SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

Preliminary Draft Staff Report

Proposed Rule 1304.2 – California Public Utilities Commission Regulated Electrical Generating Facility Fee For Use Of SOx, PM10 and NOx Offsets

Proposed Rule 1304.3 – Local Publicly Owned Electrical Utility Fee For Use Of SOx, PM10 and NOx Offsets

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Executive Summary

The South Coast Air Quality Management District (SCAQMD) is the air pollution control agency for all of Orange County and the urban portions of Los Angeles, Riverside and San Bernardino counties. SCAQMD is responsible for controlling emissions primarily from non-vehicular sources of air pollution.

PR 1304.1, adopted in September 2013, established a fee structure for the use of offsets pursuant to the provisions of Rule 1304(a)(2) specifically for the repowering of utility steam boilers. There is a potential universe of 9 mostly coastal power plants that would qualify for offsets pursuant to Rule 1304.1. This rule established a process for receiving funds. Subsequently, the Governing Board approved implementation guidance (March 2016), which provided a framework for the allocation and use of these funds.

Looking further to the potential need for offsets for permitting additional or alternative power projects, there is currently an inadequate supply of Emission Reduction Credits (ERCs) in the open market. SCAQMD staff is proposing two new rules, Proposed Rule (PR) 1304.2 – California Public Utilities Commission (CPUC) Regulated Electrical Generating Facility Fee For Use Of SOx, PM10, and NOx Offsets and PR 1304.3 – Local Publicly Owned Electrical Utility (LPOEU) Fee For Use Of SOx, PM10, and NOx Offsets, to allow proposed Investor Owned Utilities (IOUs) and LPOEU power projects that meet specific requirements the option to pay a fee for the use of SOx, PM10, and NOx emission offsets in SCAQMD internal NSR accounts. These rules would address the dearth of ERCs in the open market by allowing the utilization of SCAQMD offsets for permitting requirements specifically to ensure that adequate resources are available to maintain local and regional electrical grid reliability despite: the decommissioning of the San Onofre Nuclear Generating Station (SONGS); an aging and progressively unreliable power generation inventory; an increased reliance on interruptible renewable generation mandated by the California Renewables Portfolio Standard; and a potential increased demand for NOx offsets due to the December 4, 2015 amendment to Regulation XX – RECLAIM, which provided an off ramp for certain NOx RECLAIM sources.

Qualifying projects would be allowed to utilize SCAQMD offsets for a fee, for the life of the specific project only, but would not have any offset ownership rights. The project proponent would pay only for the utilization of such offsets, which would remain in SCAQMD NSR accounts, and where by such utilization would also preclude the use of the same offsets for any other purposes. The utilization and setting aside of SCAQMD offsets for the purposes of these rules would be tracked and reported pursuant to Rule 1315 procedures. Proposed projects would qualify by demonstrating a reliability or resource adequacy need, by reference to either a CPUC Long Term Procurement Program Plan (LTPP) for IOUs, or a municipal Integrated Resource Plan (IRP) with an adopted energy policy on Preferred Resources and Loading Order consistent with state requirements, including the Renewables Portfolio Standard for LPOEUs. Additional key requirements would include: certifying that reasonable efforts were made to procure ERCs/offsets from other sources, including from current holdings; confirmation by SCAQMD that offset amounts above minimum threshold reserve amounts in the SCAQMD NSR accounts are available; demonstrating compliance with CEQA for the specific project; and project and source compliance with the requirements of Regulation XIII – New Source Review (NSR), including Rule 1315 – Federal New Source Tracking System.

Fees collected, less up to 8% for administrative costs, would be used to obtain emission reductions consistent with the needs of the Air Quality Management Plan (AQMP). Priority will be given to funding air quality improvement projects in impacted surrounding communities in proximity to the energy project and in Environmental Justice (EJ) areas as defined in the proposed rules, however final discretion for the allocation of funding would rest with the Governing Board.

Introduction

Both PRs 1304.2 – California Public Utilities Commission Regulated Electrical Generating Facility Fee for Use of SOx, PM10, and NOx Offsets and 1304.3 – Local Publicly Owned Electrical Utility Fee for Use of SOx, PM10, and NOx Offsets would expand the scope of access to offsets in SCAQMD NSR accounts for the purposes of permitting construction of new or replacement electrical power generation in the SCAQMD if ERCs or other sources of offsets are unavailable. New electrical generation for the purposes of these rules would include an application to increase operating capacity. PR 1304.2 sets forth the requirements for IOUs, which are regulated by the California Public Utilities Commission (CPUC), while PR 1304.3 sets forth the requirements for projects that support their native load (typically municipalities) as defined in the rule. IOUs are for-profit entities that seek to maximize shareholder returns pursuant to CPUC approved LTPPs, while projects supporting a native load are not-for-profit, publicly owned generation designed to provide reliable power at competitive rates to their constituency, pursuant to an IRP. Any power project 50MW or greater must also be approved by and licensed through the California Energy Commission (CEC). While it is unlikely that an EGF will continuously operate at its full permitted capacity, pursuant to Federal New Source Review (NSR) requirements, emissions must be offset to this maximum potential to emit (PTE)[1].

Background

The SCAQMD's New Source Review Program (NSR) requires the offsetting of all emission increases from new and modified sources.[2] Sources must either obtain Emission Reduction Credits (ERCs) that are privately held emission offsets in the open market or obtain offsets from the SCAQMD NSR offset accounts.

1 Rule 1302(ad) Potential to Emit means the amount of pollutants calculated (1) using a calendar monthly average, and, (2) on a pound-per-day basis from permit conditions which directly limit the emissions, or, when no such conditions are imposed, from:
(1) the maximum rated capacity; and
(2) the maximum daily hours of operation […]
Rule 1306(b) Emission Increases. Emission increases for new sources and the new total emissions for modified sources shall be calculated, as approved by the Executive Officer or designee, (1) using calendar monthly emissions divided by 30 for determination of the required amount of offsets; and (2) on a pound per day basis for determination of BACT and modeling applicability, from permit conditions which directly limit the emissions or, when no such conditions are imposed, from:
(1) the maximum rated capacity; and
(2) the maximum daily or monthly hours of operation as applicable; […]

2 Rule 1303(b)(2) Emission Offsets

Access to SCAQMD NSR Offsets

Potential access to SCAQMD NSR offset accounts for new or expanding electrical power projects or Electrical Generating Facilities (EGFs) is currently limited to the following:

- Rule 1304(a)(2) - Electric Utility Steam Boiler Replacement.
  Replacement of electric utility steam boiler(s) with combined cycle gas turbine(s), intercooled, chemically-recuperated gas turbines, other advanced gas turbine(s); solar, geothermal, or wind energy or other equipment, to the extent that such equipment will allow compliance with Rule 1135 - Emissions of Oxides of Nitrogen from Electric Power Generating Systems or Regulation XX-Regional Clean Air Incentives Market (RECLAIM) rules. The new equipment must have a maximum electrical power rating (in megawatts) that does not allow basin-wide electricity generating capacity on a per-utility basis to increase. If there is an increase in basin-wide capacity, only the increased capacity must be offset.[3] Once-Through-Cooling (OTC) mandates approved by the State Water Resources Control Board have the potential to increase the need for offsets under this requirement and correspondingly a request for debits from the SCAQMD internal offset accounts.[4]
  - Rule 1304(d)(1)(A) – New Facility Exemption.
    Any new facility that has a PTE less than 4 tons per year of SOx, PM10, NOx or VOC.
  - Rule 1304(d)(2)(A) – Modified Facility Exemption.
    Any modified facility that has a PTE less than 4 tons per year of SOx, PM10, NOx or VOC.

