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 Generating Facility Fee for Use of SOx, PM10 and NOx Offsets

Public Workshop
September 7, 2016
Background and Purpose

- Rule 1304.1 allows use of offsets from SCAQMD accounts for a fee for repowering of existing utility steam boilers (adopted 9/6/13)

- Potential need for additional power projects and offsets
  - Decommissioning of San Onofre Nuclear Generating Station
  - Localized generation Resource Adequacy (RA)
  - Supporting grid reliability while promoting interruptible preferred renewable resources (Renewable Portfolio Standard; SB350)
  - Governor’s Grid Reliability Task Force Report – Contingency Measures

- Insufficient offset availability in the open market

- PRs 1304.2 and 1304.3 are an offset “bank of last resort”
## Progress to Date

<table>
<thead>
<tr>
<th>Description</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Informal Meetings with Key Stakeholders</strong></td>
<td>Initiated Feb 2014</td>
</tr>
<tr>
<td>Working Group Meeting #1</td>
<td>Jul 10, 2014</td>
</tr>
<tr>
<td>Discussion of initial rule structure</td>
<td></td>
</tr>
<tr>
<td>Working Group Meeting #2</td>
<td>Nov 20, 2014</td>
</tr>
<tr>
<td>Initial proposed rule language</td>
<td></td>
</tr>
<tr>
<td>Working Group Meeting #3</td>
<td>Apr 22, 2015</td>
</tr>
<tr>
<td>Revised proposed rule language; Bifurcation</td>
<td></td>
</tr>
<tr>
<td>Working Group Meeting #4</td>
<td>Mar 1, 2016</td>
</tr>
<tr>
<td>Harmonization of language for proposed rules</td>
<td></td>
</tr>
<tr>
<td>Working Group Meeting #5</td>
<td>May 30, 2016</td>
</tr>
<tr>
<td>Discussion on proposal utilization</td>
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</tr>
</tbody>
</table>
Key Definitions

- **PR 1304.2 – Investor Owned Utility (IOU)**
  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 Long Term Procurement Plan (LTPP)

- **PR 1304.3 – Local Publicly Owned Electric Utility (LPOEU)**
  A municipal utility, a municipal utility district, a public district an irrigation district or a joint powers authority as defined in CPUC Section 224.3

An IOU is subject to the requirements of the CPUC while the governing body of an LPOEU has responsibility for its own facilities
Key Definitions (cont.)

- **PR 1304.2 – Long Term Procurement Plan (LTPP)**
  A long term strategic plan pursuant to California Public Utility Code Sections 454.5 and 399.13, which demonstrates that the associated IOU will comply with State policies, including the Renewable Portfolio Standard (RPS), and will provide safe reliable capacity at the least cost to taxpayers

- **PR 1304.3 – Integrated Resource Plan (IRP)**
  A plan describing the mix of energy supply resources and conservation programs that will meet forecasted energy needs as approved by a LPOEU

These plans serve a similar purpose by sanctioning the amount and mix of forecasted resources needed
Proposal Overview
Two Proposed Rules

- **PR 1304.2 – (Investor Owned)**
  - Applies to EGFs that are regulated by the California Public Utilities Commission (CPUC)
  - EGFs are either owned or contract with an Investor Owned Utility (IOU)
  - Southern California Edison is the IOU in the SCAQMD

- **PR 1304.3 – (Publicly Owned)**
  - Applies to EGFs that are owned by a Local Publicly Owned Electrical Utility (LPOEU); includes Joint Powers Authority
  - EGFs are owned/operated by a municipality/Joint Powers Authority (JPA) or district
  - LPOEU EGF is defined as a Publicly Owned Electrical Generating Facility (POEGF)

Each proposed rule has specific unique requirements but shares the same regulatory structure
# Proposed Rules Regulatory Structure

