable and real air quality benefits.

State Implementation Plans

The US Environmental Protection Agency (EPA) periodically reviews and establishes primary (health-based) and secondary (welfare-based) ambient air quality standards for each of the six criteria pollutants, which are ozone, particulate matter, carbon monoxide, nitrogen dioxide, sulfur dioxide, and lead. EPA designates air basins and planning areas as being in “attainment” when air quality meets the NAAQS or “nonattainment” when air quality does not meet the NAAQS, based on measured ambient air pollutant concentrations.

The CAA requires states to develop SIPs that provide for the implementation, maintenance and enforcement of the NAAQS promulgated by EPA. SIPs are not single documents, but a compilation of source-specific and pollutant-specific rules, regulations and performance standards and controls that describe how the state will maintain air quality in attainment areas and improve air quality in nonattainment areas. For nonattainment areas, states perform *SIP attainment demonstrations*, which are comprehensive plans describing the technical control measures, analysis, and emission reduction commitments for a nonattainment area to attain the NAAQS within CAA attainment deadlines. Public health and welfare improve when planning and attainment requirements are met and maintained.

In California, the Air Resources Board (ARB) is the lead agency for all purposes related to SIPs. The local air districts (e.g. Air Pollution Control Districts or Air Quality Management Districts) and other state agencies (such as the California Bureau of Automotive Repair and the Department of Pesticide Regulation) each prepare SIP elements to be submitted to ARB for review and approval. ARB forwards the SIP revisions to EPA-Region 9 for final approval consideration. EPA then performs their review and will publish their actions and decisions in the Federal Register.

California’s 2007 SIP for Off-Road Mobile Agricultural Equipment

In 2007, ARB approved the “*State Strategy for California’s 2007 State Implementation Plan*” (2007 State Strategy), which identifies strategies for achieving attainment of the 1997 8-hour Ozone NAAQS (0.08 ppm). Attachment B of the plan reports the emission reduction goals from several sectors operating within the South Coast and San Joaquin Valley air basins.

In California, ARB has jurisdiction for regulating emissions from mobile sources, including air pollutants from off-road mobile agricultural equipment. As such, the 2007 State Strategy proposes to achieve five to ten tons per day of oxides of nitrogen (NO_x) reductions by 2017 from nonroad diesel-powered engines powering off-road mobile agricultural equipment within the San Joaquin Valley (see Table 1). To meet this goal, ARB would adopt an off-road mobile agricultural equipment regulation by 2014 requiring San Joaquin Valley producers to utilize equipment powered with the cleanest emissions-certified diesel technologies. The 2007 State Strategy calls for significant increases of incentive funding from both state and federal sources in order to accelerate attainment of the standard.

It is the 2007 State Strategy that initiated discussions amongst stakeholders and agency representatives on whether incentive-based emission reductions could become SIP creditable.

The investments of public and private funds to address the air quality resource concerns from improving off-road mobile agricultural equipment through voluntary measures can accelerate the emission improvements ahead of planned deadlines and meet or exceed the NOx reduction goals of five to ten tons per day.

Table 1: 2007 Emission Reduction Goals for the San Joaquin Valley from In-Use Off-Road Mobile Agricultural Equipment

San Joaquin Valley			
	(tons per day)	2006	2017*
ROG	Baseline Emissions	13	4
	Potential Reductions	--	0.6-1.3
NOx	Baseline Emissions	62	25
	Potential Reductions	--	5-10
PM2.5	Baseline Emissions	3.5	1.3
	Potential Reductions	--	TBD

* Does not represent final implementation date

Source: ARB 2007 State Strategy

The 2007 State Strategy suggests that the SIP emission reduction goals will improve the NOx emissions inventory from 62 tons per day in 2006 to 25 tons per day by 2017 (Table 1). Though stakeholders were confident that voluntary incentive-based emission reductions could achieve the SIP goal of reducing NOx by five to ten tons per day, they expressed much concern over the validity of the emissions inventory values presented in the 2007 State Strategy. ARB had relied on equipment population data from the *1992 USDA Census of Agriculture* and made general assumptions on the useful equipment life and operating hours when estimating the emissions inventory values. ARB recognized that agricultural producers face a unique market structure, which adversely affects the producer's ability to pass costs on to their buyers. This factor alone would influence the age and turnover rate of the existing equipment, especially with smaller operations, since producers are more likely to retain their existing equipment for as long as possible. Better information on equipment population, use and age was needed to refine ARB's off-road mobile agricultural equipment emission inventory.

In 2009, ARB contracted with California State University, Fresno Foundation (CSU-Fresno) to conduct a voluntary survey of agricultural operations in California as a means to improve the emissions inventory. An Advisory Group of agricultural stakeholders and representatives from commodity groups, the San Joaquin Valley Air Pollution Control District (SJVAPCD), ARB, and NRCS assisted CSU-Fresno with developing survey questions and protocol. The gathered information would be aggregated by the participating commodity groups and summarized by CSU-Fresno in a manner that protects the confidentiality of individual respondents. ARB then evaluates the finished data and develops a statewide population estimate based on the known agricultural production statistics. The improved emission inventory supports future planning efforts as ARB evaluates strategies for seeking long-term emission reduction goals.

SIP Integrity Elements

For voluntary incentive-based emission reductions to meet CAA attainment goals and receive SIP consideration, the incentive-based emission reductions must satisfy the EPA integrity elements of being *surplus, quantifiable, enforceable, and permanent*. The overall determination on whether the voluntary emission reductions are SIP creditable is the responsibility of EPA.

The following briefly describes each of the EPA integrity elements for incentive-based emission reductions to become SIP creditable:

- **Surplus:** The emission reductions must not be required by any local, state or federal air quality rule, regulation, or legal mandate. The emission reductions must also be in excess of the baseline emissions inventories underlying a SIP attainment demonstration.
- **Quantifiable:** The emission reductions can be reliably determined and replicated through the use of well-established emission factors and calculation methodologies.
- **Enforceable:** Incentive programs are defined through legally binding contracts; the emission reductions are verifiable for the duration of the project life through inspections, monitoring and other mechanisms; the participant is obligated to provide records needed to demonstrate the emission reductions are achieved; and the public has access to emissions-related information for the claimed reductions.
- **Permanent:** Actions are taken to ensure the emission reductions are real over the project lifespan. Actions may include disabling or physically destroying the in-use or baseline emission source, or to permanently amend practices to ensure the emission reductions for the duration of the project lifespan.

Collaboration and Milestones

This section summarizes the collaboration and milestones for voluntary incentive-based emission reductions becoming SIP creditable. This collaboration continues.

In 1998, EPA and USDA signed a Memorandum of Understanding (MOU) by formalizing a working relationship in respect to air quality from agriculture. The “1998 MOU” provides assurances to the agricultural sector that the exchange of air quality information, the review of research, and the design of implementation measures are jointly coordinated. The MOU also acknowledges that measures taken to improve agricultural air quality are to be technologically and economically feasible for the individual landowners, based on the best and most recent science available.

Enacted by Congress in May 2008, the “*Food Conservation and Energy Act of 2008*” (2008 Farm Bill) adopted a provision for eligible producers to receive program support for addressing serious air quality resource concerns and meeting regulatory requirements. Discussions soon followed with stakeholders and representatives from EPA, ARB, SJVAPCD, and NRCS over developing an incentive-based emission reduction program with EQIP support for replacing in-

use off-road mobile agricultural equipment. The SJVAPCD provided invaluable technical assistance during program development, as they already administered a highly successful and efficient incentive-based emission reduction program for numerous air pollution sources, including the replacement of off-road mobile agricultural equipment powered by diesel engines.

In April 2009, NRCS field offices began processing EQIP applications and obligating contracts within the California nonattainment areas. Due to the popularity of the *National Air Quality Initiative* (originally referred to as *CIG-b*), a combined effort arose over the concept of seeking SIP credit for the voluntary emission reductions achieved that would align with the 2007 State Strategy. It was recognized that voluntary incentive-based emission reductions could complement regulatory-based emission reductions in alignment with CAA requirements.

In December 2010, EPA-Region 9, ARB, SJVAPCD, and NRCS-California signed the “*Statement of Principles Regarding the Approach to State Implementation Plan Creditability of Agricultural Equipment Replacement Incentive Programs Implemented by the USDA Natural Resources Conservation Service and the San Joaquin Valley Air Pollution Control District*”. Referred to as the “*2010 Statement of Principles*”, it built upon the original 1998 MOU by establishing the general framework to ensure the voluntary incentives-based emission reductions become SIP creditable. All parties agreed to develop the mechanisms where the emission reductions would meet the EPA integrity elements of being *surplus, quantifiable, enforceable, and permanent*.