Access to Offsets via Priority Reserve

Rule 1309.1 - Priority Reserve allows specific priority sources as set forth in the rule access to NSR Offset accounts. However, an eligible EGF pursuant to Rule 1309.1(a)(4) is generation-restricted to a facility that:

- generates electricity for its own use and is less than 10MW,
- is less than 50MW and that generates not less than 30% of its electricity to pump water to maintain the integrity of the surface elevation of a municipality or significant portion thereof, or
- has submitted a complete application for certification to the California Energy Commission or Permit to Construct application during the calendar years (CYs) 2000 through 2003.

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3 Turbines are currently the typical replacement technology. These are anticipated to have higher operating capacities then the boilers replaced and hence the need for additional offsets.

4 On May 4, 2010, the State Water Resources Control Board (SWRCB) approved a once-through-cooling (OTC) policy that included many grid reliability recommendations made by the California Independent System Operator (ISO), as well as a joint implementation proposal developed by the California Energy Commission (CEC), California Public Utilities Commission (CPUC), and California ISO. The Office of Administrative Law approved the policy on September 27, 2010, and it became an effective regulation on October 1, 2010. The regulation affected 19 California power plants totaling about 17,500 MW which includes 9 power plants potentially in the SOCAB totaling 5,741 MW.

Since it is not possible to directly track use of electricity from a specific source once it is distributed on the grid (for example SCE, an IOU, has an interconnection with the LADWP municipality), only power generated for dedicated use at a site would be allowed under the provisions of Rule 1304(a)(4). There are no open applications either at the SCAQMD or the CEC dating to the period between CY 2000 through 2003. Finally Rule 1309.1 does not classify power generation as an Essential Public Service (or product) and therefore, Rule 1309.1 cannot currently be used to obtain offsets for power projects that support municipalities or the grid in southern California.

Resource Adequacy (Power Supply Reliability)

The dearth of offsets in the open market coincides simultaneously with several other ongoing concerns:

1. The decommissioning of the San Onofre Nuclear Generating Station (SONGS): On June 8, 2013 Southern California Edison (SCE) announced that it was decommissioning SONGs with the potential loss of up to 2,200 MW of generation.
2. An aging and progressively unreliable power generation inventory: Decades old boilers constitute a significant portion of current electrical generation in the SCAQMD. The reliability of these units is decreasing with age and these units also take significant time to “ramp up” to meet demand.
3. The California Renewables Portfolio Standard mandates, which require 33% of electrical power to be procured from renewable sources by 2020 and 50% by 2030. In addition, the CPUCs Preferred Loading Order Action Plan requires that: “energy efficiency and demand response should first be utilized to meet need. Should these resources be unsuccessful in meeting need, then renewable energy and distributed generation should be employed. Only after all preferred resources fail to satisfy demand can utilities resort to using conventional fossil fuel-generated energy.” The rapid adoption of renewables such as solar and wind has created some issues with reliability when there is little or no sunshine or wind available. Currently, several battery storage projects are underway that are intended to store backup power when renewables generation is limited or absent.
4. A potential increased demand for NOx offsets, due to the December 4, 2015 amendment to Regulation XX – RECLAIM which provides an off ramp for NOx RECLAIM sources.

An EGF typically runs at a fraction of its maximum capacity. However, on high service load (peak) days, typically during summer months, demand can soar in a short span of time. Since sufficient credits must be procured prior to the issuance of the Permit to Construct, in order to cover any operating profile, and pursuant to NSR requirements, an EGF must conservatively offset its fully rated capacity or Potential to Emit, rather than its “actual” emissions. Resource Adequacy or the reliability of a steady electrical power supply during times of peak demand may be impacted by the above issues. The proposed rules have the goal of bolstering grid reliability to avoid brown-outs and/or black-outs, by allowing the expansion of existing, and the siting of new, power generation in the SCAQMD.

PRs 1304.2 and 1304.3 Overview

While there are differences between the two proposed rules, both rules specify the administrative requirements and procedures for utilizing offsets from SCAQMD NSR offset accounts for permitting expansion or construction of new electric power projects. PR 1304.2 available for EGF projects that contract with an IOU pursuant to an approved LTPP and PR 1304.3 available for POEGF projects owned/operated by a LPOEU pursuant to an IRP (or in the case of a Joint Powers Authority (JPA)[5] pursuant to the IRP of each constituent LPOEU). The purpose and applicability, in addition to the rule-specific definitions, are specified at the beginning of each rule. The core of the rules, as shown in Table 1, describes the 3 step administrative process required to qualify for, reserve and use offsets as follows:

1 - Determining if offsets are available
2 - Reserving or "setting-aside" offsets (if available)
3 - Utilizing reserved offsets for the specific project

Table 1 is comprised of 3 columns as follows:

- Column 1 - listing conditions that have to be met
- Column 2 - specifying the entity responsible for meeting a specific line item condition for sources subject to PR 1304.2
- Column 3 - listing the entity responsible for meeting the specific line item condition for sources subject to PR 1304.3

The rows in Table 1 are grouped into 3 sequential categories corresponding to the 3 steps in the offset procurement process. These are:

- Step 1 - conditions that must be satisfied prior to initiating a request for the use of offsets;
- Step 2 - conditions that must be satisfied prior to approval of reservation or set aside request; and
- Step 3 - conditions that must be satisfied prior to the use of an offset allocation

5 Joint Powers Authority is a term used to describe government agencies that have agreed to combine their powers and resources to work on their common problems. Joint powers agreements offer another way for governments to deliver services, and joint powers are exercised when the public officials of two or more agencies agree to create another legal entity or establish a joint approach to work on a common problem, fund a project, or act as a representative body for a specific activity. Agencies that can exercise joint powers include federal agencies, state departments, counties, cities, special districts, school districts, redevelopment agencies, and even other joint powers organizations (source: CA State Legislature, Senate Local Government Committee; Governments Working Together; "A Citizens Guide to Joint Powers Agreements"; August 2007)

Table 1 – Overview of Applicability, Requirements and Administrative Process for Access to Offsets

