

(Adopted June 28, 1990)(Amended May 3, 1991)(Amended December 7, 1995)  
(Amended April 20, 2001)(Amended November 9, 2001)(Amended May 3,  
2002)(Amended September 8, 2006, Replaced August 3, 2007)

**RULE 1309.1 – PRIORITY RESERVE**

(a) Priority Reserve

A Priority Reserve is established to provide credits for specific priority sources. The funding of the Priority Reserve shall be made quarterly on March 31, June 30, September 30, and December 31 or other schedule deemed practicable by the Executive Officer or designee. The amount of this allocation shall not exceed the following amounts:

Quarterly Allocation

<u>Air Contaminant</u>	<u>(lbs per day)</u>
Reactive Organic Gases (ROG)	500
Nitrogen Oxides (NOx)	250
Sulfur Dioxide (SOx)	60
Particulate Matter (PM10)	125
Carbon Monoxide (CO)	250

Notwithstanding the above, the Executive Officer shall transfer on a one-time basis by January 1, 2002, the following to the Priority Reserve for use exclusively by Electric Generating Facilities, and return any unused portion of this allocation as of December 31, 2003, to the District’s NSR account.

Sulfur Dioxide (SOx)	750 lbs/day
Carbon Monoxide (CO)	6,000 lbs/day

(b) Specific Priority Sources

The following priority sources will be qualified to draw from a pool of credits established every quarter.

(1) Innovative Technology

Is innovative equipment or a process which:

- (A) the applicant demonstrates will result in a significantly lower emission rate from the affected source than would have occurred with the use of BACT; and

(B) can be expected to serve as a model for emission reduction technology.

(2) Research Operations

Is an experimental research operation for which:

(A) the purpose of the operation is to permit investigation, experiment or research to advance the state of knowledge or the state-of-the-art; and

(B) a specific time limit is imposed by the Executive Officer or designee, in no case exceeding two years.

(3) Essential Public Service

Is used to provide essential public service, provided the applicant:

(A) has provided all required offsets available by modifying sources to Best Available Retrofit Control Technology (BARCT) levels at the same facility; or

(B) demonstrates to the satisfaction of the Executive Officer or designee that the applicant owns or operates no sources within the facility which could be modified to BARCT levels to provide offsets.

For equipment not subject to any Regulation XI rule, application(s) for modifications providing offsets to satisfy subparagraph (A) of this section shall accompany the application(s) for the new source(s). For purposes of this section only, BARCT, as defined in the California Health and Safety Code Section 40406, shall not exceed any applicable District BACT cost guidelines and shall be determined as of the date that the application is deemed complete.

(4) Electrical Generating Facility (EGF)

(A) Is a facility that generates electricity for its own use and is less than 10 Megawatts (MW); or is a facility less than 50 MW 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 is a thermal power plant less than 50 MW that generates electricity during peak demand periods and operates less than 3000 hours per year; or is a thermal power plant facility that generates 50 MW or greater of electricity for

distribution in the state or municipality owned grid system (net generator); such facility having submitted a complete application for certification to the State Energy Resources Conservation and Development Commission (California Energy Commission or CEC) or District permit to construct application during calendar years 2000 through 2003, or 2005 through 2008 and which applications are directly related to the production of electricity, such that for projects submitting applications in 2005 through 2008, the electric generation unit or power plant site and related facility will be the subject of an environmental impact report, negative declaration, or other document prepared pursuant to a certified regulatory program; and in accordance with Public Resources Code Section 21080 (b)(6).

- (B) Applicable Version of the Rule:
- (i) For the purpose of qualifying as an EGF, the applicable version of this rule is the version in effect at the time the application is deemed complete; and
  - (ii) For the purpose of determining accessibility of the EGF to the Priority Reserve credits and determining the applicable mitigation fees, the applicable version of this rule is the version in effect at the time the final Permit to Construct is being issued.
- (5) In-District and Downwind Air Basin Electric Generating Facilities (EGFs)
- (A) (i) An In-District EGF is an EGF located within the jurisdiction of the South Coast Air Quality Management District and may be qualified to draw only SO<sub>x</sub>, PM<sub>10</sub> and CO credits provided it complies with all applicable requirements of this rule, including the specific provisions applicable to the geographic zone and the Environmental Justice Area (EJA) that the EGF is located in. Zones 1, 2, and 3, as shown in Figure 1, are defined as the areas located within the District with an average PM<sub>2.5</sub> concentration for years 2003 through 2005 of less than 18 $\mu\text{g}/\text{m}^3$ ; between 18 $\mu\text{g}/\text{m}^3$  and 20 $\mu\text{g}/\text{m}^3$  and more than 20 $\mu\text{g}/\text{m}^3$  respectively. Zones are determined based on the procedures described in

