

Antelope Valley Air Quality Management District

2551 W Avenue H
Lancaster, CA 93536
www.avaqmd.ca.gov

Governing Board Regular Meeting

Agenda

MEETING LOCATION

Antelope Valley Transit Authority
District Office
42210 6th Street West
Lancaster, CA 93534
661.723.8070

TUESDAY, APRIL 18, 2023
10:00 A.M.

BOARD MEMBERS

Marvin Crist, Chair, City of Lancaster
Austin Bishop, Vice Chair, City of Palmdale
Ron Hawkins, Los Angeles County
Howard Harris, Los Angeles County
Ken Mann, City of Lancaster
Andrea Alarcón, City of Palmdale
Newton Chelette, Public Member

IF YOU CHALLENGE ANY DECISION REGARDING ANY OF THE LISTED PROPOSALS IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED DURING THE PUBLIC TESTIMONY PERIOD REGARDING THAT PROPOSAL OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE GOVERNING BOARD TELEPHONICALLY OR OTHERWISE ELECTRONICALLY AT, OR PRIOR TO, THE PUBLIC HEARING.

DUE TO TIME CONSTRAINTS AND THE NUMBER OF PERSONS WISHING TO GIVE ORAL TESTIMONY, PUBLIC COMMENTS ARE LIMITED TO FIVE MINUTES PER SPEAKER. YOU MAY WISH TO MAKE YOUR COMMENTS IN WRITING TO ASSURE THAT YOU ARE ABLE TO EXPRESS YOURSELF ADEQUATELY.

ALL SCHEDULED ITEMS WILL BE HEARD AT THE ANTELOPE VALLEY TRANSIT AUTHORITY (AVTA) DISTRICT OFFICE, 42210 6TH STREET WEST, LANCASTER, CA 93534 AND THE TELECONFERENCE LOCATION(S), IF APPLICABLE. PLEASE NOTE THAT THE BOARD MAY ADDRESS ITEMS IN THE AGENDA IN A DIFFERENT ORDER THAN THE ORDER IN WHICH THE ITEM HAS BEEN POSTED.

PUBLIC COMMENTS ON ANY AGENDA ITEM WILL BE HEARD AT THE TIME OF DISCUSSION OF THE AGENDA ITEM. PUBLIC COMMENTS NOT PERTAINING TO

AGENDA ITEMS WILL BE HEARD DURING THE PUBLIC COMMENT PERIOD BELOW. PUBLIC COMMENTS ON AGENDIZED ITEMS MAY BE SUBMITTED VIA EMAIL TO PUBLICCOMMENT@AVAQMD.CA.GOV AT LEAST TWO HOURS PRIOR TO THE START OF THE MEETING.

CALL TO ORDER 10:00 A.M.

Pledge of Allegiance.

Roll Call

Items with potential Conflict of Interests — If you believe you have a conflict of interest, please recuse yourself at the appropriate time. If you have a question regarding a potential conflict of interest, please contact District Counsel.

PUBLIC COMMENT

CONSENT CALENDAR

The following consent items are expected to be routine and non-controversial and will be acted upon by the Board at one time without discussion unless a Board Member requests an item be held for discussion under DEFERRED ITEMS.

1. [Approve Minutes from Regular Governing Board Meeting of March 21, 2023. Find that the California Environmental Quality Act does not apply to this item.](#)
2. [Monthly Grant Funding Summary. Receive and file. Find that the California Environmental Quality Act does not apply to this item. Presenter: Bret Banks, Executive Director/APCO.](#)
3. [Monthly Activity Report. Receive and file. Find that the California Environmental Quality Act does not apply to this item. Presenter: Bret Banks, Executive Director/APCO.](#)
4. [This Preliminary Financial Report is provided to the Governing Board for information concerning the fiscal status of the District at February 28, 2023.](#)
5. [1\) Authorize the acceptance of AB 197 Emission Inventory District Grant Program Funding; 2\) Accept the terms and conditions for the funds; and 3\) Authorize the Executive Director/APCO and staff to execute the agreement, approved as to legal form, and carry out related activities to meet the requirements of AB 197.](#)

ITEMS FOR DISCUSSION

DEFERRED ITEMS

NEW BUSINESS

6. [1\) Award an amount not to exceed \\$83,474 in Carl Moyer Program funds to Bookman Ranch for the replacement of an older diesel tractor with new, cleaner technology; 2\) Authorize the Executive Director/APCO the option to change the funding source if warranted or if other applicable funding sources become available; 3\) Authorize the Executive Director and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel; and 4\) Find that this item is not a project pursuant to the California Environmental Quality Act. Presenter: Julie McKeehan, Grants Analyst.](#)
7. [Receive and file a presentation regarding the upcoming 2023 Clean Off-Road Equipment \(CORE\) Voucher Incentive Event.](#)
8. [Informational Discussion: New Source Review Comment Letters.](#)
9. Reports: Governing Board Counsel, Executive Director/APCO, Staff.
10. Board Member Reports and Suggestions for Future Agenda Items.
11. Adjourn to Regular Governing Board Meeting of Tuesday, May 16, 2023.

In compliance with the Americans with Disabilities Act, if special assistance is needed to participate in the Board Meeting, please contact the Executive Director during regular business hours at 661.723.8070 x22. Notification received 48 hours prior to the meeting will enable the District to make reasonable accommodations. All accommodation requests will be processed swiftly and resolving any doubt in favor of accessibility.

I hereby certify, under penalty of perjury, that this agenda has been posted 72 hours prior to the stated meeting in a place accessible to the public. Copies of this agenda and any or all additional materials relating thereto are available at www.avaqmd.ca.gov or by contacting Adrianna Castaneda at 661.723.8070 ext. 21 or by email at acastaneda@avaqmd.ca.gov.

Mailed & Posted on: Thursday, April 13, 2023

[Adrianna Castañeda](#)
Adrianna Castaneda

The following page(s) contain the backup material for Agenda Item: [Approve Minutes from Regular Governing Board Meeting of March 21, 2023. Find that the California Environmental Quality Act does not apply to this item.](#)

Please scroll down to view the backup material.

**ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
GOVERNING BOARD MEETING
TUESDAY, MARCH 21, 2023
ANTELOPE VALLEY TRANSIT AUTHORITY DISTRICT OFFICE
LANCASTER, CA**

Draft Minutes

Board Members Present:

Marvin Crist, *Chair*, City of Lancaster
Austin Bishop, *Vice Chair*, City of Palmdale
Ron Hawkins, Los Angeles County
Ken Mann, City of Lancaster
Andrea Alarcón, City of Palmdale
Howard Harris, Los Angeles County

Board Members Absent:

Newton Chelette, Public Member

CALL TO ORDER

Chair **CRIST** called the meeting to order at 10:03 a.m. Chair **CRIST** asked Board Member **MANN** to lead the Pledge of Allegiance. Chair **CRIST** called for roll call, roll call was taken.

PUBLIC COMMENT

❖ Chair **CRIST** called for **PUBLIC COMMENT**. At this time, no public comment was made in person, or electronically, moved onto **CONSENT CALENDAR**.

CONSENT CALENDAR – The following consent items were acted upon by the Board at one time without discussion. Upon motion by Board Member **BISHOP**, seconded by Board Member **ALARCON**, and carried by the following roll call vote, with six **AYES** votes by Board Members, **ANDREA ALARCON, AUSTIN BISHOP, MARVIN CRIST, RON HAWKINS, HOWARD HARRIS and KEN MANN**, with Board member **NEWTON CHELETTE** absent. on the Consent Calendar, as follows:

Agenda Item #1 – Approve Minutes from Regular Governing Board Meeting of February 21, 2023. Find that the California Environmental Quality Act does not apply to this item.

Approved Minutes from Regular Governing Board Meeting February 21, 2023.

Agenda Item #2 – Monthly Grant Funding Summary. Receive and file.

Presenter: Bret Banks, Executive Director/APCO.

Received and Filed Monthly Grant Funding Summary.

Agenda Item #3 – Monthly Activity Report. Receive and file.

Presenter: Bret Banks, Executive Director/APCO.

Received and Filed Monthly Activity Report.

ITEMS FOR DISCUSSION

DEFERRED ITEMS

None.

NEW BUSINESS

Agenda Item #4 – 1) Award an amount not to exceed \$35,000 in Carl Moyer Program and Mobile Source Emission Reductions Program (AB 2766) funds to Antelope Valley Fair Association for the replacement of existing combustion Lawn and Garden Equipment (L&GE) with cordless, zero-emission electric L&GE; 2) Authorize the Executive Director/APCO the option to change the funding source if warranted or if other applicable sources become available; 3) Authorize the Executive Director and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel; and 4)) Find that the California Environmental Quality Act (CEQA) does not apply to this item.

Presenter: Julie McKeehan, Grants Analyst.

Chair CRIST opened the public hearing. Julie McKeehan, Grants Analyst, presented background information and answered questions from the Board. Chair Crist called for public comment, no public comment was made in person, or electronically, being none, Chair CRIST closed the public hearing. Board Member AUSTIN BISHOP recused himself from this item due to conflicts of interest and left the room prior to the vote. Upon motion by Board Member ALARCON, seconded by Board Member MANN, and carried by the following roll call vote, with five AYES votes by Board Members, ANDREA ALARCON, MARVIN CRIST, RON HAWKINS, HOWARD HARRIS, and KENN MANN, with Board Member NEWTON CHELETTE absent and Board Member AUSTIN BISHOP recused, the Board, 1) **Awarded** an amount not to exceed \$35,000 in Carl Moyer Program and Mobile Source Emission Reductions Program (AB 2766) funds to Antelope Valley Fair Association for the replacement of existing combustion Lawn and Garden Equipment (L&GE) with cordless, zero-emission electric L&GE; 2) **Authorized** the Executive Director/APCO the option to change the funding source if warranted or if other applicable sources become available; 3) **Authorized** the Executive Director and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel; and 4)) **Found** that the California Environmental Quality Act (CEQA) does not apply to this item.

Agenda Item #5 – 1) Award an amount not to exceed \$15,000 in Carl Moyer Program funds to Landscape Connection Group for the replacement of (1) older gasoline riding mower; 2) Authorize the Executive Director/APCO the option to change the funding source if warranted or if other applicable sources become available; 3) Authorize the Executive Director and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel; and 4)) Find that the California Environmental Quality Act (CEQA) does not apply to this item.

Presenter: Julie McKeehan, Grants Analyst.

Chair CRIST opened the public hearing. Julie McKeehan, Grants Analyst, presented background information and answered questions from the Board. Chair Crist called for public comment, no public comment was made in person, or electronically, being none, Chair CRIST closed the public hearing. Upon motion by Board Member HAWKINS, seconded by Board Member BISHOP, and carried by the following roll call vote, with six AYES votes by Board Members, ANDREA ALARCON, AUSTIN BISHOP, MARVIN CRIST, RON HAWKINS, HOWARD HARRIS and KENN MANN, with Board Members NEWTON CHELETTE absent, the Board, 1) **Awarded** an amount not to exceed \$15,000 in Carl Moyer Program funds to Landscape Connection Group for the replacement of (1) older gasoline riding mower; 2) **Authorized** the Executive

Director/APCO the option to change the funding source if warranted or if other applicable sources become available; 3) **Authorized** the Executive Director and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel; and 4)) **Found** that the California Environmental Quality Act (CEQA) does not apply to this item.

Agenda Item #10– Reports.

Governing Board Counsel –

- Reminded the Board Members that Form 700s are due April 3rd.

Executive Director/APCO –

- March was the one year anniversary of the Board voting to approve the cancellation of Mojave Desert AQMD contract.
- Interviews for the Permit Engineer opening is set for March 31, 2023.
- Thanked Board members for participating in the rushed Executive Committee Meeting to discuss the issue with the Environmental Protection Agency’s (EPA) Proposed Air Plan Approval and Limited Approval-Limited Disapproval of the Antelope Valley Air Quality Management District’s Stationary Source Permits New Source Review Rules and for the local organization’s submittal of comment letters regarding EPA’s action.

Staff –

- No report.

Agenda Item #11– Board Member Reports and Suggestions for Future Agenda Items.

- No report.

Agenda Item #12– Adjourn to Regular Governing Board Meeting of Tuesday, April 18, 2023.

Being no further business, the meeting adjourned at 10:20 a.m. to the next regularly scheduled Governing Board Meeting of Tuesday, April 18, 2023.

The following page(s) contain the backup material for Agenda Item: [Monthly Grant Funding Summary. Receive and file. Find that the California Environmental Quality Act does not apply to this item. Presenter: Bret Banks, Executive Director/APCO.](#)
Please scroll down to view the backup material.

Item #2 – Grant Funds Project Summary

April 2023

AB 2766 (\$4 DMV Fee)

\$655,000 Annually by Monthly Distribution

These fees fund the District’s Mobile Source Emission Reductions (MSER) Grant Program. The funds must be used “to reduce air pollution from motor vehicles and for related planning, monitoring, enforcement, and technical studies necessary for the implementation of the California Clean Air Act of 1988”.

Funding Limits: No surplus emission reductions or cost-effectiveness limit requirements.

Current Balance: \$677,784.00

AB 923 (\$2 DMV Fee)

\$614,000 Annually by Monthly Distribution

These fees fund the District’s Mobile Source Emission Reductions (MSER) Grant Program. The funds must be used to remediate air pollution harms created by motor vehicles.

Funding Limits: Carl Moyer eligible projects; unregulated agriculture vehicles and equipment; school bus projects; light-duty vehicle retirement program; and alternative fuel and electric infrastructure projects.

Surplus emission reductions required. Subject to cost-effectiveness limit.

Current Balance: \$139,913.00

Carl Moyer Program

\$1,730,061.00 FY 21/22 Allocation

Carl Moyer Program (CMP) funds provide incentives to gain early or extra emission reductions by retrofitting, repowering, or replacing older more polluting engines with newer, cleaner engines including zero and near zero emission technologies. CMP funding categories include on-road heavy-duty vehicles, off-road equipment, locomotives, marine vessels, light-duty passenger vehicles, lawn mower replacement and alternative fuel infrastructure projects. Surplus emission reductions required. Subject to cost-effectiveness limit.

Current Balance: \$952,624.00

AB 134 Community Air Protection (CAP) Projects

\$855,673 FY 19/20 Allocation

The purpose of AB 134 funds is to implement projects under the Carl Moyer Program specifically for projects that meet the goals of AB 617. These funds are focused on replacing older polluting engines operating in disadvantaged and low-income communities with newer, cleaner engines prioritizing zero-emission projects. CMP funding categories include on-road heavy-duty vehicles, off-road equipment, locomotives, marine vessels, light-duty passenger vehicles, lawn mower replacement and alternative fuel infrastructure projects. Surplus emission reductions required. Subject to cost-effectiveness limit.

Current Balance: \$911,329.00

The following page(s) contain the backup material for Agenda Item: [Monthly Activity Report. Receive and file. Find that the California Environmental Quality Act does not apply to this item. Presenter: Bret Banks, Executive Director/APCO.](#)
Please scroll down to view the backup material.



Agenda Item #3

Date: April 12, 2023

Subject: March Operations Activity Report

Permit Inspections - 205

Notices of Violation (NOV) Issued – 0

Vapor Recovery Tests Witnessed – 4

Complaints – 4

Complaint Investigations – 4

Asbestos Notifications – 11

Asbestos Project Inspections - 0

Active Companies - 300

Active Facilities - 539

Active Permits - 1136

Certificate of Occupancy/Building Permit Reviews - 4

CEQA Project Comment Letters - 9

State or Local Air Monitoring Stations (SLAMS) Network Air Monitoring Site:

Lancaster Site (full meteorology, CO, NO_x, O₃, PM₁₀, PM_{2.5})

Full meteorology (exterior temperature, wind speed, wind direction, exterior pressure and relative humidity)

Community Sensors:

13 **PurpleAir** particulate sensors (Del Sur School, Leona Valley Elementary, Anaverde Hills, Esperanza Elementary School, Joe Walker Middle School, Desert Willow Middle School, Amargosa Creek, Eastside High School, Littlerock High School, Knight High School, Westside School District Offices, (2) Wilsona School District.

