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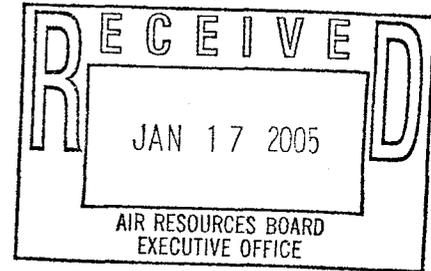
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January 13, 2006

VIA U.S. MAIL

Catherine Witherspoon
Executive Officer
California Air Resources Board
P.O. Box 2815
Sacramento CA 95812



Re: Petition for Public Hearing on San Joaquin Valley Air Pollution Control District New Source Review Rule (Rule 2201)

Dear Ms. Witherspoon:

On December 15, 2005, the Governing Board of the San Joaquin Valley Air Pollution Control District ("District") approved amendments to Rule 2201 in order to implement changes in its New Source Review ("NSR") program.¹ California Unions for Reliable Energy ("CURE") unsuccessfully commented on the District's rule change, and now petitions the California Air Resources Board to hold a public hearing and restore the pre-existing rule, on grounds that certain aspects of the rule violate S.B. 288 by impermissibly weakening the District's existing NSR requirements.² As evidenced by its title, the rule adopts portions of Environmental Protection Agency's ("EPA") 2002 NSR reform regulations, regulations which the California Legislature has already determined constitute a *per se* weakening of the state's NSR program.³

S.B. 288 prohibits air districts from amending their new source review rules "to be less stringent than those that existed on December 30, 2002."⁴ The statute also requires California's Air Resources Board ("ARB") to hold a public hearing to

¹ Memorandum from David L. Crow, Executive Director APCO to SJVUAPCD Governing Board (December 15, 2004).

² S.B. 288 is codified at California Health and Safety Code § 42500 et seq.

³ Health & Saf. Code § 42501(e).

⁴ Health & Saf. Code § 42504(a).

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determine whether a given District's changes to its NSR rules are equivalent to, or more stringent than, those that existed on December 30, 2002.⁵ If not, the ARB is required to promptly adopt for the district rules required to establish equivalency.⁶

CURE and the Center on Race, Poverty & the Environment specifically ask that the ARB hold a public hearing, determine that the District's rule changes concerning its definitional distinction between "major modifications" and "federal major modifications" for applicability to NSR requirements (relaxing baseline), its relaxation of certification of statewide compliance, and its changes to tracking of offsets (resulting in a relaxation of offset requirements) are unlawful under S.B. 288, and restore the pre-existing NSR rules.

I. Petitioners California Unions for Reliable Energy and the Center on Race, Poverty & the Environment

CURE is a coalition of unions whose members construct, maintain and operate power plants in California, including power plants located in the San Joaquin Valley. Any changes to the District's rules affect the way power plants are permitted within the District. These changes impact union members' economic and environmental interests. For example, degradation of air quality jeopardizes future jobs by causing construction moratoria, discouraging future development, and putting other stresses on the environmental carrying capacity of the state.

The Center on Race, Poverty & the Environment is a non-profit environmental justice advocacy organization with offices in San Francisco and in Delano, located in the southern portion of the San Joaquin Valley. Since 2001, the Center has advocated for air quality and public health before the District, including New Source Review permitting of modified agricultural stationary sources. The Center's Delano staff, its Advisory Board, and its clients all live, work, recreate, and breathe in the Valley.

The San Joaquin Valley suffers from some of the worst air quality in the nation. Over the last five years, the Valley has violated the 8-hour ozone National Ambient Air Quality Standard more times than any other air basin. The American Lung Association ranks the San Joaquin Valley counties of Kern, Fresno, Tulare,

⁵ California Air Resources Board Guidance, New Source Review and Senate Bill 288 (August 2004).

⁶ Health & Saf. Code § 42504(a).

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and Merced as the 2nd, 3rd, 5th, and 7th most ozone-polluted counties in the United States, respectively.⁷

Like the public at large, unions have an interest in helping to avoid changes in the law that would further diminish air quality, and lead to environmentally detrimental projects. For these reasons, CURE and the Center ask that the ARB hold a public hearing in order to determine whether the District's revised Rule 2201 weakens California's NSR requirements.

