



VIA EMAIL to david.lighthall@valleyair.org

April 15, 2009

David Lighthall, Ph.D
Health Science Advisor
San Joaquin Valley Air Pollution Control District
1990 E. Gettysburg Avenue
Fresno, CA 93726

Re: Request for comments on “Health Analysis of the Confined Animal Facilities Rule,”
dated March 16, 2009

Dear Mr. Lighthall:

On behalf of Dairy Cares, we submit the following comments to the San Joaquin Valley Air Pollution Control District (hereafter “District”) regarding the above-referenced health analysis report on Rule 4570. Dairy Cares is a coalition of California’s dairy producer and processor associations, including the state’s largest producer trade associations (*Western United Dairymen, California Dairy Campaign* and *Milk Producers Council*) and the largest milk processing companies and cooperatives (including *California Dairies, Inc., Dairy Farmers of America-Western Area Council, Hilmar Cheese Company, Joseph Gallo Farms, Producers Bar 20 Dairy* and *Land O’ Lakes*). Formed in 2001, Dairy Cares is dedicated to promoting the long-term sustainability of California dairies.

Our coalition members appreciate the critical role the District plays in moving the San Joaquin Valley toward attainment of federal health-based standards for ozone and particulate matter. We support the District in its mission to reduce emissions from those sources it regulates; air quality is important to all of us in the valley and as such, all must do their share to support the District’s efforts.

The set of regulations known as Rule 4570 (and similar regulations such as Rule 4550), adopted and implemented by the District over the past several years, have resulted in dramatic reductions of volatile organic carbon compounds (“VOCs”) and other emissions from farm and livestock facilities. Reductions in VOCs of more than 25 percent have been reported by the district, along with significant reductions in other emissions, such as ammonia. These reductions were

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accomplished largely through practical, science-based management measures carried out on an ongoing basis by hundreds of family-owned dairies across the District.

After careful review of the “Health Analysis of the Confined Animal Facilities Rule” (hereafter “Health Analysis”), Dairy Cares concurs in many of the conclusions of the Health Analysis. Most if not all of this information has been substantially and previously reported by the District during the year-long public process that preceded adoption of Rule 4570 by the District’s Governing Board. Thus, the Health Analysis contains knowledge that Dairy Cares believes was previously reported to all interested parties, but reorganizes and outlines this information in a way that clarifies the District’s reasoning and conclusions regarding health impacts. Dairy Cares generally concurs with the following findings of the Health Analysis:

- Ambient ozone levels exceeding established federal health-based thresholds pose a significant threat to human health;
- Reducing ambient levels of ozone-forming pollutants such as oxides of nitrogen (NO_x) and VOCs is critical to any strategy to reduce ambient ozone levels;
- In the San Joaquin Valley, reducing NO_x has a larger and more direct impact on reducing ambient ozone levels (3 to 10 times more effective) than does reducing VOCs;
- VOC reductions are nevertheless an important part of ozone reduction strategies for the District;
- Precise calculations of the overall health benefits of the District’s ozone reduction plan are not possible given available data and modeling;
- It is even more difficult, if not impossible, to calculate the health impacts specifically related to Rule 4570
- Nevertheless, there is compelling evidence that Rule 4570 has sharply reduced VOCs from large confined animal facilities (by at least 25 percent);
- However, actual ambient ozone reductions and corresponding direct human health benefits of Rule 4570 are difficult to measure and likely nominal at best; any reported benefits would likely be statistically meaningless due to inherently large margins of error.

From the above, readers of the Health Analysis may conclude correctly that it is not possible to determine with certainty that there are any direct health benefits at all in Rule 4570, despite the great effort and cost of implementing the Rule for both the District and regulated dairy operators. Further, even if health benefits can be assumed, quantifying those benefits is not possible with the current available data and methods.

Even though quantification of the benefits (or even establishing that benefits exist) is not possible with current data, Dairy Cares, its member organizations representing dairy families, and dairy operators themselves have participated in good faith throughout the regulatory and rulemaking process, and implementation of Rule 4570, since its inception. This is because our members generally agree with the conclusion of the District and the scientific community that reductions of VOCs where practical and possible will, in the aggregate and based on what we know today, tend to benefit air quality.

Since the beginning of this year, dairies across the nation and throughout California have faced extraordinary economic challenges due to slowing of the overall economy and corresponding significant drops in the farm-gate price of milk. Prices dropped more than a third between late 2008 and the early months of 2009, and despite drastic measures to control supply - including

dairies going out of business and sharp reductions in herd sizes - prices have not yet recovered. Many dairies within the San Joaquin air district will not survive 2009, and when those dairies close, jobs and economic activity will be lost with them.

Such a bleak economic atmosphere can pose challenges to the regulated community's faith in the District's overall ozone reduction strategy, given the findings of the Health Analysis that health benefits are so difficult to establish and quantify, and given the costs and burdens of continued compliance. Yet our coalition members have pledged to continue to do their part to protect valley air quality, despite the challenges and uncertainty. We believe that it is reasonable to conclude the following:

- Implementation of Rule 4570 is certainly not harming air quality;
- Emissions of VOCs from livestock operations, including dairies, have been sharply reduced;
- Even if health benefits are difficult to establish and measure, it is likely that some such benefits have occurred, even if they are comparatively small; however
- Regardless of health benefits, implementation of Rule 4570 has posed a significant cost burden on dairy operators.

Critics of the Rule 4570 have complained that it is not stringent enough and that somehow if more burdensome regulations were applied, that further health benefits would be realized. The Health Analysis demonstrates conclusively that this is not true. In fact, further measures would produce little or no benefit to health in the valley, though they would come at the risk of driving even more dairies out of business. It is the view of Dairy Cares that in fact, increased poverty and joblessness in the San Joaquin Valley, due to the closing and/or reduced production from dairies, are likely to have more significant effect on the population's overall health than any further air quality regulation of dairies could.

In the view of Dairy Cares, the lessons of the Health Analysis are clear - the District should be extremely careful and cautious in consideration of proposed further measures that might be applied to dairies through the Rule 4570 re-adoption or revision process. The weight of evidence strongly suggests that further regulations are extremely likely to increase the serious economic threats to the regulated dairies and the Valley economy, while doing little to benefit air quality and health of the Valley residents.

The economic and employment impacts previously considered by the District no longer fairly reflect the current dire economic environment. Were the District to even consider any more burdensome and costly regulations, it must balance the economic hardship, the loss of jobs and the impact to the region's economy that such regulations would incur compared to the nominal or uncertain health benefits. Section 40724.6 (e) requires the District to balance these factors in a good faith effort to lessen the adverse impacts of the rule on the dairy industry. Indeed, such an assessment should compel the District to consider providing more flexibility in Rule 4570 so dairy farmers can implement more cost-effective alternatives that still provide meaningful emission reductions.

In summary, Dairy Cares respects and supports the commitment of the District to accomplishing the goals outlined in the 2007 Ozone Attainment Plan. Our coalition will continue to support research and otherwise work with stakeholders to identify practical, effective measures to reduce emissions. We agree with the general findings of the Health Analysis and accordingly, we urge

the District to proceed cautiously when considering any further modifications to assure they are practical, cost-effective and do not impose additional economic harm.

Respectfully,

A handwritten signature in black ink, appearing to read 'J.P. Cativiela', written in a cursive style.

J.P. Cativiela
Dairy Cares Program Coordinator

C: William C. Van Dam, Chairman, Dairy Cares
Seyed Sadredin, Executive Officer, San Joaquin Valley Air Pollution Control District