AVAQMD CEQA PROJECTS						
BOARD MEETING						
4/18/2023						
Date Rec'd	Location	Project Name	Description	Comment	Date Due	Date Sent
3/2/2023	Palmdale	65 Single-family Residences	Tentative Tract Map No. 83359 requesting to subdivide 20 vacant acres into 67 lots for the purpose of constructing 65 single-family residences (with each to include an accessory dwelling unit), one detention basin lot, and one common area. This project site is located on the SEC of the East Palmdale Boulevard and Hudsonia Street in the city of Palmdale, CA (APN: 3023-002-184).	Rule 302-Construction Excavation DCP-TTM Rule 219-Permitting CARB Equipment EV Charging Grant	3/28/2023	3/10/2023
3/14/2023	Lancaster	New 80' Wireless Tower	Conditional Use Permit (CUP) 23-003 for the request to install a new 80' wireless tower. This project site is located at 2052 W. Avenue L in the city of Lancaster, CA (APN: 3109-017-096).	Dust Control Signage Rule 219-Permitting CARB Equipment	4/4/2023	3/21/2023
3/14/2023	Palmdale	41 Single-family Residential Lots	Pre-Application 23-014 requesting to develop 41 single-family residential lots on 9.09 acres of vacant land. This project site is located on the south side of Avenue R between Cardiff Street and Ashlee Court in the city of Palmdale, CA (APNs: 3019-001-006, -007, -026, -039, -040, and -045).	Rule 302-Construction Excavation DCP Rule 219-Permitting CARB Equipment	3/30/2023	3/21/2023
3/14/2023	Palmdale	2 Industrial Buildings	Pre-Application 23-015 requesting to develop a 157.6-acre vacant parcel with two buildings totaling 1,831,672 square feet as an industrial use. This project site is located between City Ranch Road and the California Aqueduct, west of Tierra Subida Avenue in the city of Palmdale, CA (APN: 3004-013-017).	Rule 302-Construction Excavation DCP Rule 219-Permitting CARB Equipment	4/13/2023	3/21/2023
3/20/2023	Lancaster	103 Single-family Residential Lots	Notice of Availability/Notice to Adopt a Mitigated Negative Declaration for Tentative Tract Map No. 83315 requesting to subdivide approximately 26 acres into 103 single family residential lots. This project site is located on the southeast corner of 30th Street East and Nugent Street in the City of Lancaster (APN: 3150-028-005).	Rule 302-Construction Excavation DCP-TTM Rule 219-Permitting CARB Equipment	4/14/2023	3/23/2023
3/14/2023	Palmdale	2 Warehouse/Office Buildings	Pre-Application 23-016 requesting to develop an 8.56-acre parcel with two buildings totaling 222,070 square feet as a warehouse/office use. This project site is located on the north side of Auto Center Drive between 10th Street West and Trade Center Drive in the city of Palmdale, CA (APNs: 3003-079-020 and -021).	Rule 302-Construction Excavation DCP Rule 219-Permitting CARB Equipment	3/30/2023	3/21/2023

AVAQMD CEQA PROJECTS						
BOARD MEETING						
4/18/2023						
Date Rec'd	Location	Project Name	Description	Comment	Date Due	Date Sent
3/22/2023	Palmdale	Industrial Building	Minor Site Plan Review 23-002 requesting to construct a 74,636 square foot industrial building on an approximately 5-acre vacant parcel. This project site is located at the northwest corner of Division Street and Grand Cypress Avenue in the city of Palmdale, CA (APN: 3005-046-907).	Rule 302-Construction Excavation DCP Rule 219-Permitting CARB Equipment EV Charging Grant	4/6/2023	3/24/2023
3/22/2023	Palmdale	2 Mixed-use Buildings	Pre-Application 23-017 for the request to develop a 3.46-acre vacant parcel with two buildings for a mixed use totaling 15,200 square feet. This project site is located at the southwest corner of Palmdale Blvd and 40th Street East in the city of Palmdale, CA (APN: 3020-028-010).	Dust Control Signage Rule 219-Permitting CARB Equipment EV Charging Grant	5/4/2023	3/24/2023
3/22/2023	Palmdale	Multi-residential Building	Pre-Application 23-018 for the request to develop a 1-acre vacant parcel with one multi-residential building totaling 18,359 square feet. This project site is located on the northwest corner of East Avenue R and 13th Street East in the city of Palmdale, CA (APNs: 3014-008-014 and 015).	Dust Control Signage Rule 219-Permitting CARB Equipment	4/18/2023	3/24/2023

The following page(s) contain the backup material for Agenda Item: [This Preliminary Financial Report is provided to the Governing Board for information concerning the fiscal status of the District at February 28, 2023.](#)
Please scroll down to view the backup material.

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #4

DATE: April 18, 2023

RECOMMENDATION: Receive and file. Find that the California Environmental Quality Act does not apply to this item.

SUMMARY: This Preliminary Financial Report is provided to the Governing Board for information concerning the fiscal status of the District at February 28, 2023.

BACKGROUND: The Financial Reports for February 2023 provide financial and budgetary performance information for the District for the period referenced.

BALANCE SHEET. The balance sheet summarizes the District's financial position on February 28, 2023.

STATEMENT OF REVENUES & EXPENDITURES. A summary of all District revenue and related expenditures incurred in the day to day administration of District Operations.

STATEMENT OF ACTIVITY. The target variance for February is 67%.

BANK REGISTERS. This report details the Districts bank activity.

REASON FOR RECOMMENDATION: Receive and file.

REVIEW BY OTHERS: This item was reviewed by Allison Burns, Special Counsel as to legal form and by Bret Banks, Executive Director/APCO (AVAQMD) on or about April 10, 2023.

PRESENTER: Bret Banks, Executive Director/APCO.

Antelope Valley AQMD
Balance Sheet - Governmental Funds
As of February 28, 2023

Financial Report

	<u>General Fund</u>	<u>AB2766 Mobile Emissions</u>	<u>AB923 Mobile Emissions</u>	<u>Carl Moyer</u>	<u>Total</u>
Assets					
Current Assets					
Cash	4,740,016.04	960,430.92	1,943,593.10	2,769,293.46	10,413,333.52
Cash Held For Other Fund	(115,245.59)	77,081.79	38,163.80	0.00	0.00
Receivables	23,995.48	0.00	0.00	0.00	23,995.48
Pre-Paids	9,284.65	0.00	0.00	0.00	9,284.65
Total Current Assets	4,658,050.58	1,037,512.71	1,981,756.90	2,769,293.46	10,446,613.65
Total Assets	4,658,050.58	1,037,512.71	1,981,756.90	2,769,293.46	10,446,613.65
Liabilities and Net Position					
Current Liabilities					
Payables	250,003.48	8,800.00	0.00	252,983.00	511,786.48
Due to Others	(411.00)	0.00	0.00	0.00	(411.00)
Unearned Revenue	950,227.21	0.00	0.00	2,494,352.13	3,444,579.34
Total Current Liabilities	1,199,819.69	8,800.00	0.00	2,747,335.13	3,955,954.82
Restricted Fund Balance	0.00	1,020,598.85	1,757,311.23	65,830.33	2,843,740.41
Cash Reserves	1,000,000.00	0.00	0.00	0.00	1,000,000.00
Unassigned Fund Balance	1,549,632.96	0.00	0.00	0.00	1,549,632.96
Pre-Paid	1,378.50	0.00	0.00	0.00	1,378.50
Change in Net Position	907,219.43	8,113.86	224,445.67	(43,872.00)	1,095,906.96
Total Liabilities & Net Position	4,658,050.58	1,037,512.71	1,981,756.90	2,769,293.46	10,446,613.65

Antelope Valley AQMD
Statement of Revenues & Expenditures
For the Period Ending February 28, 2023

Financial Report

	<u>General Fund</u>	<u>AB2766 Mobile Emissions Program</u>	<u>AB923 Mobile Emissions Program</u>	<u>Carl Moyer Program</u>	<u>Total Governmental Funds</u>
<u>Revenues</u>					
Application and Permit Fees	81,455.43	0.00	0.00	0.00	81,455.43
AB 2766 and Other Program Revenues	49,086.84	46,091.61	43,215.21	165,239.00	303,632.66
Fines	9,300.81	0.00	0.00	0.00	9,300.81
Investment Earnings	5,053.51	0.00	0.00	0.00	5,053.51
Federal and State	63,982.00	0.00	0.00	0.00	63,982.00
Miscellaneous Income	0.00	0.00	0.00	0.00	0.00
Total Revenues	208,878.59	46,091.61	43,215.21	165,239.00	463,424.41
<u>Expenditures</u>					
Program Staff	18,122.30	0.00	0.00	0.00	18,122.30
Services and Supplies	242,329.15	10,800.00	0.00	209,111.00	462,240.15
Contributions to Other Participants	0.00	0.00	0.00	0.00	0.00
Capital Outlay Improvements and Equipment	13,585.00	0.00	0.00	0.00	13,585.00
Total Expenditures	274,036.45	10,800.00	0.00	209,111.00	493,947.45
Excess Revenue Over (Under) Expenditures	(65,157.86)	35,291.61	43,215.21	(43,872.00)	(30,523.04)

Antelope Valley AQMD

Statement of Activity - MTD, MTM and YTD

For 2/28/2023

00 District Wide

	M-T-D Actual	Y-T-D Actual	Y-T-D Budget	% Budget to Actual
Revenues				
Permitting	83,083.43	997,890.33	1,199,200.00	(0.83)
Programs	303,632.66	1,273,508.82	3,755,106.00	(0.34)
Application Fees	1,212.00	14,317.00	32,500.00	(0.44)
State Revenue	0.00	772,515.62	1,446,315.00	(0.53)
Federal Revenue	63,982.00	63,982.00	63,982.00	(1.00)
Fines & Penalties	6,460.81	29,363.30	10,000.00	(2.94)
Interest Earned	5,053.51	24,553.51	44,602.00	(0.55)
Adjustments to Revenue	0.00	(14,695.18)	0.00	0.00
Total Revenues	463,424.41	3,161,435.40	6,551,705.00	(0.48)
Expenses				
Office Expenses	8,485.94	90,978.09	131,561.00	0.69
Communications	1,610.23	19,224.13	35,870.00	0.54
Vehicles	383.94	7,803.99	15,930.00	0.49
Program Costs	429,911.00	936,573.20	4,119,978.00	0.23
Travel	0.00	2,535.21	16,650.00	0.15
Professional Services				
Payroll Contract	0.00	0.00	1,000.00	0.00
Financial Audit & Actuarial Svcs	1,177.00	15,047.00	0.00	0.00
Research Studies	0.00	0.00	6,000.00	0.00
Consulting Fees	0.00	0.00	25,000.00	0.00
Stipends	1,100.00	4,400.00	8,400.00	0.52
Maintenance & Repairs	0.00	0.00	7,000.00	0.00
Non-Depreciable Inventory	40.01	12,833.74	10,500.00	1.22
Dues & Subscriptions	0.00	11,034.00	21,100.00	0.52
Legal	1,303.00	20,160.48	79,000.00	0.26
Miscellaneous Expense	116.34	298.22	2,900.00	0.10
Capital Expenditures	13,585.00	153,745.20	50,000.00	3.07
Total Expenses	457,712.46	1,274,633.26	4,530,889.00	0.28
Program Staff				
Excess Revenue Over (Under) Expenditures	5,711.95	1,886,802.14	2,020,816.00	(0.93)

Antelope Valley AQMD

Statement of Activity - MTD, MTM and YTD

For 2/28/2023

10 Contracted Services

	M-T-D Actual	Y-T-D Actual	Y-T-D Budget	% Budget to Actual
<u>Revenues</u>				
<u>Expenses</u>				
Office Expenses	0.00	10.46	1,200.00	0.01
Professional Services				
Payroll Contract	0.00	68.31	250.00	0.27
Financial Audit & Actuarial Svcs	2,257.69	88,931.60	264,500.00	0.34
Consulting Fees	15,855.00	32,655.00	0.00	0.00
Total Expenses	18,112.69	121,665.37	265,950.00	0.46
<u>Program Staff</u>				
Program Staff	18,122.30	669,229.81	1,800,000.00	0.37
Total Program Staff	18,122.30	669,229.81	1,800,000.00	0.37
Excess Revenue Over (Under) Expenditures	(36,234.99)	(790,895.18)	(2,065,950.00)	(0.38)

Antelope Valley AQMD

Statement of Activity - MTD, MTM and YTD

For 2/28/2023

Report Recap

	M-T-D Actual	Y-T-D Actual	Y-T-D Budget	% Budget to Actual
Revenues				
Permitting	83,083.43	997,890.33	1,199,200.00	(0.83)
Programs	303,632.66	1,273,508.82	3,755,106.00	(0.34)
Application Fees	1,212.00	14,317.00	32,500.00	(0.44)
State Revenue	0.00	772,515.62	1,446,315.00	(0.53)
Federal Revenue	63,982.00	63,982.00	63,982.00	(1.00)
Fines & Penalties	6,460.81	29,363.30	10,000.00	(2.94)
Interest Earned	5,053.51	24,553.51	44,602.00	(0.55)
Adjustments to Revenue	0.00	(14,695.18)	0.00	0.00
Total Revenues	463,424.41	3,161,435.40	6,551,705.00	(0.48)
Expenses				
Office Expenses	8,485.94	90,988.55	132,761.00	0.69
Communications	1,610.23	19,224.13	35,870.00	0.54
Vehicles	383.94	7,803.99	15,930.00	0.49
Program Costs	429,911.00	936,573.20	4,119,978.00	0.23
Travel	0.00	2,535.21	16,650.00	0.15
Professional Services				
Payroll Contract	0.00	68.31	1,250.00	0.05
Financial Audit & Actuarial Svcs	3,434.69	103,978.60	264,500.00	0.39
Research Studies	0.00	0.00	6,000.00	0.00
Consulting Fees	15,855.00	32,655.00	25,000.00	1.31
Stipends	1,100.00	4,400.00	8,400.00	0.52
Maintenance & Repairs	0.00	0.00	7,000.00	0.00
Non-Depreciable Inventory	40.01	12,833.74	10,500.00	1.22
Dues & Subscriptions	0.00	11,034.00	21,100.00	0.52
Legal	1,303.00	20,160.48	79,000.00	0.26
Miscellaneous Expense	116.34	298.22	2,900.00	0.10
Capital Expenditures	13,585.00	153,745.20	50,000.00	3.07
Total Expenses	475,825.15	1,396,298.63	4,796,839.00	0.29
Program Staff				
Program Staff	18,122.30	669,229.81	1,800,000.00	0.37
Total Program Staff	18,122.30	669,229.81	1,800,000.00	0.37
Excess Revenue Over (Under) Expenditures	(30,523.04)	1,095,906.96	(45,134.00)	24.28

Antelope Valley AQMD
Bank Register from 2/01/2023 to 2/28/2023
General Fund P6A LA County

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
	2/01/2023	Interest Earned	0.00	5,053.51	1,644,103.98
0000450	2/09/2023	DAILY CASH RECEIPTS	0.00	419,697.47	2,063,801.45
R23-33	2/13/2023	Operating Fund Replenishment #13	84,330.87	0.00	1,979,470.58
	2/15/2023	Service Charge	2.28	0.00	1,979,468.30
0000451	2/16/2023	DAILY DEPOSIT	0.00	28,010.11	2,007,478.41
0000452	2/23/2023	DAILY DEPOSIT	0.00	31,724.58	2,039,202.99
Total for Report:			84,333.15	484,485.67	