II. EPA's Rollback of New Source Review Under the Clean Air Act

On December 31, 2002, EPA issued a final regulation which substantially weakened the federal NSR program.⁸ EPA made numerous changes to its existing rules. For example, under the old rule, sources determined past actual emissions by averaging their annual emissions during the two years immediately prior to the change. In contrast, the new rule allowed sources to determine past actual emissions by averaging annual emissions of *any* two consecutive years during the ten years prior to the change.⁹

III. California's Response to EPA's NSR Reform

The California legislature responded to EPA's rule change by adopting S.B. 288. As discussed above, the statute's purpose is to ensure that California's NSR requirements remain as stringent as those in place on December 30, 2002, before EPA's rule changes. Importantly, S.B. 288 is consistent with federal law because the federal Clean Air Act expressly allows states to impose clean air requirements that are more stringent than the federal program.¹⁰ Specifically, S.B. 288 provides:

The recent revisions to the federal new source review regulations provide that the states may adopt permitting programs that are "at least as stringent" as the new federal "revised base program," and that the federal regulations "certainly do not have the goal of 'preempting' State creativity or innovation."¹¹

⁷ American Lung Association, State of the Air: 2005 at Table 3b.

⁸ Health & Saf. Code § 42501(e); *see also* 40 C.F.R. § 52.21 *et seq.*

⁹ 40 C.F.R. § 52.21(b)(48)(ii).

¹⁰ 42 U.S.C. § 7416; CAA § 116.

¹¹ Health & Saf. Code § 42501(i) *citing* 67 Fed. Reg. 80241 (Dec. 31, 2002).

California's NSR program is among the nation's most effective.¹² Consistent with federal law, the California legislature, through its adoption of S.B. 288, seeks to maintain the state's innovative technology-based approach to NSR by prohibiting any air district from relaxing specific program requirements.

IV. Air Resources Board Review Pursuant to S.B. 288

The ARB is the agency charged with reviewing the efforts of the air pollution control districts. With respect to the state NSR program, ARB must ensure that district NSR rules and regulations are equivalent to, or more stringent than, those that existed on December 30, 2002 and to promptly adopt rules necessary to establish equivalency if they are not. Indeed, the ARB is required to establish "equivalent" NSR rules if districts weaken their programs.¹³ According to ARB guidance, proposed revisions to district NSR programs are reviewed in the context of the letter and spirit of S.B. 288.¹⁴

Health and Safety Code section 42504 establishes two standards by which ARB reviews district rules. First, section 42504(a) contains a general prohibition against air districts amending their new source review rules to be less stringent than those that existed on December 30, 2002. This is a "catch-all" provision that applies to any NSR revisions except for those expressly provided for in 42504(b) and (c). Under those provisions, air districts may only amend their NSR rules if the new requirements are "**more stringent**" than those that existed on December 30, 2002,¹⁵ if the new requirements amend:

- (1) **Any requirements to obtain new source review or other permits to construct, prior to commencement of construction.**
- (2) Any requirements for BACT.
- (3) Any requirements for air quality impact analysis.
- (4) Any requirements for recordkeeping, monitoring and reporting in a manner that would make recordkeeping, monitoring, or reporting less representative, enforceable, or publicly accessible.
- (5) Any requirements for regulating any air pollutant covered by the new source review rules and regulations.

¹² *Id.* at section 42502(f).

¹³ ARB Guidance, at p. 4.

¹⁴ ARB Guidance, at p. 4.

¹⁵ Health & Saf. Code § 42504(c).

- (6) Any requirements for public participation, including a public comment period, public notification, public hearing, or other opportunities or forms of public participation, prior to issuance of permits to construct.¹⁶

Therefore, any district changes to NSR rules must be at least as stringent as the existing requirements, or, where a district amends its NSR rules covering the enumerated items above, it may only do so if its new rules are more stringent than those in place on December 30, 2002.¹⁷

V. San Joaquin Valley Air Pollution Control District's Rule 2201

The District's amended NSR rule 2201 violates S.B. 288 by impermissibly weakening the definition of "major modification," which in turn creates new exemptions to the District's NSR requirements allowing sources to evade certification of statewide compliance. Similarly, the District's unnecessary change to section 7 of the rule 2201 weakens the existing offset program.

