

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

**Rule 317 – Clean Air Act Non-Attainment Fees**

**Section 172(e) Fee Equivalency Account (FEA)**

**Reconciliation Report**

**South Coast Air Basin (SOCAB)**

**Fee Assessment Year (FAY) 2012**

Dated: September 3, 2012

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**EXECUTIVE SUMMARY**

Rule 317 implements Section 185 of the Clean Air Act. Section 185 requires all major sources in severe and extreme ozone non-attainment areas to pay a fee beginning the year after the attainment deadline. The fee is based on the amount of the annual emissions from each major source above those in the attainment year for all years subsequent to the attainment year and continues until the air quality region is in attainment. For the South Coast Air Basin, the attainment deadline was December 31, 2010 and fees are based on calendar year 2011 emissions.

Rule 317 is structured to achieve the requirements of Section 185 through an alternative equivalent fee program. This approach is modeled on guidance published by US EPA for Section 185. Under Rule 317, monies used to fund air quality improvement programs for NO<sub>x</sub> and VOC that are surplus to the 1-hour SIP for ozone are credited against the fee obligation applicable to major stationary sources pursuant to Section 185.

Rule 317 requires the South Coast Air Quality Management District (SCAQMD) to determine annually that sufficient credits to offset the fee obligations were available for the past calendar year(s). Rule 317 requires the SCAQMD to also complete annually a preliminary analysis demonstrating that adequate funding will be available to offset the fee obligation for the subsequent calendar year.

This reconciliation report summarizes the results for the South Coast Air Basin (SOCAB) for the calendar year 2012 (Fee Assessment Year 2011).

For calendar year 2011, 568 major sources were potentially subject to the fee and the aggregate fee amount due was \$36,202,195. Monies from creditable programs totaled \$326,070,170. Unused funds may be carried forward into the following calendar year. Sufficient funds were available to demonstrate equivalency with the Section 185 fees for CY 2011 as well as project equivalency for CY 2012.

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## INTRODUCTION

Section 185 of the Clean Air Act (CAA) requires SCAQMD and other air quality jurisdictions that fail to attain the federal ozone standard by the applicable dates to implement a program requiring major stationary sources to pay emission fees, as a penalty for failing to attain, and until the region reaches attainment, or implement an equivalent program. Rule 317, as amended on February 4, 2011, provides the framework for implementing an alternate, fee equivalent program, as authorized under CAA Section 172(e) for the revoked 1-hour ozone standard.

Rule 317 stipulates that the Executive Officer (EO) shall establish and maintain a Section 172(e) fee equivalency account (FEA). The FEA is to be credited with expenditures from qualified programs. Credits in the account are to be used to offset any Clean Air Act (CAA) Non-Attainment (Section 185) fee obligation by major stationary sources of emissions. The calculated Section 185 fee obligation is to be debited from the FEA. On an annual basis, the EO must complete an equivalency demonstration to show that the FEA has adequate funding from the previous year to meet the Section 185 fee obligation. Additionally, the EO, on an annual basis, must also complete a Preliminary Determination of Equivalency to show that adequate funding is expected to be available in the FEA to match the Section 185 fee obligation for the following year. Furthermore, by September 3, 2012, and annually thereafter, the EO shall file a report with CARB and US EPA on the status of the FEA.

Rule 317 is applicable to two air basins in the SCAQMD, the Salton Sea Air Basin (SSAB) and the South Coast Air Basin (SOCAB). Due to their different attainment status classification, the two basins have different compliance dates and pollution thresholds applicable to their respective major sources. Rule 317 is applicable to affected sources in the SSAB relative to the attainment year, calendar year (CY) 2007, whereas in the SOCAB, it is CY 2010. The pollutant (NO<sub>x</sub>/VOC) threshold for major sources in the SSAB is a PTE  $\geq 25$ TPY, whereas in the SOCAB it is a PTE  $\geq 10$ TPY. For these reasons, the FEA is subdivided into two separate and distinct accounts; one for affected sources in the SSAB and another for sources in the SOCAB. This report covers the SOCAB FEA account.

## FEE EQUIVALENCY ACCOUNT (FEA)

The FEA is established by prefunding the account with qualified credits. Thereafter it is funded by additional qualified credits annually, and the account is debited (or has deducted from it) annually the aggregate of all major source fee obligations. Details of both of these activities are provided in the following sections.