Antelope Valley AQMD
Bank Register from 2/01/2023 to 2/28/2023
Wells Fargo Operating

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
0000445	2/01/2023	CREDIT CARD TRANSACTION BURNS ENVIRONMENTAL	0.00	1,242.00	1,268,290.00
0000446	2/02/2023	CREDIT CARD TRANSACTION CLEARWAY - OASIS CLEARWAY - ALPINE CLEARWAY - TA HIGH DESERT BURNS ENVIRONMENTAL 45359 GADSDEN AVE	0.00	3,225.00	1,271,515.00
0000447	2/02/2023	EFT TRANSACTION NORTHROP GRUMMAN	0.00	84,265.99	1,355,780.99
0000448	2/03/2023	CREDIT CARD TRANSACTION INTERIOR DEMOLITION - AVC VULCAN - AODCP	0.00	3,246.00	1,359,026.99
0000449	2/06/2023	CREDIT CARD TRANSACTION VENTERRA ENVIRONMENTAL - CHRISTINE CALVERT	0.00	660.00	1,359,686.99
0000460	2/08/2023	DAILY CREDIT CARD TRANSACTION	0.00	661.00	1,360,347.99
0005139	2/09/2023	[10076] ANTELOPE VALLEY AQMD-Invoices 1799, 1800	25,561.84	0.00	1,334,786.15
0005140	2/09/2023	[10006] BANK OF THE WEST-CREDIT CARD 1465 01/05/2023-02/04/2023	1,695.28	0.00	1,333,090.87
0005141	2/09/2023	[10006] BANK OF THE WEST-CREDIT CARD 1628 01/05/2023-02/04/2023	1,485.47	0.00	1,331,605.40
0005142	2/09/2023	[10069] BRET BANKS-CONSULTING SERVICES 01/15/2023-01/28/2023	8,400.00	0.00	1,323,205.40
0005143	2/09/2023	[11556] C.J. BROWN & COMPANY, CPAS-ACCOUNTING SERVICES JANUARY 2023	1,777.00	0.00	1,321,428.40
0005144	2/09/2023	[11511] JOEL S CRAIG-AIR MONITORING SERVICES 01/09/2023-01/31/2023	3,236.56	0.00	1,318,191.84
0005145	2/09/2023	[11540] LINDE GAS & EQUIPMENT INC.-CYLINDER RENTAL 12/20/2022- 01/20/2023	24.41	0.00	1,318,167.43
0005146	2/09/2023	[10043] SOCALGAS-GAS SERVICE 12/29/2022-01/27/2023	43.14	0.00	1,318,124.29
0005147	2/09/2023	[10455] STRADLING YOCCA CARLSON & RAUTH-Invoices 394025-0000, 394026-0001	1,382.50	0.00	1,316,741.79
0005148	2/09/2023	[10483] STREAMLINE-WEB HOSTING 02/01/2023-03/01/2023	200.00	0.00	1,316,541.79
0005149	2/09/2023	[11402] TIME WARNER CABLE-SPECTRUM ENTERPRISE INTERNET 02/01/2023-02/28/2023	214.98	0.00	1,316,326.81
0005150	2/09/2023	[01107] VERIZON WIRELESS-AIR MONITORING SIM CARD	56.82	0.00	1,316,269.99
0005151	2/09/2023	[11259] WEX BANK-FUEL PURCHASES ENDING 01/25/2023	380.18	0.00	1,315,889.81
0000001	2/09/2023	DAILY CREDIT CARD TRANSACTION VALYERMO FIRE STATION	0.00	86.21	1,315,976.02
0000462	2/13/2023	DAILY CREDIT CARD TRANSACTION	0.00	244.00	1,316,220.02
R23-33	2/13/2023	Operating Fund Replenishment #13	0.00	84,330.87	1,400,550.89
0005152	2/16/2023	[10069] BRET BANKS-CONSULTING SERVICES 01/29/2023-02/11/2023	7,455.00	0.00	1,393,095.89
0005153	2/16/2023	[10518] AUSTIN BISHOP-Attendance Governing Board meeting 01/17/2023	100.00	0.00	1,392,995.89
0005154	2/16/2023	[10055] NEWTON CHELETTE-Attendance Governing Board meeting 01/17/2023	100.00	0.00	1,392,895.89
0005155	2/16/2023	[10057] MARVIN CRIST-Attendance Governing Board meeting 01/17/2023	100.00	0.00	1,392,795.89

Antelope Valley AQMD
Bank Register from 2/01/2023 to 2/28/2023
Wells Fargo Operating

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
0005156	2/16/2023	[10058] RONALD HAWKINS-Attendance Governing Board meeting 01/17/2023	100.00	0.00	1,392,695.89
0005157	2/16/2023	[10054] KENNETH MANN-Attendance Governing Board meeting 01/17/2023	100.00	0.00	1,392,595.89
0005158	2/16/2023	[10031] NOVACOAST INC-AV CAPS TRANSITION	36.25	0.00	1,392,559.64
0005159	2/16/2023	[10071] QUADIENT LEASING-POSTAGE METER 02/02/2023-03/01/2023	78.17	0.00	1,392,481.47
0005160	2/16/2023	[11512] SAMUEL OKTAY-ENGINEERING SERVICE JANUARY 2023	2,343.00	0.00	1,390,138.47
0005161	2/16/2023	[10045] VERIZON BUSINESS-VOIP 02/01/23-02/28/23	390.08	0.00	1,389,748.39
0005162	2/16/2023	[10046] VERIZON CALIFORNIA - NJ-LONG DISTANCE 01/28/2023-02/27/2023	35.17	0.00	1,389,713.22
0000453	2/16/2023	DAILY CREDIT CARD TRANSACTION	0.00	489.00	1,390,202.22
0000454	2/21/2023	DAILY CREDIT CARD TRANSACTION	0.00	661.00	1,390,863.22
0000455	2/22/2023	DAILY CREDIT CARD TRANSACTION	0.00	660.00	1,391,523.22
0000456	2/24/2023	DAILY CREDIT CARD TRANSACTION	0.00	661.00	1,392,184.22
0000457	2/24/2023	DAILY CREDIT CARD TRANSACTION	0.00	1,752.99	1,393,937.21
0000458	2/27/2023	DAILY CREDIT CARD TRANSACTION	0.00	2,351.00	1,396,288.21
0000459	2/27/2023	DAILY CREDIT CARD TRANSACTION	0.00	606.00	1,396,894.21
0000463	2/27/2023	DAILY CREDIT CARD TRANSACTION	0.00	9,784.34	1,406,678.55
Total for Report:			55,295.85	194,926.40	

Antelope Valley AQMD
Bank Register from 2/01/2023 to 2/28/2023
WF AB2766

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
0022658	2/09/2023	[11559] LEO ANGELO ESTREMADURA-AB 2766 GRANT	500.00	0.00	961,930.92
0022659	2/09/2023	[11558] CYLE SHANE GRUBB-AB 2766 GRANT	500.00	0.00	961,430.92
0022660	2/09/2023	[11560] AVIGAYIL REBEKAH GUZMAN-AB 2766 GRANT	500.00	0.00	960,930.92
0022661	2/09/2023	[11557] GULNARA MURADYAN-AB 2766 GRANT	500.00	0.00	960,430.92
Total for Report:			2,000.00	0.00	

The following page(s) contain the backup material for Agenda Item: [1\) Authorize the acceptance of AB 197 Emission Inventory District Grant Program Funding](#); [2\) Accept the terms and conditions for the funds](#); and [3\) Authorize the Executive Director/APCO and staff to execute the agreement, approved as to legal form, and carry out related activities to meet the requirements of AB 197.](#)

Please scroll down to view the backup material.

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #5

DATE: April 18, 2023

RECOMMENDATION: 1) Authorize the acceptance of AB 197 Emission Inventory District Grant Program Funding; 2) Accept the terms and conditions for the funds; 3) Authorize the Executive Director/APCO and staff to execute the agreement, approved as to legal form and carry out related activities to meet the requirements of AB 197; and 4) Find that this item is not a project pursuant to the California Environmental Quality Act.

SUMMARY: This action formally accepts the AB 197 Emission Inventory District Grant Program Funding in the amount of \$8,583.00 to the AVAQMD. This action also accepts the terms and conditions for the funds as appropriated in the Grant Agreement Provisions and approves staff to carry out related activities.

BACKGROUND: On September 8, 2016, the Governor signed into law AB 197. The law creates a legislative committee to oversee regulators, giving lawmakers more say in how climate goals are met. The law pushes the State to take stronger steps to reduce emissions and protect the State's most impacted and disadvantaged communities. This law requires the California Air Resources Board (CARB) to make available, and update annually, on its Internet Web site the emissions of GHG, criteria pollutants, and toxic air contaminants for each facility that reports to CARB and local Air Districts. Emissions data will be based on data provided to CARB by Air Pollution Control and Air Quality Management Districts. AB 197 Emission Inventory District Grant Program provides Air Districts funding for additional resources needed to meet the emission inventory requirements of AB 197.

REASON FOR RECOMMENDATION: CARB requires the Governing Board formally approve District acceptance of the funds and participation in the program.

REVIEW BY OTHERS: This item was reviewed by Allison E. Burns Special Counsel to the Governing Board as to legal form and by Bret Banks, Executive Director/APCO – Antelope Valley Operations on or before April 12, 2023.

FINANCIAL DATA: AB 197 Emissions Inventory Grant are supplementary to the AVAQMD budget.

PRESENTER: Julie McKeehan, Grants Analyst

cc: Bret Banks
Barbara Lods
Julie McKeehan

The following page(s) contain the backup material for Agenda Item: 1) Award an amount not to exceed \$83,474 in Carl Moyer Program funds to Bookman Ranch for the replacement of an older diesel tractor with new, cleaner technology; 2) Authorize the Executive Director/APCO the option to change the funding source if warranted or if other applicable funding sources become available; 3) Authorize the Executive Director and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel; and 4) Find that this item is not a project pursuant to the California Environmental Quality Act. Presenter: Julie McKeehan, Grants Analyst.

Please scroll down to view the backup material.

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #6

DATE: April 18, 2023

RECOMMENDATION: 1) Award an amount not to exceed \$83,474 in Carl Moyer Program funds to Bookman Ranch for the replacement of an older diesel tractor with new, cleaner technology; 2) Authorize the Executive Director/APCO the option to change the funding source if warranted or if other applicable funding sources become available; 3) Authorize the Executive Director and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel; and 4) Find that this item is not a project pursuant to the California Environmental Quality Act.

SUMMARY: This item awards an amount not to exceed \$83,474 in Carl Moyer Program funds to Bookman Ranch for the replacement of an older diesel tractor with new, cleaner technology certified to the Final Tier 4/current emission standards.

BACKGROUND: AVAQMD received an application from Bookman Ranch for grant funding to replace an older diesel tractor. Applicant is not subject to any regulation and proposes voluntary participation in the off-road equipment replacement program to reduce emissions by early retirement of an older, higher polluting diesel tractor and replacing it with new, cleaner technology that meets the current emission standards. Staff has evaluated the project for eligibility pursuant to the guidelines and finds the proposed project eligible for 80% percent toward the replacement equipment. Retirement of the proposed project produces an estimated 1.59 tons/yr. early emission reductions with a 3-year project life. Early fleet turnover provides emission reductions that help the Valley towards attainment of the national ambient air quality standards.

cc: Bret Banks
Barbara Lods
Julie McKeehan

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #6

PAGE 2

REASON FOR RECOMMENDATION: Governing Board approval is needed for the use of District funds. Additionally, Governing Board authorization is needed for the Executive Director/APCO and staff to negotiate and execute an agreement with the grant recipient.

REVIEW BY OTHERS: This item was reviewed by Allison E. Burns, Special Counsel to the Governing Board, as to legal form and by Bret Banks, Executive Director/APCO – on or before April 12, 2023.

FINANCIAL DATA: Funding is available from the District’s Carl Moyer Program funds.

INTERESTED PARTIES: Thomas Bookman

PRESENTER: Julie McKeehan, Grants Analyst

The following page(s) contain the backup material for Agenda Item: [Receive and file a presentation regarding the upcoming 2023 Clean Off-Road Equipment \(CORE\) Voucher Incentive Event.](#)

Please scroll down to view the backup material.

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #7

DATE: April 18, 2023

RECOMMENDATION: Receive and file a presentation regarding the upcoming 2023 Clean Off-Road Equipment (CORE) Voucher Incentive Event. Find that the California Environmental Quality Act does not apply to this item

SUMMARY: Presentation by Dan Mabe from American Green Zone Alliance (AGZA).

BACKGROUND: From time to time the District provides presentations to the Governing Board and such presentations are intended to expand the knowledge base of the Governing Board members.

REASON FOR RECOMMENDATION: Presentations are received and filed.

REVIEW BY OTHERS: This item was reviewed by Allison E. Burns, Special Counsel to the Governing Board, as to legal form and by Bret Banks, Executive Director/APCO – Antelope Valley Operations on or before April 14, 2023.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Julie McKeehan, Grants Analyst

The following page(s) contain the backup material for Agenda Item: [Informational Discussion: New Source Review Comment Letters](#).
Please scroll down to view the backup material.



Antelope Valley Air Quality Management District

2551 W Avenue H
Lancaster, CA 93536
661-723-8070

www.AVAQMD.ca.gov

February 28, 2023

The Honorable Michael Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

RE: USEPA's Proposed *Air Plan Approval and Limited Approval-Limited Disapproval; California; Antelope Valley Air Quality Management District; Stationary Source Permits; New Source Review* (Docket # EPA-R09-OAR-2022-0427)

Dear Administrator Regan,

The Antelope Valley Air Quality Management District (AVAQMD, District) respectfully submits this letter as comments regarding the above entitled action.

The AVAQMD is an independent special district in the State of California formed to control air pollution from non-vehicular sources.¹ The jurisdiction of the District consists of the desert portion of Los Angeles County. It is located within the Mojave Desert Air Basin (MDAB)² and the entire District has been designated non-attainment for the Federal National Ambient Air Quality Standards (NAAQS) for Ozone and classified Severe.³ The designation and classification was originally promulgated when the area was part of the Southeast Desert Intrastate Air Quality Control Region⁴ and is now referred to by USEPA as part of the Western Mojave Desert Ozone Nonattainment Area (WMDONA).⁵ In terms of air quality, the region is overwhelmingly impacted by intrastate transported air pollution from upwind areas, namely the South Coast Air Basin (SCAB) and the San Joaquin Valley (SJV)⁶ both of which have been designated nonattainment for Ozone and are currently classified Extreme.⁷ In addition, the AVAQMD is highly

¹ California Health & Safety Code §§39002, 40000, and 41300 et seq.

² 17 Cal. Code Reg. 60109. The former Southeast Desert Air Basin was split into the MDAB and the Salton Sea Air Basin (as delineated in 17 Cal. Code. Reg. 60114) in 1997.

³ 40 CFR 81.305 (See specifically tables for the O₃ 1-hour Standard, 1997 8-hour O₃ NAAQS, 2008 8-hour O₃ NAAQS, 2015 8-hour O₃ NAAQS). A "clean data" finding has been made for the Southeast Desert Ozone Nonattainment Area, 1-hour O₃ standard at 80 FR 20166, 4/15/2015 and the 1-hour O₃ standard has been revoked.

⁴ 40 CFR 81.167.