I. Rule 2201 Exempts Certain Projects From Certification of Statewide Compliance Resulting in Potentially Adverse Impacts on Air Quality

Originally, Rule 2201's section 4.15 required a certification of statewide compliance for all facilities owned by one company before any new project proposed by that company could be approved by the District. However, as amended, section 4.15 now distinguishes between "new Major Sources" and "Federal Major Modifications" so that "major modifications" that are not "Federal Major Modifications" can "escape certain federal-only requirements" including statewide

¹⁶ Health & Saf. Code § 42504(b)(2)(A-F).

¹⁷ The statute does provide a set of narrow exceptions whereby a district may adopt less stringent rules, but none of those exceptions apply here. They are:

- (1) Replacing an existing rule that causes a risk to public health;
 - (2) Replacing an existing rule that has been found unworkable due to engineering or other technical problems;
 - (3) Replacing an existing rule that causes substantial hardship to a business, industry or category of sources;
 - (4) Temporarily replacing a requirement in order to respond to an emergency; or,
 - (5) Replacing a rule in an area that is attaining the national ambient air quality standards if the change will not impair or impede the ability of the area to maintain these standards.
- Health & Saf. Code § 42504(d)(1).

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compliance certifications.¹⁸ This amendment exempts projects that do not meet the proposed new definition of “Federal Major Modification” for applicability of NSR requirements from having to provide statewide certification of compliance. As a result, the new rule allows a company to apply for and receive permits for a project at one of its existing facilities (as long as it does not qualify as a Federal Major Modification) even if that company has another facility in California that is violating the Clean Air Act.

While all regulated sources in California are legally required to comply with the Clean Air Act, violations are common. Since 1996, three-fourths of California’s refineries, mills and other surveyed facilities have committed violations of federal and/or state clean air laws.¹⁹ Under the District’s prior rule, any company with pending Clean Air Act violations at any one of its California facilities would be required to regain compliance with the Act at each of its California facilities before it could be eligible for a permit to construct a project that would constitute a “Federal Major Modification” under the NSR requirements.²⁰ The amended section 4.15 eliminates this requirement for an untold number of projects, and will allow illegal emissions to continue even though the prior rule provided a means to eliminate those excess emissions.

This is so because the amended rule significantly increases the potential universe of projects that will no longer be considered “Federal Major Modifications.” These projects will no longer have to provide a certification of compliance for all of its other California facilities before a permit can be issued and, consequently, before that company can proceed with its project. Therefore, the incentive for companies to achieve compliance at their facilities is removed. As a result, any existing illegal emissions will continue until the company is otherwise ordered to remedy them in some other forum.

¹⁸ San Joaquin Valley Unified Air Pollution Control District, Final Draft Staff Report, Draft Amendments to Rule 2201 (New and Modified Stationary Source Review Rule), p. 5 (November 17, 2005).

¹⁹ Environmental Working Group, Above The Law: How California’s Major Air Polluters (Still) Get Away With It, July 29, 2004.

²⁰ Significance thresholds for a “Federal Major Modification” in the San Joaquin Valley air basin: increase of facility’s potential to emit equal to or more than 50,000 lb/year of NOx or VOCs, 30,000 lb/year of PM10, or 80,000 lb/year of SOx. (SJVUAPCD Rule 2201 Section 3.22.)

a. **Rule 2201's Baseline and Plantwide Applicability Limit Exemptions Increase the Number of Projects That Are Not Considered "Major Modifications"**

The first step in determining whether NSR requirements apply to a proposed modification of an existing source is to determine the baseline of a source's emissions prior to the proposed modification. Any future emissions increase resulting from the proposed modification must be measured against this baseline. Prior to the Rule 2201 amendments, sections 3.7 and 3.8 specified that baseline emissions were, in most cases, a source's historic actual emissions for the two consecutive years of operation prior to application for a new project. In contrast, the new section 3.17 employs the baseline in EPA's NSR reform rule which allows a source to calculate an emission increase by comparing emissions after the modification to the highest average emissions during a consecutive 24-month period over the past 10 years.²¹ **This allows sources to choose the average of the two worst-polluting consecutive years in the past decade, even if current emissions are much lower.** Importantly, this is the baseline sources will use to determine whether a company has to provide a certification of statewide compliance.