<table>
<thead>
<tr>
<th>Subdivision</th>
<th>Preamble</th>
</tr>
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<tr>
<td>(a)</td>
<td>Purpose and Applicability</td>
</tr>
<tr>
<td>(b)</td>
<td>Definitions <em>(common and unique to each rule)</em></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Subdivision</th>
<th>Offsets</th>
</tr>
</thead>
<tbody>
<tr>
<td>(c)</td>
<td>Set Aside Conditions <em>(that need to exist prior to application)</em></td>
</tr>
<tr>
<td>(d)</td>
<td>Setting Aside <em>(reservation / set aside process and conditions)</em></td>
</tr>
<tr>
<td>(e)</td>
<td>Conditions for Use of Offsets <em>(Do’s)</em></td>
</tr>
<tr>
<td>(f)</td>
<td>Restrictions / Prohibitions on Use of Offsets <em>(Don’ts)</em></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Subdivision</th>
<th>Administrative Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>(g)</td>
<td>Offset Fees <em>(computation and payment schedule)</em></td>
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<tr>
<td>(h)</td>
<td>Application Cancellation and Refund <em>(if applicable)</em></td>
</tr>
<tr>
<td>(i)</td>
<td>Permit Cancellation or Modification and Refund <em>(if applicable)</em></td>
</tr>
<tr>
<td>(j)</td>
<td>Failure to Pay Fees</td>
</tr>
<tr>
<td>(k)</td>
<td>Use of Offset Proceeds</td>
</tr>
<tr>
<td>(l)</td>
<td>Severability</td>
</tr>
</tbody>
</table>
Proposed Rules – Process Overview

Project Offsets Needed
- Long Term Procurement Plan
- Integrated Resource Plan
- Other

Set Aside Offsets
- Credit Unavailability
- Reg. XIII Accounting
- Minimum Balances

Use Offsets
- Remit Fee
- P/C Issued

Offset use restricted to designated project. Upon cancellation or shutdown of the designated project, offsets are returned in accordance with Reg. XIII.
## Proposed Rules Process Flow

### Step 1 - Pre Set-Aside / Project Offsets Needed

<table>
<thead>
<tr>
<th>Conditions / Action</th>
<th>PR 1304.2 (c)</th>
<th>PR 1304.3 (c)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Projected offsets based on approved/adopted plan:</td>
<td>LTPP</td>
<td>IRP</td>
</tr>
<tr>
<td>Authorizing agency/entity:</td>
<td>CPUC</td>
<td>Governing Body</td>
</tr>
<tr>
<td>Identification of specific project(s) by:</td>
<td>IOU</td>
<td>LPOEU*</td>
</tr>
<tr>
<td>Estimate offsets needed for project(s) by:</td>
<td>IOU</td>
<td>LPOEU</td>
</tr>
<tr>
<td>Project type (new or existing):</td>
<td>EGF</td>
<td>POEGF**</td>
</tr>
<tr>
<td>- Verification of offsets needed for project(s)</td>
<td>SCAQMD</td>
<td>SCAQMD</td>
</tr>
<tr>
<td>- Account for estimated offset allocations pursuant to Rule 1315</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Note that an LPOEU includes JPAs, public districts and irrigation districts.

** 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.
# Proposed Rules Process Flow

## Step 2 – Set Aside Offsets / Reservation

<table>
<thead>
<tr>
<th>Conditions / Action</th>
<th>PR 1304.2 (d)</th>
<th>PR 1304.3 (d)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure all other available ERCs and other credits utilized first</td>
<td>SCAQMD &amp; IOU</td>
<td>SCAQMD &amp; LPOEU</td>
</tr>
<tr>
<td>Ensure estimated Set Aside will not violate any Rule 1315 provisions</td>
<td>SCAQMD</td>
<td>SCAQMD</td>
</tr>
<tr>
<td>Ensure minimum threshold for SCAQMD NSR offset account balance:</td>
<td>SCAQMD</td>
<td>SCAQMD</td>
</tr>
<tr>
<td>SOx 50 lb/day; PM10 420 lb/day; NOx 3,000 lb/day</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▪ Quarterly posting of estimated Set Aside on SCAQMD website</td>
<td>SCAQMD</td>
<td>SCAQMD</td>
</tr>
<tr>
<td>▪ Report estimated Set Asides in Preliminary and Final Rule 1315 reports</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Notify SCAQMD within 30 days of cancellation</td>
<td>IOU</td>
<td>LPOEU</td>
</tr>
</tbody>
</table>
## Proposed Rules Process Flow

