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## **Proposed Rule 1304.2**

**California Public Utilities Commission Regulated  
Electrical Generating Facility Fee for Use of SO<sub>x</sub>, PM<sub>10</sub> and NO<sub>x</sub> Offsets**

## **Proposed Rule 1304.3**

**Local Publicly Owned  
Electrical Generating Facility Fee for Use of SO<sub>x</sub>, PM<sub>10</sub> and NO<sub>x</sub> Offsets**

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**Public Workshop**

**September 7, 2016**

# Background and Purpose

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- 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

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

# Key Definitions

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- **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.)

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- **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

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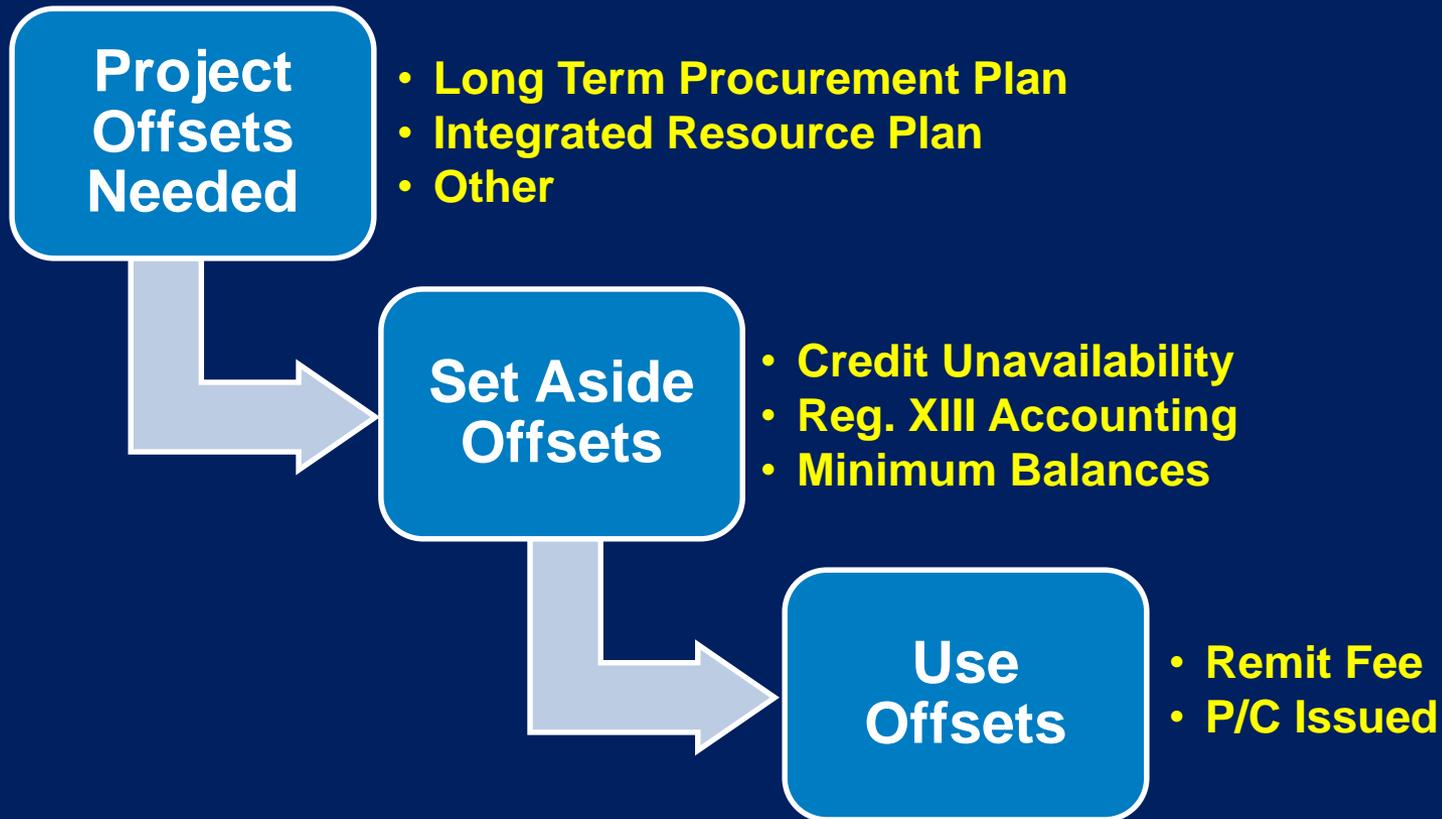
- **PR 1304.2 – (Investor Owned)**
  - Applies to EGFs that are regulated by the California Public Utilities Commission (CPUC)
  - EGFS are either owned or contract with an Investor Owned Utility (IOU)
  - Southern California Edison is the IOU in the SCAQMD
- **PR 1304.3 – (Publicly Owned)**
  - Applies 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