STEP 1 – PRE SET ASIDE / RESERVATION CONDITIONS	**PR 1304.2 (c)**	**PR 1304.3 (c)**
• Approved/adopted document	LTPP	IRP
• Authorized issuing agency/entity:	CPUC	Governing Body
• Identification of specific project(s) by:	IOU	LPOEU / JPA
• Estimate offsets needed for project(s) provided by:	IOU	LPOEU / JPA
• Project type (new or existing):	EGF[A]	POEGF[B]
• Verification of offsets needed for project(s) by:	SCAQMD	SCAQMD
• Account for estimated offset allocations pursuant to Rule 1315 by:	SCAQMD	SCAQMD
STEP 2 – SET ASIDE / RESERVATION CONDITIONS	**PR 1304.2 (d)**	**PR 1304.3 (d)**
• Ensure all other available ERCs and other credits utilized first by:	SCAQMD & IOU	SCAQMD & LPOEU / JPA
• Ensure estimated Set Aside will not violate any Rule 1315 provisions by:	SCAQMD	SCAQMD
• Ensure minimum threshold for SCAQMD NSR offset account balance by: SOx 50 lb/day PM10 420 lb/day PM10 3,000 lb/day	SCAQMD	SCAQMD
• Quarterly posting of estimated Set Aside on SCAQMD website by:	SCAQMD	SCAQMD
• Report estimated Set Asides in Preliminary and Final Rule 1315 reports by:	SCAQMD	SCAQMD
• Notify SCAQMD within 30 days of cancellation by:	IOU	LPOEU / JPA
STEP 3 – USE OF (SET ASIDE) OFFSETS CONDITIONS	**PR 1304.2 (e)**	**PR 1304.3 (e)**
• Good Faith Letter to SCAQMD certifying offsets needed submitted by:	IOU	LPOEU / JPA
• Any unused portion of Set Aside retained in SCAQMD offset accounts by:	SCAQMD	SCAQMD
• Remittance of Reservation Fee (Annual) or Single Payment by:	IOU	LPOEU / JPA
• Any permit applications associated with Set Aside Deemed Complete by:	SCAQMD	SCAQMD
• Certify compliance with all applicable Regulation XIII requirements by:	EGF	POEGF
• 36 months to use Set Aside with 24 month extension; else offsets forfeit by:	EGF	POEGF

[A] An affected EGF under PR1304.2 includes investor-owned EGFs or EGFs contracted by an investor-owned utility subject to CPUC approval.

[B] In the case of a JPA project, each constituent municipality of the JPA project must have their own approved IRP. The total amount of offsets provided for a JPA project will be equivalent to the sum of the offsets that each individual municipality would have qualified for had they applied separately for such offsets.

While Table 1 diagrams the core provisions of both rules including the entity responsible for meeting each provision by proposed rule, there is little variation in the overall layout/construct of the proposed rules. The basic construct of each rule can be divided into 3 broad sections. First, a preamble section that sets forth the purpose, applicability, and definitions. Second, the section in each rule that deals with the three (3) step process of securing offsets. Third, the Administrative Provisions section, which makes up the balance of the rule and deals with computing the applicable offsets fee, fee payment schedule, cancellations and if applicable any refund, consequences and remedies for failing to pay fees due, and the use of offset fees. Both rules then have the following construct:

Preamble

Subdivision (a) - Purpose and Applicability

Subdivision (b) - Definitions
(including those specific to the subject rule)

Offsets

Subdivision (c) - Set Aside Conditions
(conditions that must exist before requesting the use of offsets)

Subdivision (d) - Setting Aside Offsets for Use
(requirements for reserving/placing a hold on offsets needed)

Subdivision (e) - Conditions for the Use of Set Aside Offsets
(Do's)

Subdivision (f) - Restrictions on the Use of Set Aside Offsets
(Don'ts)

Administrative Provisions

Subdivision (g) - Offset Fees
(computation and fee payment schedule)

Subdivision (h) - Application Cancellation and Refund
(if applicable)

Subdivision (i) - Permit Cancellation or Modification and Refund
(if applicable)

Subdivision (j) - Failure to Pay Fees

Subdivision (k) - Use of Offset Fee Proceeds

Subdivision (l) - Severability

Rule Provisions (Common or Unique)

Subdivision (a) - Purpose and Applicability (Common)

For sources that have first made an attempt to procure ERCs in the open market to comply with EGF project permitting requirements pursuant to Rule 1303 - Requirements, but are unable to do so, the purpose of both rules is to establish the administrative requirements that allow the option for qualifying EGFs to utilize offsets held in the SCAQMD NSR offset accounts. Such offsets from SCAQMD NSR offset accounts are limited to SOx (non-RECLAIM), NOx (non-RECLAIM), and PM-10 offsets only, and only for such net amounts that cannot be otherwise procured. Since offsets held by the SCAQMD are valuable public goods, fees are charged for both the reservation and utilization of such offsets, which automatically precludes the use of these same offsets by any other parties.

- PR 1304.2 (Unique) – provisions are only applicable to projects that fall under the purview of the CPUC. The CPUC forecasts the need for non-municipal power demand and publishes a Long Term Procurement Plan authorizing the regional, for profit, Investor Owned Utilities (IOU) to contract with a third party EGF to construct/operate projects that are sufficient to service anticipated demand. Southern California Edison is the only IOU in the jurisdiction of the SCAQMD. However, this does not preclude the other two IOUs in the state, Pacific Gas & Electric (PG&E) and San Diego Gas and Electric (SDG&E), from procuring offsets for a power project located in the SCAQMD.

- PR 1304.3 (Unique) – provisions are only applicable to LPOEUs that are typically municipal projects and that do not fall under the purview of the CPUC. These are not-for-profit power projects that typically serve a Native Load (the business or wholesale and residential or retail customers to which the city has a responsibility and obligation to provide power), though they may be contractually called upon to provide power to ensure regional/statewide grid reliability. Note that the LPOEU is the owner/operator of their POEGFs and is also responsible for maintaining the transmission lines for delivering such power and that; for the purposes of this rule an LPOEU may be a municipal utility, a municipal utility district, a public district, an irrigation district or a joint powers authority as defined in CPUC Code Section 224.4. Conversely, an IOU typically operates transmission lines but not the EGF.[6] The Los Angeles Department of Water and Power (LADWP) is the largest municipal power generator and LPOEU in the jurisdiction of the SCAQMD. There are several other smaller municipalities that produce or contract for power. These include the cities of Pasadena, Glendale-Burbank, Azusa, Anaheim, and Riverside. Under the proposed rules, the need for the power project and hence offsets must be demonstrated by referencing such in the city's (or in the case of a District or Joint Powers authority in the constituent member cities') Integrated

6 Provisions of The Electric Utility Industry Restructuring Act (Assembly Bill 1890) intended to make the generation of electricity competitive in California effective September 23, 1996. http://www.eia.gov/electricity/policies/legislation/california/assemblybill.html

Resource Plan (IRP). The IRP sets out the city's goals for providing safe, reliable power to its constituents, including power procurement projections.

Subdivision (b) - Definitions

Definitions Common To Both Rules

- *Commencement of Operation* – means the date on which first fire of any new unit begins, including for test generation.
- *Construction*– means to build, erect, or alter any structure, plot of land, site, or piece of equipment; or to replace any piece of equipment.
- *EGF* – the basic definition of a facility that generates electrical power. Note that EGFs owned/operated by an LPOEU are referred to as Publicly Owned EGFs (POEGFs) to distinguish them from privately owned or IOU EGFs.
- *Environmental Justice (EJ) Area* – means an area where at least 10 percent of the population falls below the federal poverty level, based on the most recently published American Community Survey (US Census) data, and which includes:
  - (A) For an area located within the SOCAB, the following:
    - (i) the highest 15th percentile of PM2.5 concentration measurements interpolated to a two (2) kilometer grid of the most recently published Multiple Air Toxics Emissions Study (MATES) modeling domain; or,
    - (ii) the highest 15th percentile of cancer risk as calculated in the most recently published MATES; or,
    - (B) For an area located within the Salton Sea Air Basin (SSAB), the highest 15th percentile of PM10 concentration.