### Step 3 – Conditions for Use of Offsets

<table>
<thead>
<tr>
<th>Conditions / Action</th>
<th>PR 1304.2 (e)</th>
<th>PR 1304.3 (e)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good Faith Letter to SCAQMD certifying offsets needed</td>
<td>IOU</td>
<td>LPOEU</td>
</tr>
<tr>
<td>Any unused portion of estimated Set Aside retained in SCAQMD offset accounts</td>
<td>SCAQMD</td>
<td>SCAQMD</td>
</tr>
<tr>
<td>Remittance of Reservation Fee (Annual or Single Payment)</td>
<td>IOU</td>
<td>LPOEU</td>
</tr>
<tr>
<td>Any permit applications associated with Set Aside Deemed Complete</td>
<td>SCAQMD</td>
<td>SCAQMD</td>
</tr>
<tr>
<td>In compliance with all applicable Regulation XIII – NSR requirements</td>
<td>EGF</td>
<td>POEGF</td>
</tr>
<tr>
<td>36 months to use Set Aside with 24 month extension; else offsets forfeit</td>
<td>EGF</td>
<td>POEGF</td>
</tr>
</tbody>
</table>
Proposed Rules – Common Elements
Subdivision (f) - Restrictions on the Use of Set Aside Offsets

- Set aside offsets may only be utilized by the specific EGF (or POEGF) for which they are authorized and only for the life of the associated unit(s)
- Set aside offsets are not any form of property
- Offsets set aside for use and subsequent use of such offsets will not be affected by a valid change of operator pursuant to Rule 301
Proposed Rules – Common Elements (cont.)
Subdivision (g) - Set Aside Offset Fees

- **Offset Fee Payment**
  - Based on established Rule 1304.1 prices for Non-RECLAIM SOx and NOx, and PM10, adjusted for CPI

- **Annual Offset Fee Payment Option**
  - Must pay first year of offset fee, as a non-refundable deposit, for total MW of new generation prior to the issuance of the P/C*
  - Fee payment is due each year thereafter on P/C* issuance anniversary for MW that has commenced operation at the fee rates in effect

- **Single Payment Option**
  - Fee due prior to the issuance of the P/C*
  - Fee Based on total MW of new generation

* Or modified permit to operate for an Increased Capacity for the associated MW capacity
Proposed Rules – Common Elements (cont.)
Subdivision (g) - Set Aside Offset Fees (cont.)

<table>
<thead>
<tr>
<th>Pollutant Offset (i)</th>
<th>Annual Payment Offset Fee Rate (Ri) ($ per lb/day-year)*</th>
<th>Single Payment Offset Fee Rate (Li) ($ per lb/day)</th>
</tr>
</thead>
<tbody>
<tr>
<td>SOx**</td>
<td>$3,344</td>
<td>$83,617</td>
</tr>
<tr>
<td>PM10</td>
<td>$4,206</td>
<td>$105,118</td>
</tr>
<tr>
<td>NOx**</td>
<td>$3,371</td>
<td>$84,274</td>
</tr>
</tbody>
</table>

* The Annual Payment and Single Payment Offset Fee Rates Ri and Li shall be adjusted annually by the CPI. The rates shown are for FY 2016-2017 and are valid through June 30, 2017; however, in all cases the fee rate in effect on the due date shall be used.

**Not for use as RECLAIM trading credits, pursuant to Regulation XX – Regional Clean Air Incentives Market (RECLAIM).
Proposed Rules – Common Elements (cont.)
Subparagraph (g)(2)(A) - Offset Fee Payment Schedule

- **Annual payment option - first year of commenced operation fee**
  - The first year of commenced operation fee is due on or before the anniversary of the issuance of the P/C* following commencement of operation of the affected MW capacity
  - A portion of the Reservation Deposit fees paid at time of application will be credited for the actual MW capacity that commenced operation during the prior 12 months for the first year of commenced operation and shall not be applied to subsequent annual payments
  - The annual fee amount due will be based on the due date following commencement of operation