Subdivision	Preamble
(a)	Purpose and Applicability
(b)	Definitions (common and unique to each rule)
Subdivision	Offsets
(c)	Set Aside Conditions (that need to exist prior to application)
(d)	Setting Aside (reservation / set aside process and conditions)
(e)	Conditions for Use of Offsets (Do's)
(f)	Restrictions / Prohibitions on Use of Offsets (Don'ts)
Subdivision	Administrative Provisions
(g)	Offset Fees (computation and payment schedule)
(h)	Application Cancellation and Refund (if applicable)
(i)	Permit Cancellation or Modification and Refund (if applicable)
(j)	Failure to Pay Fees
(k)	Use of Offset Proceeds
(l)	Severability

# Proposed Rules – Process Overview



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

Conditions / Action	PR 1304.2 (c)	PR 1304.3 (c)
Projected offsets based on approved/adopted plan:	LTPP	IRP
Authorizing agency/entity:	CPUC	Governing Body
Identification of specific project(s) by:	IOU	LPOEU*
Estimate offsets needed for project(s) by:	IOU	LPOEU
Project type (new or existing):	EGF	POEGF**
<ul style="list-style-type: none"> <li>▪ Verification of offsets needed for project(s)</li> <li>▪ Account for estimated offset allocations pursuant to Rule 1315</li> </ul>	SCAQMD	SCAQMD

\* 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

Conditions / Action	PR 1304.2 (d)	PR 1304.3 (d)
Ensure all other available ERCs and other credits utilized first	SCAQMD & IOU	SCAQMD & LPOEU
Ensure estimated Set Aside will not violate any Rule 1315 provisions	SCAQMD	SCAQMD
Ensure minimum threshold for SCAQMD NSR offset account balance: SOx 50 lb/day; PM10 420 lb/day; NOx 3,000 lb/day	SCAQMD	SCAQMD
<ul style="list-style-type: none"> <li>▪ Quarterly posting of estimated Set Aside on SCAQMD website</li> <li>▪ Report estimated Set Asides in Preliminary and Final Rule 1315 reports</li> </ul>	SCAQMD	SCAQMD
Notify SCAQMD within 30 days of cancellation	IOU	LPOEU

# Proposed Rules Process Flow

## Step 3 – Conditions for Use of Offsets

Conditions / Action	PR 1304.2 (e)	PR 1304.3 (e)
Good Faith Letter to SCAQMD certifying offsets needed	IOU	LPOEU
Any unused portion of estimated Set Aside retained in SCAQMD offset accounts	SCAQMD	SCAQMD
Remittance of Reservation Fee (Annual or Single Payment)	IOU	LPOEU
Any permit applications associated with Set Aside Deemed Complete	SCAQMD	SCAQMD
In compliance with all applicable Regulation XIII – NSR requirements	EGF	POEGF
36 months to use Set Aside with 24 month extension; else offsets forfeit	EGF	POEGF

# Proposed Rules – Common Elements

## Subdivision (f) - Restrictions on the Use of Set Aside Offsets

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- 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

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### ■ Offset Fee Payment

- Based on established Rule 1304.1 prices for Non-RECLAIM SO<sub>x</sub> and NO<sub>x</sub>, and PM<sub>10</sub>, 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.)