⁵ This reference appears to be derived from headings contained in various tables found in 40 CFR 81.305 and is used as a reference in 40 CFR 51.1103; 40 CFR 52.220(c)(486)(ii)(A), (514)(ii)(A)(9), and (563)(ii)(A-C); 40 CFR 52.241, 40 CFR 52.244, and 40 CFR 52.248.

⁶ 17 Cal Code Regs. §70500(c).

⁷ 40 CFR 81.167.

impacted by mobile source emissions.⁸ The District is directly impacted by emissions from Interstate 5⁹ located upwind to the west within the SCAB, along with similar impacts from State Highway 14 which provides trucking access to inland regions of California as well as interconnection to the Interstate 15 corridor. There is a significant rail connection running from the Ports of Long Beach and Los Angeles through the Cajon Pass, across the AVAQMD to Mojave and ultimately into the Bakersfield area as well as to points north. Of course, these mobile impacts are exacerbated by the amount of daily commuter traffic heading outside the District.¹⁰ It must be noted that both rail and interstate trucking are primarily regulated by USEPA and it is only very recently that USEPA has commenced the initial stages to even consider such controls.¹¹

Background Information:

The most recent revision and submission of the AVAQMD's New Source Review (NSR) preconstruction permitting program,¹² which is the subject of the above referenced Notice of Proposed Rulemaking (NPRM),¹³ was generally the result of the Nonattainment designation and Severe-15 classification of the WMDONA under the revised 2015 8-hr NAAQS for Ozone¹⁴ and subsequent promulgation of an implementation rule by USEPA.¹⁵ In response to the implementation rule requirements the AVAQMD developed the *70 ppb Ozone Standard Implementation Evaluation: RACT SIP Analysis; Federal Negative Declarations; and, Emission Statement Certification (70 ppb O₃ Evaluation)*. That document was primarily designed to submit many of the required State Implementation Plan (SIP) elements including a required certification that the AVAQMD's NSR program was at least as stringent as that required by the

⁸ Approximately 85% of the AVAQMD's NO_x emissions inventory is directly due to mobile emissions. As the jurisdictional authority of local air districts are limited by statute to stationary sources of air pollution (California Health & Safety Code §§39002 and 40000) control of mobile sources is not within the purview of the AVAQMD.

⁹ Interstate 5 is the most heavily trafficked heavy-duty trucking corridor running north/south along the west coast of the United States.

¹⁰ As of 2022 the population of the District was 389,000 of which approximately 190,000 are employed outside the immediate Antelope Valley Area (Antelope Valley Labor Market Study, 2018).

¹¹ SJVUAPCD Letter, S. Sadrein, APCO to G. McCarthy, Administrator USEPA - *Petition Requesting that EPA Adopt New National Standards for On-Road Heavy-Duty Trucks and Locomotives under Federal Jurisdiction*, 6/22/2016; CAPCOA Letter, J. Wagnor, President to G. McCarthy, Administrator USEPA - *San Joaquin Valley Unified Air Pollution Control District Petition Requesting that EPA Adopt New National Standards for On-Road Heavy-Duty Trucks and Locomotives Under Federal Jurisdiction*, 12/9/2016; CARB Letter, M. Nichols, Chair to S. Pruitt, Administrator USEPA, *Petition For Rulemaking Seeking The Amendment Of The Locomotive Emission Standards For Newly Built Locomotives And Locomotive Engines And Lower Emission Standards For Remanufactured Locomotives And Locomotive Engines*, 4/13/2017; USEPA Letter, J Goffman, Principal Deputy Assistant Administrator USEPA to S. Sheikh, Executive Director SJVUAPCD, 11/9/2022; USEPA Letter, J. Goffman Principal Deputy Assistant Administrator USEPA to L. Randolph, Chair CARB, 11/9/2022.

¹² While technically the Prevention of Significant Deterioration (PSD) program covering the preconstruction review of attainment air pollutants is under the umbrella of Federal NSR, generally the term NSR is often used to refer to the Nonattainment NSR provisions. For the purposes of this comment NSR shall be used in relation only to the Federal NSR provisions for nonattainment air pollutants.

¹³ 88 FR 5826, 1/30/2023, Docket # EPA-R09-OAR-2022-0427, *Air Plan Approval and Limited Approval-Limited Disapproval; California; Antelope Valley Air Quality Management District; Stationary Source Permits; New Source Review*, Proposed Rule.

¹⁴ 83 FR 25776, 06/04/2018.

¹⁵ 83 FR 62998, 12/06/2018.

Federal Clean Air Act (FCAA). However, on 10/10/2019, USEPA indicated in a letter to the Mojave Desert Air Quality Management District (MDAQMD)¹⁶ that the NSR certification portion of their document could not be approved due to then unspecified “major deficiencies” with the MDAQMD’s NSR Program as contained in the SIP. Since the AVAQMD NSR rules were quite similar to those in the MDAQMD, USEPA orally informed the District that many of the same alleged deficiencies would preclude an NSR certification for the AVAQMD’s program. As a result, the AVAQMD adopted the 70 ppb O₃ Evaluation on 7/21/2021 without the required NSR certification.¹⁷

Subsequently, on 12/19/2019, USEPA provided commentary to the MDAQMD via letter¹⁸ regarding certain alleged deficiencies in the MDAQMD’s existing NSR Rules as well as in a subsequent NSR submission. Once again USEPA indicated in oral communications that the AVAQMD NSR Rules suffered from the same identified deficiencies. The MDAQMD embarked upon a substantive overhaul of its NSR program to address USEPA’s concerns¹⁹ which resulted in the adoption of a revised MDAQMD NSR program on 3/23/2021. The AVAQMD monitored the intensive over 2-year overhaul effort²⁰ between the MDAQMD, the California Air Resource Board (CARB), and USEPA Region IX staff and determined that with one notable exception,²¹ the MDAQMD amendments could be replicated in the AVAQMD rules to address USEPA’s stated concerns. The AVAQMD built upon and continued the collaborative effort started in the MDAQMD to develop and adopt the amendments to its NSR Program on 6/15/2021 and 7/20/2021.²² Unfortunately, it appears from the publication of the above referenced NPRM that the efforts on the part of the MDAQMD along with the subsequent AVAQMD consultations were, at least in part, unsuccessful.²³

1. Portions of This Action are Inopportune.

Despite the extensive involvement by USEPA in the rule development process for both the AVAQMD and MDAQMD rule amendments it must be noted that it took over a year from the time of official submission for USEPA to formulate and publish the above referenced NPRM. During this period there was no substantive communication from USEPA regarding potential additional deficiencies which had

¹⁶ USEPA Letter, G. Rios to B. Poiriez, *2019 Certification of SIP Approved Nonattainment New Source Review*, 10/10/2019 (Hereafter, *USEPA Letter of 10/10/2019*).

¹⁷ Action Item #10 2021 15 Jun, Resolution 21-02 2021 15 Jun, Action Item #6 2021 20 Jul, Resolution 21-03 2021 20 July.

¹⁸ USEPA Letter L. Beckham to B. Poiriez – *MDAQMD New Source Review Program*, 12/19/2019 (Hereafter, *USEPA Letter of 12/19/2019 to MDAQMD*). See also: *MDAQMD Final Staff Report for Regulation XIII – New Source Review and Rule 1600 – Prevention of Significant Deterioration* (Hereafter, *MDAQMD Final NSR Staff Report*), Appendix C, Comments #1, pgs. C3-; 03/22/2021.

¹⁹ See *MDAQMD Final NSR Staff Report*, Appendix C, Response to Comments #1, pgs. C23-C28; 03/22/2021.

²⁰ Which included, but was not limited to, the formation of a working group which held over 27 meetings and the production of 37 different draft versions of the rules along with a comprehensive staff report containing over 300 footnoted citations to a wide variety of source documentation.

²¹ USEPA Letter of 12/19/2019, Comment 1.2.2.c.

²² Rule 219 – Equipment Not Requiring a Permit was amended on 6/15/2021 and Regulation XIII – New Source Review was amended 7/20/2021. As noted in the NPRM Table 2 all the rules were submitted as a proposed SIP revision by CARB on 8/3/2021.

²³ As is clearly evidenced by some of the alleged deficiencies noted in the above referenced NPRM and the District’s comments included below.

not been identified during the development phase. In fact, the only communications received from USEPA regarding the AVAQMD NSR program after the adoption of the amendments were requests for copies of the SIP approved versions of various rules and historical adoption information for same. It must also be noted that most, if not all, of the items requested by USEPA had been previously been provided by the AVAQMD as part of the rule development process.

Given the truly trivial nature of some of the alleged deficiencies it would have been a simple matter for USEPA Region IX to communicate those prior to NPRM publication. Such an action would have allowed the District to provide an official written commitment to address these truly minor changes in an expedited amendment. This commitment would have also allowed the issues raised in the NPRM to be narrowed to those which truly require interpretation and/or judicial review as opposed to the current overarching action.

2. The Notice of Proposed Rulemaking Does Not Properly Identify the AVAQMD's Existing NSR Program.

In the above referenced NPRM USEPA helpfully provides a table indicating the provisions of the AVAQMD's rules which comprise the NSR Program. Unfortunately, Table 1²⁴ is incomplete. Additionally, Table 2-2 in the Technical Support Document (TSD for AV NSR)²⁵ is also partially inaccurate. Specifically, USEPA has omitted Rules 201 – *Permit to Construct*, Rule 202 – *Temporary Permit to Operate*, Rule 203 – *Permit to Operate* and Rule 204 – *Permit Conditions* from the NPRM Table 1. In addition, Table 2-2 in the TSD for AV NSR contains not only a number of inaccuracies but also includes rules which have no relationship to the AVAQMD NSR Program.

2a. AVAQMD Rules 201, 202, 203 and 204 should be listed in Table 1 of the NPRM.

AVAQMD Rules 201 and 203 are clearly a part of the AVAQMD NSR program and thus should have been listed in the NPRM Table 1 as they contain the underlying mandate for “any equipment, the use of which may cause the issuance of air contaminants or the use of which may eliminate, reduce or control the issuance of air contaminants” to obtain a written permit. While certain specified equipment does not have to obtain such a permit so long as it meets the requirements of District Rule 219 the APCO may still require a permit for such equipment if such is deemed necessary.²⁶ In addition, a mention of Rule 202 is necessary as it provides a logical bridge covering the time between the completion of construction and the full operation of the particular equipment. Similarly, a mention of Rule 204 is necessary as it makes any requirement included on a permit to operate fully enforceable once the equipment is operated

²⁴ 88 FR 5826, 5827, 1/30/2023.

²⁵ *Technical Support Document, Notice of Proposed Rulemaking, Air Plan Approval and Limited Approval-Limited Disapproval; California; Antelope Valley Air Quality Management District; Stationary Source Permits; New Source Review*, page 7, Docket No. EPA-R09-OAR-2022-0427-0005 D.1, December 2022 (TSD for AV NSR).

²⁶ For example, the APCO would, under the provisions of Rule 219 require a permit to impose a specific requirement on a particular piece of equipment pursuant to the NSR program to render that requirement Federally enforceable. See AVAQMD Rule 219(B)(4) as amended 06/15/2021. Please note that similar language is found in a precatory paragraph in the SIP approved version of SCAQMD Rule 219 as amended 9/4/1981 and approved at 47 FR 29231, 6/5/1982 which was approved as a replacement rule for the Antelope Valley area as part of the wholesale SIP rule replacement at 48FR 52451, 11/8/1983.

under that permit. Furthermore, these rules and their overarching regulation are specifically cited in the AVAQMD NSR Program rules as indicated in the following table.

**Table A – Location of Citations to Rules 201, 203 and Regulation II
In AVAQMD NSR Rules**

Referencing Citation	Rule 201	Rule 203	Reg. II
Rule 219(A)(1)(a)	X	X	
Rule 219(B)(1)	X	X	
Rule 219(B)(3)	X	X	
Rule 219(B)(4)	X	X	
Rule 219(B)(9)	X	X	
Rule 219(C)(1)	X	X	
Rule 219(F)(4)	X	X	
Rule 219(G)(1)	X	X	
Rule 1300(B)(1)	X	X	
Rule 1300(E)(1)(a)			X
Rule 1301(H)	X		
Rule 1301(CCC)		X	
Rule 1301(DDD)		X	
Rule 1302(B)(1)			X
Rule 1302(C)(7)(d)			X
Rule 1302(C)(7)(e)			X
Rule 1302(D)(3)(a)(ii)			X
Rule 1302(D)(5)(a)			X
Rule 1302(D)(6)(a)			X

The AVAQMD is therefore requesting USEPA to officially acknowledge that Rules 201-204 are part of the AVAQMD’s NSR Program by providing an official correction of Table 1 as shown in the NPRM as they are already SIP approved and not intended to be analyzed in this particular action.²⁷

2b. AVAQMD Rules 208, 218, 218.1, 221, and 226 should not be listed in the TSD for AV NSR as they are not part of the AVAQMD NSR Program.

Table 2-2 in the TSD for AV NSR also contains inaccuracies and lists rules unrelated to the AVAQMD NSR Program. This table appears to contain the entire contents of AVAQMD Regulation II regardless of whether the particular Rules in question are actually related to permitting or not. The following Rules as listed in Table 2-2 are specifically not NSR related for the reasons stated in Table B.

²⁷ AVAQMD is not at this time submitting new versions of Rules 201, 202, 203 and 204 as they have not substantively changed from their current SIP versions.

Table B – AVAQMD Regulation II Rules Specifically NOT NSR Related

Rule #	Rule Title	Reason Rule is NOT NSR related.
208	Permits for Open Burning	This rule applies by its terms solely to open burning operations subject to Rule 444. Such operations are not New or Modified Facilities or Emissions Units subject to NSR.
218	Continuous Emissions Monitoring	This rule sets forth the standards and procedure for approval of CEMS monitoring devices. While such devices may be required on a New or Modified Facility pursuant to NSR this rule sets forth specific procedural and substantive requirements to ensure that the proper CEMS units are installed on specific emissions units when such are necessary. It is not in and of itself a permit rule.
218.1	Continuous Emissions Monitoring Performance Specifications	This rule is primarily a specifications rule, akin to a prohibitory rule, that requires CEMS units meet particular standards. It is not in and of itself a permitting rule.
221	Plans	This rule requires APCO approval for specific “plans” that are required by the provisions of any other rule. These plans are items such as cannabis odor control plans and dust control plans. While such plans might be required as a result of an NSR permitting action they are not an integral part of the NSR Process
226	Limitations on Potential to Emit.	This rule is specifically tied to the Federal Operating Permit issuance and processes as set forth in Regulation XXX and as such is not an NSR related rule.

Thus, the AVAQMD is officially asking that USEPA revise Table 2-2 in the TSD for AV NSR to remove those rules which are not directly NSR related.

2c. AVAQMD Rules 213, 213.1 and 213.2 should not be listed in the TSD for AV NSR as they are not applicable to the current NSR.

Table 2-2 in the TSD for AV NSR lists AVAQMD 213, 213.1 and 213.2 as SIP approved 43 FR 52237, 11/9/1978. While this is true it also ignores the fact that a subsequent SIP approved version of Rule 1301²⁸ by its own terms supersedes the provisions of not only these rules but also Rules 213.3, 203.1 and 203.2 for any applications submitted after 7/1/1979.²⁹ While the 1983 FR notice does not specifically remove these rules from 40 CFR 52.220(c) the approval of that version of Rule 1301 effectively removes the applicability of their terms to the AVAQMD NSR program. It must be noted, however, if USEPA wishes to clarify this in this particular action the AVAQMD will not object.

²⁸ 48 FR 52451, 11/18/1983 which replaced Los Angeles APCD rule as approved at 47 FR 54013, 6/9/1982 with the SCAQMD Rule 1301 as approved 46 FR 5965, 1/21/1981.