In addition, section 3.17.2 now allows facilities to use these artificially inflated emission baselines not just for individual emission sources (*e.g.*, boilers, furnaces, flares), but also as the basis for determining whether a proposed project would increase facility-wide emissions. Specifically, section 3.17.2 allows facilities to use a "plantwide applicability limit" or "PAL" as the basis for determining whether a project constitutes a "major modification." This allows a company to establish a "bubble" around the entire facility. Thus, a PAL exemption will give companies enormous discretion in calculating their own emissions levels.

The practical impact is that many modifications that would be considered "major" under the District's prior rules would not be considered "major" under the rule change because it allows sources to use an artificially inflated decade-old historic baseline as the PAL instead of current actual or permitted emissions. For example, say Company X has several facilities located in the San Joaquin Valley air basin. At Facility A, current NO_x emissions levels are 695 tons per year ("ton/year"). The company applies for a District permit to construct an expansion project that would increase the facility's NO_x emissions by 175 ton/year. Under the

²¹ 40 C.F.R. § 51.165((a)(1)(xxxv)(B).

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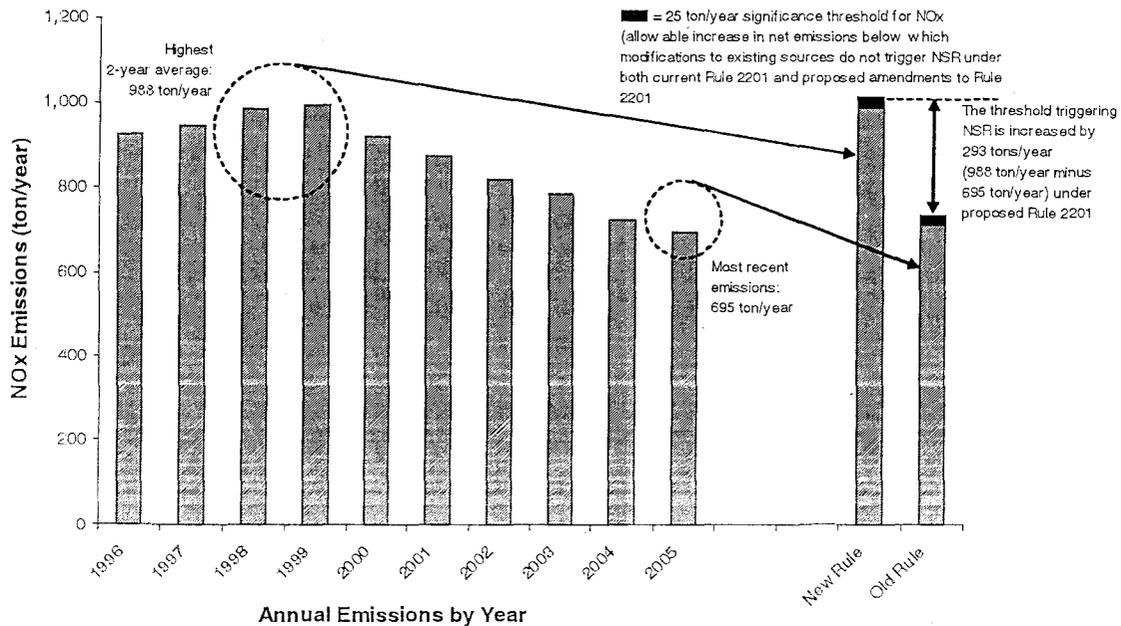
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District's prior rule, this project constitutes a Federal Major Modification because it would exceed the District's NOx significance threshold for net emissions increases of 50,000 lb/year (25 ton/year).²² However, in the years 1998 and 1999, Company X had plant-wide average NOx emissions of 988 ton/year, 293 tons of NOx per year more than its current emission level. The company proposes to use this historic emissions level as its PAL. Therefore, any modifications would be measured against this historic PAL of 988 ton/year of NOx emissions.