  Paragraph (k)(1) of both proposed rules would require that priority be given to funding air quality improvement projects in EJ areas. As a result of stakeholder concerns regarding allocation of funds received pursuant to Rule 1304.1, the Governing Board directed staff to develop guidelines prioritizing the use of funds in EJ areas.[7] Staff proposes similar guidelines be used for the current proposed rules.
- *Increased Capacity* – means any increase in the electrical generating capacity that does not include development of a Greenfield operation. This can be an increase in the capacity of an existing unit at an existing site, or the construction of a new unit(s) at an existing site, or any combination thereof.
- *Responsible Official* – calls out the level within each organization type (Corporation, Partnership or Sole Proprietorship, and Government Agency) that

[7] "Approve Proposed Guidelines for Disbursement and Tracking of Funds Received Pursuant to Rule 1304.1 – Electrical Generating Facility Fee for Use of Offset Exemption" adopted by the SCAQMD Governing Board March 4, 2016.

must attest to any statements that must be provided to SCAQMD for the purposes of these rules

Definitions <u>Unique</u> To PR 1304.2

- *Investor Owned Utility (IOU)* – is a private business organization, subject to governmental regulation, providing an essential commodity or service, including the sale of electricity to the general public, pursuant to a CPUC LTPP. While the IOU is provider of the electrical power via their transmission lines, the California Independent System Operator (CAISO) is the dispatching authority.
- *Long Term Procurement Plan (LTPP)* – means a long term strategic plan pursuant to CPUC Code Sections 454.5 and 399.13, which demonstrates that the associated IOU will comply with California state policies, including Loading Order and the Renewable Portfolio Standard, and will provide safe, reliable capacity at the least cost to ratepayers. The key purpose of this provision is to require the IOU to demonstrate the need for additional generation capacity based on a third party assessment. In addition, it is designed to discourage the holding of offsets above the essential amounts.

Definitions <u>Unique</u> To PR 1304.3

- *Integrated Resource Plan* – means a plan describing the mix of energy supply resources and conservation programs that will meet forecasted energy needs as approved by an LPOEU. Similar to the requirement for a CPUC LTPP for IOUs, the IRP should demonstrate that the governing body of a municipality has stated a need for increased power generation. Note that SB 350-Clean Energy and Pollution Reduction Act of 2015 requires IRPs to include the same elements found in LTPPs regarding Loading Order, Preferred Resources and the Renewables Portfolio Standards.
- *Local Publicly Owned Electric Utility (LPOEU)* – the governing authority of the EGF. In the case of municipalities this is typically a governing body such as the city council.
- *Native Load* – as defined in the rule refers to the authorized consumers or the power produced by a LPOEU.
- *Publicly Owned Electrical Generating Facility (POEGF)* – an EGF under the governing authority of a LPOEU or in the case of a joint powers authority the governing authority of the member LPOEUs.

Subdivision (c) - Set Aside Conditions; Subdivision (d) - Setting Aside Offsets for Use & Subdivision (e) - Conditions for the Use of Set Aside Offsets (f) – Restrictions on the Use of Set Aside Offsets

For subdivisions (c) through (f), Table 2 shows rule language that is common or the same in both proposed rules and the second and third columns the specific rule language unique to each of the proposed rules. Table 2 also demonstrates that while there are unique differences between the rules that both rules follow a common format. An EGF may refer to either a POEGF or a CPUC-Regulated EGF depending on context.

Table 2 - Subdivisions (c), (d), (e), and (f) - Offset Handling

Common Rule Language and Goals (EO)	Unique to PR 1304.2 (IOU)	Unique to PR 1304.3 (POEGF)
Subdivision (c) - Set Aside Conditions (Conditions that must exist <u>prior</u> to the setting aside of offsets) Goals: to ensure that sufficient credits are available and to limit speculative reservations that might limit other uses • EO shall verify the requested estimate for emission offsets • EO will account for such offsets pursuant to Rule 1315 – Federal New Source Review Tracking System	• IOU shall estimate amount of emission offsets that will be requested based on a CPUC procurement decision or LTPP[8]	• The Responsible Official or duly authorized representative of the LPOEU or applicable members of the a joint powers authority shall: ○ Demonstrate that they have an approved IRP ○ Identify the specific POEGF project for which offsets are being requested ○ Demonstrate adoption of an energy policy on preferred resources[9], Loading Order,[10]and Renewables Portfolio Standard[11] consistent with the state ○ Identify the specific MW generation reserved for use within the SCAQMD

8 CPUC's planning proceedings to consider all of the electric procurement policies and programs and ensure California has a safe, reliable, and cost-effective electricity supply, primary venue for implementation of Senate Bill (SB) 350 requirements related to IRPs (Public Utilities Code Sections 454.51 and 454.52)

Common Rule Language and Goals (EO)	Unique to PR 1304.2 (IOU)	Unique to PR 1304.3 (POEGF)
Subdivision (d) - Setting Aside Offsets for Use (Requirements for <u>reserving/placing a hold</u> on offsets) Goals: to ensure that sufficient credits are available, limit speculative reservations that might limit other uses, ensure a minimum balance in offset accounts at all times (to specifically address potential needs of 'Small Emitters' typically < 4 tpy of any criteria pollutant pursuant to Rule 1304 and Essential Public Service pursuant to Rule 1309.1 –	• CPUC approval of IOU EGF contract • IOU shall submit written request to EO identifying specific EGFs approved and requesting net offsets needed • All ERCs, offsets and credits available from all other sources including those already held by the contracted EGF must first be exhausted	• Offset set aside must be requested by the LPOEU in writing • All ERCs, offsets and credits available from all other sources including those already held by the LPOEU must first be exhausted • The EO must approve such request in writing

intended to implement a process for integrated resource planning that will ensure that load serving entities (LSEs) meet targets that allow the electricity sector to contribute to California's economy-wide greenhouse gas emissions reductions goals.

9 Preferred Resources are those power resources that either reduce or eliminate the need for fossil-fuel-fired power generation; such as increased energy efficiency standards; conservation to cut down on load growth across the region; demand response to shave demand peaks; battery storage; load shifting to smooth out load curves and/or otherwise manage demand in close to real time such as tiered/time of use pricing solutions; and renewable generation (such as solar, wind, tide, etc.). SCE is currently conducting a multi-year (2013-2022) ~250MW preferred resources pilot (PRP) demonstration project https://www.sce.com/wps/portal/home/about-us/reliability/meeting-demand/our-preferred-resources-pilot/.

10 CPUC: ALJ/PVA/lil DRAFT Agenda ID #10827 (Rev. 1); 1/12/2012; "Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Consider Long-Term Procurement Plans; Item #5. Compliance with Loading Order" reinforced the requirement that all utility procurement must be consistent with the Commission's established loading order. The Loading Order, first set forth in the Commission's 2003 Energy Action Plan, and subsequently reiterated in multiple forums (including D.07-12-052), requires the states utilities to procure resources in a specific established order in meeting its energy needs, <u>***by investing first in energy efficiency and demand-side resources, followed by renewable resources, and only then in clean conventional [fossil fuel generated] electricity supply***</u>. (Energy Action Plan 2008 Update at 1.) Furthermore the decision clarified the Commission's position on existing policy without modifying any Commission decision relating to procurement of specific resources, such as energy efficiency or renewable generation by expressly endorsing the general concept that a utility's obligation to follow the loading order is ongoing and applies to all utility procurement, even if pre-set targets for certain preferred resources have already been achieved.