In July 2012, EPA and NRCS, with support from the USDA Agricultural Air Quality Task Force, signed the “*Implementation Principles for Addressing Agricultural Equipment under the Clean Air Act*”. These “*2012 Statement of Principles*” committed both agencies on a national level toward developing mutually agreeable solutions for addressing air quality resource concerns from agricultural emission sources. The two agencies would determine how to best assist producers with compliance matters over the applicable of air quality rules and regulations for diesel-powered agricultural equipment. The emphasis is on the voluntary efforts to improve air quality through the replacement or retrofit of engines or equipment with newer technologies, and by prioritizing areas where the emission reductions are needed the most for attaining the NAAQS. Both agencies would provide the mechanisms needed to quantify the incentive-based emission reductions from agricultural equipment at the state and local level for SIP credit.

In 2013, the SJVAPCD and ARB began developing their respective rule and regulation in order to provide the administrative mechanisms for receiving SIP credit from voluntary incentive-based emission reductions:

- SJVAPCD Rule 9610 - *State Implementation Plan Credit for Emission Reductions Generated through Incentive Programs* describes the SIP elements, procedures, and criteria from incentive programs implemented within the San Joaquin Valley. EQIP is defined in the rule as one such incentive program administered by the NRCS.
- ARB Resolution 13-42 titled “*State Implementation Plan Credit from Mobile Agricultural Equipment*” [Section 2428 of Article 4.1, Title 13, California Code of Regulations], complements Rule 9610 by providing the state-level administrative mechanisms for receiving

SIP credit through incentive programs administered by the SJVAPCD, NRCS, or ARB. The regulation establishes the Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program) as the standard and model for voluntary incentive programs, and offers opt-in provisions for other California air districts to receive SIP credit from incentive programs.

During Rule 9610 development, the SJVAPCD and EPA inquired over the *enforceable* and *permanence* integrity elements with NRCS programs. To help address these issues, a decision memorandum titled “*Regulatory Impact of Air Emissions Reductions Associated with NRCS Combustion System Improvement*” was signed by Acting Chief Jason Weller on June 4, 2013, which provided support to ensure that full, official recognition of the voluntary emission reductions occur. On June 12, 2013, State Conservationist Carlos Suarez expanded on the decision memo by defining the actions to address the SIP elements for creditability, yet maintain the completely voluntary mission of the NRCS. The Specifications, and the Operations and Maintenance sections of Conservation Practice Standard (CPS) 372 – *Combustion System Improvement* would stipulate that participants are to annually report equipment usage throughout the 10-year practice lifespan, and that the collected information would be incorporated into the NRCS emissions inventory database. Reports would be available annually in a manner that protects the confidentiality of program participants.

The SJVAPCD adopted Rule 9610 on June 20, 2013, which was submitted to ARB and EPA on June 26, 2013 as a revision to the California SIP. ARB Resolution 13-42 was later adopted on October 25, 2013. Developed in accordance with EPA guidance and policies, both Rule 9610 and ARB Resolution 13-42 will not replace the need for CAA requirements associated with regulatory controls. Though the SJVAPCD and ARB will demonstrate to EPA that the incentive-based emission reductions meet the SIP objectives annually, emission reduction strategies will continue to be evaluated in order to satisfy any application requirements in their SIP attainment demonstrations.

In February 2014, Congress enacted the *Agricultural Act of 2014*. The 2014 Farm Bill reauthorized program support for addressing the air quality resource concerns and meeting regulatory requirements through fiscal year 2018.

During their review of Rule 9610, EPA sought clarity in regards to NRCS information disclosure in order to satisfy CAA criteria for SIP approval. Section 1619 of the Farm Bill prohibits NRCS from disclosing information provided by an agricultural producer concerning agricultural operations, farming or conservation practices, or the land, in order to participate in USDA programs, or from disclosing related to geospatial information, with limited exceptions [1619 (b)(4), 7 U.S.C. §8791].

It soon became clear that modifications to the 2010 Statement of Principles were necessary to better define how NRCS information could be shared. The USDA Office of General Council provided valuable assistance and guidance, which in March 2014 lead to EPA-Region 9, ARB, SJVAPCD, and NRCS-California signing the “*Addendum to the December 2010 Statement of Principles Regarding the Approach to State Implementation Plan Creditability of Agricultural Equipment Replacement Incentive Programs Implemented by the USDA Natural Resources*

Conservation Service and the San Joaquin Valley Air Pollution Control District". Adding to the 2010 and 2012 Statement of Principles, the "2014 Addendum" specifies that NRCS will provide EPA and the SJVAPCD with an annual report by no later than March 31 of each year, with the California State Conservationist certifying that:

- (1) The emission reductions for each EQIP project identified in the annual report were calculated in accordance with the applicable NRCS conservation practice standards and related guidelines;
- (2) The annual report does not include any funded project that the NRCS has found to be in violation of its EQIP contract; and
- (3) The information provided in the annual report is true and accurate to the best of his/her knowledge.

In addition, NRCS would provide representative samples of the compliance-related documentation upon request by EPA or the SJVAPCD that was used for compiling the annual report, minus any information of individual owners, operators, or producers in accordance with the Farm Bill disclosure provisions.

EQIP and the EPA Integrity Elements

EPA and SJVAPCD made several findings during Rule 9610 development to ensure the voluntary emission reductions achieved through EQIP and the National Air Quality Initiative align with the four EPA integrity elements. The following summarizes their findings:

- **Surplus:** Language was added to CPS 372 – Specifications by specifying that SIP-creditable emission reductions are not required by any air quality rule, regulation, or other local mandate; and not used as marketable credits or to offset any emission banking or trading program. The emission reductions resulting from replacing the in-use off-road mobile agricultural equipment funded under the National Air Quality Initiative are deemed to be "surplus" provided that ARB does not develop an air quality prohibitory regulation that would apply to the off-road mobile agricultural equipment.
- **Quantifiable:** The SJVAPCD provided technical assistance to the NRCS for developing the quantification methodologies. Originating from the Carl Moyer Program guidelines and referenced in CPS 372 – Specifications, the emission reductions for each project, including projects with two "old" units for one "new" unit, are calculated using the applicable emission factors and quantification methodologies for both uncontrolled- and controlled-emissions diesel engines. An ARB Executive Order (or EPA Certificate of Conformity for federally preempted engines if an ARB Executive Order is not available) is used to verify the Tier-level certification of emissions-controlled off-road diesel engines. New engines are equipped with emission control systems that meet the most recent State of California emission standards and Tier-certification.

The NRCS Field Office Technical Guide (FOTG) places a ten-year practice lifespan for projects implemented under CPS 372 – Combustion System Improvement, which is consistent with Carl Moyer Program guidelines. NRCS General Manual, Title 450, Subpart B, Part 401.15 E specifies that a conservation practice lifespan is the minimum time in years the implemented practice is expected to be fully functional for its intended purpose.

- **Enforceable:** Proposed projects are inspected by NRCS field office personnel prior to contract development in order to verify the in-use agricultural equipment is operational per CPS 372 – Specifications. Destruction of the in-use equipment is recorded by the disposal operator and participant on a destruction certification worksheet and photos are provided.

Per the Conservation Programs Manual, participants have control of the land for the length of the proposed contract through deed, lease, or other written authorization (Title 440, Subpart C, Part 512.22). If the applicant does not own the land, the landowner must provide written consent to install, operate, and maintain the practice through its lifespan.

NRCS is to review contract progress on an annual basis (Title 440, Subpart F, Part 512.55). At least five percent of active projects are reviewed by verifying that the new equipment is in operation. This section in the Conservation Program Manual also provides for recovering liquidated damages for certain deviations from a contract. Title 440, Subpart H addresses where violations of contract terms must be corrected by the participant within a reasonable period of time to comply. If the violation continues, the contract may be terminated and future program participation deferred.

- **Permanent:** Eligibility for replacing agricultural equipment under the National Air Quality Initiative is based on whether the location is within a nonattainment county. Applications received from attainment counties are not eligible. For the San Joaquin Valley, the equipment must operate on lands within any of the eight San Joaquin Valley counties.

NRCS field office personnel will verify by site visit the operational condition of the in-use equipment and engine per CPS 372 – Specifications. Field staff will later verify the condition of the new equipment and engine, typically after the old equipment has been destroyed.

Destruction of the in-use equipment is recorded by the participant and disposal operator on a destruction certification worksheet with photos provided. Destruction activities are randomly witnessed by NRCS field office personnel. CPS 372 – Specifications provides guidance for disabling, destroying and disposing of in-use equipment and engines. Disabling is knocking a hole in the engine block and drive-train components and compromising vehicles by cutting frame rails in half. The disabled engine and equipment are properly disposed of at a dismantler facility that is capable of destroying the equipment by shearing, crushing or shredding.

Participants maintain records of new engine and equipment usage over the 10-year practice lifespan. Per CPS 372 – Operations and Maintenance, the participating producer reports annually the total recorded hours from the non-resettable time meter and the percent of time

the equipment operated within the San Joaquin Valley by completing and submitting an annual reporting worksheet.

