

# Addressing Air Quality Impacts from Development Projects – the San Joaquin Valley’s Indirect Source Review Program

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2012 West Coast Collaborative Partners Meeting



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# Indirect Source Review in the San Joaquin Valley

- Indirect sources are development projects that attract or generate mobile/area source emissions
  - Housing, roads, retail, offices, industrial, etc.
- **Goal**: mitigate emissions from development by encouraging clean-air design that generates less emissions
- Valley Air District first agency in the nation to adopt comprehensive ISR rule in 2005 (Rule 9510)



# Why ISR Rule?

- Given air quality challenge, clear need for all feasible reductions in San Joaquin Valley
- Emissions from population growth and development exacerbate air pollution in the San Joaquin Valley
- Clean Air Act and California Health and Safety Code authorizes the District to adopt and implement regulations to reduce or mitigate indirect source emissions
- Committed to indirect source regulation in 2003 PM10 State Implementation Plan



# ISR Rule Upheld in Courts

ISR rule challenged at state and federal levels and has been upheld by all courts:

- National Association of Home Builders (NAHB) challenged the rule
  - First upheld by federal District Court (2007)
  - Ruling was appealed, and the Ninth Circuit Court of Appeals upheld the rule (2010)
  - NAHB filed a petition asking the U.S. Supreme Court to review the appellate court decision. Supreme Court declined to review it (10/3/2011)
- State Building Industry Association (BIA) filed a separate challenge
  - Superior Court rejected all 11 of the BIA's claims (2008); a decision that upheld on appeal (2009)
  - California Supreme Court refused to grant BIA's petition to review the case (2010)



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# ISR Requirements in a Nutshell

- Strong focus on mitigating construction and operational emissions **on-site** through project design
- If sufficient on-site mitigation is not achieved, then developers must submit mitigation fee to fund off-site emissions reductions
- Construction emissions reductions:
  - 20% NO<sub>x</sub>, 45% PM<sub>10</sub>
- Operational emission reductions:
  - 33% NO<sub>x</sub>, 50% PM<sub>10</sub>
- Off-site mitigation fee (over 10-yr project life):
  - \$9,350/ton of NO<sub>x</sub>
  - \$9,011/ton of PM<sub>10</sub>



# ISR On-Site Mitigation

- Pedestrian - Bicycle infrastructure
  - Project is located within ½ mile of existing or planned bike lanes
  - Bicycle storage, one bicycle parking space for every 10 car parking spaces
  - Install pedestrian sidewalks/paths that connect multiple uses
  - Provide Pedestrian signalization and signage to improve pedestrian safety
- Mass transit infrastructure
  - Project is located within ¼ to ½ mile of transit stop
- Mixed use/density
  - Include high density residential, mixed, or retail/commercial uses on site or locate near (within ½ mile of project center)
    - Restaurants, Bank or ATM, Post office, Public Park
- Energy Efficiency
  - Increase the building energy efficiency rating above what is required by Title 24 requirements.
    - Green Roof Technology
    - Install low NOx hot water heaters
    - Install high efficiency interior lighting

# Implementation of ISR Rule: Air District, Agencies & Industry

- Outreach to cities, counties, developers, contractors
  - 3,000 one-on-one meetings on ISR process and projects
- Efficient, thorough, and effective ISR review process
  - Builds on CEQA and permitting processes and experience
  - Works in tandem with CEQA review and “Voluntary Emission Reduction Agreements”
- Land use agencies have incorporated into approval process
- Industry has adopted new design features, operational modifications, to achieve on-site emission reductions
- Notable urban in-fill projects, mixed-use development
- Have expended nearly \$9 million in off-site mitigation funds, achieving over 3,000 tons of NOx reductions



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## AIR QUALITY IN THE SAN JOAQUIN VALLEY

Despite years of cleaner air, people in the San Joaquin Valley still breathe some of the dirtiest air in the nation. The Valley fails to meet federal and state requirements for winter and summer air quality. This dirty air is harmful to health and can lead to lung problems, heart attacks, cancer and premature death.

The Indirect Source Review rule makes residential, commercial and industrial developers reduce their larger projects' contribution to our air quality problems.

New development contributes to air-pollution problems by increasing the number of cars and the number of miles driven in those vehicles. Developments also result in other pollution-causing activities such as landscape maintenance, fuel combustion and the use of consumer products.

For more information about Indirect Source Review, please see the Program/ISR section of [www.valleyair.org](http://www.valleyair.org) or call the nearest District office.



### Northern Region

Serving San Joaquin, Stanislaus and Merced counties  
4800 Enterprise Way, Modesto, CA 95358-9322  
Tel: (209) 557-6400 FAX: (209) 557-6475

### Central Region (Main Office)

Serving Madera, Fresno and Kings counties  
1990 E. Gettysburg Avenue, Fresno, CA 93726-0244  
Tel: (559) 230-6000 FAX: (559) 230-6061

### Southern Region

Serving Tulare and Valley air basin portions of Kern counties  
34946 Flyover Court, Bakersfield, CA 93308-9725  
Tel: (861) 392-5500 FAX: (861) 392-5585



Please visit our web site at [www.valleyair.org](http://www.valleyair.org)

and



[www.healthyairliving.com](http://www.healthyairliving.com)

11.10.17 (M) (Updated)

# INDIRECT SOURCE REVIEW

Reducing new developments' impact on air quality.



