

**RULE 1304.1. ELECTRICAL GENERATING FACILITY FEE FOR USE OF OFFSET EXEMPTION**

(a) Purpose and Applicability

The purpose of this rule is to require Electrical Generating Facilities (EGFs) which use the specific offset exemption described in Rule 1304(a)(2) [Electric Utility Steam Boiler Replacement] to pay fees for up to the full amount of offsets provided by the SCAQMD. Offsets in SCAQMD internal accounts are valuable public goods. The purpose of this rule is to recoup the fair market value of offsets procured by eligible EGFs electing to use such offsets to comply with Rule 1304(a)(2). The fees will be invested in air pollution improvement strategies for the pollutants for which the fee is paid, or their precursors or criteria pollutants to which they contribute, consistent with the needs of the Air Quality Management Plan. This rule applies to all EGFs that use the offset exemptions described in Rule 1304(a)(2). Notwithstanding Rule 1301(c)(1), this rule applies to all permits issued to EGFs electing to use Rule 1304(a)(2) and receiving the applicable permit to construct on or after September 6, 2013.

(b) Definitions

- (1) **ELECTRICAL GENERATING FACILITY (EGF)** means a 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.
- (2) **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.
- (3) **CONSTRUCTION** means to build, erect, or alter any structure, plot of land, site or piece of equipment or to replace any piece of equipment.

(c) Requirements

- (1) Any EGF operator electing to use the offset exemptions provided by Rule 1304(a)(2) shall pay a fee, the Offset Fee ( $F_i$ ), calculated pursuant to paragraph (c)(2), for each pound per day of each pollutant ( $i$ ), for which the SCAQMD provides offsets. This fee may be paid on an annual basis or as a single payment or a combination of both at the election of the applicant.
- (2) The Offset Fee ( $F_i$ ), for a specific pollutant ( $i$ ), shall be calculated by multiplying the applicable pollutant specific Annual Offset Fee Rate ( $R_i$ ) or Single Payment Offset Fee Rate ( $L_i$ ) and Offset Factor in Table A1 or A2, as applicable, by the fraction of the potential to emit level(s) of the new

replacement unit(s). This fraction is calculated as the product of the potential to emit of the new replacement unit ( $PTERep_i$ ) multiplied by the new replacement to existing unit generation annual capacity ratio. This annual capacity ratio which is defined as the maximum permitted annual megawatt hour (MWh) generation of the new replacement unit(s) ( $C_{rep}$ ) minus the most recent twenty-four (24) months average of the megawatt hour (MWh) generation (megawatt utilization) of the unit(s) to be replaced ( $C_{2YRAvgExisting}$ ) divided by the maximum permitted annual megawatt hour (MWh) generation of the new replacement unit(s) ( $C_{rep}$ ).

The offset fee calculation described above is governed by equations in subparagraphs A and B:

(A) Annual Payment Option

- (i) Repowering 100MW or less cumulatively at a facility subsequent to September 6, 2013 with offsets debited from the SCAQMD internal offset accounts:

$$\text{Annual Offset Fee } (F_i) = R_{iA1} \times OF_i \times PTERep_i \times \left( \frac{C_{rep} - C_{2YRAvgExisting}}{C_{rep}} \right)$$

- (ii) Repowering more than 100MW cumulatively at a facility subsequent to September 6, 2013 with offsets debited from the SCAQMD internal offset accounts:

$$\text{Annual Offset Fee } (F_i) = \left( \left[ R_{iA1} \times \left( \frac{100}{MW} \right) \right] + \left[ R_{iA2} \times \left( \frac{MW - 100}{MW} \right) \right] \right) \times OF_i \times PTERep_i \times \left( \frac{C_{rep} - C_{2YRAvgExisting}}{C_{rep}} \right)$$

(B) Single Payment Option

- (i) Repowering 100MW or less cumulatively at a facility subsequent to September 6, 2013 with offsets debited from the SCAQMD internal offset accounts:

$$\text{Single Payment Offset Fee } (F_i) = L_{iA1} \times OF_i \times PTERep_i \times \left( \frac{C_{rep} - C_{2YRAvgExisting}}{C_{rep}} \right)$$

