



San Joaquin Valley
AIR POLLUTION CONTROL DISTRICT

**Proposed Amendments to
Rule 3170
(Federally Mandated Ozone
Nonattainment Fee)**

(District Project CEQA # 20110063)

**Initial Study and
Final Negative Declaration**

May 2011

**SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT
GOVERNING BOARD 2011**

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AIR POLLUTION CONTROL OFFICER:

SEYED SADREDIN



A. PROJECT BACKGROUND INFORMATION

1. Project Title:

Proposed Amendments to Rule 3170 (Federally Mandated Ozone Nonattainment Fee)

2. Lead Agency Name and Address:

San Joaquin Valley Unified Air Pollution Control District
1990 E. Gettysburg Avenue
Fresno CA 93726-0244

3. Contact Person:

CEQA: Mark Montelongo
(559) 230-6000

Permits: Carlos Garcia
(559) 230-6000

4. Project Location:

The rule applies to any major source of Oxides of Nitrogen (NOx) or Volatile Organic Compounds (VOC). The fees required pursuant to this section shall be in addition to the permit fees and other fees required under other Rules and Regulations. This rule shall cease to be effective when the San Joaquin Valley Air Basin (SJVAB) has achieved attainment of the revoked federal one-hour standard for ozone.

5. Project Sponsor's Name and Address:

San Joaquin Valley Unified Air Pollution Control District
1990 E. Gettysburg Avenue
Fresno CA 93726-0244

6. Assessor's Parcel Number:

Not applicable to this project.

7. General Plan Designation/Zoning:

Not applicable to this project.



Exhibit 1
San Joaquin Valley Unified Air Pollution Control District Boundaries





8. Project Description:

The proposed project is a rule development project. The purpose of this project is amending Rule 3170 (Federally Mandated Ozone Nonattainment Fee), section 185 of the federal Clean Air Act (CAA) Amendments mandates that "Severe" and "Extreme" ozone nonattainment areas adopt a rule that requires major stationary sources of air pollution to pay nonattainment fees in the event the area fails to reach attainment by the required attainment date. Affected businesses would be required to pay these fees on an annual basis until the area reaches attainment of the ozone standard. These fees, often referred to as "section 185 nonattainment fees" or "clean air act fees," were intended to serve as penalties that would compel major sources that had not done all they could to control emissions of ozone precursors to reduce their emissions and expedite attainment. In 1990, the CAA set the fee as \$5,000 per ton of volatile organic compounds (VOCs) and oxides of nitrogen (NOx) emitted by the source during the calendar year in excess of eighty (80) percent of a facility's "baseline emissions". The CAA also required that the fees be adjusted annually for inflation based on the Consumer Price Index (CPI). The federal Bureau of Labor Statistics currently places the CPI-adjusted rate at \$8370 per ton for 2010 (<http://data.bls.gov/cgi-bin/cpicalc.pl>).

The San Joaquin Valley Air Basin (SJVAB) is subject to this fee requirement as the District has been classified as "Extreme" nonattainment for the now-revoked 1-hour ozone standard with an attainment deadline of December 2010. To satisfy the section 185 mandate, on May 16, 2002, the District adopted Rule 3170 (Federally Mandated Ozone Nonattainment Fee). The District included special provisions to exempt "clean units" from the fees and provided for multi-year averaging of emissions to recognize and reward businesses that reduced their emissions before the attainment year.

In January 2010, the U.S. Environmental Protection Agency (EPA) disapproved these special provisions and issued a limited approval and limited disapproval (attachment A) of the current version of Rule 3170. This action by EPA began an 18-month sanction clock, and the District has until August of 2011 to submit a revised program satisfying the requirements of section 185, or Federal sanctions take effect. If the District fails to adopt or implement a federally approved 185 fee program, in addition to the customary sanction penalties, the EPA will also directly collect the fees, plus interest. Under these circumstances all revenues collected will be sent to the federal treasury with no accommodation for the fees to be returned to the region from which they were collected.

