

PROPOSED RULE 1304.2. GREENFIELD ELECTRICAL GENERATING FACILITY FEE FOR USE OF SO_x AND PM₁₀ OFFSETS

(a) Purpose and Applicability

This rule applies to Greenfield Electrical Generating Facilities (GEGFs) sited within the South Coast Air Basin (SOCAB) that (1) have contracted to sell energy to a load serving entity (LSE) subject to the jurisdiction of the California Public Utilities Commission (CPUC), or (2) have an Integrated Resource Plan (IRP) or an equivalent process approved by a public agency or municipality. The purpose of this rule is to allow GEGFs (excluding SO_x RECLAIM sources) that hold insufficient SO_x and/or PM₁₀ Emission Reduction Credits (ERCs) pursuant to Rule 1303(b)(2)(A) and cannot procure them in the open market despite a diligent effort to do so the option to pay fees for up to the full amount of offsets provided by the SCAQMD. Offsets in SCAQMD internal accounts are valuable public goods and the purpose of this rule is to recoup the fair market value of any such offsets procured by eligible GEGFs electing to use such offsets. The fees will be invested in air pollution improvement strategies consistent with the needs of the Air Quality Management Plan.

(b) Definitions

- (1) COMMENCEMENT OF OPERATION means to have begun the first fire of the unit(s), or to generate electricity for sale, including the sale of test generation.
- (2) CONSTRUCTION means to build, erect, or alter any structure, plot of land, site or piece of equipment or to replace any piece of equipment in whole.
- (3) ENVIRONMENTAL JUSTICE AREA means an area where:
 - (A) at least 10 percent of the population falls below the Federal poverty level based on the 2008-2012 or more recent American Community Survey (ACS) data; and
 - (B) the highest 15 percentile of PM_{2.5} concentration measurements interpolated to a 2 kilometer grid of the most recent Multiple Air Toxics Emissions Study (MATES) modeling domain; or
 - (C) the highest 15 percentile of cancer risk as calculated in the most recent MATES.

- (4) GREENFIELD ELECTRICAL GENERATING FACILITY (GEGF) means a new facility or increased capacity at an existing facility that generates electricity for distribution in the state or local grid system, regardless of whether it also generates electricity for its own use or for use pursuant to a contract.
 - (5) LOAD SERVING ENTITY means an electrical corporation, electrical service provider, or community choice aggregator as defined in the CPUC Code Section 380 (j).
 - (6) NATIVE LOAD means the wholesale and retail customers on whose behalf the Local Publicly Owned Electric Utility (LPOEU), by statute, franchise, regulatory requirements, or contract; which is the subject of an IRP or equivalent process approved by the appropriate oversight body; and that LPOEU has undertaken an obligation to construct and operate the Transmission Provider's/Customer's system to meet the reliable electric needs of such customers.
- (c) Offset Reservation Program Requirements
Applicants may participate in the utilization of offsets under the provisions of this rule if they meet all the following applicable eligibility requirements:
- (l) Qualifying Requirements
 - (A) Applicants must conduct and document a good faith effort to secure sufficient offsets for PM10 and/or SOx to the satisfaction of the Executive Officer;
 - (B) All existing sources at the GEGF site must meet BARCT or BACT requirements;
 - (C) A minimum, non-refundable, reservation fee for at least one year's worth of offsets requested, as calculated under subparagraph(e)(3)(A), must be paid at the time the reservation is requested;
 - (D) The permit application(s) for which the requested offsets are needed is/are deemed complete;
 - (E) After all qualified reservations, the District's internal offset accounts shall have a minimum balance of 50 lbs/day of SOx and 420 lb/day of PM offsets for Rule 1309 and Rule 1304 emitters; and
 - (F) Cumulative requested offsets shall not cause or contribute to the exceedence of the applicable Rule 1315 Projections of Cumulative Net Emission Increases, the calculation shall consider the lessor

of the RFQ by the investor owned utility or the requested mega watts.