- (ii) Repowering more than 100MW cumulatively at a facility subsequent to September 6, 2013 with offsets debited from the SCAQMD internal offset accounts:

$$\text{Single Payment Offset Fee } (F_i) = \left( \left[ L_{iA1} \times \left( \frac{100}{MW} \right) \right] + \left[ L_{iA2} \times \left( \frac{MW - 100}{MW} \right) \right] \right) \times OF_i \times PTE_{rep_i} \times \left( \frac{C_{rep} - C_{2YRAvgExisting}}{C_{rep}} \right)$$

Where;

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- $F_i$  = Offset Fee for pollutant (i).
- $R_{iA1}$  = Table A1, Annual Offset Fee Rate for pollutant (i), in terms of dollars per pound per day, annually.
- $R_{iA2}$  = Table A2, Annual Offset Fee Rate for pollutant (i), in terms of dollars per pound per day, annually.
- $L_{iA1}$  = Table A1, Single Payment Offset Fee Rate for pollutant (i), in terms of dollars per pound per day.
- $L_{iA2}$  = Table A2, Single Payment Offset Fee Rate for pollutant (i), in terms of dollars per pound per day.
- MW = MW rating of new replacement unit(s).
- $OF_i$  = offset factor pursuant to Rule 1315(c)(2) for extreme non-attainment pollutants and their precursors, (see Table A1 or A2, as applicable, for factors).
- $PTE_{rep_i}$  = permitted potential to emit of new replacement unit(s) for pollutant i, in pounds per day. (Maximum permitted monthly emissions ÷ 30 days).
- $C_{rep}$  = maximum permitted annual megawatt hour (MWh) generation of the new replacement unit(s). (Maximum rated capacity (MW) x Maximum permitted annual operating hours (h)).
- $C_{2YRAvgExisting}$  = the average annual megawatt-hour (MWh) generation of the existing unit(s) to be replaced using the last twenty-four (24) month period immediately prior to issuance of the permit to construct.

Table A1: Pollutant Specific Offset Fee Rates & Offset Factors applicable to the first 100MWs cumulatively repowered at an EGF after September 6, 2013 with offsets debited from the SCAQMD internal accounts

Pollutant (i)	Annual Offset Fee Rate ( $R_{iA1}$ ) (\$per lb/day)*	Single Payment Offset Fee Rate ( $L_{iA1}$ ) (\$ per lb/day)*	Offset Factor ( $OF_i$ )
PM	\$997	\$24,911	1.0
NOx**	\$666	\$16,643	1.2
SOx	\$793	\$19,816	1.0
VOC	\$47	\$1,159	1.2

\*Offset Fees paid annually and adjusted annually by the CPI.

\*\*For non-RECLAIM sources only.

Table A2: Pollutant Specific Offset Fee Rates & Offset Factors applicable to the cumulative MW capacity in excess of 100 MW repowered at an EGF after September 6, 2013 with offsets debited from the SCAQMD internal offset accounts

Pollutant (i)	Annual Offset Fee Rate ( $R_{iA2}$ ) (\$per lb/day)*	Single Payment Offset Fee Rate ( $L_{iA2}$ ) (\$ per lb/day)*	Offset Factor ( $OF_i$ )
PM	\$3,986	\$99,643	1.0
NOx**	\$2,663	\$66,571	1.2
SOx	\$3,170	\$79,262	1.0
VOC	\$185	\$4,635	1.2

\*Offset Fees paid annually and adjusted annually by the CPI.

\*\*For non-RECLAIM sources only.

(3) The owner/operator of an EGF electing to use the offset fee exemption of Rule 1304(a)(2) shall remit the offset fees as follows:

(A) For the annual payment option:

(i) The owner/operator must remit the first year annual offset fee payment prior to the issuance of the permit to construct and such fees shall be based on the total amount of the repowered 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, 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.

- (ii) If the owner/operator of an EGF fails to pay the applicable Annual Offset Fee ( $F_i$ ) 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 with an additional penalty of 50%.
  - (iii) The owner/operator of an EGF 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.
- (B) For the single payment option, the owner/operator must remit the entire fee prior to issuance of the permit to construct.
- (4) 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.
- (5) Refunds of First Year of Annual Payment or Single Payment
- (A) The full amount of any payments made in satisfaction of the requirements of the rule shall be refunded if a written request by the facility owner/operator 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.
  - (B) Prior to the commencement of construction of each new electrical generating unit, an owner/operator 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 capacity.

(d) Use of Offset Fee Proceeds

- (1) Except as provided in Paragraph (d)(2), the 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 impacted surrounding communities where the repowering EGF projects are located.
- (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.

(e) 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.