Pollutant Offset (i)	Annual Payment Offset Fee Rate (Ri) (\$ per lb/day-year)*	Single Payment Offset Fee Rate (Li) (\$ per lb/day)
SOx**	\$3,344	\$83,617
PM10	\$4,206	\$105,118
NOx**	\$3,371	\$84,274

\* 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

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- **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

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- **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**

# Proposed Rules – Common Elements (cont.)

## Subdivision (i) - Permit Cancellation or Modification and Refund

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- **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

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- 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%

# Proposed Rules – Common Elements (cont.)

## Subdivision (k) - Use of Offset Fee Proceeds

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- 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

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- 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

# Key Issues

Issue	Response
<ul style="list-style-type: none"><li>▪ Request for a Two-Tier Fee Structure Similar to R1304.1:<ul style="list-style-type: none"><li>- Projects cumulatively <math>\leq 100</math> MW</li><li>- Projects cumulatively <math>&gt; 100</math> MW</li></ul></li></ul>	Use of an incentivizing two-tier fee structure is not consistent with the goals of the proposed rules, which provide an option to EGFs
<ul style="list-style-type: none"><li>▪ Program Funding:<ul style="list-style-type: none"><li>- EJ Area</li><li>- Proximity</li><li>- Types of Projects</li><li>- \$ Threshold</li><li>- Frequency</li></ul></li></ul>	Staff is proposing to emulate adopted Rule 1304.1 Implementation Guidelines (March 2016)

# Key Issues

## (cont.)

Issue	Response
<p>Under a first-come, first-served approach, muni EGF projects may be able to more quickly use and exhaust available offsets because they are not subject to a historically slower CPUC approval process</p>	<ul style="list-style-type: none"><li>▪ Staff anticipates that a sufficient number of offsets will continue to be available in SCAQMD accounts so that a first-come, first served approach would not be limiting</li><li>▪ Muni projects anticipated to be smaller scale and require less offsets than IOU projects, further limiting any drawdown of available offsets</li></ul>
<p>Sufficient Offsets for Permitting Essential Public Service (Rule 1309.1) and Small Emitter (Rule 1304) Projects</p>	<ul style="list-style-type: none"><li>▪ Staff is proposing a minimum balance for all offset accounts</li><li>▪ Minimum balances calculated based on historical offset demand</li></ul>

# Rule Development Milestones

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

# Comments

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- 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](mailto:hpourzand@aqmd.gov)

Fax (909) 396-3643

Phone (909) 396-2414

# Socioeconomic Scoping

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- **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](mailto:sdabirian@aqmd.gov)  
Phone (909) 396-3076  
Fax: (909) 396-3244