**San Joaquin Valley**  
AIR POLLUTION CONTROL DISTRICT

1-800 SMOG INFO  
[www.valleyair.org](http://www.valleyair.org)

## New developments in the San Joaquin Valley may be subject to the Indirect Source Review rule.

### Which Projects Are Affected?

The Indirect Source Review (ISR) rule applies to new developments expected to create a substantial amount of air pollution. Applications are required for projects that are at least:

- 50 residential units
- 2,000 square feet of commercial space
- 9,000 square feet of educational space
- 10,000 square feet of government space
- 20,000 square feet of medical or recreational space
- 25,000 square feet of light industrial space
- 39,000 square feet of general office space
- 100,000 square feet of heavy industrial space
- Or, 9,000 square feet of any land use not identified above

Projects that meet these thresholds but are found through the application process to have mitigated emissions of less than two tons per year each of nitrogen oxides and PM10 (particulate matter 10 microns and smaller) will not be subject to the emission-reduction requirements of the rule.

### Projects Not Affected

The following projects are exempt and do not need to apply:

- Projects, including expansions or additions to existing projects, that don't meet the thresholds listed above.
- Construction or modification of facilities or projects whose primary functions already are regulated by Air District permit requirements.
- Reconstruction of a development project that was damaged or destroyed and is rebuilt to the same use and intensity.
- Change-of-use projects that don't involve construction or reconstruction and don't increase vehicle trips for the project.
- Other projects, including certain road-construction projects. Contact the District for a full list.

### What Is Required?

The Indirect Source Review rule requires developers to mitigate:

- 20 percent of construction equipment exhaust nitrogen oxides;
- 45 percent of construction equipment exhaust PM10;
- 33 percent of operational nitrogen oxides over 10 years; and
- 50 percent of operational PM10 over 10 years.

### Incorporate On-Site Mitigation

Developers are encouraged to reduce as much air pollution as possible through on-site mitigation, or incorporating air-friendly designs and practices into the project.

For a list of on-site mitigation measures, contact the Air District.



Some examples: bike paths and sidewalks, traditional street design, medium- to high-density residential developments, locating near transit, increasing energy efficiency and others.

### Off-Site Fees May Apply

If the on-site mitigation measures selected by a developer don't achieve the required baseline emission reductions, the developer will mitigate the difference by paying off-site mitigation fees to the Air District. The Air District will use these fees to achieve off-site emission reductions by funding clean air projects. The off-site mitigation fee formula is structured to encourage on-site mitigation measures. The developer also will pay an administration fee equal to four percent of the off-site fee.

### How To Apply

1. Get an Indirect Source Review application online at [www.valleyair.org](http://www.valleyair.org) under Program/Indirect Source Review or at the nearest Air District office. Submit the application to the District prior to – or concurrent with – the project's land-use application to the city, county or municipality. An application fee also is required.

2. The District will notify you within 10 days whether the application is complete. Missing information will delay the process. Allow up to 30 days from the date the application is deemed complete for an evaluation. The District will send a notice when the evaluation is complete, indicating whether any off-site fees are required for the project as proposed. If fees are due, the developer can pay immediately, opt for a fee-deferral schedule, or change the project to incorporate more on-site mitigation measures and thereby reduce off-site fees.

The District may periodically inspect the project to verify compliance with on-site mitigation measures that aren't required and inspected by other public agencies.



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  - ESPAÑOL / HMOOB
  - SITE MAP
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  - Agriculture
  - Air Quality Forecasts & Data
  - Air Quality Plans
  - Business Assistance
  - Business Opportunities
  - Compliance Assistance
  - Employment
  - Environmental Justice
  - For Schools and Kids
  - Grants & Incentives
  - Healthy Air Living
  - Information & Requests
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    - California Environmental Quality Act (CEQA)
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    - Demolition Permit Release
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    - Indirect Source Review
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  - Online Bill Payment
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  - Public Meetings
  - Public Participation
  - Reporting Air Pollution Problems

### ISR Home

The Indirect Source Review (ISR) rule, which went into effect March 1, 2006, requires developers of larger residential, commercial and industrial projects to reduce smog-forming and particulate emissions generated by their projects. The rule is expected to reduce nitrogen oxides and particulates throughout the San Joaquin Valley by more than 10 tons per day by 2010.

- [Frequently Asked Questions - General](#)
- [Frequently Asked Questions - For Road Construction Projects](#)
- [ISR Overview](#)
  - [Goals of ISR](#)
  - [Program Background](#)
- ISR District Rules
  - [District Rule 9510 - Indirect Source Review \(ISR\)](#)
  - [District Rule 3180 - Administrative Fees For Indirect Source Review](#)
- [Do I Need An Application?](#)
  - [Program Effective Date](#)
  - [Program Applicability](#)
  - [Exemptions](#)
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# Overall Assessment of ISR

- Despite economic downturn, ISR emission reductions to-date are real and significant
- Industry trend is to achieve reductions during construction and with on-site features, rather than pay off-site mitigation fees
- Costs to industry and consumers have not been excessive
- Cost-effective use of off-site mitigation fees to achieve reductions