²⁹ Rule 1301(c) as contained in *South Coast AQMD State Implementation Plan*, USEPA Region IX, March 1994.

In addition to the above request the AVAQMD would appreciate a clarification by USEPA, either in Table 2-2 of the TSD for AV NSR or elsewhere, that Rules 213, 213.1, and 213.2 are not a portion of the AVAQMD's NSR program as their terms were superseded by Rule 1301 as approved into the SIP in 1983.

2d. The TSD for AV NSR does not sufficiently discuss the SIP history and thus perpetuates inaccuracies and inconsistencies.

In addition, Table 2-2 in the TSD for AV NSR contains a number of inaccuracies in regards to the SIP history of a variety of the listed rules, especially those found in Regulation II. Historically, the Los Angeles County Air Pollution Control District (LACAPCD - Full County District) was created in the 1950's as part of California's original attempts to control air pollution and covered the entire county of Los Angeles. The initial SIP submissions for this area, along with most of the rest of California occurred in 1972 and 1973 and comprised of mostly 2-digit rules with the occasional 3-digit rule number. A good portion of these rules became SIP approved in 1972.³⁰ On 7/16/1975 the Boards of Supervisors for Los Angeles, Orange, Riverside and San Bernardino Counties formed a Joint Powers Authority for the control of air pollution called the Southern California Air Pollution Control District (SoCalAPCD). Upon its creation the SoCalAPCD commenced to consolidate the rulebooks of the member counties and created a rulebook structure divided into numbered regulations containing 3-digit rules. Regulation II of this rulebook contained many of the rules listed in Table 2-2. Once again, a good portion of the rules in Regulation II were submitted as SIP revisions in 1976 with approvals in 1978.³¹

It is at this point that the SIP history for the jurisdiction of the AVAQMD becomes a bit convoluted. During the interim between the submission and approval of the SoCalAPCD Regulation II rules the California Legislature acted to create the South Coast Air Quality Management District (SCAQMD),³² effective 2/1/1977, to cover those portions of Los Angeles, Orange, Riverside and San Bernardino County located within the SCAB. Pursuant to the terms of the legislation, areas outside the SCAB were able to contract with SCAQMD for the provision of air pollution control services.³³ As a result of the legislative action CARB³⁴ adopted Executive Order G-73 on 2/1/1977 which adopted a Rulebook (the G-73 Rulebook) for the non-SCAB areas of Los Angeles, Riverside and San Bernardino Counties. This rulebook was submitted as a SIP revision on 6/6/1977 and approved in 1978.³⁵ The SoCalAPCD was officially dissolved in early 1977³⁶ and pursuant to the dissolution agreement the effective rule books for each remaining county district was the SoCalAPCD rulebook in effect on the dissolution date. While this rulebook was substantially similar to the CARB submitted G-73 Rulebook a few differences have been discovered over time.

³⁰ 37 FR 10842, 5/13/1972 and 37 FR 19812, 9/22/1972.

³¹ 43 FR 52237, 11/9/1978.

³² Cal. Stats. 1976, Ch. 324.

³³ Former Health & Safety Code §40413 (Cal. Stats. 1976, Ch. 324, §5).

³⁴ CARB incorrectly assumed that the legislative action creating SCAQMD would automatically dissolve the SoCalAPCD and revert the non-SCAB areas to their respective county air pollution control districts.

³⁵ 43 FR 40011, 9/8/1978 and 43 FR 52237, 11/9/1978.

³⁶ It appears that the last signatory on the agreement authorizing the dissolution of the Joint Powers Authority was authorized by San Bernardino County on 4/26/1977 however the actual effective date of the dissolution is unclear.

It appears that sometime after the submission of the G-73 Rulebook in 1977 the Board of Supervisors of Los Angeles County contracted with SCAQMD for the provision of air pollution control services for the non-SCAB areas of the county³⁷ under the name Los Angeles County Air Pollution Control District (LACAPCD - Partial County District). This contract continued until 1982 when the Los Angeles County Board of Supervisors officially petitioned for the non-SCAB area to be officially included within SCAQMD.³⁸ It is presumed that between the G-73 rulebook and 1982 any rules adopted or amended as effective in this area were prepared by SCAQMD for action by Los Angeles County Board of Supervisors acting as the Board of the Air Pollution Control District. On 10/15/1982 SCAQMD adopted Resolution 82-35 which replaced wholesale any rules then in effect in the LACAPCD - Partial County District and replaced them with the SCAQMD rules then in effect. This resolution was submitted as a SIP revision and approved in 1983.³⁹

Therefore, any SCAQMD rule actions submitted and approved as of 10/15/1982 became SIP rules for the non-SCAB portions of Los Angeles County on 11/18/1983. There are 4 rules listed in Table 2-2 of the TSD for AV NSR which fall into this category. In table 2-2 of the TSD for AV NSR USEPA asserts that Rules 202, 206, 207, 213, 213.1 and 213.2 were approved for SCAQMD at 43 FR 52237, 11/9/1978. Unfortunately, while the text of that Federal Register notice mentions SCAQMD the actual listed changes to 40 CFR 52.220(c) do not specifically specify such applicability.

On 7/1/1997 the Antelope Valley Air Pollution Control District (AVAPCD) replaced the SCAQMD as the agency with jurisdiction over the Los Angeles County portion of the Mojave Desert Air Basin (MDAB).⁴⁰ On 1/1/2002 the AVAPCD was replaced by the AVAQMD.⁴¹ Pursuant to both statutory changes, the rule and regulations of the predecessor district were retained until the Governing Board adopted, amended or rescinded them. The AVAPCD amended many of the Regulation II rules in 1997⁴² and the AVAQMD again amended many of these rules in 2005.⁴³ USEPA correctly notes that some of these rules were approved into the SIP in 2005, 2008, and 2013⁴⁴ superseding the SCAQMD rules which were in effect on 10/15/1982.

The AVAQMD is requesting that USEPA acknowledge the SIP history as detailed above and provide an update to the TSD for AV NSR to indicate same.

³⁷ This area, commonly referred to as the Antelope Valley, is located within the former Southeast Desert Air Basin which was split into the MDAB (17 Cal. Code Reg. 60109) and the Salton Sea Air Basin (17 Cal. Code. Reg. 60114) in 1997.

³⁸ This action utilized a revised provision of former California Health & Safety Code §40413 (Stats. 1976, Ch. 342 §5) effective 10/1/1977 which allowed non-SCAB areas of counties to “opt in” and become part of SCAQMD. See also SCAQMD Resolutions 82-23, 7/9/1982 and 82-35, 10/15/1982.

³⁹ 48 FR 52451, 11/18/1983.

⁴⁰ Former California Health & Safety Code §40106(e); Stats. 1996 Ch. 542, section 1.

⁴¹ California Health & Safety Code §§41300 et seq.

⁴² AVAPCD Action #11 1997 19 Aug, Resolution 97-08.

⁴³ AVAQMD Action #8 2005 17 May, Resolution 05-05.

⁴⁴ 70 FR 8518, 2/22/2005; 73 FR 51226, 9/2/2008; and 78 FR 59840, 9/30/2013.

3. The TSD for AV NSR Does Not Completely Identify Provisions of 40 CFR 52.220(c) Which Need to Be Changed.

In section 3.1 of the TSD for AV NSR USEPA attempts to identify specific codifications contained in 40 CFR 52.220(c) which need to be changed to properly reflect the condition of the AVAQMD SIP rules in relation to NSR. The AVAQMD would like to direct USEPA’s attention to the AVAQMD Applicable SIP Table⁴⁵ which contains all CFR citations relevant to each SIP rule action. While USEPA has identified a number of potential CFR changes to 52.220(c) in Table 3-3 such changes are not complete nor comprehensive to remove or provide notations regarding historically SIP approved versions of NSR Related Rules. Specifically, the AVAQMD Directs USEPA’s attention to the following citations which may or may not require additional clarifications to appropriately identify the applicable SIP for these AVAQMD rules.

Table C – CFR Citations Which May Require Clarification

CFR Citation	Agency	Rule #s
40 CFR 52.220(c)(31)(vi)(C)	SoCalAPCD	201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 213.1, 213.2, 217, 219
40 CFR 52.220(c)(31)(vi)(D)	SCAQMD	211
40 CFR 52.220(c)(31)(vi)(F)	SCAQMD	211
40 CFR 52.220(c)(36)(i)(B)	SCAQMD	213, 213.1, 213.2
40 CFR 52.220(c)(39)(iii)(B)	LACAPCD	201, 202, 203, 204, 205, 206, 207, 209, 210, 211, 212, 213, 213.1, 213.2, 217, 218, 219
40 CFR 52.220(c)(42)(xiv)(A)	SCAQMD	218
40 CFR 52.220(c)(54)(vii)(A)	SCAQMD	201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 202, 213, 213.1, 213.2, 217, 218, 219, 220, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1310, 1311, 1313
40 CFR 52.220(c)(65)(ii)	SCAQMD	218
40 CFR 52.220(c)(68)(i)	SCAQMD	1301, 1303, 1304, 1305, 1306, 1307, 1310, 1311, 1313
40 CFR 52.220(c)(70)(i)(A)	SCAQMD	1302, 1308
40 CFR 52.220(c)(87)(v)(A)	LACAPCD	1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1310, 1311, 1313
40 CFR 52.220(c)(103)(xviii)(A)	SCAQMD	217, 219, 220
40 CFR 52.220(c)(155)(iv)(B)	LACAPCD	1305
40 CFR 52.220(c)(165)(i)(B)(1)	SCAQMD	221
40 CFR 52.220(c)(169)(i)(B)(1)	SCAQMD	209
40 CFR 52.220(c)(173)(i)(A)(1)	SCAQMD	212
40 CFR 52.220(c)(240)(i)(A)(1)	SCAQMD	212, 1301, 1302, 1303, 1304, 1306, 1309, 1309.1, 1310, 1313

⁴⁵ As posted at <https://avaqmd.ca.gov/files/ef0e19951/AV+Full+SIP+Table+2021+25+Aug.pdf>

The AVAQMD is therefore requesting that USEPA specifically identify all provisions in 40 CFR 52.220(c) and elsewhere which need clarification and clearly list such in both an update to the TSD for AV NSR and its final action.

4. The Proposed Rulemaking Identifies Alleged Deficiencies Which are Currently Approved into the SIP Without Explanation Regarding Why Previously Approved Provisions are Now Inappropriate.

As USEPA correctly notes there already is a version of the AVAQMD NSR Program which was approved by USEPA into the SIP.⁴⁶ The AVAQMD would appreciate a detailed explanation of exactly what underlying provisions of the FCAA have changed and in what manner such that provisions which were clearly deemed adequate in 1996 have now become unacceptable. The AVAQMD would appreciate a more detailed analysis, not just mere citations of current regulations, regarding the specific changes in USEPA regulations and policy that now render those previously approved provisions deficient. This can include but is not limited to, specific citation of regulatory terminology changes, provision of specific guidance documentation, and/or explanation of any litigation which may or may not have influenced such changes. Unfortunately, the TSD for AV NSR does not provide a detailed explanation or adequate citations behind the apparent change in USEPA's interpretation of the FCAA.

To the AVAQMD's knowledge the FCAA has not been amended since 1990, therefore the AVAQMD is requesting an updated, specific analysis with appropriate citations, documentation, and rational for the changes to USEPA interpretations which render previously approved NSR program provisions now unacceptable.

5. The AVAQMD is Concerned That USEPA Does Not Adequately Understand or Explain the Interrelationship Between NSR and Rule 219.

Neither the NPRM nor the TSD for AV NSR specifically discuss the interrelationship between the main portion of the AVAQMD NSR Rules as found in Regulation XIII and Rule 219. While this is not generally identified as a deficiency with the NPRM, historically USEPA has asserted that Rule 219 somehow provides an "exemption" from NSR requirements.⁴⁷ It must be noted at this point that the AVAQMD's permitting program is based upon permits for emissions units as opposed to the FCAA schema which is primarily based on a permit for an entire facility.⁴⁸ The net result of this difference is that while specific emissions units may be exempt from permitting requirements under AVAQMD Rule 219 they will still

⁴⁶ Specifically Rules 201, 203, and 204 as approved at 70 FR 8518, 2/22/2005; Rule 202 as approved at 43 FR 52237 111/9/1978; Rule 219 as approved at 47 FR 29231, 7/6/1982 and applied to the AV area at 48 FR 52451, 11/18/1983; Rules 1301, 1302, 1303, 1304, 1306, 1309, 1309.1 1311, and 1313 as approved 61 FR 64291, 12/4/1996; and Rule 1311 as approved at 46 FR 5965 1/21/1981.

⁴⁷ See for example statements in the *Technical Support Document – Notice of Proposed Rulemaking Revisions to the California State Implementation Plan MDAQMD, NSR Rules 206, 219, 1900, 1301, 1302, 1304, 1305, 1306 and 1402* Docket No. EPA-R09-OAR-2022-0338, 10/5/2022, §4.2 page 13 (TSD for MDAQMD NSR).

⁴⁸ A Facility as defined in AVAQMD Rule 1301(CC) is "Any building, structure, Emissions Unit, combination of Emissions Units, or installation which emits or may emit a Regulated Air Pollutant..." (emphasis added) and thus could consist as few as one or as many as several hundred separate and distinct emissions units. As noted by USEPA in footnote 8, page 17 of the TSD for AV NSR this is the same as the definition of Stationary Source as found in 40 CFR 51.165(a)(1)(i).

undergo the NSR process.⁴⁹ It is blatantly clear from the relevant AVAQMD rule text that the AVAQMD NSR program specifically requires emissions changes to be determined both on an emissions unit by emissions unit basis as well as in regards to the entire facility as a whole.⁵⁰ Rule 219 itself explicitly states that emissions from exempt equipment must be included in NSR calculations.⁵¹ It must also be noted that while Rule 219 only exempts certain emissions units from obtaining a paper permit. It does not exempt either emissions units or an entire facility containing such units from other requirements in the Rulebook.⁵²

USEPA has expressed concerns in the past that facilities which consist solely of potentially 219 exempt equipment will somehow escape review. As has been noted before to USEPA,⁵³ there are several backstops in place to prevent this. Specifically, enforcement personnel frequently discover unpermitted and/or potentially exempt equipment during inspections, as a result of complaint investigations, generally as part of their travel around the District as well as during specific “sweeps” performed for the particular purpose of locating unpermitted equipment. Local land use agencies also provide backstops through the California Environmental Quality Act (CEQA) notifications to the District and a sign off process prior to issuance of Certificates of Occupancy.

Given the historical propensity of USEPA to misconstrue the interrelationship between Rule 219 and the main NSR provisions, the AVAQMD would request a short discussion of this issue to be provided as a part of an updated TSD for AV NSR.

6. Comments Regarding Identified Deficiency #1 – Simultaneous Emissions Reductions Calculation Methodology.

USEPA states that this deficiency arises from the use of a “potential to potential” test for calculating the Simultaneous Emissions Reductions (SERs).⁵⁴ USEPA partially mischaracterizes the provision of 1304(C)(2)(d) as “potential to emit to new potential to emit after modification” calculation when it is more correctly characterized “current fully offset allowable emissions” to “potential new emissions.” It must be noted that such fully offset allowable emissions are reflected as fully Federally enforceable emissions limitations on the permits for each piece of affected equipment and for the facility as a whole. In short, USEPA is objecting to the use of Simultaneous Emissions Reductions (SERs) which are created as part and parcel of an NSR action at a Major Facility to in effect “self-fund” the necessary offsetting emissions reductions by reducing emissions elsewhere in the Major Facility.

⁴⁹ AVAQMD Rule 1300(B)(1), as well as Rule 201 and 203.