In response to calls for added flexibility, in January 2010 EPA also issued a national guidance memorandum on section 185 nonattainment fees providing for alternative approaches to satisfy the CAA fee requirements, provided such alternatives are no less stringent.

As provided in EPA's 185 guidance, the District is now proposing an alternative fee-equivalent program that will be submitted to EPA for approval into the State Implementation Plan (SIP). The District's Governing Board took the first steps towards



implementing a fee-equivalent program as provided in the EPA 185 guidance memorandum when they approved a motor vehicle fee of \$12 per vehicle registered in the San Joaquin Valley in October 2010. The total motor vehicle assessment of approximately \$34 million dollars annually is intended specifically to fill any shortfall in the District's collection of section 185 fees. As part of an alternative equivalent program, the District will also re-adopt a version of Rule 3170 that retains many of the initial concepts originally adopted in 2002, while were intended to facilitate an equitable distribution of responsibility and reward facilities that had invested in clean air technology. Finally, the District is proposing a fee-equivalent program tracking system to demonstrate, on an annual basis, that the combined revenue streams from Rule 3170 and the motor vehicle fees are equivalent to the revenue that would have resulted from a straightforward application of section 185.

9. Other Agencies Whose Approvals Are Required and Permits Needed:

This project is a rule development project and does not require permits from any agency. The United States Environmental Protection Agency must approve the rule for inclusion into California's State Implementation Plan.

10. Name of Person Who Prepared Initial Study:

Mark Montelongo
Air Quality Specialist

B. FINDINGS

District staff has prepared a Final Draft Staff Report for the proposed amendments to the rule, incorporated herein by reference, which demonstrates that the proposed amendments to the rule would not have an adverse impact on air quality. Pursuant to CEQA Guidelines §15063(a), District staff prepared an Initial Study for the proposed project. The District finds that there is no substantial evidence that the project may have a significant effect on the environment. District staff has prepared a Negative Declaration for the project. Upon approval of the proposed rule by the District's Governing Board, District staff will file a Notice of Determination with each County Clerk within the boundaries of the District, CEQA Guidelines §15075(d).



C. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|---|--|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology/Soils |
| <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology/Water Quality |
| <input type="checkbox"/> Land Use/Planning | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise |
| <input type="checkbox"/> Population/Housing | <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Transportation/Traffic | <input type="checkbox"/> Utilities/Service Systems | <input type="checkbox"/> Mandatory Findings of Significance |

D. DETERMINATION

I certify that this project was independently reviewed and analyzed and that this document reflects the independent judgment of the District.

- I find that the proposed project is exempt from CEQA requirements under California Code of Regulation §15061(b)(3), and a Notice of Exemption has been prepared.
- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION has been prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a significant effect(s) on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets, if the effect is a "potentially significant impact" or "potentially significant unless mitigated." An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

Signature: J. Steven Worthley

Date: May 19, 2011

Printed name: J. Steven Worthley
 Title: Chair



E. ENVIRONMENTAL IMPACT CHECKLIST

I. AESTHETICS Would the proposal:	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect on a scenic vista?				X
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcropping, and historic buildings within a state scenic highway?				X
c) Substantially degrade the existing visual character or quality of the site and its surrounding?				X
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area				X
<p>Discussion: The purpose of this project is to amend existing District Rule 3170 (Federally Mandated Ozone Nonattainment Fee), which was adopted by the District's Governing Board on May 16, 2002. Rule 3170 assess a fee for volatile organic compounds (VOCs) and oxides of nitrogen (NOx) emissions from major source facilities, as required by Sections 185 and 182(f) of the federal Clean Air Act (CAA). This project also will develop an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act. Approval of the draft amendments does not change the meaning of current rule language and implementation of an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act, would not impose new regulatory requirements. Therefore, the District concludes that there is no substantial evidence of record to support a conclusion that approval and implementation of the project would have a detrimental impact on aesthetics, as identified above (a-d).</p>				
<p>Mitigation: None</p>				
<p>Reference: Proposed Rule 3170 and supporting staff report.</p>				
<p>II. AGRICULTURE RESOURCES In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measures methodology provided in the Forest Protocols adopted by the California Air Resources Board.</p> <p>Would the project:</p>	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact



II. AGRICULTURE RESOURCES (Continued)	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?				X
d) Result in the loss of forest land or conversion of forest land to non-forest use?				X
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use of conversion of forest land to non-forest use?				X
<p>Discussion: The purpose of this project is to amend existing District Rule 3170 (Federally Mandated Ozone Nonattainment Fee), which was adopted by the District's Governing Board on May 16, 2002. Rule 3170 assess a fee for volatile organic compounds (VOCs) and oxides of nitrogen (NOx) emissions from major source facilities, as required by Sections 185 and 182(f) of the federal Clean Air Act (CAA). This project also will develop an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act. Approval of the draft amendments does not change the meaning of current rule language and implementation of an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act, would not impose new regulatory requirements. Therefore, the District concludes that there is no substantial evidence of record to support a conclusion that approval and implementation of the project would have a detrimental impact on agricultural resources, as identified above (a-e).</p>				
<p>Mitigation: None</p>				
<p>Reference: Proposed Rule 3170 and supporting staff report.</p>				



III. AIR QUALITY Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?				X
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?				X
d) Expose sensitive receptors to substantial pollutant concentrations?				X
e) Create objectionable odors affecting a substantial number of people?				X
Discussion: The purpose of this project is to amend existing District Rule 3170 (Federally Mandated Ozone Nonattainment Fee) This project also will develop an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act.				
<p>Rule 3170 is a fee rule and as such, does not require the installation of pollution control equipment, does not establish performance standards, nor establishes a treatment requirement. Draft amendments are based on federal requirements and are consistent with EPA's January 2010 guidance on section 185 nonattainment fees. Approval of the draft amendments would not change the meaning of current rule language and implementation of an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act, would not alter the District's use of collected fees to augment existing air pollution control incentive programs, or other programs the District would design to reduce VOC and NOx emissions.</p>				
<p>It could be expostulated that implementation of an alternative fee equivalency program to satisfy the fee requirements of section 185 reduces the probability that major sources would implement additional control measures, versus paying fees. The extent to which this would occur is highly speculative and subject to conjecture, which is discouraged under CEQA. However it is certain that the District's use of collected fees, to augment existing air pollution control incentive programs to fund emissions reduction projects, would reduce VOC and NOx emissions. Furthermore, in approving District expenditure of vehicle fee revenues, the District's Governing Board mandated that all revenues collected be directed to the District's Emission Reduction Incentive Program and targeted for use to achieve NOx and VOC emission reductions. Additionally, the District Governing Board mandated that \$10 million be expended annually to fund emission reduction projects in environmental justice areas. Therefore, the District concludes that there is no substantial evidence of record to support a conclusion that approval and implementation of the project would have a detrimental impact on air quality, as identified above (a-e).</p>				
Reference: Proposed Rule 3170 and supporting staff report.				



IV. BIOLOGICAL RESOURCES Would the project:	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?				X
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X
<p>Discussion: The purpose of this project is to amend existing District Rule 3170 (Federally Mandated Ozone Nonattainment Fee), which was adopted by the District's Governing Board on May 16, 2002. Rule 3170 assess a fee for volatile organic compounds (VOCs) and oxides of nitrogen (NOx) emissions from major source facilities, as required by Sections 185 and 182(f) of the federal Clean Air Act (CAA). This project also will develop an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act. Approval of the draft amendments does not change the meaning of current rule language and implementation of an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act, would not impose new regulatory requirements. Therefore, the District concludes that there is no substantial evidence of record to support a conclusion that approval and implementation of the project would have a detrimental impact on biological resources, as identified above (a-f).</p>				
<p>Mitigation: None</p>				
<p>Reference: Proposed Rule 3170 and supporting staff report.</p>				