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**FEA CREDITS**

The FEA is established by prefunding the account with credits reflecting expenditures from qualified programs. Qualified programs must meet all the following criteria in order for their expenditures to be creditable to the FEA:

1. They are surplus to the State Implementation Program for the federal 1-hour ozone standard and are approved by the Executive Officer of AQMD, Executive Officer of CARB, and the Administrator or Regional Administrator of US EPA Region IX as being surplus to the SIP;
2. They are designed to result or have resulted in direct VOC or NO<sub>x</sub> reductions in the SCAQMD; or have facilitated or will facilitate future VOC or NO<sub>x</sub> reductions in the SCAQMD through vehicle/engine fueling infrastructure or advanced technology development efforts for implementation within the next 10 years, or other uses approved by EPA<sup>1</sup>;
3. Expenditures for the projects that occur in calendar years 2009 and thereafter are to be credited; and
4. Credit the FEA with monies actually expended (not budgeted) from qualified programs during the calendar year in which the credit is applied to the FEA.

Expenditures that are credits to the FEA need not actually be held nor disbursed directly by the AQMD, provided the underlying programs have been approved by CARB and EPA and tracked pursuant to subdivision (c) of the rule. Funds used as credits for the FEA are accounted for on a dollar for dollar basis and do not have to be discounted due to the passage of time. Furthermore, such credits may be accumulated in the FEA from year to year if a surplus exists in any given year, and used to offset future debits to the FEA as needed (see Appendices B through G). Table 1 below summarizes funding for the SOCAB FEA 2012 FAY.

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<sup>1</sup> The SCAQMD has two 1-hour ozone non-attainment air basins subject to Rule 317, the SSAB and the SOCAB. Projects within the SCAQMD are segregated by these two air basins. This report deals solely with the SOCAB.

Table 1 – SOCAB FEA 2012 FAY Summary of Credit Funding by Calendar Year  
(From Appendices B through G)

FUNDING SOURCE <sup>2</sup>	CY 2009	CY 2010	CY 2011	CY 2012 <sup>3</sup>
FUND 81 (Prop 1B Goods Movement) [Appendix B]	\$7,707,499	\$94,688,933	\$81,302,062	\$0
FUND 82 (Prop 1B Lower Emissions School Bus) [Appendix C]	\$0	\$9,769,573	\$43,143,056	\$9,332,143
FUND 59 (VIP SB 1107 Multi-District) [Appendix D]	\$0	\$0	\$5,386,000	\$855,000
FUND 33 (State DERA School Bus Retrofit Funding Grant) [Appendix E]	\$807,687	\$0	\$0	\$0
AB2766 (Discretionary) [Appendix F]	\$19,354,135	\$19,197,893	\$9,237,558	\$0
AB2766 (MSRC) [Appendix G]	\$16,057,593	\$11,421,302	\$7,996,879	\$6,531,110
<b>TOTALS</b>	<b>\$43,926,914</b>	<b>\$135,077,701</b>	<b>\$147,065,555</b>	<b>\$16,718,253</b>

<sup>2</sup>The list of funds in Table 1 is a subset of available credits and is not exhaustive. The district may consider using additional qualified credits (from CY2009 and thereafter), that have not already been accounted for in this fee assessment year, from both the accounts listed in this table and from new or existing accounts not listed herein, if the need for additional credits arises. Additional sources of qualified funding include but are not limited to: U.S. EPA DERA, U.S. EPA DERA Earmark, U.S. EPA Emerging Technologies, U.S. DOE, U.S. DOE Clean Cities, U.S. DOE Transportation Electrification, CARB AQIP, CARB AB118 Program, California Energy Commission, SCAQMD Carl Moyer Memorial Program, and SCAQMD Clean Fuels Programs. Note that Rule 317(c)(1)(C) allows for credit funds to accumulate from year to year if a surplus exists. Such funds may be used in any given year(s) to offset Section 185 fees (debits). These funds are to be accounted for on a dollar for dollar basis and not discounted due to the passage of time.

<sup>3</sup>Expenditures (credits to the FEA) estimate listed for CY2012 reflects expenditures through the date of preparation of this report and does not represent the total anticipated credits for CY2012 that may accrue to the FEA in FAY2013.

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The Proposition 1B – Goods Movement Emission Reduction Program (commonly referred to as the “Prop. 1B Program”) was approved by voters in 2006 and provides funding for projects that reduce emissions from goods movement operations. Emissions from diesel equipment, locomotives and vehicles involved in goods movement greatly impact the health of communities located near ports, rail yards, distribution centers and roads with high truck traffic. The Prop. 1B Program is intended to reduce diesel air pollution from goods movement operations and achieve the earliest possible health risk reduction in nearby communities. The projects funded by the Prop. 1B Program must achieve “early or extra emission reductions” that are not required by a law or regulation.