# California Environmental Quality Act

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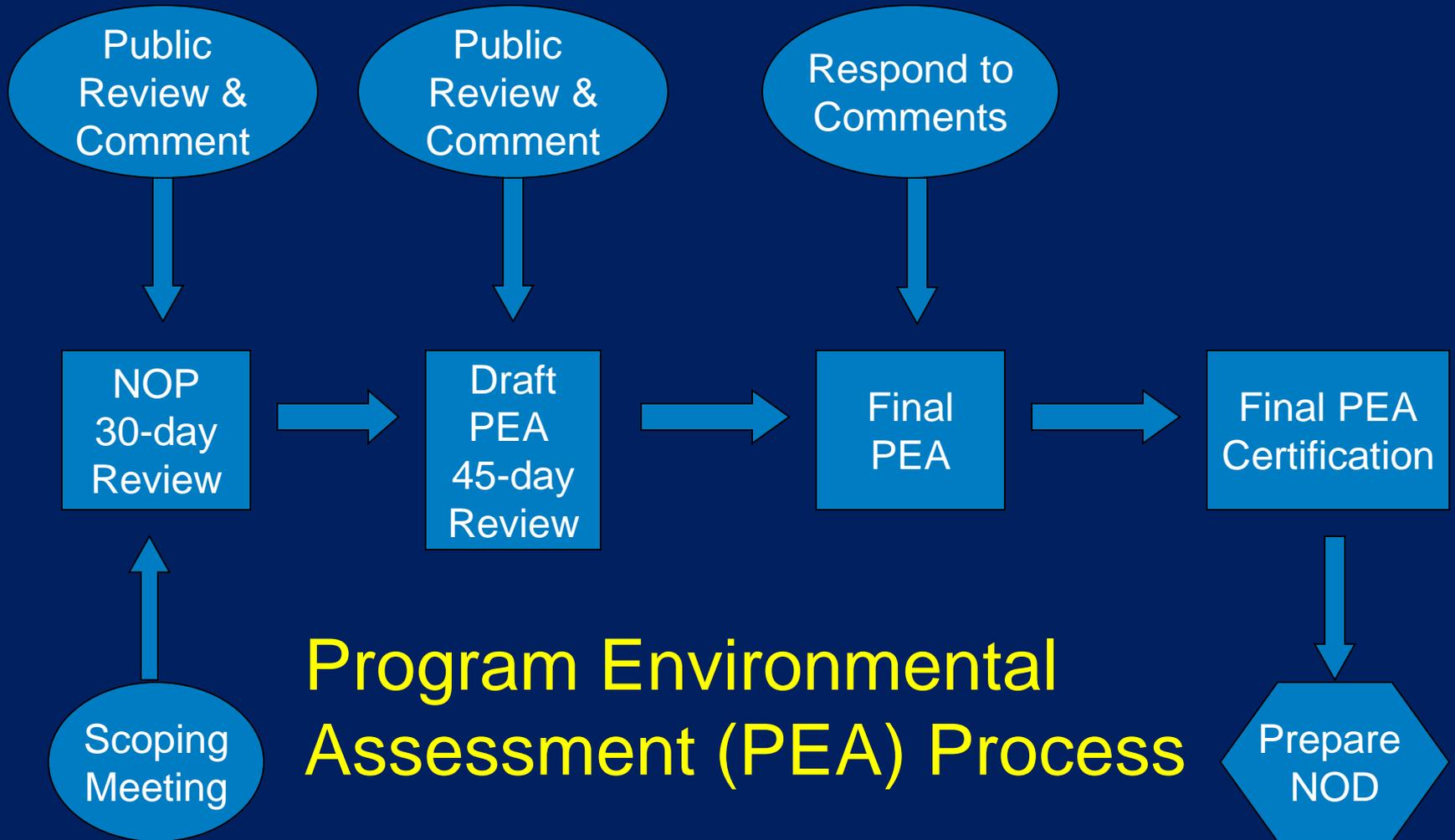
- Project is subject to CEQA
- Purpose of CEQA
  - Requires decision-makers to be informed about the effects of projects they approve
  - Discloses to the public potential environmental effects of projects
  - Provides a mechanism for the public to provide input on a project
  - Identifies ways to reduce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

# Lead Agency

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- 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

# California Environmental Quality Act (CEQA)



## Program Environmental Assessment (PEA) Process

# CEQA Scoping Meeting

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- 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)

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- **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
    - Available on SCAQMD's webpage at:  
<http://www.aqmd.gov/docs/default-source/ceqa/documents/aqmd-projects/2016/pr1304-2-nopwithsupplement.pdf?sfvrsn=2>
  - Comments received at CEQA Scoping or later relative to NOP will be included and responded to in Draft PEA

# Draft Program Environmental Assessment (PEA)

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- 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)

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- 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)

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- 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

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- 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](mailto:bradlein@aqmd.gov)
- **Send comments via fax to:**
  - (909) 396-3324