EPA Approval of SJVAPCD Rule 9610

On May 19, 2014, EPA published in the Federal Register their proposal to approve Rule 9610 for incorporation in the California SIP. EPA noted that they would receive written public comments through June 18, 2014.

On April 9, 2015, EPA published in the Federal Register their final “*limited approval and limited disapproval*” of SJVAPCD Rule 9610. To summarize, the limited approval is over the requirements and procedures of the emission reduction quantification methods through incentive funding programs implemented within the San Joaquin Valley because the rule improves the SIP and is largely consistent with the applicable CAA requirements. The limited disapproval is due to the rule incorrectly describing NRCS’s statutory obligations with respect to disclosure of information concerning the EQIP program and creates a potential conflict with the requirements of the CAA over public availability of emissions data. The SJVAPCD plans to revise the rule at its earliest opportunity by incorporating the language from the 2014 Addendum.

Overall, EPA’s action means that the voluntary incentive-based emission reductions pursuant to Rule 9610 are creditable towards and federally enforceable under California’s SIP. It also means that the emission reductions quantified and achieved through EQIP are creditable and can be applied towards meeting CAA objectives. This decision became effective on May 11, 2015.

Final Results

The voluntary incentive-based emission reductions achieved through both NRCS and SJVAPCD programs since 2009 have successfully achieved the 2007 ARB goal of reducing five to ten tons of NOx per day, well ahead of the 2017 deadline. ARB Resolution 13-42 satisfied the 2007 State Strategy commitment of developing an agricultural equipment regulation by 2014.

Annual reporting of the emission reductions is necessary in order to meet the EPA integrity elements and fulfil the SIP requirements. NRCS is submitting annual reports by March 31 of each year, of which the SJVAPCD includes the report with other emission reduction reports from their own respective incentive projects (e.g. Carl Moyer Program, Prop 1B, and other state and local funding programs) in accordance with Rule 9610. The annual demonstration report is approved by the SJVAPCD Governing Board and submitted to the ARB and EPA by August 31 of each year. Per ARB Resolution 13-42, ARB reports to EPA by November 30 of each year of the participating air district programs, projects, and project data for final EPA approval.

The final determination on whether the voluntary incentive-based emission reductions fulfill the SIP and CAA requirements is the responsibility of EPA. The SJVAPCD and ARB will continue to perform SIP attainment demonstrations by analyzing potential and actual emission reductions from all air pollution sectors so that ambient concentrations can comply with the NAAQS.

Future SIP and Regulatory Actions

ARB acknowledges the clean air benefits from agriculture through voluntary incentive programs. However, as EPA continues its periodic review of and updates to the NAAQS, ARB is seeking long-term emission reduction strategies in order to improve air quality and address more stringent air pollution standards. ARB will develop an agricultural equipment regulation where some sections could deem emission reductions as no longer being surplus. Partner support will likely continue due to the success of voluntary incentive-based emission reduction programs.

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USDA Natural Resources Conservation Service, *Regulatory Impact of Air Emissions Reductions Associated with NRCS Combustion System Improvement Practice*, Decision Memorandum for Acting Chief Weller, June 4, 2013

Attachments

- *Agricultural Air Quality Memorandum of Understanding with EPA, NRCS A-3A75-8-30, February 1998*
- *Statement of Principles Regarding the Approach to State Implementation Plan Creditability of Agricultural Equipment Replacement Incentive Programs Implemented by the USDA Natural Resources Conservation Service and the San Joaquin Valley Air Pollution Control District, December 2010*
- *Implementation Principles for Addressing Agricultural Equipment under the Clean Air Act, July 2012*
- *Regulatory Impact of Air Emissions Reductions Associated with NRCS Combustion System Improvement Practice, June 4, 2013*
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- *Addendum to the December 2010 Statement of Principles Regarding the Approach to State Implementation Plan Creditability of Agricultural Equipment Replacement Incentive Programs Implemented by the USDA Natural Resources Conservation Service and the San Joaquin Valley Air Pollution Control District, March 2014*
- *SJVAPCD Rule 9610: State Implementation Plan Credit for Emission Reductions Generated Through Incentive Programs, adopted June 20, 2013*
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INFORMATIONAL MEMORANDUM FOR THE SECRETARY

FROM: Pearlle S. Reed
Chief
Natural Resources Conservation Service

SUBJECT: Agricultural Air Quality Memorandum of Understanding with EPA

ISSUE:

A brief summary of the history and salient features of the Air Quality MOU between USDA and EPA would be helpful in briefing key departmental officials in both agencies.

DISCUSSION:

One of the initial recommendations made by the Agricultural Air Quality Task Force concerned the need for a Memorandum of Understanding between USDA and EPA to formalize the working relationship of the two agencies relative to air quality. Such an MOU was prepared and signed (by the Secretary on January 14, 1998 and by Carol Browner on February 25, 1998). The MOU set forth the specific and joint responsibilities of each agency relative to providing a process for involving both the agricultural and the environmental regulation communities in agricultural air quality matters. It provided considerable assurance to the agricultural "industry" that exchange of air quality information, the review of research, and the design of implementation measures will be jointly coordinated. It also provided assurance that when measures are taken in agriculture to improve air quality they are both technologically and economically feasible for individual landowners and users and are based on sound science. A copy of the MOU is attached.

SUMMARY: The MOU set forth individual and joint responsibilities of both agencies in addressing agricultural air quality issues. It provided assurance that sound science will be used in application of air quality measures and that such measures are technologically and economically feasible. A copy of the MOU is attached.

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
U.S. DEPARTMENT OF AGRICULTURE
AND THE
U.S. ENVIRONMENTAL PROTECTION AGENCY**

PURPOSE

The purpose of this Memorandum of Understanding (MOU) is to establish a formal working relationship between the U.S. Department of Agriculture (USDA) and the U.S. Environmental Protection Agency (EPA) relative to agriculture air quality. In the spirit of cooperation, this will include advice from the Agricultural Air Quality Task Force (AAQTF).

AUTHORITY

- Section 391 of the Federal Agricultural Improvement and Reform Act.
- The Clean Air Act, as amended, 42 U.S.C., 7401 et seq.

GOAL

The goal of this MOU is to provide a thoughtful process for involving the agricultural community (for example, crops, animal husbandry, silviculture, etc.) and the environmental regulation community relative to agriculture air quality.

OBJECTIVE

Our objective is to provide a healthy environment with clean air in harmony with a strong agriculturally productive nation.

ESTABLISHMENT OF A COOPERATIVE RELATIONSHIP

JOINTLY USDA AND EPA WILL--

- Share information relative to natural resource conditions and technical knowledge necessary to complete the purpose of this MOU.

- Seek to acquire needed research and demonstration field studies to improve the understanding of agricultural related activities impacting air quality and the impact of air quality regulation on agriculture.
- Disseminate information to the public and agricultural communities on the need for effective conservation practices that address air quality issues where such practices are determined necessary (where the problem exists).
- Confer on other air quality matters of mutual importance and concern.

USDA WILL--

- Provide EPA, as appropriate, with information and advice received from AAQTF.
- Encourage local conservation districts to seek consultation with other USDA agencies, agricultural universities, research and extension agricultural associations and others that have knowledge necessary to support the development of State/tribal implementation plans.
- Expand national conservation planning guidance to include more completely air quality issues in multi-resource systems planning for areas that require agricultural solutions.
- Cooperate with EPA or States/tribes to provide appropriate site-specific expertise for development of resource system strategies to evaluate agricultural air quality emissions.
- Provide status reports on research being conducted on agricultural emission estimates, wind erosion estimates, agricultural burning emissions, model development, sinks and resource management system demonstration projects relative to agriculture and its impact on air quality or air quality impacts on agriculture.

EPA WILL--

- Seek the advice on agricultural air quality issues from USDA.
- Encourage States/tribes to work cooperatively with local conservation districts to utilize local district expertise to determine if the resource conservation plans represent appropriate practices to support the State/tribal implementation plan.

- Cooperate with USDA in developing national policy and guidance documents regarding agriculture's role in State/tribal implementation planning efforts.
- Promote the use of Natural Resources Conservation Service (NRCS) multi-resource conservation planning to identify farming practices that are based on appropriate scientific study and that can be used as a control strategy for agriculture on private lands in State/tribal implementation plans.
- Provide status reports on research being conducted on agricultural emission estimates, wind erosion estimates, agricultural burning emissions, model development, sinks and resource management system demonstration projects relative to agriculture and its impact on air quality or air quality impacts on agriculture.

PERIOD

This MOU will become effective upon the signature of both approving officials of the respective agencies. This MOU will remain in effect until termination by a 30-day advance written notice by either agency.

MODIFICATION PROVISION

This MOU may be modified or amended by mutual consent of the responsible parties listed below.