V. CULTURAL RESOURCES Would the project:	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historical resource as defined in '15064.5?				X
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to '15064.5?				X
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X
d) Disturb any human remains, including those interred outside of formal cemeteries?				X
<p>Discussion: The purpose of this project is to amend existing District Rule 3170 (Federally Mandated Ozone Nonattainment Fee), which was adopted by the District's Governing Board on May 16, 2002. Rule 3170 assess a fee for volatile organic compounds (VOCs) and oxides of nitrogen (NOx) emissions from major source facilities, as required by Sections 185 and 182(f) of the federal Clean Air Act (CAA). This project also will develop an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act. Approval of the draft amendments does not change the meaning of current rule language and implementation of an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act, would not impose new regulatory requirements. Therefore, the District concludes that there is no substantial evidence of record to support a conclusion that approval and implementation of the project would have a detrimental impact on cultural resources, as identified above (a-d).</p>				
<p>Mitigation: None</p>				
<p>Reference: Proposed Rule 3170 and supporting staff report.</p>				
VI. GEOLOGY/SOILS Would the project:	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				X
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X
ii) Strong seismic ground shaking?				X
iii) Seismic-related ground failure, including liquefaction?				X
iv) Landslides?				X
b) Result in substantial soil erosion or the loss of topsoil?				X



VI. GEOLOGY/SOILS (Continued)	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?				X
<p>Discussion: The purpose of this project is to amend existing District Rule 3170 (Federally Mandated Ozone Nonattainment Fee), which was adopted by the District's Governing Board on May 16, 2002. Rule 3170 assess a fee for volatile organic compounds (VOCs) and oxides of nitrogen (NOx) emissions from major source facilities, as required by Sections 185 and 182(f) of the federal Clean Air Act (CAA). This project also will develop an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act. Approval of the draft amendments does not change the meaning of current rule language and implementation of an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act, would not impose new regulatory requirements. Therefore, the District concludes that there is no substantial evidence of record to support a conclusion that approval and implementation of the project would have a detrimental impact on geology/soils, as identified above (a-e).</p>				
<p>Mitigation: None</p>				
<p>Reference: Proposed Rule 3170 and supporting staff report.</p>				
VII. GREENHOUSE GAS EMISSIONS Would the project:	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?				X
b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?				X
<p>Discussion: The purpose of this project is to amend existing District Rule 3170 (Federally Mandated Ozone Nonattainment Fee) This project also will develop an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act.</p>				
<p>Rule 3170 is a fee rule and as such, does not require the installation of pollution control equipment, does not establish performance standards, nor establishes a treatment requirement. Draft amendments are based on federal requirements and are consistent with EPA's January 2010 guidance on section 185 nonattainment fees.</p>				



Approval of the draft amendments would not change the meaning of current rule language and implementation of an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act, would not alter the District's use of collected fees to augment existing air pollution control incentive programs, or other programs the District would design to reduce VOC and NOx emissions.

It could be expostulated that implementation of an alternative fee equivalency program to satisfy the fee requirements of section 185 reduces the probability that major sources would implement additional control measures, versus paying fees. The extent to which this would occur is highly speculative and subject to conjecture, which is discouraged under CEQA. However it is certain that the District's use of collected fees, to augment existing air pollution control incentive programs to fund emissions reduction projects, would reduce VOC and NOx emissions. Furthermore, in approving District expenditure of vehicle fee revenues, the District's Governing Board mandated that all revenues collected be directed to the District's Emission Reduction Incentive Program and targeted for use to achieve NOx and VOC emission reductions. Additionally, the District Governing Board mandated that \$10 million be expended annually to fund emission reduction projects in environmental justice areas. Therefore, the District concludes that there is no substantial evidence of record to support a conclusion that approval and implementation of the project would have a detrimental impact on air quality, as identified above (a-b).

