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April 9, 2008

Mr. Manuel Salinas
San Joaquin Valley Unified Air Pollution Control District
1990 East Gettysburg Avenue
Fresno, CA 93726

RE: CLFP and MCCV Comments Regarding Draft Rules 4320 and 4306

Dear Manuel:

The California League of Food Processors (CLFP) and Manufacturers Council of the Central Valley (MCCV) appreciated the opportunity during the District's March 17, 2008 workshop to raise and discuss a number of issues regarding Draft Rules 4320 and 4306. The purpose of this correspondence is to follow-up on that discussion by summarizing our major concerns and to outline some key areas of importance to food processors.

Industry Concerns with the Draft Rules:

The primary concerns raised by CLFP and MCCV can be summarized as follows:

- For most food processors and many other firms the cost of complying with this rule will be far above the District's NO_x cost effectiveness threshold. Based on both District and industry data the cost of SCR retrofits to reduce emissions from 9 ppmv to 5 ppmv for any size boiler exceed \$24,500 per ton. For boilers with capacities under 100,000 MM Btu/hr, SCR retrofit costs are 2 – 5 times larger than the District's cost effectiveness threshold. The reasons are simple, SCR an expensive technology to install, and the emissions reductions to be gained at this point are limited.
- The cost effectiveness threshold should have a significant role in District policy making decisions. Forcing firms to implement rules with costs that far exceed the threshold sends a clear message to the business community that there are no meaningful economic standards and that future reductions in emissions will be obtained by the District virtually regardless of cost.
- Food processors collectively have over 200 large boilers that have not been retrofit with SCR. The total 10-year cost to retrofit these units may be \$73 million - \$154 million based on the District's cost estimates, even higher using

actual retrofit costs gathered by CLFP and MCCV. This is an enormous burden to place on about 85 companies, most of whom have already made substantial reductions in their NOx emissions.

- If the District continues to use a 10-year cost recovery cycle to assess the cost effectiveness of rules, then the District should provide firms with a full 10 years to fully recover their costs. This is a fundamental compact that must be honored by the District to provide economic and regulatory certainty.
- As a result of modifications to Rule 4306 in 2005 most food processors currently have boiler NOx emissions permit levels of 9 ppmv or lower. Many of these firms only operate on a seasonal basis so the total emissions reductions that will be attained by reducing the emissions limit from 9 ppmv down to 6 ppmv, and then to 5 ppmv, will be quite limited. So, it is our view that the District can provide some compliance flexibility without significantly compromising meeting its emissions reduction goals.
- As a result of the 2005 revisions to Rule 4306 many food processors and other industrial firms made major investments in new ultra low NOx emissions control equipment. These investments were made with the expectation that they would be given sufficient time (at least 10 years) to fully recover their costs before new emissions limits would be imposed. If these firms had known in 2005 that the District would soon move to a 5 ppmv limit then many, or all, would certainly have installed SCR systems instead. These firms should not be penalized with stranded costs because the District keeps pushing up the compliance bar faster than industry can comply.
- Revised Draft Rules 4320 and 4306 do not consider the environmental and regulatory compliance issues associated with the additional production, transport, handling, and storage of ammonia necessary for the use of SCR systems, and the attendant greenhouse gas emissions. The District should ensure that the Draft Rules do not cause other compliance issues for the regulated community.
- The California Health and Safety Code defines Best Available Retrofit Technology (BARCT) as “an emission limitation that is based on the maximum degree of reduction achievable, *taking into account environmental, energy, and economic impacts.*” There are clearly environmental and economic issues with the Draft Rule that should be given full consideration before adoption of Rule 4320.
- As stated previously by CLFP and MCCV, at this point a “one size fits all” approach to regulating this source category is not reasonable. Boiler retrofits require expensive site specific design, and system performance may differ from location to location. CLFP and MCCV believes that the District should acknowledge this technical and economic reality by providing firms with an array of options for compliance that will result in meaningful and timely emissions reductions.

Key Regulatory Concepts Desired by Food Processors

CLFP and MCCV have several proposals as to how the Draft Rule could be modified that would result in timely and substantial emissions reductions in a manner that is more reasonable and cost effective for industry. Some of these concepts were outlined in our January 14, 2008 letter to the District, others are currently being developed. We believe that a meeting with the District is necessary to fully discuss those ideas and how they might be crafted to help the District accomplish its goals. In general, we would like to see the Draft Rule be modified in the several respects:

- Provide more Advanced Emission Reduction Options for facilities than just the Alternative Emissions Fee proposed by the District.
- Provide some flexibility for firms that have installed ultra low NOx boilers since 2005 and will have substantial stranded costs under the terms of the current District proposal.
- Provide some flexibility for firms that have current permit levels of 9 ppmv or less. They have already heavily invested in emissions reductions and further gains will be relatively small and achieved at a very high price. Also, many of these firms are seasonal operations and this limits their ability to recoup large capital investments. The cost effectiveness estimates for these firms are the most unreasonable of any group affected by the Draft Rule. A multi-tier compliance program could be considered based on current NOx permit level.
- Modify the optional Alternative Emissions Fee calculation method to focus on the difference between the current unit permit level and 6 ppmv, and the actual fuel use rather than the permitted amount. The fee structure proposed by the District will yield fees that are so high that they will not be a viable alternative for most facilities.
- Allow firms to use some, or all, of their Alternative Emissions fees to pay for other approved emissions reduction projects at the facility (e.g. forklift retrofits).
- Reassure the regulated community that the cost effectiveness thresholds and 10-year cost recovery cycle implicit in the calculations are important factors in District decisions making and will guide the decision making for this rule.
- Clarify with ARB how the use of ammonia with SCR will impact how ARB calculates a facility's greenhouse gas (GHG) footprint. CLFP and MCCV suggest that in this case ammonia use should not count towards GHG totals because the ammonia is necessary for regulatory compliance.

CLFP and MCCV would like to discuss these issues and concepts in detail with you and District management. We hope that collectively we can craft a rule that can be delivered to the District's Governing Board with the support of both the staff and the stakeholders.

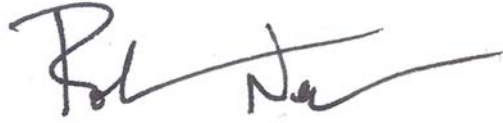
Please contact either of us if you have any questions about this proposal.

Regards,

Sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Jan Marie Ennenga
MCCV Executive Director

A handwritten signature in black ink, featuring the letters 'R' and 'N' in a stylized, cursive font with a long horizontal stroke extending to the right.

Rob Neenan
CLFP Director of Regulatory Affairs