FUNDING

This MOU defines in general terms the basis on which the signatory agencies will cooperate. It is neither a fiscal nor a funds obligation document. Expenditure of funds, human resources, equipment, supplies, facilities, training, public information, and expertise will be provided for by each signatory agency to the extent that their participation is required and resources are available. Any endeavor involving reimbursement or contribution of funds between the parties to this MOU will be handled in accordance with applicable laws, regulations, and procedures. Such endeavors will be outlined in separate agreements that shall be made in writing by duly authorized representatives of the parties and shall be independently authorized by appropriate statutory authority.

RESPONSIBLE PARTIES

The responsible parties are the Chief of NRCS, USDA, and the Assistant Administrator for the Office of Air and Radiation, EPA. The responsible parties shall carry out this

NRCS A-3A75-8-30

4

agreement by all appropriate means, including correspondence, consultation and convening of AAQTF meetings.

U.S. DEPARTMENT OF AGRICULTURE



DAN GLICKMAN
Secretary of Agriculture

JAN 14 1998

DATE

U.S. ENVIRONMENTAL PROTECTION AGENCY



CAROL BROWNER
Administrator

FEB 25 1998

DATE

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

December 2010

Introduction

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

Relationship to San Joaquin Valley 2007 Ozone SIP

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


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

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

Statement of Principles

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

Signed for U.S. EPA By,

for 
Deborah Jordan
Director, Air Division, Region IX

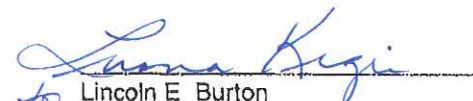
Date: 12-15-10

Signed for SJVUAPCD By,


Seyed Sadredin
Executive Director/Air Pollution Control Officer

Date: 12/15/10

Signed for USDA, NRCS By,

for 
Lincoln E. Burton
State Conservationist for California

Date: 12-16-10

Signed for ARB By,

for 
James Goldstene
Executive Officer

Date: 12/15/10



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 13 2012

OFFICE OF
AIR AND RADIATION

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

Dear Mr. White:

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

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

Sincerely,

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

Gina McCarthy
Assistant Administrator

Enclosure

Implementation Principles for Addressing Agriculture Equipment under the Clean Air Act

Introduction

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

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

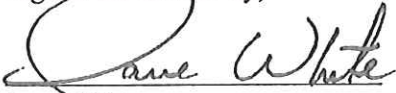
Statement of Principles

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

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

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

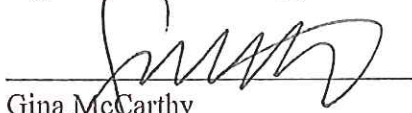
Signed for USDA by,



Dave White
Chief, NRCS

7-26-12
Date

Signed for U.S. EPA by,



Gina McCarthy
Assistant Administrator, OAR

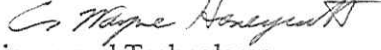
7/12/12
Date




Natural Resources Conservation Service
P.O. Box 2890
Washington, D.C. 20013

JUN 4 2013

DECISION MEMORANDUM FOR ACTING CHIEF WELLER

FROM: Wayne Honeycutt 
Deputy Chief for Science and Technology

Anthony J. Kramer 
Deputy Chief for Programs

SUBJECT: Regulatory Impact of Air Emissions Reductions Associated with NRCS
Combustion System Improvement Practice

ISSUE:

Air regulatory agencies desire to recognize voluntary emissions reductions associated with the NRCS conservation practice “Combustion System Improvement,” but need four key criteria met to satisfy their requirements. Most elements associated with these four criteria have been met, but a few remaining actions are needed by the NRCS and their contractees in order to satisfy these agencies’ regulatory needs.

BACKGROUND:

Agriculture in California, and particularly in the San Joaquin Valley (SJV), faces a number of environmental challenges, including air quality. The juxtaposition of predominant atmospheric conditions favoring poor air quality, one of the largest agricultural production areas in the world, and tightening air quality regulations have resulted in regulatory scrutiny of agricultural operations in the SJV. At present, only emissions from irrigation pump engines are regulated in the SJV. However, it is anticipated that there will be a new air quality rule developed in the near future that will impact diesel-powered, off-road, mobile agricultural combustion equipment in some way. As a result, agricultural producers are taking voluntary steps to reduce air emissions from their mobile, off-road farm equipment.

The USDA-Natural Resources Conservation Service (NRCS) has developed a strong working relationship with both agricultural producers and regulatory entities seeking collaborative and voluntary, incentive-based solutions to this agricultural air quality issue. In December, 2010, NRCS and the three regulatory agencies (EPA, the California Air Resources Board (CARB) and the SJV Unified Air Pollution Control District (SJVUAPCD)) signed a Statement of Principles (SOP) addressing joint intent to “help achieve federal air quality standards and meet emission reduction goals of the State Implementation Plans (SIP) for the San Joaquin Valley.” SIPs are air quality plans that states are required to submit to the EPA for meeting Clean Air Act

- NRCS in California will collect annual practice usage information from contractees through letters and other forms of communication. Information will be incorporated into the emissions inventory database, and reports based upon this information will be made available annually to the SJVUAPCD, as well as CARB, EPA, and partners. All reporting from this database will be in a manner that protects the confidentiality of program participants. Partners will be enlisted to work with the agricultural community to ensure that there is full understanding of the importance of voluntary reporting by participants.

The benefits of this proposal are:

- Does not require change of NRCS policy in order to meet regulatory demands.
- Provides additional follow up and contact with clients to measure effectiveness of the program.
- Enlists partners and the community to ensure there is broad understanding about the importance in voluntary reporting of usage information.

There are also potential pitfalls. NRCS will need to continue to be aware of these, and take necessary action to ensure that they do not occur:


- If participant voluntary response rate is low, it may negatively impact the regulatory agencies' willingness to utilize this program for SIP credit.
- Regulatory requirements may change, and air regulatory agencies may increase the nature and scope of reporting demands in order for such air emissions reductions to continue to be counted towards the SJV air emissions goals. If this happens, NRCS must re-evaluate its position and involvement on this issue to ensure that NRCS is not viewed as becoming an enforcement arm of regulatory agencies.
- As mentioned above, NRCS reporting for SJV emissions reductions may expand to other non-containment areas, and thus reporting responsibility may also expand.

RECOMMENDATION:

Endorse the path forward outlined above and ensure that the two primary objectives are achieved as expeditiously as possible. NRCS also will work to ensure that full, official recognition of these emissions reductions occurs within the SJVUAPCD, CARB, and EPA.

DECISION:

I concur with the recommendation made above.

Signed  _____ Date 6/4/13

Jason Weller
Acting Chief, NRCS

United States Department of Agriculture



Natural Resources Conservation Service
California State Office
430 G Street, Room 4164
Davis, CA 95616
(530) 792-5600
(530) 792-5790 (Fax)

Subject: PGM - Assuring Quantification of Air Emissions Reductions
Associated with NRCS Combustion System Improvement
Practice in California

Date: June 12, 2013

To: California NRCS Employees

File Code: 440

BACKGROUND:

The USDA-Natural Resources Conservation Service (NRCS) has developed a strong working relationship with both agricultural producers and regulatory entities seeking collaborative and voluntary, incentive-based solutions to agricultural air quality issues in California. In December, 2010, NRCS and the three regulatory agencies (EPA, the California Air Resources Board (CARB) and the SJV Unified Air Pollution Control District (SJVUAPCD)) signed a Statement of Principles (SOP) addressing joint intent to “help achieve federal air quality standards and meet emission reduction goals of the State Implementation Plans (SIP) for the San Joaquin Valley.” SIPs are air quality plans that states are required to submit to the EPA for meeting Clean Air Act objectives. A critical issue is whether voluntary emissions reductions achieved through incentives are truly “SIP-creditable.” There are four criteria that must be met to satisfy SIP credit requirements: Surplus, Quantifiable, Enforceable, and Permanent for the lifetime of the project. The SOP states that these four agencies “will work collaboratively to develop a mechanism to provide SIP credit for emissions reductions from the federal, state and local incentive programs that meet...[these four criteria].”

Additionally, NRCS and EPA signed an “Implementation Principles for Addressing Agriculture Equipment under the Clean Air Act (CAA)” document on July 12, 2012 that reinforces the NRCS commitment to work with regulatory entities on these issues. It specifically says that “the two agencies will also work together to provide a mechanism pursuant to the CAA to quantify for SIP credit emissions reductions from farm equipment, achieved through voluntary incentive programs at the state/local level.”

NRCS has utilized the Environmental Quality Incentives Program (EQIP) for providing support to producers who wish to reduce their air emissions using the NRCS Combustion System Improvement practice, Conservation Practice Standard (CPS) 372. In just four years (2009-2012) NRCS invested more than \$84 million in more than 1500 contracts for reducing air emissions through implementation of CPS 372, including replacing mobile, off-road equipment in California using this conservation practice. The projected result is that more than 2,000 tons of oxides of nitrogen (NOx) emissions, a key pollutant, have been reduced statewide—the emission equivalent of taking 640,000 passenger vehicles from California highways.