- **Single payment option – full amount of single payment is due prior to the issuance of the Permit to Construct***

* Or modified permit to operate for an Increased Capacity for the associated MW capacity
Proposed Rules – Common Elements (cont.)
Subdivision (h) - Application Cancellation and Refund

- Refund allowed under Single Payment option – ONLY
  - If cancelled prior to Commencement of Construction (new EGF) or Commencement of Operation [Increased Capacity of affected unit(s)]
  - Less the amount equal to the Set Aside Reservation Deposit

- No refund under Annual Payment option, no future annual payments due upon cancellation for associated reduction in offsets

- Offsets released pursuant to Rule 1315
Refund allowed under Single Payment option
- If cancelled prior to Commencement of Construction of affected unit(s) as part of a multi-phase project for the corresponding reduction in offsets
- Less the amount equal to the Set Aside Reservation Deposit

No refund under Annual Payment option; future payments based on the resultant approved potential to emit for a modified permit

Offsets released pursuant to Rule 1315
Proposed Rules – Common Elements (cont.)
Subdivision (j) – Failure to Pay Fees

- Failure to pay any offset fee required within 30 days of the due date results in associated permit expiration unless offsets are replaced by an equivalent amount of ERCs
- Permit may be reinstated within 60 days following expiration by making full payment of applicable fees plus an additional 50%
Offset fee proceeds to be deposited in an SCAQMD special fund and used to obtain emission reductions consistent with the Air Quality Management Plan.

Priority will be given to funding air quality improvement projects in impacted surrounding communities and in Environmental Justice Areas.

Disbursement of funds is anticipated to be consistent with the implementation of Rule 1304.1 - Electrical Generating Facility Fee for Use of Offset Exemption.
Potential Need For Proposed Rules

- Strong demand for new generation projects (other than repowers) has not yet materialized
- CEC still supports the proposed rules “just in case” other options for ensuring reliability do not move forward
- Southern California Edison (letter dated June 8, 2016)
  - No new procurement needed for 4 – 6 years
  - Projected excess wind and solar generation
- Supported by proponents for 2 potential projects:
  - Stanton Energy Reliability Center (PR 1304.2)
  - City of Glendale (PR 1304.3)
- Opposed by environmental groups
- Potential demand for NOx ERCs for RECLAIM opt-out facilities
- Schedule / Urgency
### Issue
- **Request for a Two-Tier Fee Structure Similar to R1304.1:**
  - Projects cumulatively $\leq 100$MW
  - Projects cumulatively $>100$MW

### Response
Use of an incentivizing two-tier fee structure is not consistent with the goals of the proposed rules, which provide an option to EGFs

### Issue
- **Program Funding:**
  - EJ Area
  - Proximity
  - Types of Projects
  - $\$ Threshold
  - Frequency

### Response
Staff is proposing to emulate adopted Rule 1304.1 Implementation Guidelines (March 2016)
## Key Issues (cont.)

<table>
<thead>
<tr>
<th>Issue</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under a first-come, first-served approach, muni EGF projects may be</td>
<td>▪ Staff anticipates that a sufficient number offsets will continue to be available in SCAQMD accounts so that a first-come, first served approach would not be limiting</td>
</tr>
<tr>
<td>able to more quickly use and exhaust available offsets because they are not subject to a historically slower CPUC approval process</td>
<td>▪ Muni projects anticipated to be smaller scale and require less offsets than IOU projects, further limiting any drawdown of available offsets</td>
</tr>
<tr>
<td>Sufficient Offsets for Permitting Essential Public Service (Rule 1309.1) and Small Emitter (Rule 1304) Projects</td>
<td>▪ Staff is proposing a minimum balance for all offset accounts</td>
</tr>
<tr>
<td></td>
<td>▪ Minimum balances calculated based on historical offset demand</td>
</tr>
</tbody>
</table>
## Rule Development Milestones