The proposed expansion project would increase NOx emissions from currently 695 ton/year by 175 ton/year to 870 ton/year. The project would not be considered a "major modification" because it would not increase the company's emissions above its PAL of 988 ton/year of NOx emissions. In other words, because the project would increase the facility's emissions to less than the 24-month average annual highest plant-wide emission level within the past decade, it would not be considered a Federal Major Modification under the new regulation. The inset figure below illustrates this concept.

²² SJVUAPCD Rule 2201 Section 3.22.

**Hypothetical case for modifications at Company X
illustrating baseline NOx emissions calculations
under the SJVUAPCD's prior Rule 2201
and the new amendments to Rule 2201***



* Adapted from Environmental Integrity Project and Council of State Governments/Eastern Regional Conference, Reform or Rollback? How EPA's Changes to New Source Review Could Affect Air Pollution in 12 States, October 2003.

Company X could obtain permits for a number of modifications at Facility A without ever triggering the new "Federal Major Modification" thresholds, thereby incrementally increasing the facility's emissions level until the highest 24-month average annual emissions level in the past decade plus the NSR significance threshold major modifications for NOx is exceeded (988 ton/year + 25 ton/year = 1013 ton/year). This means that Facility A could potentially implement a number of projects that increase its facility-wide NOx emissions by up to 308 ton/year (1013 ton/year – 695 ton/year + 25 ton/year) without triggering NSR requirements.

This example can be applied to a large number of companies as well as other criteria pollutants. Therefore, one consequence of the amendments to Rule 2201 is an increased number of projects that are no longer considered "major" modifications and therefore no longer require a statewide certification of compliance of all facilities operated by one company.

b. Rule 2201's Elimination of Statewide Compliance for Projects That Are Not "Major Modifications" Eliminates Incentives to Companies to Remedy Clean Air Act Violations At Other California Facilities

As shown above, for an increased universe of projects that will no longer be considered "major modifications," companies with several facilities in California will no longer have to demonstrate statewide compliance. Continuing with the same example above, assume Company X operates Facility B in the South Coast District, and this facility has a number of unresolved CAA violations that result in significant illegal emissions of NO_x of 250 ton/year. The prior San Joaquin District requirements prohibit the proposed expansion project at Company X's Facility A because the company cannot certify that all of its facilities in California are in compliance with the Clean Air Act. Thus the old District rules forced Company X to remedy all of its violations at Facility B (and all of its other California facilities) before it could move forward with the proposed Facility A expansion project. Significantly, the new rule allows Company X to construct and operate its expansion project despite the illegal 250 ton/year NO_x emissions at Facility B.

There are many companies that operate more than one facility in California, which would no longer be required to remedy Clean Air Act violations before they could go forward with a proposed project. For example, oil companies have multiple facilities operating in the San Joaquin Valley air basin, including the Lost Hills Gas Plant (Facility ID# S-43), the South Coles Levee natural gas processing (Facility ID# S-40), Heavy Oil Production in Bakersfield (Facility ID# C-1121), Light Oil Western in Bakersfield (Facility ID# S-1548), and the Heavy Oil Western Stationary Source in Kern County (Facility ID# S-1547), which are all owned and operated by Aera Energy LLC. Chevron USA, Inc. operates four facilities (Facility ID# S-1127, S-1128, S-1129, and S-2199) in San Joaquin Valley, as does J.P. Oil Company, Inc. with four facilities (Facility ID# S-273, S-303, S-307, and S-313) in the district. Other companies with multiple facilities in the San Joaquin Valley air basin include the fertilizer manufacturer J.R. Simplot Company in Helm (Facility ID# 705) and Lathrop (Facility ID# 767); the Silgan Containers Manufacturing Corp. in Stockton (Facility ID# N-764) and Riverbank (Facility ID#N-2174).

In case of unresolved Clean Air Act violations, which are ubiquitous, removing the requirement for statewide compliance at all facilities eliminates a major incentive to these companies to comply with the law.