the District's Guidance Document for Rule 1309.1 PM2.5 Concentration and Zoning Determinations. The EJA is defined as the area of grid cells where at least 10% of the population is below the poverty level (based on 2000 Federal census data); and either the cancer risk is greater than one thousand in one million (as determined by the SCAQMD Multiple Air Toxics Exposure Study (MATES II); or the PM10 exposure is greater than  $46\mu\text{g}/\text{m}^3$  (as determined by the SCAQMD monitoring). The EJA is shown in Figure 2.

- (ii) An In-District EGF located in Zone 1 shall demonstrate all of the following in order to draw credits from the Priority Reserve:
  - (a) The rate of PM10 emissions from each new or modified electrical generating units at full load does not exceed 0.060 lb/MW-hr, corrected to 59<sup>0</sup>F, 60% relative humidity, and 14.7 psia, except during startups and shutdowns as specified in the permit; and
  - (b) The rate of NOx emissions from each new or modified electrical generating units at full load does not exceed 0.080 lb/MW-hr, corrected to 59<sup>0</sup>F, 60% relative humidity, and 14.7 psia, except during startups and shutdowns as specified in the permit.
- (iii) An In-District EGF located in Zone 2 or an In-District EGF with a maximum capacity of 500 MW, or less, located in Zone 3 or EJA shall demonstrate all of the following in order to draw credits from the Priority Reserve:
  - (a) The cancer risk from the combined new or modified electrical generating units is less than one in one million; and

- (b) The non-cancer risk (acute and chronic) Hazard Index from the combined new or modified electrical generating units is less than 0.5; and
  - (c) The cancer burden from the combined new or modified electrical generating units is less than 0.1; and
  - (d) The rate of PM10 emissions from each new or modified electrical generating units at full load does not exceed 0.060 lb/MW-hr, corrected to 59<sup>0</sup>F, 60% relative humidity, and 14.7 psia, except during startups and shutdowns as specified in the permit; and
  - (e) The rate of NO<sub>x</sub> emissions from each new or modified electrical generating units at full load does not exceed 0.080 lb/MW-hr, corrected to 59<sup>0</sup>F, 60% relative humidity, and 14.7 psia, except during startups and shutdowns as specified in the permit; and
  - (f) The applicant substantiates with modeling that the 24-hour impact of the total combined PM10 emissions from the new or modified electrical generating units shall not exceed 5.0 μg/m<sup>3</sup>; and
  - (g) The applicant substantiates with modeling that the annual impact of the total combined PM10 emissions from the new or modified electrical generating units shall not exceed 0.75 μg/m<sup>3</sup>; and
  - (h) For simple cycle electric generating units, the unit shall operate a maximum of 4000 hours per year or less.
- (iv) An In-District EGF located in Zone 3 or in EJA with a maximum capacity of more than 500 MW shall demonstrate all of the following in order to draw credits from the Priority Reserve:
- (a) The cancer risk from the combined new or modified electrical generating units is less than 0.5 in one million; and
  - (b) The non-cancer risk (acute and chronic) Hazard Index from the combined new or modified electrical generating units is less than 0.1; and