⁵⁰ See AVAQMD Rule 1304(B) and the definition of Emissions Units in 1301(Y) as opposed to the definition of Permit Units in 1301(DDD).

⁵¹ AVAQMD Rule 219(B)(5).

⁵² AVAQMD Rule 219(B)(6).

⁵³ AVAQMD Final Staff Report for Rule 219 — Equipment Not Requiring a Permit, 6/15/2021, §VI.D. pgs. 13-15.

⁵⁴ 88 FR 5826, 5830 1/30/2023; TSD for AV NSR §6.1.1., pgs. 25-27.

6a. The provisions of 1304(C)(2)(d) are already contained in the SIP and have been in use since at least 1995.

First, it must be noted that the alleged problematic language is merely a clarified restatement of provisions which are currently SIP approved. The provisions of Rule 1304 (C)(2)(d) as found in the current submission were originally located in former 1304(E)(2)(a)(iv) and 1305(B)(2)(b)(i) as amended in 2001.⁵⁵ The 2001 amendment language was in turn derived from the interactions between former Rules 1304(c)(2), 1306(b), and 1303(b)(2) along with the definitions contained in former Rule 1302(c) and (n) from the 1995 SIP approved version of NSR.⁵⁶ Under the 1995 SIP approved version of NSR⁵⁷ a facility was not required to obtain offsets pursuant to former Rule 1302(b)(2) if it qualified for an exemption under former Rule 1304. Former Rule 1304(c)(2) provided an exemption for concurrent facility modifications so long as certain conditions were met⁵⁸ and no net increase in emissions as calculated by former Rule 1306 occurred. Former Rule 1306(d)(2)(A) allowed calculation of net emissions increases using the “permitted or allowable pre-modification potential to emit” (emphasis added) and former Rule 1306(b) calculated emissions increases using “permit conditions which directly limit the emissions.” Former Rule 1302(c) in turn defines Allowable Emissions in part as “(3) the emissions rate specified as *federal enforceable permit conditions* including those with a future compliance date” (emphasis added) and former Rule 1302(n) defines Federally Enforceable as “all permit limitations and conditions which are enforceable by the EPA Administrator.” The only way one would obtain such a Federally enforceable permit condition would, of course, be via a prior NSR permitting action.

The AVAQMD 2001 amendments to NSR were, in part, an attempt to make requirements as explained above easier to use for both regulated industry and District staff by stating the requirements in as plain language as possible. It also resulted in a narrowing of the use of Federally enforceable allowable emissions limits by labeling such self-funding efforts SERs⁵⁹ and limiting their use primarily to larger facilities operating under capped emissions limitations.⁶⁰ As indicated earlier in this comment the current 2021 NSR amendments were primarily embarked upon to address USEPA concerns. These amendments further clarified that SERs created from currently existing fully offset Permit Units at an existing Major Facility⁶¹ could only be used for changes within the same facility and they could not ever be banked.⁶² In addition, the procedural flow found in Rule 1302 and a specific limitation of Rule

⁵⁵ AVAQMD Final Staff Report for Amendment of Regulation XIII – New Source Review, Regulation XVII – Prevention of Significant Deterioration and Rule 1401 – New Source Review for Toxic Air Contaminants, 7/20/2021 (AVAQMD NSR Final Staff Report), Appendix A, Redline Rule 1304-2.

⁵⁶ AVAQMD Final Staff Report Amendments to Regulation XIII – New Source Review, 3/20/2001 (AV NSR 2001 Staff Report), Appendix A, Redline Rules 1302, 1303, 1304, and 1306.

⁵⁷ As SIP approved at 61 FR 64291, 12/4/1996.

⁵⁸ In short, these conditions were that the concurrent modification was not otherwise required by State or Federal law or by a District proposed rule or control measure.

⁵⁹ The term Actual Emissions Reductions (AERs) was also used in this version of NSR in an attempt to distinguish emissions decreases prior to adjustment and use as SERs or Banking. That terminology was dropped as unhelpfully confusing in the current iteration.

⁶⁰ See AV NSR 2001 Staff Report, Appendix C, page C-81 for response to comment explaining that self-funding under an existing emissions cap would not result in exemption from BACT requirements.

⁶¹ Only an existing Major Facility would ever have an emissions unit which had been fully offset in a previously approved NSR action.

⁶² AVAQMD Rule 1304(C)(2)(d)(iii).

1303(A)(4) ensures that such SERs would not be used to determine either BACT applicability, Major Facility status or Major Modification status. The net result of the use of SERs on a facility wide basis is therefore additionally limited in the 2021 amendments and in fact ensures that there is no net increase in the amount of total emissions allowable from a particular facility that utilizes these provisions.⁶³

Given USEPA's assertion of the deficiency of 1304(C)(2)(d) in the TSD for AV NSR and its approval of provisions with similar effect into the SIP in 1996, the AVAQMD assumes that the SIP approved version was approved as equivalent or more stringent than the FCAA pursuant to FCAA §116.⁶⁴ If the previous SIP approved version, using broader more inclusive language with fewer safeguards, was so approved then it is unclear why the current submission cannot also be approved.

The AVAQMD therefore requests that USEPA provide a detailed analysis of why the current submission cannot be approved as equivalent or more stringent than the FCAA requirements. In addition, the AVAQMD is specifically requesting guidance regarding exactly what type and nature of evidence, if such has not already been provided in its staff report, that USEPA would consider necessary for such an approval to be made.

6b. USEPA's allegation that "SERs used as Offsets may not be based on real or actual emission reductions as required by FCAA §173(c)(1)".

USEPA asserts that the current calculation of SERs via 1304(C)(2)(d) results in mere "paper reductions" which would not represent real emissions reductions over time. USEPA alleges that use these alleged "paper reductions" would violate both FCAA 173(c)(1)⁶⁵ as well as the necessity that emissions reductions used for Reasonable Further Progress (RFP) and attainment of the NAAQS in 40 CFR 51.165(a)(3)(i) be based on actual emissions. Unfortunately, USEPA's assertion does not consider the fact that the actual reductions in emissions have already occurred as part of the previously offset action and that the use of SERs derived from such action ensures that the allowable emissions from a particular facility would not increase without additional offsets being required. It also ignores the overall structure of the AVAQMD NSR program which is specifically designed to obtain BACT on more equipment as well as offsets in more situations than is required by the FCAA.⁶⁶

Specifically, this is an issue of fundamental fairness in implementation. If USEPA's assertion is correct then a particular facility would in effect be required to offset the exact same amount of allowable emissions each time it needed to upgrade, replace, or otherwise modify its equipment or processes. The scenario in Table 5 in the AVAQMD NSR Final Staff Report⁶⁷ can be used to illustrate this. In the hypothetical a facility would like to self-fund a new emissions unit by proposing to take a lower permit limit of 0.5 tpy on 2 existing emissions units (currently permitted and fully offset at 2 TPY each for 4 TPY total) and proposing to shut down an existing fully offset unit also with a 2 TPY fully offset permit limit.

⁶³ This is in direct contract to the potential use of the "De Minimis" provisions as discussed below which would, if implemented, result in an increase of allowable emissions, 25 tons per year over a rolling 5 year period, at such a facility.

⁶⁴ 42 U.S.C. §7416.

⁶⁵ TSD for AV NSR, §6.1.1, pg. 26.

⁶⁶ AVAQMD NSR Final Staff Report §VI.E.5., pgs. 34-42.

⁶⁷ AVAQMD NSR Final Staff Report §VI.E.6.c., pgs. 53-54.

Since these emissions units were fully offset in a prior NSR action the reductions must have been shown to be real, surplus, permanent, quantifiable, and enforceable. Clearly these were NOT mere “paper reductions.” Thus, the facility has already procured and paid for a 6 TPY emissions limit with 7.8 TPY of actual emissions reductions⁶⁸ from the then existing emissions inventory for the 2 existing (proposed to be modified) and 1 proposed shutdown emissions units. Applying USEPA’s asserted formulation using the specified actual emissions set out in Table 5⁶⁹ the facility could only self-fund a new emissions unit with a maximum potential to emit of 2 TPY. Since the proposed lower limit on the 2 modified emissions units would continue to use 1 TPY of allowable permitted emissions and the proposed new emissions unit would gain a 2 TPY of allowable permitted emissions the facility in question would end up losing forever the ability to use the other 3 TPY of previously obtained and paid for actual reductions. This means, in effect the facility would have to provide an extra 3.9 TPY of offsetting emissions reductions in order to regain its previously allowed and permitted emissions.

Regardless of whether or not actual emissions reductions occurring previously are technically “paper reductions” as USEPA asserts it must be noted that the AVAQMD and its predecessor agencies have been using the formulation as found in the SIP approved version of the NSR rules in one form or another since at least 1995 and more likely since the early 1980’s.⁷⁰ Over that period of time the number of NAAQS exceedances has declined as well as the amount of both Major Facility and overall stationary source emissions.⁷¹ This is despite significant increases in both economic activity and District population. Such a decrease would not have occurred if the NSR program was founded on mere “paper reductions” as alleged.

Therefore, the AVAQMD requests a specific discussion in its final action regarding why USEPA considers the taking of previously obtained and paid for allowable emissions limits without additional compensation to be allowable under the FCAA and a discussion as to whether such an effective taking is Constitutional. Additional discussion regarding why USEPA considers actual decreases in the emissions inventory to allegedly be inadequate to show that the AVAQMD’s NSR Program is not based upon “paper reductions” would also be appreciated.

6c. USEPA’s allegation that “SERs used in Net Emissions Increase (NEI) calculations are less stringent than the federal definition for the term NEI”.

USEPA asserts that the definition of NEI in 1301(UU) along with attendant definitions of Major Modification in 1301(MM), Modification in 1301(RR), Significant in 1301(TTT) and the provisions of 1304(B)(2) are deficient due to the alleged use of current fully offset allowable emissions as reflected on a Federally enforceable permit in certain of the calculations. The underlying issue for this alleged deficiency appears to be rooted in the fact that USEPA misunderstands the overall structure of the

⁶⁸ Applying a 1.3/1 offset ratio.

⁶⁹ 1 TPY of actual emissions each for the 2 modified 1 emissions units and 1 TPY of actual emissions from the shutdown emissions unit.

⁷⁰ Please see the version of SCAQMD Regulation XIII as contained in *South Coast AQMD State Implementation Plan*, USEPA Region IX, March 1994. In all probability this version is the one approved at 48 FR 52451, 11/18/1983. In that version emissions calculations were based, pursuant to then applicable Rule 1306(c), upon permitted emissions.

⁷¹ See <https://www.arb.ca.gov/adam> and <https://ww2.arb.ca.gov/applications/emissions-air-district>.

AVAQMD's NSR regulation and thus assumes that use of previously offset SERs could potentially allow a particular New or Modified Facility to "escape" being a Major Facility or a Major Modification with all the attendant requirements⁷² that flow from such a designation.

USEPA's assertion, however, conveniently ignores the existence of Rule 1302 which very clearly sets out a flow for analysis in which one step occurs after another in sequence⁷³ as indicated in the Final NSR Staff Report Figure 3 and Table 6. To be specific, first you determine "Emissions Change" under 1302(C)(1) on both an emissions unit and facility wide basis using 1304(B)(1). Note – No SERs are used in this calculation. This means that Steps 2 and 3 as indicated in both Figure 3 and Table 6 are in effect the determination of whether or not a particular change is indeed a Modification. USEPA also conveniently ignores the provisions of 1303(A)(4) which excludes the use of SERs in determining emissions increases for purpose of applying BACT.

The AVAQMD admits that the provisions as expressed in 1304(C)(2)(d) could, in the abstract and absent the procedural sequence set forth in 1302, potentially be interpreted incorrectly. However, once again it must be noted that these particular provisions have been in active use since at least 1996 with corresponding demonstrable results in improving overall air quality.

Again, despite the AVAQMD's assertion of adequacy of the current provisions, the AVAQMD would appreciate specific guidance from USEPA regarding any potential methods which could be used clarify that SERs derived from previously fully offset activities are only usable to reduce the amount of offsets required and not for any other purpose.

6d. USEPA's allegation that "SERs used to determine quantity of offsets required are not based on actual emissions as required in 40 CFR 51.165(a)(3)(ii)(j)".

Once again USEPA's allegation of deficiency seems to be based on an analysis performed in a vacuum without any consideration of the entirety of the AVAQMD NSR Program. The entire structure of the AVAQMD's NSR regulation is designed to ensure that the emissions reductions achieved from each modified emissions unit, and thus from any facility containing such emissions units, are greater than those required by the FCAA provisions. This is achieved by requiring BACT and Offsets in more cases and on a greater number of emissions units than is required by the FCAA.⁷⁴ This is also designed to meet the California Clean Air Act requirement mandating that stationary source control programs developed by a District with moderate or greater ozone pollution achieve "no net increase in emissions of nonattainment pollutants or their precursors from new or modified stationary sources which emit or have the potential to emit 25 tons per year or more of nonattainment pollutants or their precursors"⁷⁵ which ensures that emissions at a particular facility remain the same or decrease over time. This is in direct contrast to USEPA's "De Minimis" provisions⁷⁶ which could, by its own terms, result in up to a 25 ton per year increase in pollutants from each Major Facility over every rolling 5-year period.⁷⁷

⁷² Such as BACT and Offsets as required under Rule 1303.

⁷³ AVAQMD NSR Final Staff Report, §IV.E.6.c., Figure 3, page 52 and Table 6, page 54.

⁷⁴ AVAQMD NSR Final Staff Report, §IV.E.5.b, Table 4, page 40 and §VI.H., Table 8, page 60.

⁷⁵ California Health & Safety Code §40918(a)(1).

⁷⁶ FCAA 182(c)(6); 42 U.S.C. §7511a(c)(6).

⁷⁷ As discussed in Comment 9 below.

The AVAQMD must again reiterate that it has provided clear and convincing evidence in its staff report and elsewhere that the entire NSR Program as formulated requires not only BACT but also Offsets in a number of situations where they would not be required under a strict FCAA calculation methodology⁷⁸ thus resulting in a more stringent set of requirements overall.

The AVAQMD would, despite its assertion of the adequacy of the current submission, appreciate specific detailed guidance regarding what type and nature of additional evidence, if any, USEPA would consider appropriate to show equivalent stringency to the FCAA requirements.

7. Comment Regarding Identified Deficiency #2 – Calculation Method for Determining Historical Actual Emissions.

USEPA is concerned about the term “Proceeding” as found in Historical Actual Emissions Calculation⁷⁹ the and indicates that the term more properly should be “Preceding.” As indicated by the nearest available dictionary,⁸⁰ the definition of “proceed” is as follows:

1: To come forth from a source: Issue; 2 a: to continue after a pause or interruption; 2b: to go on in an orderly regulated way; 3a: to begin and carry on an action, process or movement 3b: to be in the process of being accomplished; 4: to move along a course: Advance.

The same handily available dictionary indicates that the term “Precede” is defined as follows:

1: to surpass in rank, dignity or importance; 2: to be, go or come ahead or in front of; 3: to be earlier than; 4: to cause to be preceded.

The commonly acknowledged rules of grammar dictate that adding the suffix “ing” will make either term a present participle if the word is used as a verb, a gerund if used as a noun, and a gerundive if used as adverb or adjective.

AVAQMD agrees that this is in all probability an overlooked typographical error. It must be noted however that this error has been in the rule since the 2001 iteration.⁸¹ It was, however not in the 1995 version.⁸² Therefore, this error apparently occurred when the regulation was reformatted in 2001.

As noted previously, direct communication from USEPA once this typographical error was discovered would have enabled the AVAQMD to provide a commitment to correcting the problem prior to the publication the present action.

