

NOTICE OF PUBLIC CONSULTATION MEETING
PROPOSED RULE 317 – CLEAN AIR ACT NON-ATTAINMENT FEES
Thursday, July 24, 2008 – 9:30 a.m.
South Coast Air Quality Management District
Room GB
21865 Copley Drive
Diamond Bar, CA 91765

Purpose of the Public Consultation Meeting

The South Coast Air Quality Management District (AQMD) has scheduled a public consultation meeting to present and solicit information and comments from the public regarding Proposed Rule 317 – Clean Air Act Non-Attainment Fees. The proposed rule is scheduled to be considered for adoption by the AQMD Governing Board at a public hearing tentatively scheduled for December 5, 2008.

Background

PR 317 promulgates the mandatory requirements for air districts classified as “severe” or “extreme” overall that have not attained the federal one-hour standard for ozone on time as referenced in Sections 182(d), 182(e), 182(f) and 185 of the 1990 amendments to the Clean Air Act (CAA) and Control Measure CM#2007MCS-08 of the 2007 Air Quality Management Plan (AQMP). For the federal one-hour ozone standard the South Coast Air Quality Management District (District) is classified as “extreme” non-attainment. Mandatory CAA provisions, require that air basins classified as extreme must either be in attainment with the federal one-hour standard for ozone or adopt rules to mitigate both VOC and NO_x emissions from major stationary sources by 2010. Although EPA has revoked the one-hour ozone standard and replaced it with an eight-hour standard, a court decision requires the agency to continue to implement the Section 185 fees. The District’s promulgation of PR 317 complies with these mandatory CAA requirements. A major stationary source for the purposes of PR 317 is a source that has either 10 or more tons of VOC or NO_x emissions in the attainment year or thereafter.

Air Quality Objective

The air quality objective of this rule is to mitigate VOC and NO_x emissions from major stationary sources until the Administrator of the U.S. EPA declares that the District is in attainment with the federal one-hour standard for ozone. Both VOC and NO_x are precursors of ozone. Existing major stationary sources of either NO_x or VOC are required to mitigate these air contaminants beginning in 2011, the year following the attainment year for extreme areas, and each year thereafter to 80% of the baseline emissions. If a major stationary source does not reduce emissions below the 80% threshold, a mitigation fee will be assessed annually for each excess ton of VOC and for each excess ton of NO_x emissions above the 80% threshold. Mitigation fees will be used to fund emission reduction programs.

Summary of Proposed Rules

The following points provide a summary of PR 317 – Clean Air Act Non-Attainment

1. Fees: Promulgation of PR 317 is mandatory under the provisions of the CAA.

2. The rule only applies to major stationary sources of VOC or NOx emissions.
3. A major stationary source for the purposes of this rule has the same meaning as in Sections 181(b)(4)(B) and 182(d) of the CAA, if applicable, or a Major Polluting Facility as defined in Rule 1302(s) – Definition of Terms. For the District this is any stationary source emitting 10 or more tons of either VOC or NOx (not combined) annually.
4. The attainment year (2010) is the year in which the District is required to be in attainment of the federal one-hour standard for ozone.
5. The assessment year is any year after the attainment year for which a clean air act non-attainment fee is assessed.
6. Baseline Emissions for a major stationary source, are calculated for each air contaminant, VOC and NOx separately, as follows:
 - a. If operations began prior to the attainment year, then the baseline emissions shall be the lower of either the actual emissions, including fugitive and unpermitted emissions or the amount of emissions allowed under permit, during the attainment year.
 - b. If operations began during the attainment year, then the baseline emissions shall be the lower of the amount of emissions allowed under permit or actual emissions, including fugitive and unpermitted emissions, from the operational period extrapolated over the attainment year.
 - c. If operations begin after the attainment year the baseline emissions shall be the amount of emissions allowed under the applicable implementation plan.
7. A major stationary source that has emissions of VOC or NOx in excess of 80% of the baseline emissions in an assessment year must pay mitigation fees.
8. Separate fees are assessed for excess emissions of VOC and NOx based on a CPI adjusted base cost of \$5,000 per ton, per pollutant, per year.
9. The PR 317 VOC mitigation fee for each major stationary source is computed as follows:

Annual VOC Mitigation Fee = \$5,000 x CPIF x [A – (0.8 x B)], and

Annual NOx Mitigation Fee = \$5,000 x CPIF x [D – (0.8 x E)]

Where:

A = The total amount of VOC emissions actually emitted during the applicable fee assessment year, in tons per year. If A is less than or equal to 80% of B; then there shall be no Annual VOC Mitigation Fee assessed for the subject year.

B = The VOC baseline emissions as defined in this rule in tons per year.

D = The total amount of NOx emissions actually emitted during the applicable fee assessment year, in tons per year. If D is less than or equal to 80% of E; then there shall be no Annual NOx Mitigation Fee assessed for the subject year.

E = The NOx baseline emissions as defined in this rule in tons per year.

CPIF = The annual Consumer Price Index adjustment factor, beginning with the 1989 change in the index up to and including the change in year prior to the year for which the fees are due, in accordance with Section 502(b)(3)(B)(v) and 185(b)(3) of the federal Clean Air Act.

Beginning with the second year after the attainment year and thereafter until the Administrator of the U.S. EPA designates the Basin to be in attainment of the federal one-hour standard for ozone, both the VOC and NOx annual mitigation fees shall be billed and remitted in accordance with the annual emissions fee billing requirements as established in Rule 301(e)(10). A major stationary source that does not pay any or

all of the required mitigation fees by the specified due date shall be subject to the late payment surcharge and permit revocation provisions of Rule 301(e)(10).

10. An extension year is a year in which the deadline for compliance with the federal one-hour ozone standard for the applicable attainment date has been extended for a period of one year as defined in Section 181(a)(5) of the CAA. The U.S. EPA may grant, pursuant to Section 181(a)(5) of the CAA and upon the District's request, up to two one-year extensions to the attainment date provided the District has complied with all requirements and commitments pertaining to the area in the applicable implementation plan and no more than one exceedance of the national ambient air quality standard level for ozone has occurred in the area in the year preceding the extension. No fees will be charged in a year the Administrator of the U.S. EPA declares an extension year.

California Environmental Quality Act

Pursuant to the California Environmental Quality Act (CEQA) and the AQMD's Certified Regulatory Program (Rule 110), the AQMD will prepare appropriate CEQA documentation for the proposed adoption of Rule 317. Upon completion, the CEQA document will be available at AQMD Headquarters, by calling the AQMD Public Information Center at (909) 396-2039, or by accessing AQMD's CEQA website at: www.aqmd.gov/ceqa.

Submission of Documents or Comments

The public is requested to send documents, studies, data or comments relevant to PR 317 by August 8, 2008 to:

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21865 Copley Drive
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Phone: (909) 396-2414
Or by e-mail to: hpourzand@aqmd.gov

Comments, questions or suggestions regarding the CEQA analysis should be directed to:

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