- (c) The cancer burden from the combined new or modified electrical generating units is less than 0.05; and
  - (d) The rate of PM10 emissions from each new or modified electrical generating units at full load does not exceed 0.035 lb/MW-hr, corrected to 59<sup>0</sup>F, 60% relative humidity, and 14.7 psia, except during startups and shutdowns as specified in the permit; and
  - (e) The rate of NOx emissions from each new or modified electrical generating units at full load does not exceed 0.050 lb/MW-hr, corrected to 59<sup>0</sup>F, 60% relative humidity, and 14.7 psia, except during startups and shutdowns as specified in the permit; and
  - (f) The total combined PM10 hourly emissions from the new or modified electrical generating units does not exceed 30.0 lbs/hour; and
  - (g) The applicant substantiates with modeling that the 24-hour impact of total combined PM10 emissions from the new or modified electrical generating units shall not exceed 2.5 µg/m<sup>3</sup>; and
  - (h) The applicant substantiates with modeling that the annual impact of total combined PM10 emissions from the new or modified electrical generating units shall not exceed 0.5 µg/m<sup>3</sup>; and
  - (i) For simple cycle electric generating units, the unit shall operate a maximum of 3000 hours per year or less.
- (B) A Downwind Air Basin EGF is an EGF located in a downwind air basin outside the District and may be qualified to draw only VOC credits provided:
- (i) All the applicable requirements of H&S Code 40709.6 are met; and
  - (ii) The applicant pays a mitigation fee pursuant to subdivision (g); and

- (iii) The applicant certifies the application for a permit to construct has been deemed complete by the downwind district; and
  - (iv) Notwithstanding Rule 1303(b)(2)(A), the applicant for a Downwind Air Basin EGF shall obtain credits at an offset ratio and inter-pollutant trade rates, if applicable, determined by the downwind air district; and
  - (v) The cumulative amount of VOC credits issued to all Downwind Air Basin EGFs pursuant to this paragraph does not exceed 5,000 pounds per day; and
  - (vi) The Executive Officer receives the written request for credits to be drawn before January 1, 2009; and
  - (vii) The California Energy Commission application was submitted during calendar year 2005, 2006, 2007 or 2008; and
  - (viii) The applicant conducts a due diligence effort [based on an Emission Reduction Credit (ERC) cost not to exceed the applicable mitigation fee for that pollutant at the location of the EGF and as specified in sub-division (g)] approved by the Executive Officer to secure available ERCs for requested Priority Reserve pollutants. Such efforts shall include securing available ERCs including those available through state emission banks or creating ERCs through SIP approved credit generation programs as available.
- (c) Requirements for an In-District Electrical Generating Facility (EGF)
- An In-District EGF shall not be qualified to draw credits from the Priority Reserve unless it meets all applicable conditions of this rule including:
- (1) The owner or operator agrees to a permit condition requiring the facility to meet BARCT for pollutants received from the Priority Reserve for all existing sources located in the District prior to the operation of the new source(s) or at a schedule approved by the Executive Officer and no later than 3 years following the issuance of a permit to construct the new source(s); and all sources under common ownership within the District are in compliance with all applicable District rules, variances, orders, and settlement agreements; and

- (2) The applicant pays a mitigation fee pursuant to sub-division (g); and
- (3) The applicant conducts a due diligence effort [based on an ERC cost not to exceed the applicable mitigation fee for that pollutant at the location of the EGF and as specified in sub-division (g)] approved by the Executive Officer to secure available ERCs for requested Priority Reserve pollutants. Such efforts shall include securing available ERCs including those available through state emission banks or creating ERCs through SIP approved credit generation programs as available; and
- (4) Enters into a long-term (at least one year) contract with the State of California to sell at least 50% of the portion of the power which it has generated using the Priority Reserve credits and provided the Executive Officer determines at the time of permitting, and based on consultation with State power agencies, that the State of California is entering into such long-term contracts and that a need for such contract exists at the time of permitting, if the facility is a net generator (this paragraph does not apply to municipal utilities or joint power authorities); and
- (5) Notwithstanding Rule 1303(b)(2)(A), the applicant for an In-District EGF that files a complete application for which credits are sought in calendar year 2005, 2006, 2007, or 2008 demonstrates to the satisfaction of the Executive Officer both of the following:
  - (A) That the proposed purchase of credits from the Priority Reserve together with credits otherwise obtained, is at an offset ratio of 1.2 to 1.0, and
  - (B) That renewable/alternative energy (for the purpose of this rule, renewable/alternative energy is hydropower, wind and wave power, solar and geothermal energy, and fossil fuel-based energy [provided the emissions are no more than those from a fuel cell]) in lieu of natural gas fired EGF is not a viable option for the power to be generated at that site; and
- (6) The Permit to Construct applicant agrees to a permit condition requiring the new source(s) to be fully and legally operational at the rated capacity within 3 years of issuance of the Permit to

Construct. An applicant that is a municipality may have an additional year if the EGF includes a renewable energy component with a capacity of at least 50 MW of renewable/alternative energy. The Governing Board may grant additional time extensions based upon a demonstration by the applicant that the extension is necessary due to circumstances beyond the reasonable control of the applicant. This paragraph does not affect the applicability of District Rule 205.

