

BOARD MEETING DATE: January 5, 2018

AGENDA NO.

PROPOSAL: Determine that Proposed Amendments to Rule 301 – Permitting and Associated Fees are Exempt from CEQA and Amend Rule 301

SYNOPSIS: On June 2, 2017, Rule 301 was amended to address cost recovery by refining the alignment of program revenue with program costs that have typically never been fully recovered. In addition to the annual across-the-board CPI adjustment, permit-related service fee rates were increased over a three-year period, with differential increases for Title V and non-Title V facilities. During the amendment, staff inadvertently deleted the SCAQMD's authority to charge for the preparation of a notice for a project requiring notification as defined in Rule 212(c). Proposed Amended Rule 301 consists of administrative changes to restore SCAQMD's deleted authority.

COMMITTEE: Administrative Committee, December 8, 2017, Reviewed

RECOMMENDED ACTIONS:

Adopt the attached Resolution:

1. Determining that Proposed Amended Rule 301 – Permitting and Associated Fees is exempt from California Environmental Quality Act; and
2. Amending Proposed Amended Rule 301 – Permitting and Associated Fees

Wayne Natri
Executive Officer

PF:SN:JW:ES

Background

Rule 301 – Permitting and Associated Fees was adopted on February 4, 1977, as part of Regulation III – Fees, to cover the cost of evaluation, planning, inspection, and monitoring related to the issuance of permits. On June 2, 2017, Regulation III was most recently amended to address cost recovery by refining the alignment of program

revenue with program costs that have typically never been fully recovered. In addition to the annual across-the-board CPI adjustment, permit-related service fee rates were increased over a three-year period, with differential increases for Title V and non-Title V facilities. During the amendment, staff inadvertently deleted the SCAQMD's authority, formerly specified in Rule 301 paragraph (j)(4), to charge for the preparation of a notice for a project requiring notification as defined in Rule 212(c).

Proposal

Proposed Amended Rule (PAR) 301 consists of administrative changes to restore the SCAQMD's deleted authority to charge for the preparation of a notice for a project requiring notification as defined in Rule 212(c). Rule 301 paragraph (j)(4) included this language until the June 2, 2017 amendments to Regulation III, where it was inadvertently removed during the process of converting the original rule text into a table format.

Revenue Impacts

Upon restoration of the SCAQMD's deleted authority to charge for the preparation of a notice for a project requiring notification as defined in Rule 212(c), PAR 301 will result in approximately \$75,000 to \$125,000 in partial cost recovery for Fiscal Year (FY) 2017-18.

California Environmental Quality Act (CEQA)

SCAQMD staff has reviewed the proposed amendments to Rule 301 pursuant to: 1) CEQA Guidelines Section 15002(k) - General Concepts, the three-step process for deciding which document to prepare for a project subject to CEQA; and 2) CEQA Guidelines Section 15061 - Review for Exemption, procedures for determining if a project is exempt from CEQA. The proposed amendments to Rule 301 are identified as being strictly administrative in nature; as such, it can be seen with certainty that there is no possibility that the proposed project may have a significant adverse effect on the environment. Thus, the project is considered to be exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) – Activities Covered by General Rule. Additionally, the proposed amendments to Rule 301 involve fees charged by the SCAQMD, such that all of these amendments are statutorily exempt from CEQA requirements pursuant to CEQA Guidelines Section 15273 – Rates, Tolls, Fares, and Charges, because the proposed amendments involve charges by a public agency for the purpose of meeting operating expenses, purchasing supplies, equipment and materials, and meeting financial reserve requirements. A Notice of Exemption has been prepared pursuant to CEQA Guidelines Section 15062 – Notice of Exemption. If the project is approved, the Notice of Exemption will be filed with the county clerks of Los Angeles, Orange, Riverside and San Bernardino counties.

Socioeconomic Impact Assessment

PAR 301 consists of administrative changes to restore the SCAQMD's deleted authority to charge for the preparation of a notice for a project requiring notification as defined in Rule 212(c). Therefore, it will not significantly affect air quality or emission limitations, and it will also not result in any adverse socioeconomic impacts.

Draft Findings

Before adopting, amending or repealing a rule, the SCAQMD Governing Board shall make findings of necessity, equity, authority, clarity, consistency, non-duplication, and reference, as defined in California Health and Safety Code (H&SC) Section 40727. The draft findings are as follows:

A. Necessity

The SCAQMD Governing Board has determined that a need exists to restore the SCAQMD's deleted authority to charge for the preparation of a notice for a project requiring notification as defined in Rule 212(c) in order to support necessary clean air programs and to amend Rule 301 to fund the FY 2017-18 Budget.

B. Equity

H&SC Section 40510.5(a) requires the SCAQMD Governing Board to find that an increased fee will result in an equitable apportionment of fees when increasing fees beyond the CPI. However, H&SC Section 40510.5(a) is not applicable to PAR 301, which consists of administrative changes to restore the SCAQMD's deleted authority to charge for the preparation of a notice for a project requiring notification as defined in Rule 212(c).

C. Authority

The SCAQMD Governing Board obtains its authority to adopt, amend, or repeal rules and regulations from H&SC Sections 40000, 40001, 40440, 40500, 40501.1, 40502, 40506, 40510, 40510.5, 40512, 40522, 40522.5, 40523, 40702, and 44380, and Clean Air Act Section 502(b)(3) [42 U.S.C. §7661(b)(3)] .

D. Clarity

The SCAQMD Governing Board has determined that Rule 301, as proposed to be amended, is written or displayed so that the meaning can be easily understood by the persons directly affected by it.

E. Consistency

The SCAQMD Governing Board has determined that Rule 301, as proposed to be amended, is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations.

F. Non-duplication

The SCAQMD Governing Board has determined that Rule 301, as proposed to be amended, does not impose the same requirements as any existing state or federal regulation and is necessary and proper to execute the power and duties granted to, and imposed upon, the SCAQMD.

G. Reference

The SCAQMD Governing Board, in amending these rules, references the following statutes which the SCAQMD hereby implements, interprets, or makes specific: H&SC Sections 40500, 40500.1, 40510, 40510.5, 40512, 40522, 40522.5, 40523, 41512, and 44380, and Clean Air Act Section 502(b)(3) [42 U.S.C.S. 7661 (b)(3)].

Resource Impacts

None.

Attachments

- A. Proposed Amended Rule 301 – Permitting and Associated Fees
- B. Resolution
- C. Notice of Exemption