The Prop. 1B Program offers a financial incentive to owners/operators of eligible equipment involved in goods movement operations to upgrade their equipment, install a retrofit device, install electrical infrastructure at a truck stop or distribution facility, or implement other projects that will reduce diesel air pollutant emissions. The types of goods movement equipment targeted by the Prop. 1B program include: heavy-duty diesel trucks (replacement, retrofit or repower), truck stop or distribution center electrification infrastructure, locomotives, ships at berth (e.g., shore power), commercial harbor craft, and cargo handling equipment at ports or rail yard facilities. Fund 81 programs, funded by Proposition 1B monies, are grant funds for the reduction of emissions from the goods movement vehicle category. Additional projects also include trucks and locomotives and shore power.

Fund 82 programs, funded by Proposition 1B monies, have been used for the replacement of pre 1987 model year school buses and the retrofitting of post 1993 model year with particulate traps.

Fund 59 is a voucher incentive program with grant vouchers provided to dismantlers, dealerships, retrofit installers and other applicants to incentivize the conversion to cleaner vehicles. This includes retrofits of existing trucks to reduce emissions or replacement of existing trucks with cleaner vehicles. It is limited to owners/operators of fleets of 10 or fewer vehicles and vouchers are issued on a first come, first served basis.

AB 2766 provides for the collection of an additional \$4 in motor vehicle registration fees to fund various air pollution efforts. Each dollar collected is disbursed as follows:

- 30 cents - used by the AQMD for programs to reduce air pollution from motor vehicles and to carry out planning, monitoring, enforcement and technical studies that are authorized by, or necessary to implement, the California Clean Air Act.
- 40 cents - distributed on a quarterly basis by the AQMD to cities and counties located in the South Coast District, based on their percentage of population, to be used to reduce motor vehicle air pollution. Every year AQMD provides technical assistance and training for the local government AB2766 reporting process.
- 30 cents - deposited by the AQMD into a "Discretionary Fund" to be used to implement or monitor programs to reduce motor vehicle air pollution. To determine which projects should be funded by the Discretionary Fund, AB 2766 provided for the creation of the

Mobile Source Air Pollution Reduction Review Committee (MSRC), which develops a Work Program for evaluating programs and makes a final recommendation to the SCAQMD Governing Board as to which programs and/or projects should be funded.

## FEA DEBITS

The FEA is debited annually with the aggregate charges of all Section 185 fee obligations from all sources subject to Rule 317, offsetting fees that would otherwise be paid by sources. The annual charge for each source is computed as follows:

$$\text{Annual CAA Non-Attainment Fee} = \$5,000 \times \text{CPIF} \times [ A - ( 0.8 \times B ) ]$$

where:

- A** is the total amount of emissions actually emitted during the applicable fee assessment year for pollutants included in B, in tons. If A is less than or equal to 80% of B; then there shall be no annual CAA non-attainment fee assessed for the subject year.<sup>4</sup>
- B** is Baseline Emissions, of VOC, NO<sub>x</sub> or both for which a source qualifies as a major stationary source as defined in Rule 317, in tons. Baseline for an existing source in the SOCAB is defined as the average amount of the actual emissions, including fugitives and unpermitted emissions, during fiscal years 2005-06 and 2006-07 (emissions not to exceed allowables), and programmatically adjusted to account for regulatory effects between 2006 through 2010. For sources that become subject to this rule after the attainment year: (i) For a non-RECLAIM major stationary source the baseline emissions shall be the amount of emissions allowed under the applicable implementation plan or the potential to emit (annual emissions including fugitives and emissions from unpermitted equipment); (ii) For an existing RECLAIM source that subsequently qualifies as a major stationary source for the purposes of this rule the baseline emissions shall be the higher of the RTC holdings at the beginning of the year available for use during the same calendar year or actual emissions during the calendar year the source becomes a major stationary source that do not exceed the RTC holdings at the end of the reconciliation period; (iii) For a new RECLAIM source that qualifies as a major stationary source for the purposes of this rule the baseline emissions shall be the higher of RTC holdings purchased at the beginning of the attainment year or the initial calendar year of operation, as applicable, or actual emissions during the calendar year, not to exceed RTC holdings at the end of the reconciliation period.
- CPIF** is the annual Consumer Price Index (CPI) adjustment factor which is equivalent to the cumulative increase in the CPI beginning with the 1989 change in the index up to and including the change in the year prior to the year for which the fees are due. For

<sup>4</sup> For the purposes of this report A (CY 2011), is defined as the year prior to the initial FAY ( CY 2012) and it is the year in which the emissions actually occur.