Reference: Proposed Rule 3170 and supporting staff report.

VIII. HAZARDS & HAZARDOUS MATERIALS Would the project:	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X



VIII. HAZARDS & HAZARDOUS MATERIALS Would the project: (continued)	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X
<p>Discussion: The purpose of this project is to amend existing District Rule 3170 (Federally Mandated Ozone Nonattainment Fee), which was adopted by the District's Governing Board on May 16, 2002. Rule 3170 assess a fee for volatile organic compounds (VOCs) and oxides of nitrogen (NOx) emissions from major source facilities, as required by Sections 185 and 182(f) of the federal Clean Air Act (CAA). This project also will develop an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act. Approval of the draft amendments does not change the meaning of current rule language and implementation of an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act, would not impose new regulatory requirements. Therefore, the District concludes that there is no substantial evidence of record to support a conclusion that approval and implementation of the project would have a detrimental impact on hazards and hazardous materials, as identified above (a-h).</p>				
<p>Mitigation: None</p>				
<p>Reference: Proposed Rule 3170 and supporting staff report.</p>				
IX. HYDROLOGY/WATER QUALITY Would the project:	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements?				X
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				X
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner, which would result in substantial erosion or siltation on- or off-site?				X



IX. HYDROLOGY/WATER QUALITY (Continued)	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?				X
e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?				X
f) Otherwise substantially degrade water quality?				X
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				
j) Inundation by seiche, tsunami, or mudflow				X
<p>Discussion: The purpose of this project is to amend existing District Rule 3170 (Federally Mandated Ozone Nonattainment Fee), which was adopted by the District's Governing Board on May 16, 2002. Rule 3170 assess a fee for volatile organic compounds (VOCs) and oxides of nitrogen (NOx) emissions from major source facilities, as required by Sections 185 and 182(f) of the federal Clean Air Act (CAA). This project also will develop an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act. Approval of the draft amendments does not change the meaning of current rule language and implementation of an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act, would not impose new regulatory requirements. Therefore, the District concludes that there is no substantial evidence of record to support a conclusion that approval and implementation of the project would have a detrimental impact on hydrology/water quality, as identified above (a-j).</p>				
<p>Mitigation: None</p>				
<p>Reference: Proposed Rule 3170 and supporting staff report.</p>				
<p>X. LAND USE/PLANNING Would the project:</p>	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
a) Physically divide an established community?				X



X. LAND USE/PLANNING (Continued)	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X
<p>Discussion: The purpose of this project is to amend existing District Rule 3170 (Federally Mandated Ozone Nonattainment Fee), which was adopted by the District's Governing Board on May 16, 2002. Rule 3170 assess a fee for volatile organic compounds (VOCs) and oxides of nitrogen (NOx) emissions from major source facilities, as required by Sections 185 and 182(f) of the federal Clean Air Act (CAA). This project also will develop an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act. Approval of the draft amendments does not change the meaning of current rule language and implementation of an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act, would not impose new regulatory requirements. Therefore, the District concludes that there is no substantial evidence of record to support a conclusion that approval and implementation of the project would have a detrimental impact on land use/planning, as identified above (a-c).</p>				
<p>Mitigation: None</p>				
<p>Reference: Proposed Rule 3170 and supporting staff report.</p>				
XI. MINERAL RESOURCES Would the project:	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X
<p>Discussion: The purpose of this project is to amend existing District Rule 3170 (Federally Mandated Ozone Nonattainment Fee), which was adopted by the District's Governing Board on May 16, 2002. Rule 3170 assess a fee for volatile organic compounds (VOCs) and oxides of nitrogen (NOx) emissions from major source facilities, as required by Sections 185 and 182(f) of the federal Clean Air Act (CAA). This project also will develop an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act. Approval of the draft amendments does not change the meaning of current rule language and implementation of an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act, would not impose new regulatory requirements. Therefore, the District concludes that there is no substantial evidence of record to support a conclusion that approval and implementation of the project would have a detrimental impact on mineral resources, as identified above (a-b).</p>				
<p>Mitigation: None</p>				
<p>Reference: Proposed Rule 3170 and supporting staff report.</p>				