- (d) The following provisions shall apply to the Priority Reserve:
- (1) Access to Priority Reserve credits, except for Downwind Air Basin EGFs, for specific priority sources pursuant to sub-division (b) shall be prioritized based on the earliest date that an application is approved for final Permit to Construct.
  - (2) Prioritization for a Downwind Air Basin EGF shall be based on the earliest date a written request is received by the Executive Officer pursuant to sub-paragraph (b)(5)(B).
  - (3) The District Governing Board may determine that a specific project shall be given priority for access to the Priority Reserve based on public health or safety regardless of the date of application submittal.
  - (4) Essential Public Services may, at the discretion of the Executive Officer or designee, reserve Priority Reserve offsets for up to three years to allow multi-year projects to be planned. The sum of such reservations shall amount to no more than 25 percent of the Priority Reserve allocations for those three years.
  - (5) Each facility shall maintain a balance of total Priority Reserve credits obtained.
  - (6) If a subject facility holds an ERC, then that ERC must be used before access to the Priority Reserve is allowed for that pollutant.
  - (7) Allocations from the Priority Reserve shall not be banked or transferred.
  - (8) An aggregate total of 400 pounds per day of PM10 shall be exclusively reserved for use by essential services for calendar years 2001, 2002, and 2003.
  - (9) Offset credits obtained from the Priority Reserve by an EGF may not exceed the allowable emissions level of the newly permitted unit(s) after the application of appropriate offset ratios.

- (10) The Executive Officer shall monitor the PM10 balance in the Priority Reserve and in the event the balance is less than 500 pounds per day the Executive Officer may transfer up to 1,500 pounds per day of PM10 to the Priority Reserve. This transfer shall be done in a public meeting.
- (11) Offset credits obtained from the Priority Reserve and used in the District may not be used for inter-pollutant trading.
- (12) The Executive Officer shall authorize the release of Priority Reserve credits for the first 2700 MW requested by EGFs, provided such EGFs have submitted complete applications for Permit to Construct to the District in calendar years 2005 through 2008, and complied with all applicable provisions of this rule. Requests by EGFs for Priority Reserve credits for calendar years 2005 through 2008 in excess of the first 2700 MW may only be approved by the Governing Board at a public meeting, applying the criteria in this rule.
- (13) The Executive Officer shall not authorize the release of any Priority Reserve credits for an EGF in an EJA that has submitted complete application for a Permit to Construct to the District in calendar years 2005 through 2008 and complied with all applicable provisions of this rule prior to the Governing Board approving a plan to invest the anticipated mitigation fees from the EGF.
- (14) The Executive Officer shall not authorize the release of any Priority Reserve credits for an In-District EGF, unless the EGF seeking Priority Reserve credits has obtained certification from CEC and entered into a long-term contract with the Southern California Edison Company, or the San Diego Gas and Electric Company, or the State of California to provide electricity in Southern California; and complied with all applicable provisions of this rule. However, a municipal-owned EGF need not enter into a long-term contract, provided such EGF is designed and constructed to not exceed its native demand load based upon future year projections to 2016 or earlier. A municipal-owned EGF obtaining Priority Reserve credits to exclusively serve its native load may not sell electricity to the state grid unless it is directed to do so under a direct order from Cal-ISO or under a state of emergency declared

by the State of California or its agencies including Cal-ISO. Any EGF may petition the Governing Board at a public hearing to waive the requirement to enter into a long-term contract in order to access Priority Reserve credits. The Governing Board shall grant such a waiver if it finds that there is a need for additional power from non-renewable sources that is not being fulfilled by presently available long-term contracts. Any such petition shall not delay any other EGF's access to Priority Reserve credits.