11 Executive Order S-14-08 (November 17, 2008) required that all retail sellers of electricity must serve 33 percent of their load with renewable energy by 2020. Senate Bill X1-2 (April 2011) accelerated adoption of RPS goals to 20% of retails sales from renewables by the end of 2013, 25% by the end of 2016, prior to the existing 33% percent requirement being met by the end of 2020, and applied the RPS to all electricity retailers in the state including both LPOEUs and IOUs, http://www.energy.ca.gov/portfolio/. SB 350 (October 7, 2015) extended California's RPS and requires that by 2030, 50% of each utility's retail sales must come from renewable energy; applies to both IOUs and LPOEUs. http://energy.gov/savings/renewables-portfolio-standard-1 and http://www.energy.ca.gov/portfolio/

Common Rule Language and Goals (EO)	Unique to PR 1304.2 (IOU)	Unique to PR 1304.3 (POEGF)
Priority Reserve), and ensure that the SCAQMD NSR offset accounts are a “bank of last resort” for offsets • Set asides/reservations must not result in or contribute to the exceedance of the applicable Projections of Cumulative Net Emission Increases pursuant to Rule 1315 • After accounting for all potential and actual debits to the SCAQMD NSR offset accounts, the minimum balance in such accounts must never fall below: 50 lb/day for SOx, 420 lb/day for PM10, and 3,000 lb/day for NOx • If sufficient credits are not available in the SCAQMD NSR offset accounts to fully fund approved requests then requests will be funded to the extent that the minimum balances above are not exceeded • Set aside activity will be posted on the SCAQMD website quarterly (such activity will be accounted for in the Rule 1315 Preliminary and Final Determination of Equivalency)	• Within 30 days of a CPUC final unappealable rejection of a contract, the IOU shall notify the EO of such action and such set-aside offsets shall be released for other uses pursuant to Rule 1315	
<u>Subdivision (e)</u> – Conditions for the Use of Set Aside Offsets **(Conditions that must exist <u>prior to the use of offsets</u> set aside)** Goals: EGFs are given the optional use of SCAQMD offsets to cover the required portion of Rule 1303 emissions offsets that cannot be obtained by any other reasonable means and must at this point prior to the final allocation submit a good faith letter signed by a Responsible	• While the IOU submits the request for offsets to be set aside, the EGF that has contracted to provide generation to the IOU is responsible for submitting permit applications and complying with all other provisions of the rule including payment of all applicable fees	• The LPOEU as the governing entity shall at all times be responsible for POEGF compliance with the provisions of the rule, including the payment of all applicable fees

Common Rule Language and Goals (EO)	Unique to PR 1304.2 (IOU)	Unique to PR 1304.3 (POEGF)
Official attesting that such is the case. The SCAQMD will simply account for the use of such offsets still retained in SCAQMD accounts solely for the specific purpose of offsetting specific emissions from specific projects. The EGF project must be in compliance with minimum mandatory standards. Such offsets are not assessed an annual fee until utilized, however they cannot be set aside indefinitely and cannot be used for any other purpose or project. • Each specific EGF project must comply with CEQA mandates. Responsibility for projects with less than 50MW of generation belongs with the lead agency (SCAQMD) and for all other projects with the CEC. • Any permit applications for the project associated with the offset request must be deemed complete • The EGF must be in demonstrate compliance with all other Regulation XIII requirements • Offsets may be held in set aside status for up to 36 months from the date of initial set aside confirmation after which if not used the set aside will be cancelled, the project will forfeit any future use of the specific offsets and any associated fees remitted and such offsets made available for other authorized uses pursuant to Regulation XIII (the applicant is not prohibited from reapplying at any future time subject to the provisions in effect at the time of		

Common Rule Language and Goals (EO)	Unique to PR 1304.2 (IOU)	Unique to PR 1304.3 (POEGF)
application) • The EO has the option to approve an additional 24 month extension, if requested in writing prior to the expiration of the initial 36 month term		
<u>Subdivision (f) – Restrictions on the Use of Offsets</u> **<u>(Prohibitions on the use offsets set aside)</u>** Goals: Emphasize that in contrast to ERCs, SCAQMD offsets set aside are not owned by any entity at any time other than the SCAQMD. They may not be sold, leased, transferred, or subject to any lien, pledge, or voluntary or involuntary hypothecation or transfer, and shall not be considered assets in bankruptcy, for purposes of taxation, or in any other legal proceeding. Such offsets are only valid for use pursuant to these rules from Commencement of Operation to the cessation of operations concurrent with the surrender or expiration of associated permits such that the permits cannot be reinstated. A valid Change of Operator pursuant to Rule 301 – Permitting and Associated Fees will not affect the status of such offsets.		

Subdivision (g) - Offset Fees

Offsets in SCAQMD internal offset accounts are valuable public goods. While such offsets may be set aside and then used for specific power generation projects pursuant to the provisions of both proposed rules, unlike ERCs, such offsets remain the property of the SCAQMD and cannot be used for any other purpose except for the exclusive benefit of the project emissions they are offsetting. As such, a fair market value fee is assessed for each pound of pollutant, by type, that is allocated for use to a project.

The fair market value for offsets allocated in this rule adopts the fair market value established for parallel purposes in Rule 1304.1 – Electrical Generating Facility Fee For Use Of Offset Exemption, where fees were also established for the use of offsets, albeit such use is restricted to the repowering of Utility Steam Boilers pursuant to Rule 1304(a)(2). An offset fee, the amount of which will depend on whether the single or annual payment option is chosen, would be due at the time the Permit to Construct is issued. If the single payment option is chosen then the total single offset fee amount for the project would have to be paid. If the annual payment option is selected, only an amount equivalent to the annual payment in that FY would be required to set aside the offsets until the Permit to Operate is issued.

All offset fees increase pursuant to any increase in the California Consumer Price Index (CPI), by FY. Figure 1 shows the fee rates by pollutant from FY 2013-2014 through FY 2016-2017. The CPI factor is applied to the applicable FY fee rate in each year to obtain the new fee rates for the subsequent FY. Fee amounts under the lump sum single payment option also increase based on the CPI. However, once paid no additional fee for the continued utilization of offsets for the specifically permitted project pursuant to these proposed rules is required (see Table 1).

A variety of analyses were performed in the determination of offset fee rates for Rule 1304.1 and the fee rates were published on adoption of the rule in September 2013.[12] Rule 1304.1 provides that the offset pollutant rates published initially in the rule for CY 2013 be subsequently updated by the CPI annually. Since the current CPI adjusted Rule 1304.1 fee rates represent the reasonable value of offsets, staff is proposing that the same fee rates be used for PR 1304.2 and PR 1304.3 offset fee rates. Furthermore, adopting the same general fee rates for all three rules would avoid preferential treatment in the selection of projects across the various EGF project spectrum. Table A in both proposed rules set forth the fee rates effective for FY 2015-2016 and Table B in both rules provides the specific schedule of due dates for payments.