*any calendar year the CPI is the average of the CPI for all-urban consumers published by the Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year or the revision of the CPI which is most consistent with the CPI for calendar year 1989 in accordance with Sections 502(b)(3)(B)(v) and 185(b)(3) of the CAA. Section 185 cross-references the methodology in section 502(b)(3)(B)(v) of the CAA. This method has been interpreted for use in determining permit fees in a 1992 EPA memorandum. (See, EPA Memorandum of October 15, 1992, from Frank Bunyard, "Calculating Fees for Operating Permits." EPA has used this method to calculate the Part 70 permit fee rate since 1990, and will continue to update the rate every year in September, when the August values are available. Appendix A, (EPA Memorandum, from Scott Mathias, "Clean Air Section 185 Fee Rates for Calendar Years 1990-2011") shows the latest publication by EPA for these values, which are used in calculating fee obligations for the FEA.<sup>5</sup>*

**BASELINE PROGRAMATIC ADJUSTMENT METHODOLOGY**

Baseline for the SOCAB is determined pursuant to Rule 317(b)(2)(A) as the average amount of the emissions during fiscal years 2005-2006 and 2006-2007 (average of FY05-06 and FY06-07 emissions). A single Baseline is computed for NOx and a separate Baseline for VOC, as applicable, so that a source may have a NOx Baseline, a VOC Baseline or both. There is no aggregation of NOx and VOC emissions at a source.

Furthermore, pursuant to Rule 317(b)(2)(A) prior to averaging, these emissions must be adjusted down programmatically to account for the regulatory effects of mandatory reductions in emissions. These are reductions that would have resulted if the operations producing the emissions during FY05-06 and FY06-07 were taking place in CY2010, due to the adoption of more stringent rules during the FY06-07 through CY2010 time frame.

For the FY06-07 through CY2010 time frame, the following list of NOx and VOC rules (Table 2) impacted Rule 317 sources (note that not all rules impacted all sources).

Table 2 – Rules Reducing Emissions from Rule 317 Sources (FY06-07 - CY2010)

SCAQMD Rule #	Rule Title & Date of Adoption	Pollutant Controlled
R1107	Coating of Metal Parts & Products	VOC
R1110.2	NOX from Stationary ICES/GL fueled ICES	NOX
R1110.2	Emissions from Gaseous and Liquid Fueled Engines	NOX
R1118	Control of Emissions from Refinery Flares	VOC and NOx

<sup>5</sup> See Appendix A for a detailed explanation of the computation of the CPIF.

SCAQMD Rule #	Rule Title & Date of Adoption	Pollutant Controlled
R1122	Solvent Degreasers	VOC
R1136	Wood Products Coatings	VOC
R1145	Plastic, Rubber, and Glass Coatings	VOC
R1147	Non-RECLAIM Ovens, Dryers, Furnaces	NOX
R1148.1	Oil and Gas Production Wells	VOC
R1149	Storage Tank & Pipeline Cleaning & Degassing	VOC
R1151	Motor Vehicle Non-Assembly Line Coating Operations	VOC
R1171	Solvent Cleaning Operations	VOC
R1178	FER Floating & Fixed Roof Tanks (FUG-05) & Fugitive Sources	VOC
REG XX	NOx Reclaim	NOX

A total of 13 rules were identified as restricting emissions from Rule 317 sources from FY05-06 and 11 from FY 06-07. Nine reduced VOC emissions, 3 reduced NOX emissions and 1 reduced both NOx and VOC.

The following specific steps were taken in determining the exact programmatic adjustment due to regulatory effects for FY05-06 through CY2010 emissions for each affected source in the Rule 317 universe:

- (1) SCAQMD Annual Emissions Reporting Program (AER) FY05-06 & FY06-07 VOC & NOX data were used as bases to estimate the two (one for NOx and the other for VOC) programmatically adjusted for regulatory effects CY2010 Baselines.
- (2) Applicable rules with implementation dates and associated reductions from CY2005 to CY2010 were applied to the FY05-06 emissions at the equipment level.
- (3) Applicable rules with reductions from CY2006 to CY2010 were applied to FY06-07 emissions at the equipment level.
- (4) None of the command and control rules in Table 2 affect the level of NOx emissions from RECLAIM sources as these emissions are not subject to command and control rules. RECLAIM allocations (allowable emissions) for 2010 were reduced pursuant to an amendment in 2005. An analysis of the NOx emissions from the subset of 145 RECLAIM sources was conducted to determine if a further adjustment of the actual FY05-06 and FY06-07 emissions from these sources (similar to the programmatic adjustment due to regulatory effects for non-RECLAIM emissions) was therefore appropriate (in order to reflect a corresponding reduction in CY2010 NOx RECLAIM allocations compared to FY05-06 and FY06-07 allocations). Aggregate NOx emissions for the 145 sources for FY05-06 and FY06-07 were 7,780 tons and 8,022 tons, respectively. For CY2010 the aggregate NOx allocation for the same sources was 10,810

tons. Since the aggregate NOx emissions are lower than the reduced aggregate source allocations for the 145 NOx RECLAIM sources subject to Rule 317 for 2010, no further adjustment of the actual emissions is necessary.