NRCS recognizes that the potential for creditability of emissions reductions associated with implementation of the Combustion System Improvement practice is important for meeting SIP goals and the overall air quality objectives in the SJV. In this case, creditability is defined as official, regulatory recognition (from EPA, CARB and the SJVUAPCD) of voluntary, incentive-based emissions reductions achieved by producers through participation in NRCS EQIP. NRCS leadership is committed to fulfilling its obligations in both the SOP and Implementation Principles documents, referenced above, in order to attain the goal of SIP creditability for practice implementation, while explicitly maintaining the voluntary principle of NRCS programs.

ADDRESSING THE SIP CREDITABILITY ISSUE WITHIN NRCS CALIFORNIA:

California NRCS will implement the following actions in order to address the issues described above, while maintaining the completely voluntary mission of the NRCS:

- The State Resource Conservationist and the Director of the Air, Climate and Energy Team, will assure that the Specification, and the Operations and Maintenance section of the Combustion System Improvement (372) practice clearly stipulates that participants are expected to annually report practice implementation (i.e. equipment usage) throughout the 10-year lifespan of the practice.
- The State Resource Conservationist, the Assistant State Conservationist for Field Operations, and the Director of the Air, Climate and Energy Team, will assure that annual practice usage information is collected from contract participants through letters and other forms of communication. Information will be incorporated into the NRCS emissions inventory database, and reports based upon this information will be made available annually to the SJVUAPCD, as well as CARB, EPA, and partners. All reporting from this database will be in a manner that protects the confidentiality of program participants. Partners will be enlisted to work with the agricultural community to ensure that there is full understanding of the importance of reporting by participants.

Questions regarding this guidance should be directed to Tom Hedt, State Resource Conservationist, Curtis Tarver, Assistant State Conservationist-Field Operations, or Ted Strauss, Director, Air, Climate, and Energy Team.



CARLOS SUAREZ
State Conservationist

**Addendum to the December 2010 Statement of Principles Regarding the Approach to State
Implementation Plan Creditability of Agricultural Equipment Replacement Incentive
Programs Implemented by the USDA Natural Resources Conservation Service and the San
Joaquin Valley Air Pollution Control District**

March 2014

Introduction

In December 2010, the USDA Natural Resources Conservation Service (NRCS), the U.S. Environmental Protection Agency (EPA), the California Air Resources Board (ARB) and the San Joaquin Valley Air Pollution Control District (District) signed a Statement of Principles pledging to work collaboratively to develop a mechanism to provide State Implementation Plan (SIP) credit for emissions reductions from agricultural equipment replacement incentive programs that meet Clean Air Act (CAA) requirements. In July 2012, NRCS and EPA signed an additional Statement of Principles reaffirming the agencies' agreement to work together on a mechanism consistent with the CAA to quantify emission reductions from farm equipment achieved through voluntary incentive programs at the state/local level that could be used for SIP credit. Subsequently, the District worked with NRCS, EPA and ARB to develop and adopt District Rule 9610, which contains the District's procedures and criteria for development of SIPs that rely on incentive programs implemented by the District and NRCS in the San Joaquin Valley, including the Environmental Quality Incentive Program (EQIP) implemented by NRCS. ARB adopted Rule 9610 on June 20, 2013 and submitted it to EPA on June 26, 2013 as a revision to the California SIP.

Under the CAA as interpreted in EPA guidance, incentive programs may qualify for credit in a SIP if the resulting emission reductions are "surplus, quantifiable, enforceable and permanent" and satisfy all other CAA criteria for SIP approval. Section 1619 of the Farm Bill prohibits NRCS from disclosing "information provided by an agricultural producer or owner of agricultural land concerning the agricultural operation, farming or conservation practices, or the land itself, in order to participate in programs of the Department" or related "geospatial information," except in accordance with limitations specified in subsection 1619(b)(4). 7 U.S.C. § 8791.

Purpose of this Addendum

The purpose of this Addendum is to identify information that NRCS will make available to EPA and the District, consistent with NRCS's statutory responsibilities under Section 1619 of the Farm Bill, to ensure that both EPA and the District can carry out their respective implementation responsibilities under the CAA and Rule 9610.

Addendum to the Statement of Principles

1. Consistent with the implementation principles identified in the December 2010 Statement of Principles and the July 2012 Statement of Principles, the NRCS will provide to EPA and the District, no later than March 31 of each year, an annual report that includes:
 - a. Information regarding emission reductions achieved by individual EQIP projects, including unique project identification numbers, the county in which each project is located, and verification that each "old" (replaced) engine has been destroyed.
 - b. Certification by the NRCS California State Conservationist that: (1) emission reductions for each EQIP project identified in the annual report were calculated in accordance with the applicable NRCS conservation practice standards and related

guidelines; (2) the annual report does not include any funded project that NRCS has found to be in violation of its EQIP contract; and (3) the information provided in the annual report is true and accurate to the best of his/her knowledge.

2. Upon request by EPA or the District, the NRCS will provide representative samples of the compliance-related documentation used to compile the annual report described in paragraph #1 above. NRCS will omit the names of any individual owners, operators, or producers before submitting these documents to EPA and/or the District. EPA may use these documents to assess the District's compliance with SIP-approved emission reduction commitments.

Signed for EPA By,



Deborah Jordan
Director, Air Division, Region IX

Date: 3-11-14

Signed for SJVAPCD By,



Seyed Sadredin
Executive Director/Air Pollution Control Officer

Date: 3/19/14

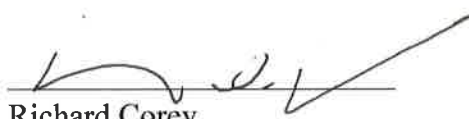
Signed for USDA, NRCS By,



Carlos Suarez
State Conservationist for California

Date: 3/11/14

Signed for ARB By,



Richard Corey
Executive Officer

Date: 3/12/2014

RULE 9610 STATE IMPLEMENTATION PLAN CREDIT FOR EMISSION REDUCTIONS GENERATED THROUGH INCENTIVE PROGRAMS
(Adopted June 20, 2013)

1.0 Purpose

The purpose of this rule is to provide an administrative mechanism for the District to receive credit towards State Implementation Plan requirements for emission reductions achieved in the San Joaquin Valley Air Basin through incentive programs administered by the District, NRCS, or ARB.

2.0 Definitions

- 2.1 APCO: the Air Pollution Control Officer of the San Joaquin Valley Unified Air Pollution Control District, or any person authorized to act on behalf of the APCO.
- 2.2 ARB: the California state Air Resources Board as established by California Health and Safety Code Section 39510, or any person authorized to act on its behalf.
- 2.3 Carl Moyer Program: the Carl Moyer Memorial Air Quality Standards Attainment Program; a State of California funded incentive program as defined by California Health and Safety Code Sections 44275– 44299.2.
- 2.4 Case-by-Case Determination: alternative procedures approved by ARB for specific projects, as authorized under the Carl Moyer Program Guidelines.
- 2.5 Contract: a legally binding agreement signed by the District, NRCS, or ARB and the Grantee to fund an incentive project for the purpose of reducing emissions. Contracts shall include provisions for ensuring that the emissions reductions occur, including, but not limited to, actions that the Grantee must take to achieve the emission reductions for the project, project specific deadlines, inspection and monitoring requirements, and non-performance remedies.
- 2.6 Cost Effectiveness: the amount of incentive funding expended per ton of emissions reduced, as defined by the applicable incentive program guidelines.
- 2.7 District: the San Joaquin Valley Unified Air Pollution Control District.
- 2.8 Enforceable: for purposes of this rule, emission reductions are enforceable if the incentive program includes provisions for ensuring the following:
- 2.8.1 The emission reductions are independently and practicably verifiable through inspections, monitoring, and/or other mechanisms;

- 2.8.2 Incentive program violations are defined through legally binding contracts, including identifying the party or parties responsible for ensuring that emission reductions are achieved;
 - 2.8.3 Grantees are obligated to provide all records needed to demonstrate that emission reductions are achieved; and
 - 2.8.4 The public has access to all emissions-related information for reductions claimed in the annual demonstration report, as outlined in Section 4.0.
- 2.9 EPA: the United States Environmental Protection Agency.
 - 2.10 EQIP: Environmental Quality Incentives Program; a voluntary program administered by the NRCS that provides financial and technical assistance to agricultural producers to plan and implement conservation practices that address natural resource concerns, including the improvement of combustion systems from stationary agricultural irrigation pump engines and mobile agricultural equipment.
 - 2.11 Funding Source: a source of funding used to implement incentive programs, including, but not limited to, federal, state, and local sources. Examples of funding sources include Carl Moyer Program funds and Proposition 1B – Goods Movement Emission Reduction Program funds.
 - 2.12 Grantee: a person, business, association, public agency, or other entity that enters into a contract with the District, NRCS, or ARB to reduce emissions under an incentive program.
 - 2.13 Implementation Date: for the purposes of this rule, the date which new or replacement equipment, vehicles, or practices funded through incentive programs are put into service.
 - 2.14 Incentive Program: a program that reduces emissions by promoting the adoption of lower emitting equipment, vehicles, or practices through the distribution of financial incentives to a Grantee.
 - 2.15 Incentive Program Guidelines: administrative procedures, quantification methodologies, eligibility criteria, cost effectiveness criteria, reporting practices, and/or other procedures and methodologies used to implement incentive programs, as identified in Section 3.0.
 - 2.16 Inspection: for purposes of this rule, a physical inspection by the APCO of the equipment, vehicle, or practice under contract as part of an incentive project.