⁷⁸ See AVAQMD NSR Final Staff Report, §VI.E.5.b, Table 4, page 40 for a specific analysis of the differences between the Federal and AVAQMD calculation methodologies.

⁷⁹ AVAQMD Rule 1304(D)(2)(a)(i).

⁸⁰ Webster’s Ninth New Collegiate Dictionary, 1990.

⁸¹ AV NSR 2001 Staff Report, Appendix A, Redline Rule 1304-12.

⁸² Former Rule 1306(c)(1).

The AVAQMD would appreciate specific guidance from USEPA regarding whether or not the provision of a commitment to modify these provisions would be appropriate at this time.

8. Comment Regarding Identified Deficiency #3 – Use of Contracts.

USEPA asserts that the use of the term “contracts” in Rules 1302(D)(6)(a)(iii), Rule 1304(C)(4)(c), 1309(D)(3)(c) and 1309(E)(6) renders these provisions deficient in that there are no provisions which define or delineate how such a contract may be made Federally enforceable.

Research regarding these provisions has indicated that the initial purpose was to allow a facility to create offsets by reducing emissions from non-traditional sources such as piles, track out areas, or unpaved internal roads and parking areas. Such non-traditional sources are often not currently under permit and it was initially thought that a fully enforceable contract when included in an NSR action would provide appropriate enforceability. However, given USEPA’s expressed concerns with non-traditional offsets⁸³ and the provisions of 1305(C)(3)(a)(v) which require a SIP approved calculation method for Mobile, Area or Indirect Offsets the use of the term “contract” appears to be now superfluous. In addition, The AVAQMD has the authority to require permits for previously unpermitted equipment under the provisions of Rule 219(B)(4). Thus, the APCO is able to require that such equipment obtain a permit to ensure enforceability and use of the term contract is now unnecessary.

The AVAQMD is concerned that this issue was never raised despite the extensive consultation and discussion process during the rule development. While this may have been an oversight, communication once the issue had been identified by USEPA, would have enabled the AVAQMD to provide assurances that this identified deficiency was most likely inadvertently retained as the structure of the regulation was modified and that a subsequent amendment would be forthcoming to remove the problem. AVAQMD can and will be able to provide a commitment to modify these provisions in a subsequent local action.

The AVAQMD would therefore like specific guidance from USEPA regarding whether or not the provision of a commitment to modify these provisions would be appropriate at this time.

9. Comment Regarding Identified Deficiency #5 –Interprecursor Trading

USPEA is concerned that the ruling in *Sierra Club v. USEPA* (D.C. Cir. Case #15-1465, 1/29/2021) and its subsequently revised regulations at 40 CFR 51.165(a)(11) makes Interprecursor Trading between Ozone precursors impermissible under the then applicable regulatory language. It must be noted that while the case was decided prior to the amendment of Regulation XIII the subsequent regulatory changes had not yet been made. It is also unclear to the AVAQMD whether or not the rulemaking which changed 40 CFR 51.165(a)(11) to comply with the ruling has been challenged.⁸⁴ USEPA has not provided any indication in the TSD for AV NSR regarding the current status of this particular regulation other than the citation.

⁸³ See *USEPA Letter of 12/19/2019 to MDAQMD*, Comment 1.3.1.

⁸⁴ It must be noted that the court ruling was based on the then applicable regulatory language. USEPA could have chosen to develop an amendment placing limits and requirements on Ozone precursor interpollutant trading. It is obvious from the resultant regulatory change that USEPA declined to do so.

The AVAQMD asserts that the footnote provides sufficient warning and requires compliance with the applicable provisions to ensure that interprecursor trading among Ozone precursors does not occur in a subsequent NSR action. However once again, prompt and efficient communication on the part of USEPA would have obliterated the need for this comment as the AVAQMD could have easily committed to clarifying this in a subsequent rulemaking.

Once again, the AVAQMD is requesting specific guidance from USEPA regarding whether or not the provision of a commitment to modify these provisions would be appropriate at this time.

9. Comment Regarding Identified Deficiency #6 –De Minimis Rule

USEPA asserts that FCAA §182(c)(6)⁸⁵ mandates the inclusion of a so called “De Minimis” rule in the AVAQMD’s NSR Program. It also appears to be asserting that this provision somehow overrides the ability under FCAA §116⁸⁶ for state adopted provisions to be more stringent than the FCAA requirements. The SIP approved version of NSR does not contain such a “De Minimis” provision primarily due to the necessity of complying with California Health & Safety Code §40918(a)(1) which requires all air districts with ozone pollution of moderate and above to ensure that their permitting programs achieve “no net increase in emissions of nonattainment pollutants or their precursors.”

Unfortunately, this issue was never brought up by USEPA in the consultation process used to develop the rules. It is also manifestly unclear to the AVAQMD why exactly USEPA is insisting on this provision when its inclusion, by its own terms, would result in emissions increases at 4 Major Facilities. In short, if this provision was implemented in the AVAQMD all Major Facilities located within the District would be able to increase their allowable actual emissions up to 25 tons over a rolling 5-year period without providing offsets for same. This would result in a maximum extra 100 TPY increase after 5 years of both NO_x and VOC into the emissions inventory if all the Major Facilities utilized such provisions to the maximum extent. Such increase would clearly need to be reduced or otherwise accounted for such that the attainment date of 2032 for the 70 ppb O₃ NAAQS could be achieved.

The AVAQMD hereby asserts that the inclusion of the so called De Minimis provisions would result in a weakening of the NSR program and thus would be considered a back off under FCAA section 110(l). In addition, the addition of such a provision would result in a violation of California Health & Safety Code §40918(a)(1) which requires the AVAQMD stationary source control programs to “achieve no net increase in emissions of nonattainment pollutants.” Given the dearth of reductions available in the AVAQMD there is no conceivable method by which the AVAQMD could provide enough reductions to “fund” a De Minimis provision as proposed by USEPA and still have “no net increase” as required by California Law. Even if the AVAQMD could provide enough emissions reductions to fund such a De Minimis provision the fact that there was no previous provision in the AVAQMD NSR Program would result in a violation of the Protect California Air Act of 2003.⁸⁷ This provision of California law specifically prohibits local air districts from amending or revising its New Source Review rules to be less stringent

⁸⁵ 42 U.S.C. 7511a(c)(6).

⁸⁶ 42 U.S.C. §7416.

⁸⁷ California Health & Safety Code §§42500 et seq.

than those in effect on 12/30/2002.⁸⁸ The addition of a complete exemption from Offsets and BACT requirements as postulated by the De Minimis provisions would clearly fall within the scope of such a prohibited amendment.

The AVAQMD requests specific guidance regarding what additional evidence USEPA would consider appropriate to show greater stringency of the AVAQMD's NSR program than that provided by the cited De Minimis provisions as well as an analysis as to how the AVAQMD could insert such a provision into its NSR program and still comply with the mandates of California law.

10. The Practical Effects of Implementing USEPA's Suggested Corrections Would be Detrimental to Overall Air Quality Both Within the AVAQMD As Well As to Downwind Areas.

As discussed in detail in the AVAQMD NSR Final Staff Report §VI.E.6.a. the implementation of a strict FCAA calculation methodology, including De Minimis provisions, would have a profound negative effect on air quality both in the short term and over time. Major Facilities would not only be able to increase their allowable emissions up to 25 tons per nonattainment pollutant per rolling 5-year period but such calculations would also result in other potentially detrimental practices. Foremost among these other detrimental practices would be so called "Emissions Spiking" where a Major Facility would run its old, outdated, high emitting equipment to the maximum extent possible for a 2-year period prior to making a modification so that the Historic Actual Emissions for such unit would be artificially inflated. Such inflated emissions could then be used not only to self-fund equivalent emissions increases but also be banked to fund future increases in allowable emissions at the facility. The net result is a directly foreseeable increase in allowable emissions both in the short term and post modification. An equally concerning detrimental practice which could result would be the complete failure to upgrade equipment until such time as it fails. Equipment failure, catastrophic or otherwise, is generally not an optimal result for either regulated industry or the health and safety of the general public.

The AVAQMD is requesting that USEPA provide clear and convincing evidence that the implementation of USEPA's suggested corrections would indeed produce a benefit to air quality in the region.

11. The Proposed Limited Disapproval of All Rules Citing AVAQMD Rule 1304(C)(2) is Overbroad.

USEPA has indicated that it is proposing to disapprove AVAQMD Rules 1301, 1302, 1303, 1304 and 1305⁸⁹ primarily due to the provisions of 1304(C)(2) and cross references thereto. This action in effect would disapprove the use of any internal offsetting for any, not just Major, Facilities regardless of the calculation used to determine SERs. While such a disapproval might potentially result in an increase of Emissions Reductions Credits being banked under Rule 1309 and then immediately used it is more probable that it would result in an immediate cessation of all modifications to existing facilities within the District. Thus, the AVAQMD is of the opinion that this action is overbroad. Simply disapproving the use of the provisions in Rule 1304(C)(2)(d) would be enough to alleviate USEPA's stated concerns and allow the remainder of the NSR program to be approved in a manner and to an extent that it could be included to satisfy the 70 ppb O₃ 2015 requirements.

⁸⁸ California Health & Safety Code §42504(a).

⁸⁹ 88 FR 5826, 5831, 1/30/2023.

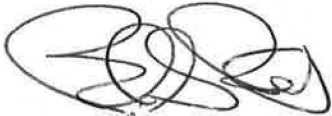
Finally, the AVAQMD requests that USEPA provide further justification regarding why a more limited disapproval of the provisions contained in Rule 1304(C)(2)(d) would be insufficient to address USEPA's alleged deficiencies as set forth in the above referenced NPRM.

12. The Issues with the AVAQMD NSR Program are Substantially Similar to Those Raised in the Notice of Proposed Rulemaking for the MDAQMD's NSR Program.

The AVAQMD must note that the issues raised by USEPA in the NPRM are substantially similar if not identical to those raised in the proposed Notice of Limited Approval/Limited Disapproval of the MDAQMD's NSR Program.⁹⁰ As such, any resolution of the issues for the MDAQMD would presumably be similarly applied to the AVAQMD's program. Therefore, the AVAQMD would request that USEPA not finalize this current action until the MDAQMD's issues are resolved. If such a delay is not possible, however, the AVAQMD would request that USEPA not object to the consolidation of a challenge to this action in any future potential litigation with any potential litigation involving the MDAQMD's issues.

Thank you in advance for your consideration of these comments. If you have any questions or wish to discuss please feel free to contact me at (661) 723-8070 x22.

Sincerely,



Bret Banks
Air Pollution Control Officer
Antelope Valley AQMD

Cc: Martha Guzman, Regional Administrator, USEPA Region IX
Elizabeth Adams, Director – Air & Radiation Division USEPA Region IX
Steve Cliff, Executive Director, CARB
Brad Poiriez, Executive Director/APCO Mojave Desert AQMD

⁹⁰ 87 FR 72434, 11/25/2022; Docket No. EPA-R09-OAR-2022-0338.



R. REX PARRIS
MAYOR

MARVIN CRIST
VICE MAYOR

KEN MANN
COUNCIL MEMBER

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February 28, 2023

The Honorable Michael Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Subject: USEPA's Proposed Air Plan Approval and Limited Approval-Limited Disapproval;
California; Antelope Valley Air Quality Management District; Stationary Source Permits; New
Source Review (Docket # EPA-R09-OAR-2022-0427)

Dear Administrator Regan,

The City of Lancaster respectfully submits this letter adopting and joining in the comment letter submitted by the Antelope Valley Air Quality Management District (AVAQMD) with regard to the above-captioned action.

It is our understanding that the AVAQMD has submitted a comment letter dated 2/28/2023. The City of Lancaster would like to reiterate these comments in their entirety. For all of the reasons set forth in AVAQMD's comment letter, the City requests that USEPA approve AVAQMD's portion of the California State Implementation Plan as submitted.

Thank you in advance for your consideration of these comments.

Sincerely,

R. Rex Parris
City of Lancaster



PALMDALE
a place to call home

February 28, 2023

LAURA BETTENCOURT
Mayor

ANDREA ALARCÓN
Mayor Pro Tem

RICHARD J. LOA
Councilmember

AUSTIN BISHOP
Councilmember

ERIC OHLSEN
Councilmember

38300 Sierra Highway

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The Honorable Michael Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

RE: USEPA's Proposed Air Plan Approval and Limited Approval-Limited Disapproval; California; Antelope Valley Air Quality Management District; Stationary Source Permits; New Source Review (Docket # EPA-R09-OAR-2022-0427)

Dear Administrator Regan,

The City of Palmdale respectfully submits this letter adopting and joining in the comment letter submitted by the Antelope Valley Air Quality Management District (AVAQMD) with regard to the above-captioned action.

It is our understanding that the AVAQMD has submitted a comment letter dated February 28, 2023. The City would like to reiterate these comments in their entirety. For all of the reasons set forth in AVAQMD's comment letter, the City requests that USEPA approve AVAQMD's portion of the California State Implementation Plan as submitted.

Thank you in advance for your consideration of these comments.

Sincerely,


Laura Bettencourt
Mayor for City of Palmdale



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
(ENERGY, INSTALLATIONS AND ENVIRONMENT)
1000 NAVY PENTAGON
WASHINGTON, DC 20350-1000

U.S. Environmental Protection Agency
EPA Docket Center
Docket ID No. EPA-R09-OAR-2022-0427
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Sir or Madam:

SUBJECT: Air Plan Approval and Limited Approval-Limited Disapproval; California; Antelope Valley Air Quality Management District; Stationary Source Permits; New Source Review; Proposed Rule, 40 CFR Part 52, FED. REG. 5826 (January 30, 2023)

This letter provides the Department of Defense (DoD) comment on the Air Plan Approval and Limited Approval-Limited Disapproval; California; Antelope Valley Air Quality Management District; Stationary Source Permits; New Source Review; Proposed Rule. The comment was prepared by the DoD Clean Air Act Services Steering Committee, which represents the Departments of the Army, Navy, and Air Force, as well as several other DoD components and agencies.

We appreciate the opportunity to work with the Environmental Protection Agency (EPA) during the rulemaking on the New Source Review.

DoD's comment is provided in Attachment A. My technical point of contact for this matter is Mr. Abe Nachabe, Chair of the DoD Clean Air Act Services Steering Committee, at (571) 275-9670 or email abe.h.nachabe.civ@us.navy.mil.

Sincerely:

Karnig Ohannessian
Deputy Assistant Secretary of the Navy
(Environment and Mission Readiness)

Copy to:
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Attachment A
Air Plan Approval and Limited Approval-Limited Disapproval; California; Antelope Valley Air Quality Management District; Stationary Source Permits; New Source Review Proposed Rule
Docket ID No. EPA-R09-OAR-2022-0427

Comment: Section II.D.1, page 5831 of the proposed rule, EPA states “Calculating emissions decreases using a potential emissions baseline allows reductions “on paper” that do not represent real emissions reductions. Under the CAA, such paper reductions cannot be used to offset actual emission increases.”

DoD believes that emissions that are previously offset through an approved New Source Review regulation represent actual emission reductions as required by CAA section 173(c)(1), and as such, can be used for calculating emission reductions pursuant to 1304(C)(2)(d). Fully offset emissions are not "paper reductions;" they represent actual reduction in emissions, banked and used following approved regulatory procedures. The removal of this provision would create a discriminatory situation, where a facility that has previously provided offsets for emission sources/processes is not differentiated from one that has received a permit without providing offsets.

Recommendation: DoD requests EPA reconsider this change so that facilities have the incentive and flexibility to modify and replace older emission sources to improve the air quality and achieve military mission requirements.