(15) The Executive Officer shall annually prepare a report for the Governing Board on the status of the emission reduction projects funded by the mitigation fees from this rule.

(e) Suspension of Health & Safety Code Section 42314.3

Pursuant to subsection (i) of Section 42314.3 of the Health & Safety Code, the District Board hereby suspends the applicability of Section 42314.3, since it determines that this rule makes adequate offsets available at a reasonable price to EGFs.

(f) Additional Requirements for Net Generators Accessing Priority Reserve Credits

Any net generator accessing Priority Reserve Credits shall comply with all terms and conditions in any Executive Officer order, whether expired or not, relating to the generator's access of Priority Reserve credits, whether such credits are used or not.

(g) Mitigation Fees for Electrical Generating Facilities

(1) Applicants shall pay a mitigation fee of the following amounts for each pound per day of each pollutant obtained from the Priority Reserve:

(A) An EGF, as defined on May 3, 2002, where a complete initial application for certification to the CEC or a complete application for a permit to construct was filed in calendar year 2000, 2001, 2002 or 2003:

PM10	\$25,000
SOx	\$ 8,900
CO	\$12,000

(B) An In-District EGF located in Zone 1 and not in an EJA where a complete initial application for certification to the CEC or a

complete application for a permit to construct was filed in calendar year 2005, 2006, 2007 or 2008:

PM10 \$92,000

SOx \$34,400

- (C) An In-District EGF located in Zone 2 and not in an EJA where a complete initial application for certification to the CEC or a complete application for a permit to construct was filed in calendar year 2005, 2006, 2007 or 2008:

PM10 \$92,000

SOx \$34,400

- (D) An In-District EGF located in either Zone 3 or an EJA where a complete initial application for certification to the CEC or a complete application for a permit to construct was filed in calendar year 2005, 2006, 2007, or 2008:

PM10 \$92,000

SOx \$34,400

- (E) A Downwind Air Basin EGF:

VOC \$1,410

- (F) An In-District EGF located in the Salton Sea portion of the South Coast Air Quality Management District where a complete initial application for certification to the CEC or a complete application for a Permit to Construct was filed in calendar year 2005, 2006, or 2007 and which has entered into a binding power purchase agreement with Southern California Edison prior to August 3, 2007:

PM10 \$50,417

SOx \$15,083

- (2) The fee amounts in sub-paragraphs (g)(1) shall be adjusted each year on July 1 by the change in the California Consumer Price Index for the previous calendar year. The Executive Officer shall be allowed to use up to 10 percent of the mitigation fees collected in any one year for program administration.

(h) Mitigation Fee Refund

- (1) A refund of paid mitigation fees less 20 percent or \$2,000,000, whichever is less, shall be allowed only for In-District EGFs that filed complete applications for which credits are sought in year

2005, 2006, 2007 or 2008 provided the applicant submits a written request to the Executive Officer stating the reasons and provided:

- (A) The project requiring credits was cancelled within twelve months of purchase of the Priority Reserve credits due to circumstances that the Executive Officer determines is beyond the reasonable control of the applicant; and
  - (B) A written request to the Executive Officer justifying the refund is received no more than 30 days after the project cancellation. The Executive Officer shall return the excess credits to the District's NSR account.
- (2) A refund of paid mitigation fees shall be allowed for In-District EGFs that filed complete applications during year 2001, 2002, or 2003, subject to the following requirements:
- (A) A permit to construct was issued and credits were purchased based on original estimated emissions rates.
  - (B) A subsequent, revised Permit to Construct was issued to reflect lower emission rates prior to completion of construction and start of operation of the project.
  - (C) The revised lower emission rates have been verified by source testing and the results are approved by the District.
  - (D) A written request for a refund is submitted within 3 months after the source testing.
  - (E) The amount of the refund calculated is the difference between the original and revised Permit to Construct mass emission limits and shall be reduced by:
    - (i) Any legal costs incurred by the District in defending the issuance of the original or revised permits for the project; and
    - (ii) Any administrative costs incurred by the District in administering the mitigation fee; and
    - (iii) Any mitigation fees encumbered or expended for air quality improvement projects.