The Offset Fee (Fi), for specific pollutant (i), would be calculated by multiplying the pollutant specific Annual Payment Offset Fee Rate (Ri) or Single Payment Offset Fee Rate (Li) in Table A of either, as applicable, by the potential to emit level of any new

12 For detailed information on this topic see the September 6, 2013 Staff Report for PR 1304.1.

unit, or by the increase in permitted potential to emit of any Increased Capacity of an existing unit, for pollutant (i), in pounds per day. The offset fee determination is governed by equations in Table B and subparagraphs (g)(1)(A), (g)(1)(B), and (g)(1)(C) of either proposed rule as follows:

(A) Annual Fee Computation
A POEGF owner or operator choosing the annual payment option shall pay a Set Aside Offset Reservation Deposit Fee, the First Year of Commenced Operations Offset Fee, and the Continuing Operation Offset Fee, in an amount equal to the Offset Fee (Fi) under the annual payment option, determined in accordance with the following formula:

$$\textbf{Offset Fee (Fi) = (Ri) x PTE}_{\textbf{NEWi}}$$

Where:

Fi	=	Offset Fee for pollutant (i)
Ri	=	Table A, Annual Offset Fee Rate for pollutant (i), in terms of dollars per pound per day per year
PTENEWi	=	Permitted potential to emit for pollutant (i), in pounds per day, pursuant to subparagraph (g)(1)(C)

(B) Single Payment Fee Computation
A POEGF owner or operator choosing the single payment option shall pay a one-time Offset Fee (Fi), determined in accordance with the following formula:

Offset Fee (Fi) = (Li) x PTENEWi

Where:

Fi	=	Offset Fee for pollutant (i)
Li	=	Table A, Single Payment Offset Fee Rate for pollutant (i), in terms of dollars per pound per day
PTENEWi	=	Permitted potential to emit for pollutant (i), in pounds per day, pursuant to subparagraph (g)(1)(C)

PTE_{NEWi} is the permitted potential to emit of any new units or increase in permitted potential to emit of any Increased Capacity of an existing unit, for pollutant (i), in pounds per day, less ERCs, offsets or any other credits available, determined in accordance with subparagraph (g)(1)(C).

Subdivisions (h) and (i) – Cancelation and Refund

Offsets may be set aside for projects that qualify by payment of a reservation deposit (or in the case of the single payment option - the single payment) at the time the Permit to Construct or Modify is issued. To limit offset requests to valid projects only, the reservation deposit is non-refundable. This reservation deposit is equivalent to the total first year mitigation fee for such offsets. Correspondingly where the single payment option is chosen and following fee payment, if the project is cancelled the applicant is entitled to a refund of the single payment less an amount equivalent to the reservation deposit. Reservations are valid for 36 months and may be extend for up to 24 months upon written request from the project proponent. Offsets not utilized will be released for other uses pursuant to Regulation XIII.

Subdivision (j) – Failure to Pay Fees

If the owner/operator of any EGF or POEGF fails to pay any fees pursuant to the provisions of either PR 1304.2 or PR 1304.3 within thirty (30) days after the due date, any associated permit will automatically expire. Such permit may be reinstated within sixty (60) days of the expiration date by making full payment of the amount owed plus an additional 50% of the applicable fees owed, or the owner/operator may provide sufficient ERCs (or offsets from other sources) to replace the offsets being utilized from the SCAQMD NSR offset accounts.

Subdivision (k) - Use of Offset Proceeds

Communities in close proximity to the project site and in Environmental Justice areas would benefit from the proposed expenditure of mitigation fees (less up to eight percent for SCAQMD administration) on air pollution reduction projects that support the AQMP as required under the proposal. However, this benefit would not be realized until lump sum or annual mitigation fee revenues are received and subsequently approved for funding of mitigation projects/programs. It is anticipated that funding of projects will essentially follow the same procedures approved by the Board for the implementation of Rule 1304.1.[13]

Subdivision (l) - Severability

If any portion of either rule is held by judicial order to be invalid, or invalid or inapplicable to any person or circumstance, the balance of the provisions will not be affected.

13 See March 4, 2016, Governing Board Agenda Item No. 38 "Approve Proposed Guidelines for Disbursement and Tracking of Funds Received Pursuant to Rule 1304.1 – Electrical Generating Facility Fee for Use of Offset Exemption" for guidelines approved by the SCAQMD Governing Board for the use of offset fees for Rule 1304.1 projects.

Sample Fee Calculations

The following hypothetical sample calculations are only intended to demonstrate the methodology for computing PM10 annual and single fee payments. The methodology for computing the annual and single fee payments for the other pollutants (Non-RECLAIM SOx and NOx) as applicable, follow the same steps. Each example is designed to illustrate the computational methodology for estimating offset fees and not the specific or estimated fee paid by any particular owner/operator, since that will depend on the specific PTE and operating profile for the specific unit(s).

Example 1 - Single Phase Project - Computation of the Fee Payment for PM10 in FY 2016-2017

(Data presented for calculation purposes only. Not intended to represent any actual project)

Project Parameters

The following project parameters apply:

A. Permit to construct application submitted in FY 2016-2017.

B. Only PM10 emission offsets are needed.

C. Applicant has obtained 2 lb/day of PM10 ERCs from the open market and has access to no other emission offsets.

D. Proposed 100 MW Simple Cycle (Peaking) Turbine project has a PM10 potential to emit (PTE) of 42 lb/day.

E. The annual payment PM10 offset fee for FY 2016-2017 is $4,206 per lb/day.

F. The single payment PM10 offset fee for FY 2016-2017 is $105,118 per lb/day.

PM10 Offsets Required

The amount of emission offsets required is based on the project PTE less ERCs held or obtained, for PM10:

(Offsets Required, lb/day) = (PTE, lb/day) − (ERCs held/obtained, lb/day)
= (42 lb/day) − (2 lb/day)
= 40 lb/day PM10 emission offsets needed

PM10 Offset Fee Calculation

Annual PM_{10} Offset Fee = (Offsets Required, lb/day)
x (Annual Offset Fee Rate, $ per lb/day, annually)

= (40 lb/day) x ($4,206 per lb/day, annually)

= $168,240 (for FY 2016-17)

Single PM_{10} Offset Fee = (Offsets Required, lb/day) x (Single Offset Fee Rate, $ per lb/day)

= (40 lb/day) x ($105,118 per lb/day)

= $4,204,720 (in FY 2016-2017 for life of the project)

Note: If the project is not commencing operation in FY 2016-2017 but rather requesting the Permit To Construct in FY 2016-20217, then the $168,240 annual fee for PM10 calculated for FY 2016-2017 is also equivalent to the set aside (offset reservation) fee for FY 2016-17. If the $4,204,720 single payment for PM10 is made at the time that the Permit to Construct is issued in FY 2016-2017, then no further payment for PM10 offsets is required. If the Permit to Construct is cancelled at any time in the future, prior to the commencement of construction, the project applicant will be refunded the single payment less an amount equivalent to the FY 2016-2017 annual payment ($4,204,720 - $168,240 or $4,036,480 for PM10), however there shall be no refund if only the annual fee was paid.