- (5) The programmatically adjusted CY2010 emissions for both pollutants, as applicable, by source were then used to compute the Baseline for each source.

For the SOCAB, in the initial 2012 FAY, staff identified a total of 428 potential sources with quantifiable Rule 317 emissions. However, staff is also tracking an additional 140 sources which may or may not have future quantified emissions. The aggregate programmatically adjusted debit (fee obligation) to the FEA for FAY 2012 (emissions in CY2011) is \$36,202,195.<sup>6</sup>

## EQUIVALENCY DEMONSTRATIONS

Pursuant to Rule 317(c)(5), the EO is required to complete a two-part demonstration confirming that sufficient credits to offset debit obligations are and will be available in the FEA. The first demonstration is the Annual Determination of Equivalency and the second is the Annual Preliminary Determination of Equivalency.

### *The Annual Determination of Equivalency*

For the SOCAB, by August 1, 2012 an Annual Determination of Equivalency must be performed to demonstrate that adequate funding was available in the FEA in CY 2011 to meet the CAA Non-Attainment (Section 185) fee obligation for all sources subject to CAA Non-Attainment (Section 185) fees in CY 2011. Subsequently, this demonstration must be performed on or before every August 1<sup>st</sup> for the current calendar year (CY). It is calculated as (see Table 4):

$$B_{i-1} + D_{i-1} - F_{i-1} = B_i > 0$$

where:

***B<sub>i-1</sub>*** is the Section 172 (e) fee equivalency account balance at the beginning of the prior calendar year *i-1*

***D<sub>i-1</sub>*** is the funds deposited (credited) into the Section 172 (e) fee equivalency account during the prior calendar year (*i-1*)

***F<sub>i-1</sub>*** is the Section 185 fees calculated for all major stationary sources for prior calendar year calculated pursuant to paragraph (c) (2), and

***B<sub>i</sub>*** is the Section 172 (e) fee equivalency account balance at the end of calendar year *i-1*, which is carried forward as the beginning balance for the following year *i*.

<sup>6</sup> See Attachment H.

*The Annual Preliminary Determination of Equivalency*

For the SOCAB, by July 1, 2012, an Annual Preliminary Determination of Equivalency must demonstrate that an adequate level of funding was available in the FEA in CY 2011 to meet CY 2011 CAA Non-Attainment (Section 185) fee obligations for all subject sources. This level is set at an additional surplus of more than 10% in credits to that required to offset debits for the prior calendar year. Subsequently, this demonstration must be performed on or before every July 1<sup>st</sup>. It is calculated as (see Table 4):

$$B_i + D_i > 110\% \times F_{i-1}$$

where:

*B<sub>i</sub>* is the Section 172 (e) Fee Equivalency Account balance at the beginning of the current calendar year *i*

*D<sub>i</sub>* is the funds expected to be deposited (credited) into Section 172 (e) Fee Equivalency Account in current calendar year *i*, and

*F<sub>i-1</sub>* is the Section 185 fees calculated pursuant to paragraph (c) (2) for the prior calendar year (*i-1*) being used as surrogate Section 185 fee estimate for the current year.

Should the results of either the Annual Determination of Equivalency or the Annual Preliminary Determination of Equivalency calculations demonstrate that there are in fact insufficient credits to cover debits (a shortfall), then the backstop provision in Rule 317 subparagraph (c)(6) is triggered. A shortfall would occur if for the Annual Determination of Equivalency  $B_i \leq 0$  or for the Preliminary Determination of Equivalency  $B_i + D_i \leq 110\% \times F_{i-1}$ . The provisions of the backstop rule require that within 90 days of a determination of a shortfall in the FEA a rule will be presented to the Governing Board proposing actions to cover the shortfall, including assessing fees on facilities subject to Rule 317.