FIGURE 1 - Three – Year Average (2003 – 2005) PM2.5 Concentration Zones in SCAQMD

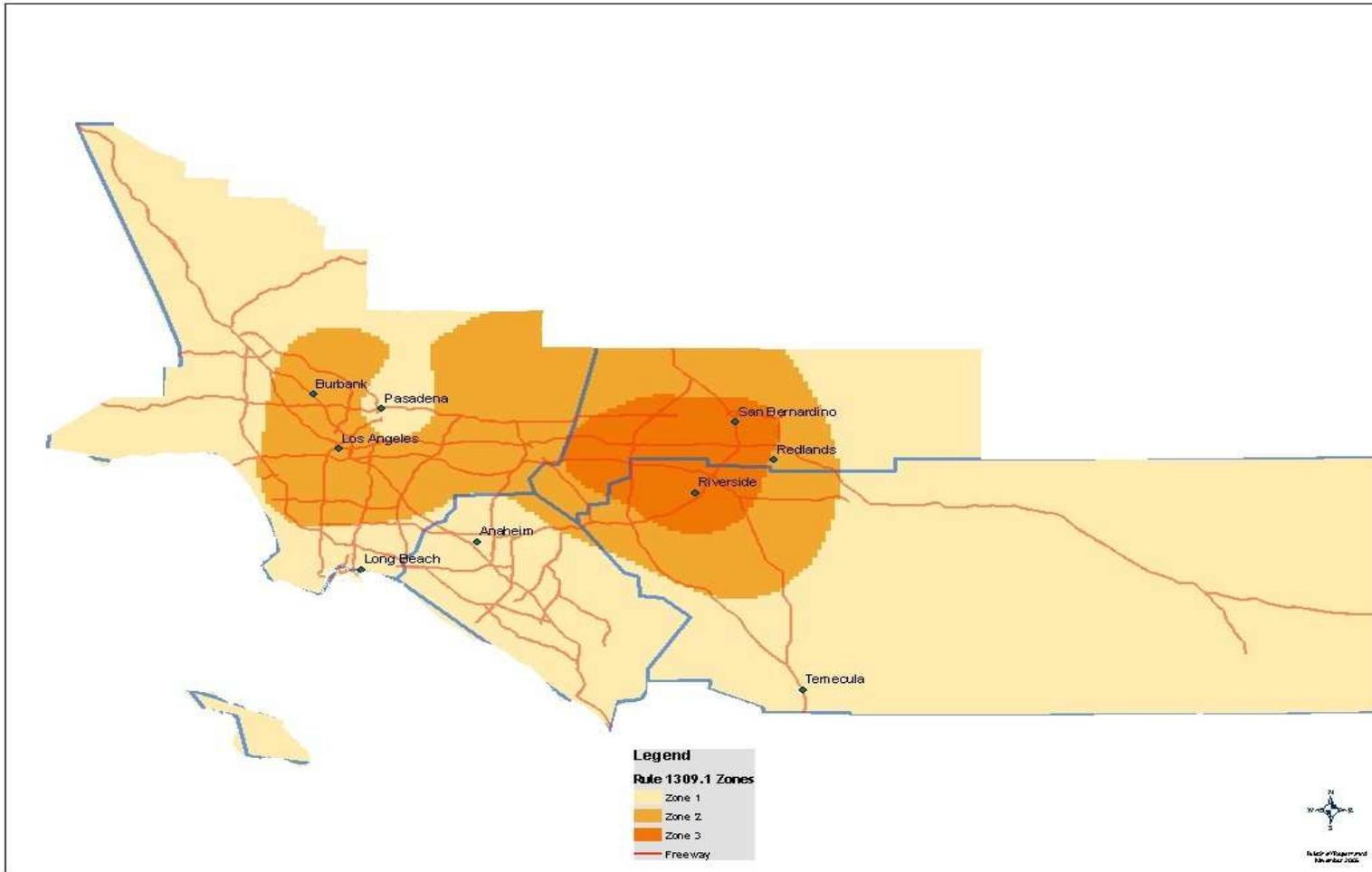


FIGURE 2 - Environmental Justice Areas in the SCAQMD