Example 2A – Multi Phase Sample Calculation - Single Payment

(Data presented for calculation purposes only. Not intended to represent any actual project.)

This sample calculation is only intended to provide a demonstration of the methodology for computing values utilizing the provisions of subdivisions (g) Fees, (h) Application Cancellation and Refund, and is (i) Permit Cancellation and Refund for both PRs 1304.2 and 1304.3, based on a hypothetical demonstration project EGF (or POEGF) project profile.

Project Parameters

The following project parameters apply:

1. Only PM10 emission offsets are needed;
2. A demonstration has been made that all ERCs, offsets and credits available from all other sources including those already held by the EGF have been first utilized (none are available for this sample scenario);
3. The owner/operator has submitted a good faith effort letter signed by a Responsible Official certifying that reasonable efforts have been undertaken by the owner/operator to secure on the open market, the quantity of PM10 ERCs required, but was unable to do so (i.e. PM10 PTE needs to be fully offset from the SCAQMD NSR PM10 offset account);
4. The EGF or POEGF is in compliance with all other provisions of subdivisions g, h, and i for either PRs 1304.2 or 1304.3, as applicable, including compliance with all Regulation XIII requirements;
5. The assumed annual increase in the CPI is 2% for FY 2017-18 and each FY thereafter. This assumption is made strictly for computational demonstration purposes only and no attempt is being made herein to imply foreknowledge or forecasting of future CPI rates or rate increases; and

PR 1304.2 and 1304.3 Chronology of Offset Milestones (Single Payment)

6. An application is submitted for a project consisting of 5 identical simple cycle peaking units, to be constructed and commence operation in 5 consecutive yearly phases, where each unit has the following profile:

100MW each (for a total 500MW project)

$PTE_{NEWPM10}$ = 42 per lb/day per unit, annual operation

Fee Calculations

Date	Action
2/1/17	Application Submitted
7/1/17	Offset fee rate increase of 2%
8/1/17	For the purposes of this sample calculation the single payment PM10 offset fee rate is computed as follows (based on the current proposed FY 2016-2017 fee rates):

FY 2017-18 L_{PM10} = FY 2016-17 L_{PM10} X CPI increase

= $105,118 per lb/day X 1.02

= $107,220 per lb/day (for FY 2017-2018)

Similarly, the FY 2017-18 annual fee rate R_{PM10} = $4,290 per lb/day

The project PM10 emissions are to be fully offset pursuant to the Rule 1304.2 or Rule 1304.3, as applicable. Therefore the project total PM10 offset fee payment remitted is:

F_{PM10} = 42 lb/day-unit X $107,220 per lb/day X 5 units

= $4,503,240/unit X 5 Units =$22,516,200

The Permit to Construct is issued for all five units and construction on unit 1 of 5 begins.

Date	Action
7/1/18	CPI fee rate increase of 2%
8/1/18	Unit 1 of 5 commences operation. Construction of unit 2 of 5 begins.
7/1/19	CPI fee rate increase of 2%
8/1/19	Unit 2 of 5 commences operation. The owner/operator decides not to begin construction of the remaining units in the project (Units 3, 4 and 5) and elects to submit an application for cancellation and refund. The refund will be: an amount equivalent to the total fee remitted, less the single fee payment for the 2 units constructed and less the offset set aside (reservation fee) for the 3 units not constructed as follows:

Total Fee Remitted		22,516,200
Less:	Units Constructed (2 X \$4,503,240/unit)	(9,006,480)
	Set Aside (Reservation) Fee (3 X 42 lb/day x \$4,290 lb/day)	(540,540)
Net Refund		\$12,969,180

Example 2B – Multi Phase Sample Calculation - Annual Payments

(Data presented for calculation purposes only. Not intended to represent any actual project.)

This example uses the same parameters as set forth in Example 2A, except that the annual payment option is chosen.

PR 1304.2 and 1304.3 Chronology of Offset Milestones (Annual Payments)

2/17/17 Application submitted

7/1/17 CPI fee rate increase of 2%.

$$\text{FY 2017-18 } R_{PM10} = \text{FY 2016-17 } R_{PM10} \text{ X CPI increase}$$
$$= \$4{,}206/\text{lb X } 1.02$$
$$= \$4{,}290/\text{lb}$$

8/1/17 The project PM10 emissions are to be fully offset pursuant to the Rule 1304.2 or Rule 1304.3, as applicable. Therefore the project total PM10 offset set aside or reservation fee payment remitted is:

$$F_{PM10} = 42 \text{ lb/day X } \$4{,}290 \text{ per lb/day X } 5 \text{ units} = \$900{,}900$$

The Permit to Construct is issued for all five units and construction on unit 1 of 5 begins.

7/1/18 CPI fee rate increase of 2%.

$$\text{FY 2018-19 } R_{PM10} = \text{FY 2017-18 } R_{PM10} \text{ X CPI increase}$$
$$= \$4{,}290/\text{lb X } 1.02000$$
$$= \$4{,}376/\text{lb}$$

8/1/18 Unit 1 of 5 commences operation. No annual payment for PM10 offsets is required at this time since the set aside or reservation fee is applied as a credit towards the first year of operation annual PM10 offset fee. Construction of unit 2 of 5 begins.

7/1/19 CPI fee rate increase of 2%

FY 2019-20 R_{PM10} = FY 2018-19 R_{PM10} X CPI
= \$4,376/lb X 1.02000
= \$4,464/lb

8/1/19 Unit 2 of 5 commences operation. The owner/operator decides not to begin construction of the remaining units in the project (Units 3, 4 and 5) and elects to submit an application for cancellation. Note that set aside fees can only be applied to the "first year of commenced operations" and then only for the specific phase for which the set aside was reserved. They cannot be applied for subsequent years of "continuing operation" nor for offsets set aside for another phase of a multi- phase project. Therefore in this scenario there is no refund.

7/1/20 CPI fee rate increase of 2%
FY 2020-21 R_{PM10} = FY 2019-20 R_{PM10} X CPI
= \$4,464/lb X 1.02000
= \$4,553/lb

8/1/20 Unit 1 and 2 operational. On or before this (second for Unit 1 and first for Unit 2) operations anniversary the 8/1/20 – 7/31/21 annual operating PM10 offset fee for the upcoming year is due and computed as follows:

Unit 1 Pre-Third Year of Operation Fee (42 lb/day X \$4,553/lb) \$191,226

Unit 2 Pre-Second Year Operations Fee (42 lb/day X \$4,553/lb) \$191,226

Total Operating PM10 Project Offset Fee for 8/1/20 – 7/31/21 ....\$382,452

Note that as long as the CPI value changes so will the annual offset fee assessment. Offsets set aside but not utilized will have the set aside cancelled, and the offsets released for other authorized uses pursuant to the provisions in Regulation XIII.

Key Issues

Currently, staff is aware of two potential projects that may utilize the proposed rules. The Stanton Energy Reliability Center in Stanton California (project proponent is Wellhead Electric Company, Inc.) may be utilizing PR 1304.2 to serve as an EGF contracting with Southern California Edison (SCE) to provide 98 MW of peaking power with battery backup. The City of Glendale (a municipal power provider) is requesting bids on an additional potential 250 to 270 MW of repowering and may utilize PR 1304.3.

