

State of California  
**Air Resources Board**

**BOARD ITEM SUMMARY**

**ITEM # 20-6-6:           Public Meeting to Consider the California Air Resources Board Review of the San Joaquin Valley Air Pollution Control District Emission Reduction Credit Program**

**STAFF RECOMMENDATION:**

Staff recommends that the California Air Resources Board (CARB or Board) adopt Resolution 20-11, which directs staff to:

- Participate in San Joaquin Valley Air Pollution Control District's (SJVAPCD or District) Public Process to address the findings in CARB's staff report, and report back to the Board on implementation of the District's commitments as described in their letter to CARB, by March 2020.
- Convene a multi-district, California Air Pollution Control Officers Association, CARB and stakeholder working group to describe the implementation of New Source Review (NSR) programs including Best Available Control Technology (BACT) in California and opportunities to optimize the systems for regional and community-scale effectiveness.
- Develop and implement a program to selectively comment in public and in writing on permitting actions and rule and policy development at local air districts to improve our understanding and communication on the implementation of local programs.

**DISCUSSION:**

On January 24, 2019, the Board directed staff to conduct a review of the District's Emission Reduction Credit (ERC) program. The goal of this project was to review the SJVAPCD ERC system, including the equivalency determination, and explain it in the context of the broader District program for reducing emissions from stationary sources including NSR, permitting, and regulatory requirements.

CARB staff has shared the findings of its review with the District management and discussed with the District leadership the need to update the District's ERC program and processes to address the following overarching findings.

- The program needs to be more transparent to the public and industry and more rigorous.
- Implementation procedures and policies need to be upgraded.

- Assumptions in the equivalency demonstration need to be reviewed and revised as needed.

In response to these overarching findings, the District has committed to take the following specific steps.

- Develop a new equivalency tracking database, including associated documentation.
- Conduct a public workshop each year, beginning with the 2020 equivalency demonstration, to present the results of the annual equivalency demonstration prior to taking the report to the District's Governing Board.
- Enhance the annual demonstration report to make the report more understandable beginning with the 2020 equivalency demonstration, including more fully characterizing adjustments made to year-to-year carry-overs to ensure the public can better understand all adjustments effective in a tracking year.
- Convene a public advisory working group consisting of affected stakeholders, including regulated Valley businesses, Valley residents, and federal, state, and local public agencies, to assist in developing solutions related to the District's offset equivalency system, as needed to maintain an effective permitting system that allows for strong economic growth and protection of public health.
- Adjust calculated emission reductions from all affected Agricultural Internal Combustion Engine (AG-ICE) incentive projects to reflect the appropriate load-factor and incorporate these adjustments into the 2020 equivalency demonstration. The District will include a discussion of the analysis and adjustments in the 2020 report.
- Analyze the orphan shutdowns projects identified by CARB and make adjustments, as appropriate, for inclusion in the 2020 equivalency demonstration. The District will include a discussion of the analysis and adjustments in the 2020 report.
- Update the District's policies that pertain to the quantification of emissions reductions from orphan shutdowns and ensure procedures and associated staff training maintain consistency with District NSR criteria for creditability of emissions reductions.

CARB staff plans to work with the district as it implements the above commitments as well as periodically update its Board on progress.

## **SUMMARY AND IMPACTS:**

The SJVAPCD was formed in 1992 by the unification of eight individual county districts. Prior to unification, each county had independent rules and requirements and made their own permitting decisions. With unification, the District developed a single set of rules and regulations, including those governing its NSR and ERC programs. While new ERCs issued after unification were developed in a consistent manner, older ERCs generated prior to unification needed to be carried over. These ERCs exist today and may be available to offset new emissions. About half of all NO<sub>x</sub> and VOC ERCs were generated prior to unification.

The unified District adopted its NSR rule in 1991, which diverged from federal requirements in one important respect: under the District rules, the value of an ERC is calculated when the ERC is issued and retains this value over the life of the ERC. This is referred to as “time of issuance” value and was supported by CARB at the time.

Federal law requires an ERC to be valued at time-of-use, but allows local NSR programs to differ from federal NSR so long as the local program is at least as stringent as federal NSR. In order to demonstrate that the District’s NSR program is at least as stringent as federal NSR, in 1999 the United States Environmental Protection Agency (U.S. EPA) and SJVAPCD entered into an agreement requiring the District to implement an annual federal offset equivalency tracking system.

The current SJVAPCD ERC bank contains nearly 11 million pounds per year of NO<sub>x</sub> ERCs when valued at time of issuance, more than 80 percent of which were generated more than 20 years ago. However, over the years, the District’s regulatory program has become more stringent, and the District estimated in 2016 that these NO<sub>x</sub> ERCs, when valued at time-of-use, were worth about 18% of the time of issuance value. This reduction in time of issuance value is directly related to the stringency of the District’s regulatory program. In effect, as the District increases the stringency in its regulatory program, it also reduces the time-of-use value in its ERC bank, which makes achieving equivalency more difficult. To demonstrate equivalency, the District has been increasingly relying on the carry-over of past mitigations and reductions, including past unbanked reductions from orphan shutdowns and electrification projects.

CARB’s review identifies three areas of findings. First, many of the District’s engineering evaluations of ERC and permit applications, and the District’s equivalency database system, can both be more transparent, and rigorous. These documents could be improved by including supporting explanation or documentation. Staff also identified calculation discrepancies in electrification projects and orphan<sup>1</sup> shutdowns used for offset equivalency. These issues could be avoided through stronger review procedures.

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<sup>1</sup> Orphan shutdowns are unclaimed emission reductions from a facility surrendering all their operating permits.

Second, the District should make adjustments to how it implements its rule for the timeliness of ERC application submittals and could be more rigorous in its determination of surplus reductions in individual ERCs. For example, in 15 of the 52 ERC projects reviewed, the District granted ERCs, generated by facility shutdowns, in which emissions ceased more than 180 days before submission of the ERC application. This is consistent with the District's long-standing policy, but CARB staff interpret the District's rule as requiring an ERC application to be submitted within 180 days of the shutdown.

In the third set of findings, staff identified issues in the District's equivalency demonstration. The District relies on electrification projects, generated through the AG-ICE incentive program, to demonstrate NO<sub>x</sub> equivalency with federal requirements. In calculating and claiming credit for these projects, the District used an incorrect load factor, resulting in an overvaluing of reductions in the equivalency demonstration. CARB staff also concluded that potentially half of the credited projects appeared to be funded in part through the Carl Moyer program.

The issues identified in this report are substantial and complex, potentially impacting a wide array of stakeholders in the San Joaquin Valley including residents of the Valley, industries that rely on offsets and ERCs in order to expand or build new business, environmental organizations who advocate for cleaner air, and community groups representing those living near stationary and mobile sources who are impacted the most by emissions at the local level.