XII. NOISE Would the project result in:	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				X
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				X
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				X
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X
<p>Discussion: The purpose of this project is to amend existing District Rule 3170 (Federally Mandated Ozone Nonattainment Fee), which was adopted by the District's Governing Board on May 16, 2002. Rule 3170 assess a fee for volatile organic compounds (VOCs) and oxides of nitrogen (NOx) emissions from major source facilities, as required by Sections 185 and 182(f) of the federal Clean Air Act (CAA). This project also will develop an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act. Approval of the draft amendments does not change the meaning of current rule language and implementation of an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act, would not impose new regulatory requirements. Therefore, the District concludes that there is no substantial evidence of record to support a conclusion that approval and implementation of the project would have a detrimental impact on noise, as identified above (a-f).</p>				
<p>Mitigation: None</p>				
<p>Reference: Proposed Rule 3170 and supporting staff report.</p>				



XIII. POPULATION/HOUSING Would the project:	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				X
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X
<p>Discussion: The purpose of this project is to amend existing District Rule 3170 (Federally Mandated Ozone Nonattainment Fee), which was adopted by the District's Governing Board on May 16, 2002. Rule 3170 assess a fee for volatile organic compounds (VOCs) and oxides of nitrogen (NOx) emissions from major source facilities, as required by Sections 185 and 182(f) of the federal Clean Air Act (CAA). This project also will develop an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act. Approval of the draft amendments does not change the meaning of current rule language and implementation of an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act, would not impose new regulatory requirements. Therefore, the District concludes that there is no substantial evidence of record to support a conclusion that approval and implementation of the project would have a detrimental impact on population/housing, as identified above (a-c).</p>				
<p>Mitigation: None</p>				
<p>Reference: Proposed Rule 3170 and supporting staff report.</p>				
XIV. PUBLIC SERVICES Would the project:	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				X
Fire protection?				X
Police protection?				X
Schools?				X
Parks?				X
Other public facilities?				X



Discussion: The purpose of this project is to amend existing District Rule 3170 (Federally Mandated Ozone Nonattainment Fee), which was adopted by the District's Governing Board on May 16, 2002. Rule 3170 assess a fee for volatile organic compounds (VOCs) and oxides of nitrogen (NOx) emissions from major source facilities, as required by Sections 185 and 182(f) of the federal Clean Air Act (CAA). This project also will develop an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act. Approval of the draft amendments does not change the meaning of current rule language and implementation of an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act, would not impose new regulatory requirements. Therefore, the District concludes that there is no substantial evidence of record to support a conclusion that approval and implementation of the project would have a detrimental impact on public services, as identified above (a).

Mitigation: None

Reference: Proposed Rule 3170 and supporting staff report.

XV. RECREATION Would the Project:	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X

Discussion: The purpose of this project is to amend existing District Rule 3170 (Federally Mandated Ozone Nonattainment Fee), which was adopted by the District's Governing Board on May 16, 2002. Rule 3170 assess a fee for volatile organic compounds (VOCs) and oxides of nitrogen (NOx) emissions from major source facilities, as required by Sections 185 and 182(f) of the federal Clean Air Act (CAA). This project also will develop an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act. Approval of the draft amendments does not change the meaning of current rule language and implementation of an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act, would not impose new regulatory requirements. Therefore, the District concludes that there is no substantial evidence of record to support a conclusion that approval and implementation of the project would have a detrimental impact on recreation, as identified above (a-b).

Mitigation: None

Reference: Proposed Rule 3170 and supporting staff report.