(2) Reserving Offsets

(A) LSE applicants must generate electricity for distribution in the state or local grid pursuant to a contract to generate electricity under the CPUC LTPP.

(B) Local Publicly Owned Electric Utility

- (i) Has an approved IRP or an equivalent process approved by a public agency or municipality at a publicly noticed meeting;
- (ii) The approving body has an adopted energy policy on preferred resources and loading order consistent with CPUC policies; and
- (iii) Must provide power for the purpose of supporting its native load only and for grid reliability;

(3) Transfer of Offsets to GEGFs

The transfer of necessary offsets, for use pursuant to the provisions of this rule, shall be made only upon satisfaction of all of the following conditions:

- (A) For CPUC-jurisdictional LSEs, the GEGF contract was approved by the CPUC through its Application or Advice Letter process;
- (B) The appropriate CEQA document has been certified;
- (C) A reservation has been made pursuant to paragraph (d)(2); and
- (D) Pursuant to paragraph (e), if the Single Payment option is chosen, then the balance of the applicable fee less the reservation fee amount is remitted. For the Annual Payment option, the reservation fee amount is credited for the first year.

(d) Offset Reservation Program Operation

Qualifying applicants may request the type and amount of offsets as part of a submitted permit application subject to the following conditions:

- (1) Reservation of offsets shall be on a first-come, first-served basis;
- (2) Requested offsets approved by the Executive Officer in the form of a letter shall be available for the facility or its successor(s) for a period not to exceed 24 months from the date of the issuance of the permit to construct, after which the reservation shall be cancelled and the reservation fee shall be forfeit. The reservation may be extended by an additional 36 months by the Executive Officer.
- (3) The District shall post the total reserved offsets from the District's internal offset account on a quarterly basis on the District website and as part of its annual Final Determination of Equivalence Rule 1315 report.

(e) Offset Fees

- (1) A qualified applicant electing to use the offset provisions in this rule shall pay a fee, the Greenfield Offset Fee, calculated pursuant to paragraph(e)(3), for each pound per day of each pollutant (i), for which the SCAQMD provides offsets. This fee may be paid on an annual basis (GF_{Ai}), as a single payment (GF_{Si}), or a combination of both at the election of the applicant.
- (2) The Greenfield Offset Fee, for a specific pollutant (i), where (i) is either SOx or PM10, shall be calculated by multiplying the pollutant specific Annual Offset Fee Rate (A_i) or Single Payment Offset Fee Rate (S_i) respectively in Table A, by the SOx or PM10 potential to emit level(s) of the new replacement unit(s).

Table A: Pollutant Specific Offset Fee Rates

Pollutant (i)	Annual Offset Fee Rate (A_i) (\$per lb/day)*	Single Payment Offset Fee Rate (S_i) (\$ per lb/day)*
SOx**	3,321	80,530
PM10	4,050	101,237

*Offset Fee rates R_i and L_i are adjusted annually by the CPI.

**SOx fees for non-RECLAIM sources only;

- (3) The offset fee calculation shall be calculated pursuant to the equations in subparagraphs (A) and (B):

(A) Annual Payment Option

Greenfield construction on or after [Date of Adoption] with SOx and/or PM10 offsets debited from the SCAQMD internal offset accounts:

$$Greenfield\ Annual\ Payment\ Offset\ Fee\ (GF_{Ai}) = A_i \times PTE_{new_i}$$

(B) Single Payment Option

Greenfield construction on or after [Date of Adoption] with offsets debited from the SCAQMD internal offset accounts:

$$Greenfield\ Single\ Payment\ Offset\ Fee\ (GF_{Si}) = S_i \times PTE_{new_i}$$

Where;

GF_{Ai} = Greenfield Annual Offset Fee Payment (GF_A) for pollutant (i).