**REPORTING REQUIREMENTS**

Rule 317 requires the following specific items regarding the FEA be reported annually:

Table 3 – Reporting Requirements and SOCAB Reconciliation Report References

Item	Reporting Requirement	Reference
1.	A listing of all programs, program descriptions, description of funding, certification of eligibility for each program, and associated expenditures that were credited into the Section 172 (e) fee equivalency account during the prior calendar year and those expected to be credited during the current year. [317(c)(5)(E)]	Appendices B, C, D, E, F and G
2.	The Section 172 (e) SOCAB FEA beginning balance. [317(c)(5)(C)].	Table 4 consolidates, summarizes and provides the running total of all credits into the SOCAB FEA from appendices B through G
3.	The amount of any surplus funding carried over to the subsequent calendar year. [317(c)(5)(D)]	Table 1 and 4

Item	Reporting Requirement	Reference
4.	A listing of all facilities in the SOCAB subject to Section 185 and their calculated prior calendar year fee obligation. [317(c)(5)(A)].	Appendix H
5.	The aggregate amount of prior calendar year CAA Non-Attainment (Section 185) fees obligation calculated pursuant to paragraph Rule 317 (c)(2). [317(c)(5)(B)].	Table 4
6.	The results of the equivalency demonstration and preliminary determination of equivalency conducted pursuant to paragraph (c)(3) and (c)(4). [317(c)(5)(B)]	Table 4 and Reconciliation and Compliance Demonstration section

**RECONCILIATION AND COMPLIANCE DEMONSTRATION**

For the FEA account reconciliation and compliance demonstration, the Baseline year for the SOCAB was CY 2010, the initial emissions year was CY 2011 and the initial Fee Assessment Year (FAY) is CY 2012. A summary of the activity to date in the SOCAB FEA and the compliance demonstration is presented in Table 4.

The current construct of the Rule 317 FEA results in the following conservative assumptions for fee obligation determination (these procedures apply to both NOx and VOC emissions independently; specific pollutant refers to NOx/VOC):

1. Even though the rule allows it, there is no aggregation of NOx and VOC emissions or Baseline at any source (with the same Facility ID), even if the source is major for both pollutants. Aggregation of pollutants at a single site can in some situations result in a higher Baseline with a lower fee obligation.
2. There is no proration of emissions in determining the Baseline for sources beginning operation after 1/1/2010 and prior to 12/31/2010 (or for emissions during part of the years in FY05-06 or FY06-07). Proration would result in a more favorable Baseline and lower fee obligation.
3. Any year in which an AER is not filed a source may potentially have had emissions of up to 4 tons of a specific pollutant. However there is no way to know the actual quantity of emissions since:

$$0 \leq \text{specific pollutant emissions} < 4 \text{ tons}$$

a proxy value of zero is used for the year in computing the Baseline and an adjusted approximation of 2.9 tons for the year 2011 emissions of the specific pollutant.

4. Sources that went out of business or were sold in 2011 may still have a 2012 fee obligation, if they had emissions in 2011. These sources are accounted for.
5. Sources with an “Inactive” or “Sold” facility status are still tracked and have a fee obligation computed since these sources are not confirmed to be out of business and may begin operations again.

Table 4 summarizes the activity in the SOCAB FEA. As shown the FEA for the SOCAB was initially seeded with (a credit balance of):

Prior Year (CY 2011) Ending Balance (CY 2012 Beginning Credit Balance)  
 Credits Generated in CY 2011 and available in CY2012 +

$$B_{i-1} = B_{(2012-1)} = B_{2011} = \$179,004,615 \quad +$$

$$D_{i-1} = D_{(2012-1)} = D_{2011} = \$147,065,555 \quad =$$

$$B_{2011} + D_{2011} = \$326,070,170$$

As mandated these credits were surplus to the State Implementation Program (Plan) for the federal one-hour ozone standard and generated from a variety of projects in the SOCAB. These projects included clean fuels funding programs and Proposition 1 funding for retrofitting or replacement of diesel fueled heavy duty vehicles and school buses (See Table 1 and Appendices B through G).

For the 2012 FAY the aggregate Rule 317 major source (Section 185) fee obligation to be debited from the FEA was (See Table 4 and Appendix H):

$$F_{i-1} = F_{(2012-1)} = F_{2011} = \$36,201,988$$

The net remaining balance (for FAY 2012) or the next year beginning balance (FAY 2013) is:

$$D_{2011} = \$326,070,170 \quad -$$

$$F_{2011} = \$36,201,988 \quad =$$

$$B_i = B_{2012} = \$289,868,182$$

This demonstrates compliance with the ADE since  $B_{2012} = \$289,867,975$  is greater than 0. In actuality it is several times larger than  $F_{i-1}$  the 2012 FAY fee obligation. This would indicate that at the present level of emissions, there are several years of additional credits available in the SOCAB FEA to offset Section 185 fee obligations. In addition, this estimate does not take into consideration additional credits (including those from other programs in CY2009 and thereafter and additional funding from current programs accounted for here but expended in upcoming future years) that will accrue to the FEA in future years.