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Date</th>
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<tbody>
<tr>
<td>Notice of Preparation (NOP) Comment Period</td>
<td>8/19/16 – 9/20/16</td>
</tr>
<tr>
<td>Public Workshop and CEQA Scoping Meeting</td>
<td>9/7/16</td>
</tr>
<tr>
<td>Stationary Source Committee</td>
<td>9/16/16</td>
</tr>
<tr>
<td>Working Group Meeting(s)</td>
<td>TBD</td>
</tr>
<tr>
<td>Additional Committee/Group Meetings</td>
<td>TBD</td>
</tr>
<tr>
<td>Set Hearing</td>
<td>Dec 2, 2016</td>
</tr>
<tr>
<td>Public Hearing</td>
<td>Jan 6, 2017</td>
</tr>
</tbody>
</table>
Comments

- Written comments regarding the proposed rules are due by 5:00 pm Wednesday, September 21, 2016

- Send comments to:
  Henry Pourzand
  Air Quality Specialist
  21865 East Copley, Diamond Bar, CA 91765
  hpourzand@aqmd.gov
  Fax (909) 396-3643
  Phone (909) 396-2414
Socioeconomic Scoping

- **Purpose**
  - Identify key socioeconomic issues and potential stakeholders’ concerns

- **Key Elements**
  - Need access to offsets for permitting new or expanded power projects
  - Voluntary participation
  - Price of offsets in-line with Rule 1304.1
  - Other issues?

- **Contact Information**
  Shah Dabirian, Ph.D.
  Program Supervisor - Socioeconomic Analysis
  E mail: sdabirian@aqmd.gov
  Phone (909) 396-3076
  Fax: (909) 396-3244
California Environmental Quality Act

- Project is subject to CEQA

- Purpose of CEQA
  - Requires decision-makers to be informed about the effects of projects they approve
  - Discloses to the public potential environmental effects of projects
  - Provides a mechanism for the public to provide input on a project
  - Identifies ways to reduce adverse impacts
Lead Agency

- Is the public agency responsible for preparing the CEQA document for a proposed project
- Is typically the public agency with general land use approval authority
- SCAQMD has “greatest responsibility in approving the project”
- Air quality permits may be required to implement the project
Program Environmental Assessment (PEA) Process
CEQA Scoping Meeting

- Early consultation – opportunity for public to participate in the CEQA process
- Provides information on the project:
  - Project description
  - Environmental topics to be analyzed
- Allows public to provide input on potential impacts to be analyzed in the Draft PEA
- Allows public to provide suggestions for potential project alternatives
Notice of Preparation (NOP)

- NOP plus Supplement to the NOP:
  - Brief Project Description
  - Proposed Rules 1304.2 and 1304.3
    - Initial Study is not required to be prepared pursuant to CEQA Guidelines § 15060(d)
    - All 17 CEQA topics may be significantly affected, and will be analyzed in Draft Program Environmental Assessment
    - Circulated for a 33-day public review period from August 18, 2016 to September 20, 2016
  - Comments received at CEQA Scoping or later relative to NOP will be included and responded to in Draft PEA
Draft Program Environmental Assessment (PEA)

- Preparation of Draft PEA is underway
  - Summary of Proposed Project/Project Description
  - Existing Setting
  - Analysis of potentially significant environmental impacts
  - As necessary, identify feasible mitigation measures
Draft PEA (continued)

- Analysis of cumulative impacts
- Project alternatives analysis – including no project alternative and least toxic alternative
- Other CEQA topics
- CEQA Scoping comments and responses
- NOP comment letters, if any, and responses
  - Once completed, Draft PEA will be released for 45-day public review and comment period
Draft PEA (concluded)

- Prepare Final PEA, which will include:
  - Any modifications to the Draft PEA
  - Responses to Comments on Draft PEA

- As necessary, prepare Findings, Statement of Overriding Considerations, and Mitigation Monitoring Plan
CEQA Public Comments

- Oral comments from CEQA scoping meeting
- Written comments via mail, email or fax due by 5:00 pm Tuesday, September 20, 2016
- Mail comments to:
  Attn: Ms. Barbara Radlein, CEQA Section
  SCAQMD
  21865 Copley Drive
  Diamond Bar, CA 91765
- Send comments via email to:
  bradlein@aqmd.gov
- Send comments via fax to:
  - (909) 396-3324