XVI. TRANSPORTATION/TRAFFIC Would the project:	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
a) Cause an increase in traffic, which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)? Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and on motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?				X
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standard established by the county congestion management agency for designated roads of highways?				X
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				X
e) Result in inadequate emergency access?				X
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities? supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X



Discussion: The purpose of this project is to amend existing District Rule 3170 (Federally Mandated Ozone Nonattainment Fee), which was adopted by the District's Governing Board on May 16, 2002. Rule 3170 assess a fee for volatile organic compounds (VOCs) and oxides of nitrogen (NOx) emissions from major source facilities, as required by Sections 185 and 182(f) of the federal Clean Air Act (CAA). This project also will develop an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act. Approval of the draft amendments does not change the meaning of current rule language and implementation of an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act, would not impose new regulatory requirements. Therefore, the District concludes that there is no substantial evidence of record to support a conclusion that approval and implementation of the project would have a detrimental impact on transportation/traffic, as identified above (a-f).

Mitigation: None

Reference: Proposed Rule 3170 and supporting staff report.

XVII. UTILITIES/SERVICE SYSTEMS Would the project:	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
g) Comply with federal, state, and local statutes and regulations related to solid waste?				X



Discussion: The purpose of this project is to amend existing District Rule 3170 (Federally Mandated Ozone Nonattainment Fee), which was adopted by the District's Governing Board on May 16, 2002. Rule 3170 assess a fee for volatile organic compounds (VOCs) and oxides of nitrogen (NOx) emissions from major source facilities, as required by Sections 185 and 182(f) of the federal Clean Air Act (CAA). This project also will develop an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act. Approval of the draft amendments does not change the meaning of current rule language and implementation of an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act, would not impose new regulatory requirements. Therefore, the District concludes that there is no substantial evidence of record to support a conclusion that approval and implementation of the project would have a detrimental impact on utilities/service systems, as identified above (a-g).

Mitigation: None

Reference: Proposed Rule 3170 and supporting staff report.

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?				X
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively Considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?				X
c) Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?				X

Discussion: The purpose of this project is to amend existing District Rule 3170 (Federally Mandated Ozone Nonattainment Fee), which was adopted by the District's Governing Board on May 16, 2002. Rule 3170 assess a fee for volatile organic compounds (VOCs) and oxides of nitrogen (NOx) emissions from major source facilities, as required by Sections 185 and 182(f) of the federal Clean Air Act (CAA). This project also will develop an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act. Approval of the draft amendments does not change the meaning of current rule language and implementation of an alternative fee equivalency program to satisfy the fee requirements of section 185 of the federal Clean Air Act, would not impose new regulatory requirements. Therefore, the District concludes that there is no substantial evidence of record to support a conclusion that approval and implementation of the project would have a detrimental impact on mandatory findings of significance, as identified above (a-c).

Mitigation: None

Reference: Proposed Rule 3170 and supporting staff report.



Appendix A

Comments Received for Initial Study/Negative Declaration
Rule 3170 (Federally Mandated Ozone Nonattainment Fee)



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Permits Srvc
 SJVAPCD

CHIEF EXECUTIVE OFFICE
 Richard W. Robinson
 Chief Executive Officer

Patricia Hill Thomas
 Chief Operations Officer/
 Assistant Executive Officer

Monica Nino-Reid
 Assistant Executive Officer

Stan Risen
 Assistant Executive Officer

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 P.O. Box 3404, Modesto, CA 95333-3404
 Phone: 209.525.6333 Fax 209.544.6226

STANISLAUS COUNTY ENVIRONMENTAL REVIEW COMMITTEE

April 22, 2011

Mark Montelongo, Air Quality Specialist
 San Joaquin Valley APCD
 1990 East Gettysburg Ave
 Fresno, CA 93726-0244

**SUBJECT: ENVIRONMENTAL REFERRAL – SAN JOAQUIN VALLEY UNIFIED
 AIR POLLUTION CONTROL DISTRICT - PROPOSED AMENDMENTS TO RULE
 3170 – FEDERALLY MANDATED OZONE NON-ATTAINMENT FEE;
 PROJECT NO.: 20110063**

Mr. Montelongo:

The Stanislaus County Environmental Review Committee (ERC) has reviewed the subject project and has determined that it will not have a significant effect on the environment.