For the APDE the following demonstration is made:

$$B_i + D_i = B_{2012} + D_{2012} = \$289,868,182 + \$16,718,253 = \$306,586,435$$

$$F_{i-1} \times 110\% = F_{2011} \times 110\% = \$36,201,988 \times 110\% = \$39,822,187$$

Since :

$$B_{2012} + D_{2012} = \$306,586,485 > F_{2011} \times 110\% = \$39,822,187$$

compliance is also demonstrated with the APDE for the SOCAB FEA 2012 FAY.

In summary, the current balance of the FEA for the SOCAB, after reconciliation, shows a significant net surplus of credits with the ADE > 0. The APDE demonstrates that adequate funding was available for all FAY 2012 and should be more than sufficient for many years to come.

Table 4 - Rule 317 SOCAB FEA Tracking & Reconciliation Demonstration For Fee Assessment Year 2012

<sup>7</sup> FAY	Prior Year Ending Balance (B <sub>i-1</sub> )	Prior Year Credits (D <sub>i-1</sub> )	Prior Year <sup>8</sup> Debits (F <sub>i-1</sub> )	Next Year Beginning Balance (B <sub>i</sub> )	Anticipated Credits This Year (D <sub>i</sub> ) <sup>9</sup>	B <sub>i</sub> + D <sub>i</sub>	F <sub>i-1</sub> x 110%	<sup>10</sup> APDE (B <sub>i</sub> + D <sub>i</sub> > F <sub>i-1</sub> x 110%) ?	<sup>11</sup> ADE > 0 ? (B <sub>i</sub> > 0 ?)
2009	\$0	\$0	\$0	\$0	\$43,926,914	\$43,926,914	\$0	✓	n/a <sup>12</sup>
2010	\$0	\$43,926,914	\$0	\$43,926,914	\$135,077,701	\$179,004,615	\$0	✓	✓
2011	\$43,926,914	\$135,077,701	\$0	\$179,004,615	\$147,065,555	\$326,070,170	\$0	✓	✓
2012	\$179,004,615	\$147,065,555	\$36,201,988 <sup>13</sup>	\$289,868,182	\$16,718,253 <sup>14</sup>	\$306,586,435	\$39,822,187	✓	✓

<sup>7</sup> Fee Assessment Year (FAY) is the year in which the actual accounting reconciliation and reporting is performed for the FEA. This is the year immediately following the year in which the Rule 317 Section 185 fee emissions occur and the fee is actually incurred. For emissions fees incurred as a result of emissions in CY 2011 the Fee Assessment Year is CY 2012. Note that in actuality the initial FAY is CY 2012 however for consistency and to avoid any confusion the column is labeled as FAY rather than CY. All dollar amounts are calculated to the nearest whole dollar.

<sup>8</sup> Debits to FEA calculated as the dollar equivalent of the aggregate of the Rule 317 sources Section 185 fee obligation.

<sup>9</sup> See Table 1 for details.

<sup>10</sup> Check of the Annual Preliminary Demonstration of Equivalency.

<sup>11</sup> Check of the Annual Demonstration of Equivalency.

<sup>12</sup> No fee obligation is incurred in CY 2009 and therefore no credits are required to demonstrate that B<sub>i</sub> > 0.

<sup>13</sup> See Appendix H.

<sup>14</sup> The anticipated credits estimate for CY2012 reflect a subset of the total anticipated credits for CY2012 and accounts for funds expended as of the date of publication of this report. A full accounting of funds expended in CY2012 will be reflected in the tracking and reconciliation demonstration for FAY 2013.

## **APPENDICES**

**APPENDIX A – CPIF VALUES**

**APPENDIX B – SOCAB FEA 2012 FAY (CREDIT) FUNDING - FUND 81  
(PROP 1B – GOODS MOVEMENT)**

**APPENDIX C – SOCAB FEA 2012 FAY (CREDIT) FUNDING - FUND 82  
(PROP 1B LOWER EMISSIONS SCHOOL BUS)**

**APPENDIX D - SOCAB FEA 2012 FAY (CREDIT) FUNDING FUND 59  
(Voucher Incentive Program (VIP) SB 1107 MULTI-DISTRICT)**

**APPENDIX E – SOCAB FEA 2012 FAY (CREDIT) FUNDING FUND 33**

**APPENDIX F – AB 2766 DISCRETIONARY (CREDIT) FUNDING**

**APPENDIX G – AB 2766 MSRC (CREDIT) FUNDING**

**APPENDIX H – RULE 317 SOCAB FEA 2012 FAY (DEBIT) SOURCES**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
RESEARCH TRIANGLE PARK, NC 27711