2. Rule 2201 Relaxes Requirements For Offsets

The District's amendments to Rule 2201 do not directly change any of the requirements for sources to obtain offsets. However, the rule does revise the equivalency tracking system which will have the practical effect of relaxing the District's offset requirements. In order to understand this result, an explanation of the history of the District's offset rule is helpful.

By all accounts, the history of the District's offset program is long and tortured. Years ago, the EPA determined that the program did not meet federal requirements.²³ Rather than amend its offset rule to address EPA's concerns, the District developed an elaborate tracking system to show EPA that even though the District's offset program was in some respects inferior, on balance it achieved similar results.²⁴ Given EPA's misgivings with the program, it required the District to include an enforceable remedy should the District's offset program turn out to be less stringent than EPA's. The remedy requires the District to withdraw banked emission reduction credits if the program failed to require the necessary amount of offsets in a given year.

For purposes of comparing the District's offset rule to EPA's, the entities specifically agreed to use December 19, 2002 as the comparison date for the two programs (explicitly aimed to adhere to EPA's pre-NSR reform rules). Then, without explanation, the District unilaterally changed the comparison date from December 19, 2002 (pre-NSR reform) to December 15, 2005 (meaning the federal rules in effect on December 15, 2005 will be used to compare the two programs) in the new rule. In this way, it will now be much easier for the District to show that the two programs are equivalent because the relaxed federal rules will require fewer creditable offsets. In short, while on the surface this date change appears innocuous, in reality the change will have the effect of relaxing the District's offset program in a manner EPA expressly rejected. Apparently, the District views this date change as the only means available to it to demonstrate equivalency with the federal program. The ARB should not allow the district to engage in such sleight of hand. Instead, the ARB must reinstate December 19, 2002 as the date for program comparison.

²³ Personal communication with Carlos Garcia, technical projects coordinator, SJVUAPCD (numerous telephone calls during November, 2005).

²⁴ Personal communication with Carlos Garcia, technical projects coordinator, SJVUAPCD (numerous dates during November, 2005).

VI. S.B. 288 Clearly Prohibits the District's Changes to Rule 2201

As discussed above, S.B. 288 creates a two-tiered review process by which the ARB reviews districts' changes to their NSR rules. First, section 42504(a) creates a "catch-all" provision that applies to any NSR rule revisions, except for those expressly enumerated in 42504(b). Under the second tier, air districts may only amend specific aspects of their NSR rules if the ARB finds that the new requirements are **more stringent** than those that existed on December 30, 2002.²⁵ Under the catchall provision of section 42504(a), the ARB must ensure that new NSR rules are **no less stringent** than the earlier rules. These are subtle but important distinctions.

With respect to the rule relaxations described above, i.e., the District's separation between "major modifications" and "Federal Major Modifications" (relaxing baseline determinations), the relaxation of statewide compliance, and the relaxation of offset requirements via changes in the equivalency tracking system, all fall within the criteria enumerated in section 42504(b), which requires the ARB to ensure that the challenged provisions are **more stringent** than those which existed on December 30, 2002.²⁶ In short, if at a public hearing ARB finds that the District's rule changes did not strengthen its NSR program, the ARB must promptly adopt new rules for the District.²⁷

Specifically, the three disputed changes fall within section 42504(b)'s mandate that a district may not exempt, relax or reduce "**any requirement to obtain new source review or other permits to construct, prior to commencement of construction.**"²⁸ The statute is also clear that "existing new source review programs require that all new and modified sources, unless specifically exempted, must apply control technology and offset emissions increases as a condition of receiving a permit."²⁹ Since there is no ambiguity in this language, the inquiry ends there.³⁰ Offset requirements and certification of statewide

²⁵ Health & Saf. Code § 42504(c).

²⁶ Health & Saf. Code § 42504(b)(2).

²⁷ *Id.* at § 42504(a).

²⁸ *Id.* at § 42505(b)(2)(A).

²⁹ *Id.* at § 42502(c).