- 2.17 NRCS: the United States Department of Agriculture Natural Resources Conservation Service.
- 2.18 Permanent: for purposes of this rule, emission reductions are permanent if actions are taken to physically destroy or permanently disable existing or baseline equipment or vehicles, or to permanently amend practices to ensure the reduction of emissions for the duration of the project life.
- 2.19 Project: for purposes of this rule, actions taken to reduce emissions through incentive programs, as contracted between the Grantee and the District, NRCS, or ARB using incentive program guidelines at the time of contracting. Such actions include, but are not limited to, replacements, retrofits, new purchases, new practices, and repower.
- 2.20 Project Life: for purposes of this rule, the period of time over which an incentive program project achieves SIP-creditable emission reductions. Project life shall not exceed the useful life of equipment, vehicles, or practices funded through incentive programs, and may vary across incentive programs and project types.
- 2.21 Project Type: for purposes of the annual demonstration report required by this rule, the project type is identified as the type of equipment, vehicle, or practice, and the action taken.
- 2.22 Proposition 1B: the Goods Movement Emission Reduction Program; a State of California funded incentive program as codified in California Health and Safety Code Section 39625 et seq.
- 2.23 Quantifiable: for purposes of this rule, emission reductions are quantifiable if they can be reliably determined through the use of well-established, publicly available emission factors and calculation methodologies.
- 2.24 SIP: the State Implementation Plan; a plan which provides for implementation, maintenance, and enforcement of National Ambient Air Quality Standards promulgated by EPA.
- 2.25 SIP-Creditable Emission Reduction: for purposes of this rule, reductions of emissions achieved through incentive programs that are Surplus, Quantifiable, Enforceable, and Permanent, as those terms are defined in this rule.
- 2.26 SIP Shortfall: for purposes of this rule, an instance when a commitment made pursuant to Section 7.0 in an adopted SIP to achieve a certain amount of SIP-creditable emission reductions is not achieved.

- 2.27 Surplus: for purposes of this rule, emission reductions are surplus when they are not otherwise required by any federal, state, or local regulation, or other legal mandate, and are in excess of the baseline emission inventories underlying a SIP attainment demonstration.
- 2.28 Valley: the San Joaquin Valley Air Basin including Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare Counties, and the San Joaquin Valley Air Basin portion of Kern County.

3.0 Incentive Program Guidelines

- 3.1 The District shall quantify emission reductions under this rule in accordance with the following specific incentive program guidelines that provide for SIP-creditable emission reductions:

- 3.1.1 ARB Carl Moyer Program Guidelines for incentive projects funded by either the Carl Moyer Program or non Carl Moyer funding sources, for the following project types:

- 3.1.1.1 On-Road Heavy-Duty Vehicle

- 3.1.1.1.1 New Vehicle Purchase (Chapter 1, approved 11/17/2005; Chapter 3, approved 2008; or Chapter 4, approved 4/28/2011);

- 3.1.1.1.2 Repower (Chapter 1, approved 11/17/2005; Chapter 3, approved 2008; or Chapter 4, approved 4/28/2011); or

- 3.1.1.1.3 Retrofit (Chapter 1, approved 11/17/2005; Chapter 3, approved 2008; or Chapter 4, approved 4/28/2011).

- 3.1.1.2 On-Road Heavy-Duty Vehicles Fleet Modernization/Replacement (Chapter 2, approved 11/17/2005; Chapter 4, approved 3/27/2008; or Chapter 5, approved 4/28/2011).

- 3.1.1.3 Off-Road Compression-Ignition Equipment

- 3.1.1.3.1 Repower (Chapter 5, approved 11/17/2005; Chapter 5, approved 3/27/2008; or Chapter 7, approved 4/28/2011);

- 3.1.1.3.2 Replacement (Chapter 4, approved 3/27/2008; or Chapter 9, approved 4/28/2011); or
- 3.1.1.3.3 Retrofit (Chapter 5, approved 11/17/2005; Chapter 5, approved 3/27/2008; or Chapter 7, approved 4/28/2011).
- 3.1.1.4 Portable and Stationary Agricultural Sources
 - 3.1.1.4.1 Repower (Chapter 10, approved 11/17/2005; Chapter 10, approved 3/27/2008; or Chapter 10, approved 4/28/2011);
 - 3.1.1.4.2 New purchase of electric motor (Chapter 10, approved 11/17/2005; Chapter 10, approved 3/27/2008; or Chapter 10, approved 4/28/2011); or
 - 3.1.1.4.3 Retrofit (Chapter 10, approved 11/17/2005; Chapter 10, approved 3/27/2008; or Chapter 10, approved 4/28/2011).
- 3.1.2 NRCS Conservation Practice Standard 372 - Combustion System Improvement (approved September 2010); Conservation Practice Standard 723 - Combustion System Air Emission Management (approved May 2009); NRCS General Manual, Title 450, Part 401 - Conservation Practice Standards (approved October 18, 2009); NRCS General Manual, Title 450, Part 407 - Documentation, Certification, and Spot Checking (approved October 17, 2009); Conservation Practice Standard 372 Specification (approved September 2010); NRCS Interim Conservation Practice Standard 723 - Combustion System Air Emission management (approved May 2009); NRCS Combustion System Improvement 372 Operation and Maintenance; and associated NRCS Program Combustion System Improvement of Mobile Engines Guidelines (December 2011; updated May 2012) for incentive projects funded by EQIP funds.
- 3.1.3 ARB Proposition 1B Goods Movement Emission Reduction Program Guidelines for Heavy-Duty Diesel Trucks repower, replacement, PM retrofit, or PM + NOx retrofit incentive projects funded by Proposition 1B funds or non-Proposition 1B funds. Applicable ARB Proposition 1B Goods Movement Emission Reduction Program Guidelines are the 2013 Proposition 1B: Goods Movement Emission Reduction Program Guidelines (Appendix A, approved 01/25/2013); the 2010 Proposition

1B: Goods Movement Emission Reduction Program Guidelines (Appendix A, approved 03/25/2010); and the 2008 Proposition 1B: Goods Movement Emission Reduction Program Guidelines (Appendices A or B, approved 02/28/2008).

3.2 Subject to sections 3.2.1 and 3.2.2 below, the District may quantify emission reductions under this rule in accordance with incentive program guidelines not specifically identified in Section 3.1, provided the District submits to EPA, pursuant to Section 7.0, a demonstration that each such guideline provides for SIP-creditable emission reductions. Incentive program guidelines subject to these procedures may include ARB Carl Moyer Program Guidelines, NRCS Combustion System Improvement Conservation Practice Standard 372 and associated NRCS Program Combustion System Improvement of Mobile Engines Guidelines, and ARB Proposition 1B Goods Movement Emission Reduction Program Guidelines.

3.2.1 Incentive program guidelines developed by the District to reduce emissions from mobile sources shall be developed in consultation with ARB.

3.2.2 Notwithstanding Sections 3.1 or Section 3.2, no case-by-case determination may be used to quantify emission reductions under this rule unless such determination is reviewed through a public process and submitted to EPA in accordance with Section 7.0.

3.3 The District shall develop and maintain a Manual of Procedures that includes all incentive program guidelines used to achieve SIP-creditable emission reductions from incentive programs, pursuant to Section 3.0. The Manual of Procedures shall:

3.3.1 Be made publically available on the District's website and maintained on an ongoing basis as incentive program guidelines are adopted; and

3.3.2 Include a description of how the incentive program guidelines ensure that incentive program emission reductions are SIP-creditable.

4.0 Annual Demonstration Report

The APCO shall annually prepare a report that demonstrates the quantity of SIP-creditable emission reductions. This report shall include the following elements, and shall be prepared and submitted to ARB and EPA through a public process in accordance with Section 5.0.

4.1 Description of incentive program guidelines used by the District, NRCS, or ARB to implement the incentive programs generating claimed SIP-creditable emission reductions, a description of how the guidelines ensure that the claimed emission

reductions are SIP-creditable, and a list of any guidelines that are being used for the first time under this rule.