In addition, the ERC attaches hereto and incorporates herein by reference comments/ conditions from the Department of Environmental Resources.

The ERC appreciates the opportunity to comment on this project.

Sincerely,

Raul Mendez, Senior Management Consultant
 Environmental Review Committee

cc: ERC Members

Attachment



DEPARTMENT OF ENVIRONMENTAL RESOURCES
 3800 Cornucopia Way, Suite C, Modesto, 95368-9494
 Phone: (209) 525-6770 Fax: (209) 525-6773

CHIEF EXECUTIVE OFFICE

**STANISLAUS COUNTY ENVIRONMENTAL REVIEW COMMITTEE
 REFERRAL RESPONSE FORM**

TO: Stanislaus County Planning & Community Development
 FROM: Department Of Environmental Resources
 SUBJECT: **City of Turlock – San Joaquin Valley Unified Air Pollution Control District – Proposed Amendments to Rule 3170 Federally Mandated Ozone Non-Attainment Fee; Project No. 20110063**

Based on this agency's particular field(s) of expertise, it is our position the project described above:

Based on this agencies particular field(s) of expertise, it is our position the above-described project:

- Will not have a significant effect on the environment.
- May have a significant effect on the environment.
- No Comments.

Listed below are specific impacts which support our determination (e.g., traffic general, carrying capacity, soil types, air quality, etc.) - (attach additional sheet if necessary)

- 1.
- 2.
- 3.
- 4.

Listed below are possible mitigation measures for the above-listed impacts: **PLEASE BE SURE TO INCLUDE WHEN THE MITIGATION OR CONDITION NEEDS TO BE IMPLEMENTED (PRIOR TO RECORDING A MAP, PRIOR TO ISSUANCE OF A BUILDING PERMIT, ETC.):**

- 1.
- 2.
- 3.
- 4.

In addition, our agency has the following comments (attach additional sheets if necessary).

1. Applicants proposing to construct a public swimming pool shall submit legible plans and specifications to DER for review and written approval prior to commencing the work and in advance of any building, plumbing, or electrical permit (Title 22 CHSC). A Risk Management Prevention Program must be implemented prior to operation of the pool if *chlorine gas* is used in excess of 100 pounds.

Response prepared by:

Date: 4/13/2011

Bella Badal

BELLA BADAL, PhD., R.E.H.S.
 SENIOR ENVIRONMENTAL HEALTH SPECIALIST
 Department of Environmental Resources



Appendix B

Comments and Responses for Initial Study/Negative Declaration
Rule 3170 (Federally Mandated Ozone Nonattainment Fee)



The San Joaquin Valley Air Pollution Control District (District) provided a notice of intent to adopt a Negative Declaration for the proposed amendments to District Rule 3170 (Federally Mandated Ozone Nonattainment Fee). The Initial Study and Negative Declaration was available for public review and comment from April 4, 2011 to May 3, 2011.

The following party provided written comments on the Draft Negative Declaration:

- Stanislaus County Environmental Review Committee (ERC)

All comments were duly considered and addressed in preparation of the final Negative Declaration. A copy of the comment letter is incorporated into this document as Appendix A. A summary of salient comments and associated responses follow.

1. **Comment:** The Stanislaus County Environmental Review Committee (ERC) has reviewed the subject project and has determined that it will not have a significant effect on the environment.

Response: Comment noted. The District appreciates Stanislaus County Environmental Review Committee (ERC) for taking the time to comment on the Initial Study/Draft Negative Declaration for proposed amendments to Rule 3170.