Public Process

Staff has held five Working Group meetings with invited stakeholders including SCE, potential power project applicants, industry groups, consultants, and other interested parties to refine the concepts for PRs 1304.2 and 1304.3. These meeting were held on: July 10, 2014, November 20, 2014, April 22, 2015, March 1, 2016, and May 3, 2016.

Many participants provided valuable feedback leading to modification of the proposals. Proponents of the proposed rules have indicated that an increase in generation capacity, especially 'peaking' units, may benefit electrical power consumers in the SCAQMD and state-wide, by averting potential brown-outs and black-outs during periods of high peak demand although IOU projects may benefit from the sale of additional generation potentially resulting in increased emissions independent of reliability needs.

California Environmental Quality Act (CEQA) Analysis

Pursuant to California Environmental Quality Act (CEQA) Guidelines sections 15252 and 15168 and SCAQMD Rule 110, the SCAQMD, as lead agency for the proposed project, has determined that a Program Environmental Assessment (PEA) will be required for PR 1304.2 – California Public Utilities Commission Regulated Electrical Generating Facility Fee For Use of SOx, PM10, and NOx Offsets; and PR 1304.3 – Local Publicly Owned Electrical Utility Fee For Use of SOx, PM10, and NOx Offsets, due to potentially significant effects of the project. SCAQMD staff believes that all CEQA topics may be significantly affected, and thus, has concluded that an Initial Study is not required to be prepared pursuant to CEQA Guidelines sections 15060(d). A Notice of Preparation (NOP), which includes a Supplement to the NOP, has been released for a 33-day public review and comment period from August 18, 2016 to September 20, 2016. Copies of the NOP and the Supplement to the NOP are currently available online at:

http://www.aqmd.gov/home/library/documents-support-material/lead-agency-scaqmd-projects

The Draft PEA to be prepared will analyze the potential effects that the project may cause on the environment. The environmental topic areas that that may be adversely affected by the proposed project and, as such, warrant analysis and consideration in the Draft PEA are as follows: aesthetics; agriculture and forestry resources; air quality and greenhouse gas emissions; biological resources; cultural resources; energy; geology and soils; hazards and hazardous materials; hydrology and water quality; land use and planning; mineral resources;

noise; population and housing; public services; recreation; solid and hazardous waste; and, transportation and traffic.

Since the proposed project may have statewide, regional, or area-wide significance, a CEQA scoping meeting is required pursuant to Public Resources Code § 21083.9(a)(2) and will be held concurrently with the Public Workshop on September 7, 2015. The Draft PEA, upon its release, will be available for a 45-day public review and comment period and will contain responses to the comments made at the CEQA scoping meeting and the comment letters received relative to the NOP and the Supplement to the NOP.

Socioeconomic Assessment

A socioeconomic assessment for PR 1304.2 and 1304.3 will be conducted and will be available to the public at least 30 days prior to the SCAQMD Governing Board Meeting.

Draft Findings under California Health & Safety Code Section 40727

California Health and Safety Code Section 40727 requires that prior to adopting, amending or repealing a rule or regulation, the AQMD Governing Board shall make findings of necessity, authority, clarity, consistency, non-duplication, and reference based on relevant information presented at the public hearing and in the staff report. The final staff report will make the required findings.

Comparative Analysis

Under Health and Safety Code Section 40727.2, the AQMD is required to perform a comparative written analysis when adopting, amending, or repealing a rule or regulation. The comparative analysis is relative to existing federal requirements, existing or proposed AQMD rules and air pollution control requirements and guidelines that are applicable to industrial, institutional, and commercial combustion equipment. A comparative analysis is not required if the District finds that the proposed rule does not impose a new emission limit or standard. The District makes that finding, since PRs 1304.2 and 1304.3 are considered administrative rules that establish the procedures and guidelines for the use of SCAQMD offsets and set the fees for such use only.

APPENDIX A - Computation of the Schedule for the PR 1304.2 and PR 1304.3 SINGLE Offset Fee Payment

SINGLE PAYMENT - FYs Offset Fee Payment Schedule	Effective	SOx	PM10	NOx
FY 2013–14 Single Offset Fee Payment Base Fee ($/lb per day)	Rule 1304.1; Table A2	79,262	99,643	66,571
Offset Factor Adjustment		**x1.0000**	**x1.0000**	**x1.2000**[14]
FY 2013–14 Single Offset Fee Payment ($/lb per day) [A]	July 1, 2013 through June 30, 2014	79,262	99,643	79,885
FY 2014–15 CPI (1.6 %) Rate Increase		x 1.016	x 1.016	x 1.016
FY 2014–15 Single Offset Fee Payment ($/lb per day) [A]	July 1, 2014 through June 30, 2015	80,530	101,237	81,163
FY 2015–16 CPI (1.4 %) Rate Increase		x 1.014	x 1.014	x 1.014
FY 2015–16 Single Offset Fee Payment ($/lb per day) [A]	July 1, 2015 through June 30, 2016	81,657	102,654	82,299
FY 2016–17 CPI (2.4%) Rate Increase		x 1.024	x 1.024	x 1.024
FY 2016–17 Single Offset Fee Payment ($/lb per day) [A]	July 1, 2015 through June 30, 2016	83,617	105,118	84,274

14 The offset factor 1:1.2 applicable for NOx only, is factored into the annual and single NOx fee rates for FY 2013-14 and thereafter. Refer to the September 6, 2013 Rule 1304.1 staff report demonstrating that the offset fee rates in Rule 1304.1 are based on pollutant offset ratios among other variables. The offset factor is implicit in pollutant offset fee rates in PR 1304.2 and PR 1304.3.

APPENDIX B - Computation of the Schedule for the PR 1304.2 and PR 1304.3 ANNUAL Offset Fee Payment

ANNUAL PAYMENT - FYs Offset Fee Payment Schedule	Effective	SOx	PM10	NOx
FY 2013–14 Annual Offset Fee Payment Base Fee ($/lb per day Annually)	Rule 1304.1; Table A2	3,170	3,986	2,663
Offset Factor Adjustment		**x1.000**	**x1.000**	**x1.200**
FY 2013–14 Annual Offset Fee Payment ($/lb per day Annually) [A]	July 1, 2013 through June 30, 2014	3,170	3,986	3,196
FY 2014–15 CPI (1.6 %) Rate Increase		x 1.016	x 1.016	x 1.016
FY 2014–15 Annual Offset Fee Payment ($/lb per day Annually) [A]	July 1, 2014 through June 30, 2015	3,221	4,050	3,247
FY 2015–16 CPI (1.4 %) Rate Increase		x 1.014	x 1.014	x 1.014
FY 2015–16 Annual Offset Fee Payment ($/lb per day Annually) [A]	July 1, 2015 through June 30, 2016	3,266	4,107	3,292
FY 2016–17 CPI (2.4%) Rate Increase		x 1.024	x 1.024	x 1.024
FY 2016–17 Annual Offset Fee Payment ($/lb per day Annually) [A]	July 1, 2016 through June 30, 2017	3,344	4,206	3,405

A – Rates rounded to the nearest dollar since rates are significant to 3 or 4 digits as shown