- 4.2 SIP-creditable emission reductions generated through incentive programs, as implemented in the preceding year(s), summarized by pollutant, years that the emission reductions are occurring (project life), cost effectiveness, funding amount, incentive program guideline, and project type.
- 4.3 Adjustments to SIP-creditable emission reductions claimed in prior annual demonstration reports shall be reported in the annual demonstration report the year that the adjustments are made with a discussion explaining the cause for the adjustments. Adjustments to emission reductions claimed in prior annual demonstration reports may be the result of, but are not limited to, updated project information received during the course of project implementation or the adoption of new local, state, or federal requirements that might affect the surplus nature of emission reductions achieved by incentive programs.
- 4.4 Identification of SIP commitment(s) identified in District adopted SIP(s) (by year, pollutant, and magnitude), which the District has satisfied, in whole or in part, through SIP-creditable emission reductions. Such commitments include, but are not limited to, emission reduction commitments adopted to meet Clean Air Act requirements concerning the demonstration of attainment, Reasonable Further Progress, Rate of Progress, contingency measures, and long-term measures as defined by the federal Clean Air Act Section 182(e)(5) (“black box” reductions). The District shall identify and quantify SIP commitment shortfalls, if any, and remedies for addressing said shortfalls.

4.5 Project Information

Reported project information shall include the following information for incentive projects achieving SIP-creditable emission reductions, as applicable:

- 4.5.1 Unique project identification number, as established by the District, NRCS, or ARB;
- 4.5.2 Project location;
- 4.5.3 Project type;
- 4.5.4 Project life;
- 4.5.5 Implementation date of project;
- 4.5.6 Funding amount provided by District, NRCS, or ARB;

- 4.5.7 Incentive program guideline(s) used to implement the project, including revision date;
- 4.5.8 Quantified emission reductions per year, and aggregated over the project life, by pollutant; and
- 4.5.9 Description of both the baseline and the new equipment, vehicles, or practices, including the following for each, as applicable:
 - 4.5.9.1 Make and model of equipment or vehicle;
 - 4.5.9.2 Equipment or vehicle rating or horsepower;
 - 4.5.9.3 Model year; and
 - 4.5.9.4 Historical and projected annual usage.
- 4.5.10 Additional project details, as necessary to demonstrate the SIP-creditable emission reductions claimed in the annual demonstration report.

4.6 Project Monitoring and Enforcement

The annual demonstration report shall include a summary of monitoring and enforcement activities conducted during the reporting period for incentive projects for which SIP-creditable emission reductions are being claimed, as follows:

- 4.6.1 Identification of project audits, usage reports, inspections, and other project monitoring activities; and
- 4.6.2 List of actions taken to enforce emission reductions associated with contract requirements, including the following:
 - 4.6.2.1 Identification of projects that do not satisfy contractual requirements; and
 - 4.6.2.2 Identification of enforcement actions and remedies, including penalties, additional contractual requirements, or other actions.

4.7 Incentive Program Evaluation

The District shall perform a retrospective assessment of the performance of its incentive program to evaluate overall incentive program performance and develop recommendations for future enhancements to incentive program implementation.

This assessment shall include a summary of the public process to receive comments on the draft report, as required by Section 5.0.

5.0 Annual Demonstration Report Process

- 5.1 The APCO shall submit the annual demonstration report and information described in Section 4.0 to ARB and EPA no later than August 31 of each year.
- 5.2 The APCO shall release the draft annual demonstration report to the public and present it to the District Governing Board prior to submittal to ARB and EPA for concurrence.
- 5.3 Previously submitted annual demonstration reports shall be made available on the District's website.

6.0 Recordkeeping Requirements

- 6.1 All documents created and/or used in implementing the requirements of Section 4.0 shall be kept and maintained as required by the applicable incentive program guidelines. Consistent with the California Public Records Act and other related requirements, such records shall be made available for public review. Information regarding the process for the public review of such records shall be included in the annual demonstration report.
- 6.2 Records related to implementation of the NRCS Program Combustion System Improvement of Mobile Engines incentive program are prohibited from mandatory disclosure, pursuant to the Federal Food Security Act of 1985 (7 U.S.C. § 608d(2)).

7.0 Use of Projected Incentive Program Reductions in SIPs

Where the District intends to rely on projections of SIP-creditable emission reductions under this rule to satisfy a federal Clean Air Act SIP requirement (e.g., attainment, Reasonable Further Progress, Rate of Progress, contingency measures, or long-term measures as defined by the federal Clean Air Act Section 182(e)(5) ("black box" reductions)), the District shall identify specific amounts of SIP-creditable emission reductions for a particular year or years in the relevant SIP. Each SIP submission in which the District relies on such projections shall contain a demonstration that the applicable incentive program guideline(s) continues to provide for SIP-creditable emission reductions and shall contain an enforceable commitment that:

- 7.1 Identifies incentive program guidelines, as specified in Section 3.0, used to generate projected SIP-creditable emission reductions;

- 7.2 Identifies emission reductions not to exceed the amount projected to be achieved through the use of secured or reasonably anticipated incentive program funding and the estimated availability of emission reductions projects and willing participants, based on historical participation and estimates of remaining equipment;
- 7.3 Is specifically adopted by the District as a part of the SIP and accounted for in the annual demonstration report as SIP-creditable emission reductions are achieved through provisions of this rule; and
- 7.4 States that if either the District or EPA finds that there is a SIP shortfall for a particular year, the District will adopt and submit to EPA, by specified dates, substitute rules and measures that will achieve equivalent emission reductions as expeditiously as practicable and no later than any applicable implementation deadline in the Clean Air Act or EPA's implementing regulations.

CALIFORNIA CODE OF REGULATIONS

Title 13. Motor Vehicles

Division 3. Air Resources Board

Chapter 9. Off-Road Vehicles and Engines Pollution Control Devices

Article 4.1. State Implementation Plan Credit from Mobile
Agricultural Equipment

13 CCR § 2428

§ 2428. Procedure for State Implementation Plan Credit from Mobile Agricultural Equipment.

(a) Purpose.

The purpose of this regulation is to provide an administrative mechanism for the State of California to receive credit towards the State Implementation Plan (SIP) requirements for emission reductions achieved in the San Joaquin Valley Air Pollution Control District from incentive-funded mobile agricultural equipment projects that are implemented using the Carl Moyer Program guidelines. This regulation will complement San Joaquin Valley Air Pollution Control District's Rule 9610, adopted by their governing board on June 20, 2013, which provides an administrative mechanism for the San Joaquin Valley Air Pollution Control District to receive credit toward SIP requirements for emissions reductions achieved in the San Joaquin Valley through incentive programs administered by the district, the U.S. Department of Agriculture Natural Resources Conservation Service, or the Air Resources Board (ARB). The two rules together ensure that emission reductions achieved through incentive programs in the San Joaquin Valley are eligible to become credited to SIP when quantified and included in a SIP amendment adopted by ARB and approved by United States Environmental Protection Agency (U.S. EPA) in accordance with the requirements of the federal Clean Air Act (CAA).

Other California Air Pollution Control Districts or Air Quality Management Districts (District) may opt-in if the District governing board notifies the Executive Officer of the intent to participate, adopts a local rule that complies with the requirements of this regulation, and submits the local rule to ARB for approval. Upon approval, ARB will submit the local rule to U.S. EPA. Upon approval of the local rule by ARB and U.S. EPA, emission reductions that are determined to be eligible for SIP credit under this proposed regulation become credited to the SIP when quantified and included in a SIP amendment adopted by ARB and approved by U.S. EPA in accordance with the requirements of the CAA.

(b) Applicability.

This proposed regulation applies to emission reductions achieved from voluntary incentive-funded mobile agricultural equipment projects implemented using incentive program guidelines and administered or implemented by ARB or the District.

(c) Definitions.

(1) “*Agricultural operations*” means (1) the growing or harvesting of crops from soil (including forest operations) and the raising of plants at wholesale nurseries (but not retail nurseries), or the raising of fowl or animals for the primary purpose of making a profit, providing a livelihood, or conducting agricultural research or instruction by an educational institution, or (2) agricultural crop preparation services such as packinghouses, cotton gins, nut hullers and processors, dehydrators, and feed and grain mills. Agricultural crop preparation services include only the first processing after harvest, not subsequent processing, canning, or other similar activities. For forest operations, agricultural crop preparation services include milling, peeling, producing particleboard and medium density fiberboard, and producing woody landscape materials.

(2) “*Air Pollution Control Officer (APCO)*” means the District Air Pollution Control Officer, Executive Director, Executive Officer or designee.

(3) “*Air Resources Board (ARB or CARB)*” means the California State Air Resources Board as established by Health and Safety Code section 39510.

(4) “*Carl Moyer Program*” means the Carl Moyer Memorial Air Quality Standards Attainment Program, as defined by California Health and Safety Code Sections 44275- 44299.2.

(5) “*Clean Air Act (CAA)*” means the Clean Air Act, United States Code, Title 42, Chapter 85.