Lockheed Martin Aeronautics Company
1011 Lockheed Way, Mail Zone 0117
Palmdale, CA 93599

Robert H. Plesich, Sr. Manager
Environment, Safety & Health

In reply, please refer to ENV0301/007

March 1, 2023

Shaheerah Kelly
Permits Office (Air-3-1)
U.S. Environmental Protection Agency Pacific Southwest, Region IX
75 Hawthorne St.
San Francisco, CA 94105

Re: USEPA's Proposed Approval, Limited Approval and Limited Disapproval of California Air Plan Revisions; Antelope Valley Air Quality Management District; Stationary Source Permits Docket ID No. USEPA-RO9-OAR-2022-0427

This letter respectfully provides Lockheed Martin Aeronautics Company – Palmdale (“Lockheed Martin Aero”) comments on the 40 CFR Part 52 Limited Disapproval of the Antelope Valley Air Quality Management District (“AVAQMD”) revision to the State Implementation Plan. Our comments follow:

1. The Proposed Rulemaking Identifies Alleged Deficiencies that are Currently Approved into the SIP Without Explanation Regarding Why Previously Approved Provisions are Now Inappropriate

As USEPA notes, there already is a version of the AVAQMD NSR Program that was approved by USEPA into the SIP. The Clean Air Act has not been amended since 1990 and Lockheed Martin Aero has not identified any federal regulatory changes or USEPA guidance that provide a basis for determining that the current rules are deficient. Lockheed Martin Aero would appreciate an analysis and rationale for the changes to USEPA interpretations that render the previously-approved NSR program provisions now unacceptable.

2. Simultaneous Emission Reductions (SERs) Calculation Methodology Incorrectly Asserts “Paper Reductions”:

USEPA is proposing to disapprove the use of “potential to emit” (PTE) for fully offset sources for calculating Simultaneous Emission Reductions (SERs) pursuant to 1304(C)(2)(d).

USEPA states that SERs “calculated pursuant to 1304(C)(2)(d) and used as offsets pursuant to 1301(AAA) and 1305(C)(2) may not be real reductions in actual emissions as required by CAA section 173(c)(1), because the provision allows an Emission Unit’s potential to emit, rather than historic actual emissions to be used as the baseline for the calculations. Calculating emissions decreases using a potential emissions baseline allows reductions “on paper” that do not represent real emissions reductions. Under the CAA, such paper reductions cannot be used to offset actual emission increases. Moreover, since SERs calculated using a potential to emit baseline are not based on real reductions in



actual emissions as required in CAA section 173(c)(1), it makes offsets that rely on the use of such SERs deficient.”

USEPA’s disapproval states that this deficiency may be corrected by using HAE or actual emissions to calculate SERs, rather than PTE. USEPA would require the use of HAE or actual emissions even where a particular Emissions Unit has already been offset in a past NSR permitting action.

Lockheed Martin Aero takes issue with the argument that taking credit for these previously offset sources does not represent “real reductions.” The Lockheed Martin Aero facility emission limit, as well as several individual permit limits, were created as a result of the shutdown of the Lockheed Martin Burbank complex (the heritage Lockheed Aircraft Company) that included four significant aerospace manufacturing facilities. At the time of the Burbank shutdown, Lockheed Martin Aero was under the jurisdiction of the South Coast AQMD. As such, ERCs were calculated pursuant to SCAQMD Rule 1306 (e)(2) based on “actual emissions that occurred each year during the two-year period immediately preceding the date of permit application, or other appropriate period determined by the Executive Officer or designee to be representative of the source’s cyclical operation, and consistent with federal requirements” and included all adjustments or discounts required as well as payment of any remaining NSR balances. These were not “paper reductions” but were instead real emissions reductions calculated by AQMD engineers after an exhaustive review of the application data. To now determine those reductions as “paper” reductions is without merit.

3. The AVAQMD’s NSR Rules Assure that Increased Emissions are Offset by Enforceable Reductions in Actual Emissions

The Clean Air Act and its implementing regulations require that emission increases from new and modified sources in nonattainment areas are offset by emissions reductions that:

- (1) are “in effect and *enforceable*” (CAA § 173(c) (emphasis added));
- (2) are “creditable to the extent that the *old level* of actual emissions . . . exceeds the new level of actual emissions” (40 CFR 51.165(a)(1)(vi)(E)(1) (emphasis added)); and
- (3) amount to the sum of “the difference between allowable emissions after the modification . . . and the *actual emissions before the modification*” (40 CFR(a)(3)(ii)(I) (emphasis added)).

Despite USEPA’s reservations about the AVAQMD’s use of a PTE baseline for calculating SERs for previously offset sources, the AVAQMD’s rules do just as the Clean Air Act requires. The AVAQMD’s SER calculations are in fact what turn temporary and unenforceable reductions into actual, permanent, and enforceable reductions, which may be properly credited as offsets or against emission increases when measuring a net emissions increase.

4. USEPA’s Suggested Corrections Could Limit the Ability to Modernize, Which Would Be Detrimental to Air Quality

As USEPA is aware, there are no available ERCs in the AVAQMD. Inter-district ERCs are governed by the requirements of California Health and Safety Code section 40709.6. California Health and Safety Code section 40709.6 requires the following for Inter-district ERCs:

- (1) The stationary source to which the emission reductions are credited is located in an upwind district that is classified as being in a worse nonattainment status than the downwind district
- (2) The stationary source at which there are emission increases to be offset is located in a downwind district that is overwhelmingly impacted by emissions transported from the upwind district
- (3) The inter-district transfer must be approved by the governing boards of both districts.

Only South Coast and San Joaquin meet these requirements for facilities located in the Antelope Valley. South Coast will no longer approve transfers out of its air basin and it is becoming increasingly difficult to locate sufficient offsets in San Joaquin to support Lockheed Martin Aero projects. Additionally, *Sierra Club v. USEPA*, 985 F.3d 1055 (D.C. Cir. 2021) and USEPA's subsequently revised regulations at 40 CFR 51.165(a)(11) have made Inter-precursor Trading between Ozone precursors impermissible making locating sufficient offsets even more unlikely.

At that time of the relocation to Palmdale Lockheed Martin Aero built two new buildings, which still house the facility's two largest painting facilities, and both were equipped with state-of-the-art control technology. One of those technologies has since been replaced with a more energy efficient technology and Lockheed Martin Aero is preparing to replace the second as it reaches the end of its useful life. Eliminating the use of potential to emit as HAE for previously offset sources makes this and any future modernization impossible due to the complete lack of availability of VOC offsets in this or any upwind district.

5. The Results of this SIP Disapproval Could Limit Modernization and Growth at a Crucial Time for Lockheed Martin Aero, a Major Defense Contractor

The AVAQMD has provided more than appropriate evidence in its staff report and supporting analyses that its entire NSR Program is fully compliant with the Clean Air Act and in fact results an overall more stringent set of requirements than what is required by the Clean Air Act. Given this, USEPA's proposed disapproval is not only unnecessary to protect air quality, but it could also result in significant unintended consequences.

Lockheed Martin Aero has plans to add productive capacity and jobs at the Palmdale facility. Limiting that growth could have much broader ramifications including the ability to meet our contractual obligations to the United States Department of Defense that are important to national security.

Lockheed Martin Aero appreciates the need to continue to make progress toward attaining emissions standards and it is proud of the obligations and efforts it has undertaken in support of attainment goals. We do not believe there is evidence that USEPA's disapproval will produce benefits to air quality in the region, and we instead encourage USEPA to approve the Rules as submitted and to focus its efforts on mobile and other underregulated sources in the AVAQMD within USEPA's purview.

Thank you in advance for your consideration of these comments. We would appreciate the opportunity to meet with OAR/Region 9 personnel to further explain the challenges of the proposal.

If you have any questions or wish to discuss, please feel free to contact me at (661) 289 – 8957 or at Robert.H.Plesich@lmco.com.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Plesich". The signature is fluid and cursive, with a large initial "R" and a long, sweeping underline.

Robert Plesich
Environmental Health & Safety Senior Manager

cc: Marci Stepman, Verdant Environmental

Northrop Grumman Corporation
3520 East Avenue M
Palmdale, CA 93550
northropgrumman.com

February 28, 2023

The Honorable Michael Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Re: USEPA's Proposed *Approval, Limited Approval and Limited Disapproval of California Air Plan Revisions; Antelope Valley Air Quality Management District; Stationary Source Permits* Docket ID No. EPA-R09-OAR-2022-0427-0001

This letter respectfully provides Northrop Grumman Corporation's (Northrop Grumman) comments on the 40 CFR Part 52 Limited Disapproval of the Antelope Valley AQMD revision to the State Implementation Plan. Our comments follow:

1. The Proposed Rulemaking Identifies Alleged Deficiencies Which are Currently Approved Into the SIP Without Explanation Regarding Why Previously Approved Provisions are Now Inappropriate

As USEPA notes, there already is a version of the AVAQMD NSR Program which was approved by USEPA into the SIP. The Clean Air Act has not been amended since 1990, and Northrop Grumman has not identified any federal regulatory changes or EPA guidance that provide a basis for determining that the current rules are deficient. Northrop Grumman would therefore appreciate an analysis and rationale for the changes to USEPA interpretations which render the previously approved NSR program provisions now unacceptable.

2. Simultaneous Emission Reductions (SERs) Calculation Methodology Incorrectly Asserts "Paper Reductions":

EPA is proposing to disapprove the use of "potential to emit" (PTE) for fully offset sources for calculating Simultaneous Emission Reductions (SERs) pursuant to 1304(C)(2)(d).

EPA states that SERs "calculated pursuant to 1304(C)(2)(d) and used as offsets pursuant to 1301(AAA) and 1305(C)(2) may not be real reductions in actual emissions as required by CAA section 173(c)(1) because the provision allows an Emission Unit's potential to emit, rather than historic actual emissions to be used as the baseline for the calculations. Calculating emissions decreases using a potential emissions baseline allows reductions

“on paper” that do not represent real emissions reductions. Under the CAA, such paper reductions cannot be used to offset actual emission increases. Moreover, since SERs calculated using a potential to emit baseline are not based on real reductions in actual emissions as required in CAA section 173(c)(1), it makes offsets that rely on the use of such SERs deficient.”

EPA’s disapproval states that this deficiency may be corrected by using HAE or actual emissions to calculate SERs, rather than PTE. EPA would require the use of HAE or actual emissions even where a particular Emissions Unit has already been offset in a past NSR permitting action.

Northrop Grumman takes issue with the argument that taking credit for these previously offset sources does not represent “real reductions.” The Northrop Grumman facility emission limit, as well as several individual permit limits, were created as a result of the shutdown of a Ford Motor Company plant in Pico Rivera as well as the shutdown of the Lockheed Martin Burbank facility. At the time of the Ford and Lockheed shutdowns, Northrop was under the jurisdiction of the South Coast AQMD. As such, ERCs were calculated pursuant to SCAQMD Rule 1306 (e)(2) based on “actual emissions that occurred each year during the two-year period immediately preceding the date of permit application, or other appropriate period determined by the Executive Officer or designee to be representative of the source’s cyclical operation, and consistent with federal requirements” and included all adjustments or discounts required as well as payment of any remaining NSR balances. These were not “paper reductions” but were instead real emissions reductions calculated by AQMD engineers after an exhaustive review of the application data. To now determine those reductions as “paper” reductions is without merit.

3. The District’s NSR Rules Assure that Increased Emissions are Offset by Enforceable Reductions in Actual Emissions

The Clean Air Act and its implementing regulations require that emission increases from new and modified sources in nonattainment areas are offset by emissions reductions that:

- (1) are “in effect and **enforceable**” (CAA § 173(c) (emphasis added));
- (2) are “creditable to the extent that the **old level** of actual emissions . . . exceeds the new level of actual emissions” (40 CFR 51.165(a)(1)(vi)(E)(1) (emphasis added)); and
- (3) amount to the sum of “the difference between allowable emissions after the modification . . . and the **actual emissions before the modification**” (40 CFR(a)(3)(ii)(J) (emphasis added)).

Despite EPA’s reservations about the District’s use of a PTE baseline for calculating SERs for previously offset sources, the District’s rules do just as the Clean Air Act requires. The District’s SER calculations are in fact what turn temporary and unenforceable reductions into actual, permanent, and enforceable reductions, which may

be properly credited as offsets or against emission increases when measuring a net emissions increase.

4. EPA's Suggested Corrections Could Limit the Ability to Modernize Which Would Be Detrimental to Air Quality

As EPA is aware, there are no available ERCs in the AVAQMD. Interdistrict ERCs are governed by the requirements of California Health and Safety Code section 40709.6. California Health and Safety Code section 40709.6 requires the following for Interdistrict ERCs:

- (1) The stationary source to which the emission reductions are credited is located in an upwind district that is classified as being in a worse nonattainment status than the downwind district.
- (2) The stationary source at which there are emission increases to be offset is located in a downwind district that is overwhelmingly impacted by emissions transported from the upwind district.
- (3) The interdistrict transfer must be approved by the governing boards of both districts.

Only South Coast and San Joaquin meet these requirements for facilities located in the Antelope Valley. South Coast will no longer approve transfers out of their air basin and it is becoming increasingly difficult to locate sufficient offsets in San Joaquin to support Northrop Grumman projects. Additionally, *Sierra Club v. EPA*, 985 F.3d 1055 (D.C. Cir. 2021) and EPA's subsequently revised regulations at 40 CFR 51.165(a)(11) have made Interprecursor Trading between Ozone precursors impermissible, making locating sufficient offsets even more unlikely.

Northrop Grumman recently installed a large new paint hangar equipped with carbon adsorption to meet the Regulation XIII BACT requirement and is in the process of designing another that will also be equipped with a regenerative thermal oxidizer to meet BACT. Eliminating the use of potential to emit as HAE for previously offset sources would make this modernization impossible due to the complete lack of availability of VOC offsets in this or any upwind district.

5. The Results of this SIP Disapproval Could Limit Modernization and Growth at a Crucial Time for Northrop Grumman, a Major Defense Contractor

The Antelope Valley AQMD has provided more than appropriate evidence in its staff report and supporting analyses that its entire NSR Program is fully compliant with the CAA and in fact results in an overall more stringent set of requirements than what is required by the CAA. Given this, EPA's proposed disapproval is not only unnecessary to protect air quality, but it could also result in significant unintended consequences.

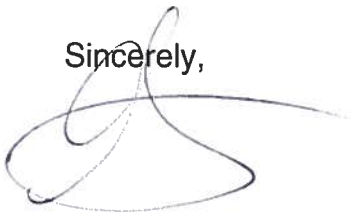
Northrop Grumman is a major aerospace defense contractor that employs nearly 7,000 workers in the Antelope Valley and supports Defense programs such as the F-35 Joint Strike Fighter, Global Hawk, B-2, and the new B-21. The site has plans to add productive

capacity and 1,100 jobs at the Palmdale facility this year, and EPA's proposed disapproval could limit the ability to achieve that growth, which could also have much broader ramifications, including the ability to meet our contractual obligations to the United States Department of Defense that are important to national security.

Northrop Grumman appreciates the need to continue to make progress toward attaining emissions standards, and it is proud of the obligations and efforts it has undertaken in support of attainment goals. We do not believe there is evidence that EPA's disapproval will produce benefits to air quality in the region, and we instead encourage EPA to approve the Rules as submitted and to focus its efforts on mobile and other underregulated sources in the AVAQMD within EPA's purview.

Thank you in advance for your consideration of these comments. If you have any questions or wish to discuss, please feel free to contact me at george.jung@ngc.com or at (661) 266-5394.

Sincerely,

A handwritten signature in black ink, appearing to read 'George Jung', with a large, sweeping flourish extending to the right.

George Jung,
Senior Principal Engineer, ESH
Northrop Grumman Corporation