³⁰ *RCJ Medical Services, Inc. v. Bonta* (2001) 91 Cal.App.4th 986, 1005 citing *Chevron, U.S.A. v. Natural Res. Def. Council* (1984) 467 U.S. 837, 842-845 (agencies and courts must give effect to the unambiguously expressed intent of the legislature).

compliance are NSR requirements that must be satisfied prior to commencing construction, and are thus included in the plain language of S.B. 288. Similarly, relaxing the definition of “major modification” not only has the effect of weakening the above two requirements, it is a relaxation of the NSR program expressly prohibited in S.B. 288, i.e. “a district may not change . . . [t]he definition of modification, major modification, routine maintenance, or repair or replacement.”³¹

Even if S.B. 288 were ambiguous, which it is not, the Act’s purpose and legislative history still dictate the same result. Under basic principles of statutory construction, if the legislature’s intent is not precisely clear, the question then becomes one of reasonable interpretation.³² When interpreting a statute for reasonableness, a court, or other reviewing tribunal, must “look to the provision of the whole law, and to its object and policy.”³³ Significantly, for rules of statutory construction, courts have been adamant about the importance of avoiding absurd, odd or unreasonable results.³⁴ In this case, it is certainly reasonable to interpret offsets and certification of statewide compliance, though not expressly enumerated, as within the purview of S.B. 288’s prohibition on relaxing any NSR requirements under section 42405(b)(2)(A). Such a reading is fully consistent with the Act given that its sole purpose is to maintain California’s high NSR standards: “[a]ny rollback of the new source review program, as a result of the federal ‘reforms,’ would exacerbate the continuing air pollution challenges faced by the state and delay attainment of the state and federal ambient air quality standards.”³⁵

S.B. 288’s legislative history only reinforces the Act’s clear intentions:

This bill would place under state law the so-called “New Source Review” program that was substantially changed and weakened last year through the US EPA’s administrative process. The bill will ensure that there is no

³¹ Health & Saf. Code § 42502(b)(1)(B).

³² *Id.* at p. 845.

³³ *RCJ Medical Services, supra*, 91 Cal.App.4th at 1005; citing *Philbrook v. Glodgett*, (1975) 421 U.S. 707, 713.

³⁴ *Id.* at 1007.

³⁵ Health & Saf. Code § 42502(g).

backsliding on California's stringent, but workable clean air standards. The bill will restore the clean air law to the same status it has had for some 25 years until the end of last year."³⁶

This language makes clear that changes of the type contained in Rule 2201 constitute backsliding under S.B. 288, and are expressly prohibited as relaxing requirements which are prerequisites to permits to construct. Importantly, this language covers all requirements, as there are no exceptions in the Act nor in its legislative history.

While ARB has correctly determined that offsets are fully within the purview of S.B. 288, the District asserts that such a reading of the statute is overly broad and inconsistent with its intent. The District errs in its interpretation. As shown above, certification of statewide compliance and offset requirements are within the "requirements" provision of the statute, i.e., no district shall exempt, relax or reduce "any requirement to obtain new source review or other permits to construct, prior to commencement of construction."³⁷ Indeed, the rule amended by the District is entitled, "New and Modified Stationary Source Review," exactly the subject of S.B. 288. Thus the District's interpretation can only be plausible if the statute expressly exempts statewide compliance and offsets, which it does not.

Nothing in the statute or its legislative history indicates that the legislature intended to set apart or exclude statewide compliance or offsets from S.B. 288 protections. In addition, the legislature expressly protected relaxation of the definition of "major modification." Clearly, all three fall within S.B. 288's rubric and are subject to an ARB public hearing and reversal.

³⁶ Sen. Rules Com., Office of Senate Floor Analyses, Unfinished Business Bill No. 288 (2003-2004 Reg. Sess.).

³⁷ *Id.* at § 42505(b)(2)(A).

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VII. Conclusion

The ARB should hold a hearing on the District's amendments to Rule 2201, determine that those amendments violate S.B. 288, and reinstate the pre-existing Rule.

Sincerely,



Gloria D. Smith
Adams Broadwell Joseph & Cardozo
On behalf of CURE



Brent Newell
On Behalf of
Center on Race, Poverty & the Environment

GDS:bh