(6) “*Contract*” means a legally binding document including, but not limited to, contracts, grants, vouchers, rebates, loans, and loan guarantees signed by ARB or a District and the funding recipient to fund an incentive program project for the purpose of reducing emissions. Contracts include provisions for ensuring that the emission reductions occur, including, but not limited to, actions that the funding recipient must take to achieve the emission reductions for the project, deadlines, inspection and monitoring requirements, non-performance penalties, and contract term.

(7) “*District*” means a local air pollution control district or air quality management district.

(8) “*Enforceable*” means emission reductions are enforceable if the incentive program guidelines include provisions for ensuring the following:

(A) The emission reductions are independently and practicably verifiable through reporting, inspections, monitoring, or other mechanisms;

(B) Incentive program violations are defined through legally binding contracts, including identifying the party or parties responsible for ensuring that emission reductions are achieved;

(C) Funding recipients are obligated to provide all records needed to demonstrate that emission reductions are achieved; and

(D) The District provides public access to all emissions-related information for reductions claimed.

(9) “*Executive Officer*” means ARB Executive Officer.

(10) “*Funding recipient*” means a person, business, association, public agency, or other entity that enters into a contract with ARB or a District to reduce emissions under an incentive program.

(11) “*Incentive program*” means a program that reduces emissions by promoting the adoption of lower emitting mobile agricultural equipment through the distribution of funds to a funding recipient who chooses to voluntarily participate in the program.

(12) “*Incentive program guidelines*” means administrative procedures, emission reductions quantification methodologies, eligibility criteria, cost-effectiveness criteria, reporting practices, and other procedures and methodologies used to implement incentive programs, as described in Section (e).

(13) “*Inspection*” means a physical examination by an APCO of mobile agricultural equipment under contract as part of an incentive program.

(14) “*Mobile agricultural equipment*” means diesel-fueled, self-propelled, off-road equipment or vehicles with greater than 25 horsepower that are used in agricultural operations. For the purposes of this regulation, an equipment or vehicle that is used by its owner for both agricultural and nonagricultural operations is considered to be an equipment or vehicle engaged in agricultural operations only if over half of its annual operating hours are for agricultural operations.

(15) “*Operating hours*” means hours of mobile agricultural equipment use.

(16) “*Permanent*” means actions are taken to physically destroy or disable forever the older, dirtier mobile agricultural equipment to ensure the reduction of emissions for the duration of the project life.

(17) “*Project*” means actions taken to reduce emissions through incentive programs, as contracted between the funding recipient and ARB or a District. Such actions include, but are not limited to, replacements, retrofits, or repowers for one or more pieces of mobile agricultural equipment.

(18) “*Project life*” means the period of time over which an incentive program project achieves emission reductions that are surplus, quantifiable, enforceable, and permanent. Project life must not exceed the useful life of mobile agricultural

equipment funded through incentive programs and may vary across incentive programs and project types.

(19) “*Project type*” means the type of mobile agricultural equipment funded through incentive programs.

(20) “*Quantifiable*” means emission reductions can be reliably determined through the use of well-established, publicly available emission factors and calculation methodologies, as outlined in applicable incentive program guidelines.

(21) “*San Joaquin Valley Air Pollution Control District*” means the regional governing authority that has primary responsibility for air quality management in eight counties including the entire counties of Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, Tulare, and the western portion of Kern County.

(22) “*SIP attainment demonstration*” means the technical control measures, analyses, and emission reduction commitments that show how a nonattainment area will meet a National Ambient Air Quality Standard by the applicable deadline.

(23) “*State Implementation Plan (SIP)*” means a plan which provides for implementation, maintenance, and enforcement of National Ambient Air Quality Standards promulgated by U.S. EPA.

(24) “*Surplus*” means emission reductions that are not otherwise required by any federal, state, or local regulation, or other legal mandate, and are in excess of the baseline emission inventory, attainment year, and progress milestone year forecasts that include adopted regulations.

(25) “*U.S. EPA*” means United States Environmental Protection Agency.

(26) “*Western Portion of Kern County*” means that portion of Kern County which lies west and north of a line described as follows: beginning at the Kern-Los Angeles County boundary and running north and east along the northwest boundary of the Rancho La Libre Land Grant to the point of intersection with the range line common to R. 16 W. and R. 17 W., San Bernardino Base and Meridian; north along the range line to the point of intersection with the Rancho El Tejon Land Grant boundary; then southeast, northeast, and northwest along the boundary of the Rancho El Tejon Land Grant to the northwest corner of S. 3, T. 11 N., R. 17 W.; then west 1.2 miles; then north to the Rancho El Tejon Land Grant boundary; then northwest along the Rancho El Tejon line to the southeast corner of S. 34, T. 32 S., R. 30 E., Mount Diablo Base and Meridian; then north to the northwest corner of S. 35, T. 31 S., R. 30 E.; then northeast along the boundary of the Rancho El Tejon Land Grant to the southwest corner of S. 18, T. 31 S., R. 31 E.; then east to the southeast corner of S. 13, T. 31 S., R. 31 E.; then north along the range line common to R. 31 E. and R. 32 E., Mount Diablo Base and Meridian, to the northwest corner of S. 6, T. 29 S., R. 32 E.; then east

to the southwest corner of S. 31, T. 28 S., R. 32 E.; then north along the range line common to R. 31 E. and R. 32 E. to the northwest corner of S. 6, T. 28 S., R. 32 E., then west to the southeast corner of S. 36, T. 27 S., R. 31 E., then north along the range line common to R. 31 E. and R. 32 E. to the Kern-Tulare County boundary.

(d) District Requirements.

The District must fulfill the requirements of Sections (e) through (g) for emission reductions achieved from incentive-funded mobile agricultural equipment projects implemented using incentive program guidelines to be considered for SIP credit.

(e) Incentive Program Guidelines.

The District must use Carl Moyer Program Guidelines to fund mobile agricultural equipment projects that result in emission reductions that are surplus, quantifiable, enforceable, and permanent as defined in this regulation. (2011 Carl Moyer Program Guidelines, approved April 28, 2011, Chapters 1, 2, 3, 7, 9, Appendices A, B, C, D, E, F, G, and Off-Road Voucher Incentive Program; 2008 Carl Moyer Program Guidelines, approved March 27, 2008, Part I, Chapters 1, 2, 5, 7, Part III; Part IV Appendices A, B, C, D, E, F, G, H; and 2005 Carl Moyer Program Guidelines, approved November 17, 2005, Part I; Part II, Chapter 5; Part IV Appendices A, B, C, D, E, F, G; all as incorporated by reference herein.)

(f) Recordkeeping Requirements.

All documents created and used for incentive-funded mobile agricultural equipment projects must be kept by an air district and maintained as required by the incentive program guidelines. Consistent with the California Public Records Act, such records shall be made available for public review.

(g) Project Monitoring Provisions.

(1) Each calendar year, a District must monitor incentive-funded mobile agricultural equipment projects implemented using incentive program guidelines to ensure projects are surplus, quantifiable, enforceable, and permanent throughout the life of the contract.

(2) The District must allow ARB to conduct program reviews of incentive-funded mobile agricultural equipment projects that are implemented and used for SIP credit. ARB will conduct these reviews as specified in the 2011 Carl Moyer Program Guidelines, Chapter 3, Section V., approved April 28, 2011; 2008 Carl Moyer Program Guidelines, Part III of IV, Part F, approved March 27, 2008; and 2005 Carl Moyer Program Guidelines, Part I of IV, Chapter 2, approved November 17, 2005, which are hereby incorporated by reference.

(h) Opt-in Provisions.

Emission reductions achieved from incentive-funded mobile agricultural equipment projects in Districts other than the San Joaquin Valley Air Pollution Control District that are implemented using incentive program guidelines are eligible to be considered to receive credit toward SIP requirements.

(1) Districts must notify the Executive Officer in writing of their intention to comply with the requirements of this proposed regulation, and

(2) Districts must adopt a local rule that complies with all requirements of this regulation, and

(3) Districts must submit their local rule to ARB and U.S. EPA for approval to ensure compliance with this regulation.

(i) ARB Requirements.

ARB must annually report to U.S. EPA by November 30 the participating Districts, programs, projects, and project data reported to ARB per Carl Moyer Program Guidelines.

Note: Authority cited: Sections 39001, 39003, 39500, 39515, 39516, 39600, 39601, 39602, 39602.5, 39659, 43000, 43000.5 and 44291, Health and Safety Code.

Reference: Sections 39002, 39515, 39516, 39600, 39601, 39602, 39602.5, 39650, 39656, 39657, 39658, 39659, 43000, 43000.5, 43018, 44280, 44281, 44282, 44282.5, 44283, 44287 and 44288, Health and Safety Code.

HISTORY

1. New article 4.1 (section 2428) and section filed 10-8-2014; operative 1-1-2015 (Register 2014, No. 41).