- GF_{Si} = Greenfield Single Offset Fee Payment (GF_S) for pollutant (i).
- i = SO_x and/or NO_x
- A_i = Table A, Annual Offset Fee Rate for pollutant (i), in terms of dollars per pound per day, annually.
- S_i = Table A, Single Payment Offset Fee Rate for pollutant (i), in terms of dollars per pound per day.
- PT_{Enew_i} = Permitted potential to emit of new unit(s) for pollutant i, in pounds per day. (Maximum permitted monthly emissions ÷ 30).

(f) Offset Fee Payment Schedule and Refunds

The applicant or owner/operator of a GEGF electing to use the offset provisions in this rule shall remit the offset fees as follows:

(1) For the annual payment option:

- (A) The applicant must remit the first year annual offset fee payment, which is non-refundable, prior to the issuance of the permit to construct and such fees shall be based on the total amount of the permitted potential to emit corresponding to the constructed MW capacity for which a permit to construct is being issued by SCAQMD for the facility. Subsequent payments shall be remitted annually based on the cumulative total of MW capacity that commenced operation (multi-year projects), on or before the anniversary date of the original commencement of operation of such MW capacity at the fee rates in effect at the time the fee is due.
- (B) Prior to the commencement of construction of each new electrical generating permit unit, an applicant can request the Executive Officer to have their permit amended to limit the permitted maximum monthly and/or annual generation capacity and can seek a refund for the fee adjustment corresponding to the requested reduction in permitted potential to emit.
- (C) If the applicant or owner/operator of a GEGF fails to pay the applicable GEGF Offset Fee (GF_i) amount, for each applicable pollutant (i), within thirty (30) days after the due date, the associated permit(s) will expire and no longer be valid. Such permit(s) may be reinstated within sixty (60) days by full payment of the fees owed plus 50%.
- (D) The applicant or owner/operator of a GEGF that has elected the annual fee payment option may switch to the single payment option upon submittal of a written request to the Executive Officer for such a change

in payment method. The amount of the single payment offset fee due shall be based on offset fee rates applicable at the time the written request for the change in payment method is submitted to the Executive Officer. The sum of the annual offset fees remitted prior to the submittal of a request for change to a single payment option shall be credited towards the single payment offset fee due.

- (2) For the single payment option, the applicant must remit the entire fee prior to issuance of the permit to construct.
 - (3) The amount of any payments made in satisfaction of the requirements of the rule, less an amount equal to the first year of offsets initially remitted as a reservation fee, as required in subparagraph (c)(2), shall be refunded, less an administrative processing fee as specified in paragraph (g)(2), for both the single and multi-year annual payments, if a written request by the facility applicant is received prior to the commencement of operation. Such a request for refund shall automatically trigger cancellation of the Permit to Construct and/or Operate, unless such offsets are replaced by an equivalent amount of Emission Reduction Credits.
 - (4) Notwithstanding a valid Change of Operator, offsets provided pursuant to this rule to a facility are not any form of property, and may not be sold, leased, transferred, or subject to any lien, pledge, or voluntary or involuntary hypothecation or transfer, and shall not be assets in bankruptcy, for purposes of taxation, or in any other legal proceeding.
- (g) Use of Offset Fee Proceeds
- (1) Offset Fee proceeds paid pursuant to this rule shall be deposited in an SCAQMD restricted fund account and shall be used to obtain emission reductions consistent with the needs of the Air Quality Management Plan. Priority shall be given to funding air quality improvement projects in communities where the repowering GEGF projects are located and Environmental Justice Areas.
 - (2) Up to 8% of the Offset Fee proceeds, deposited in a restricted fund account, may be used by the Executive Officer to cover administrative costs related to implementation of this rule.

(h) Severability

If any provision of this rule is held by judicial order to be invalid, or invalid or inapplicable to any person or circumstance, such order shall not affect the validity of the remainder of this rule, or the validity or applicability of such provision to other persons or circumstances. In the event any of the exceptions to this rule is held by judicial order to be invalid, the persons or circumstances covered by the exception shall instead be required to comply with the remainder of this rule.

DRAFT - FOR DISCUSSION PURPOSES ONLY