OFFICE OF  
AIR QUALITY PLANNING  
AND STANDARDS

**MEMORANDUM**

**SUBJECT:** Clean Air Act Section 185 Fee Rates for Calendar Years 1990 – 2011

**FROM:** Scott Mathias, Associate Director  
Air Quality Policy Division *Scott Mathias*

**TO:** Air Program Managers, Regions I-X

This memorandum provides Clean Air Act (CAA) section 185 penalty fee rates (\$/ton of ozone precursor emissions) for each year from 1990 to 2011. CAA section 185 cross-references the methodology in section 502(b)(3)(B)(v) of the CAA for determining fee rates. This method has been interpreted for use in determining permit fees in the October 15, 1992, memorandum "Calculating Fees for Operating Permits," Frank Bunyard, (U.S. EPA). The permit fee rate for each period is based on a calculation of the average monthly change in the Consumer Price Index (All Urban Consumers) for the prior 12-month period running from September to August, as reported by the U.S. Bureau of Labor Statistics. The Environmental Protection Agency has used this method to calculate the Part 70 presumptive minimum permit fee rate since 1990, and updates the rate every year in September, when the August values are available. The adjusted section 185 fee rate for each period is prorated to the adjusted permit fee for the same period, as shown in Table 1 below, by multiplying the Part 70 permit fee rate by 200 (\$5,000/\$25).

Since section 185 fees are assessed on a calendar year basis, and the inflation factor is applied in September, the calendar year fee is determined as a weighted average (8/12 of the fee associated with January to August, and 4/12 of the fee associated with September to December). The weighted fees through the end of calendar year 2011 appear in Table 2 below. The section 185 fee rate for the fee assessment any given calendar year is the annualized fee rate at the end of the fee assessment period.

Attachments

Internet Address (URL) • <http://www.epa.gov>

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**APPENDIX A – CPIF Values**

**TABLE 1: SECTION 185 FEE RATE BASED ON PART 70 PERMIT FEE RATE**

<b>Effective Dates</b>	<b>Part 70 Permit Fee Rate*</b>	<b>Adjusted Sect. 185 Fee Rate</b>
Sept 1989–Aug 1990	\$25.00	\$5,000.00
Sept 1990–Aug 1991	\$26.21	\$5,242.00
Sept 1991–Aug 1992	\$27.59	\$5,518.00
Sept 1992–Aug 1993	\$28.43	\$5,686.00
Sept 1993–Aug 1994	\$29.30	\$5,860.00
Sept 1994–Aug 1995	\$30.07	\$6,014.00
Sept 1995–Aug 1996	\$30.93	\$6,186.00
Sept 1996–Aug 1997	\$31.78	\$6,356.00
Sept 1997–Aug 1998	\$32.65	\$6,530.00
Sept 1998–Aug 1999	\$33.21	\$6,642.00
Sept 1999–Aug 2000	\$33.82	\$6,764.00
Sept 2000–Aug 2001	\$34.87	\$6,974.00
Sept 2001–Aug 2002	\$36.03	\$7,206.00
Sept 2002–Aug 2003	\$36.60	\$7,320.00
Sept 2003–Aug 2004	\$37.43	\$7,486.00
Sept 2004–Aug 2005	\$38.29	\$7,658.00
Sept 2005–Aug 2006	\$39.48	\$7,896.00
Sept 2006–Aug 2007	\$41.02	\$8,204.00
Sept 2007–Aug 2008	\$41.96	\$8,392.00
Sept 2008–Aug 2009	\$43.75	\$8,750.00
Sept 2009–Aug 2010	\$43.83	\$8,766.00
Sept 2010–Aug 2011	\$44.48	\$8,896.00
Sept 2011–Aug 2012	\$45.55	\$9,110.00

\* From [www.epa.gov/oar/oaqps/permits/historicalrates.html](http://www.epa.gov/oar/oaqps/permits/historicalrates.html)

#### APPENDIX A – CPIF Values

**TABLE 2: ANNUALIZED SECTION 185 FEE RATE**

<b>Sect. 185 Year</b>	<b>Annualized Sect. 185 Fee Rate</b>
1990	\$5,080.67
1991	\$5,334.00
1992	\$5,574.00
1993	\$5,744.00
1994	\$5,911.33
1995	\$6,071.33
1996	\$6,242.67
1997	\$6,414.00
1998	\$6,567.33
1999	\$6,682.67
2000	\$6,834.00
2001	\$7,051.33
2002	\$7,244.00
2003	\$7,375.33
2004	\$7,543.33
2005	\$7,737.33
2006	\$7,998.67
2007	\$8,266.67
2008	\$8,511.33
2009	\$8,755.33
2010	\$8,809.33
2011	\$8,967.33