



2016 Rule 310 Annual Accountability Report

For Fiscal Year 2015-2016

July 29, 2016

This Rule 310 Annual Accountability Report was prepared by the Air Pollution Control District (Air District) to fulfill the obligations of Section E.9 of Rule 310 – Operational Development Fee.

I. EXECUTIVE SUMMARY

On November 6, 2007 the Air District's Board of Directors adopted Rule 310 to assist in the reduction of excess emissions resulting from new land development in the Imperial County. The adoption of Rule 310 provided the Air District with a sound method for mitigating the emissions produced from the operation of new commercial and residential development projects throughout the County of Imperial and incorporated cities. The essential mechanism utilized by Rule 310 requires project proponents of new commercial and residential projects to mitigate their operational emissions. The project proponent is given three options by the rule, either provide for off-site mitigation, pay an operational development fee, or choose to mitigate through a combination of both. Although the Air District encourages project proponents to come up with off-site mitigation projects, the reality has been that off-site project specific mitigation is not only difficult to develop but is time consuming and expensive. As a result, payment of a fee is overwhelmingly the elected choice by project proponents.

As per Rule 310 requirements, mitigation fees collected through the implementation of Rule 310 during each Fiscal Year (FY) are separated into two accounts. The designation of each account is specific to the pollutant to be mitigated. The Air District has assigned the accounts to help maintain accountability, prevent intermingling of funds and to help identify cost effectiveness of the program. Account 1 includes the funds for the reduction of Ozone Precursor emissions and Account 2 includes funds for the reduction of PM₁₀ emissions. As is true with any accountability process there are administrative fees which cannot be avoided. Rule 310 addresses the issue by allowing the Air District a percentage of the funds collected. The rule allows, no greater than 10% of the funds for use by the Air District to offset the cost of administration. The ending of a FY, June 30th, triggers the preparation of two specific events applicable to compliance with Rule 310. The first is the preparation of the Annual Accountability Report (AAR) and the second is the Request for Proposals (RFP). The publication of availability of the AAR and the RFP are published on August 1st of each year.

Thus, on August 1st of each year, the Air District makes available through a RFP process the funds collected the previous FY. The funds are utilized to fund various mitigation projects throughout the County of Imperial. The Air District encourages any person seeking funding for a mitigation project to develop and submit a written Mitigation Project Report (MPR) to the Air District during the RFP process, which ends by October 1st. While section E.6 of Rule 310 spells out the requirements for a MPR the Air District recognizes that assistance may be necessary by proponents during the development of their proposals. Therefore, the Air District encourages proponents to call and seek the guidance from our engineering staff.

In order to provide transparency, on August 1st of each year, the Air District has and will continue to prepare and publish an AAR describing the total amount of off-site fees received; total monies spent; total monies remaining; a list of all projects funded; total emission reductions realized; and the overall cost-effectiveness factor for the projects funded. This AAR includes the previous FY 2014-2015 activities.

II. BACKGROUND

As with many other geographical areas, growth in human population and vehicle population is inevitable. The California Department of Finance most recent (January 2013) human population projections indicate that the Imperial County population will increase by 21% between 2010 and 2020. According to projections, the Imperial County will have over 47,500 new residents by the year 2020. Additionally, the total number of new vehicles and vehicle miles traveled (VMT) are also expected to increase. From 2010 to 2020 the Imperial County is expected to see a 24% increase in vehicle population and a 14% increase in VMT. Unfortunately, growth results in increased area source emissions from activities such as increased consumer product use, fuel combustion, and landscape maintenance. Although there are many emission reduction rules in place, not all emissions resulting from new land development can be mitigated on-site. For this reason, the Air District developed Rule 310 as it can assist in mitigating the excess emissions incapable of being mitigated on-site.

Rule 310 was developed through a public process that included the formation of a local Joint Advisory Committee (JAC) whose membership included representatives from Imperial County Planning Department, cities representatives, Caltrans, COLAB, Imperial Irrigation District, Building Industry Association, Holt Group, McMillan Homes, Development Design & Engineering, D.R. Horton, Duggins Construction, El Centro Regional Medical Center, Clean Air Initiative Group, Center for Health Education and Prevention, and the ICAPCD. The Air District held three public workshops for the proposed rule on August 14th, and August 15, 2007. From October 5th through November 5, 2007, the general public was given an opportunity to comment on the rule and the findings of the staff report. Comments provided by the public were incorporated into the proposed rule. The Air Pollution Control District Advisory Board (APCDAB) met to discuss the proposed new rule on August 22, 2007 and recommend approval.

As part of an extensive public outreach effort, Air District staff provided presentations to all the city councils. During the presentations, questions and concerns regarding the impacts, requisites, and benefits of Rule 310 were addressed. The presentations were given during regular city council meetings and they took place between September 19th and October 18, 2007. On November 6, 2007, Rule 310-Operational Development Fee was adopted by the Air District Board of Directors.

III. IMPLEMENTATION

After the adoption of Rule 310, Air District staff in collaboration with local municipalities, setup the Rule 310 application submittal procedures that would work for everyone

involved. Cities and county representatives were asked to inform applicants about the requirements of Rule 310, which included an explanation that a building permit may be withheld. Both city and county agencies were asked to advise applicants to either visit or contact the Air District for more information. If during the Air District's review of the project it is found that the applicant's project is subject to Rule 310, the applicant will be required to fill out and submit a Rule 310 application, submit a copy of the site plans and pay the appropriate fees. Once the Air District is satisfied that all conditions of Rule 310 are met, two copies of a signed and stamp Rule 310 application are given to the applicant. One of the copies is submitted to the appropriate city or county building department while the second copy is for the applicant/developer records. In order to maintain compliance, the Air District currently requests the submittal of a monthly building report from each affected city and county building department. The cities and the county have been submitting these reports to the Air District on a monthly basis.

Since the adoption and implementation of Rule 310 back in 2007, most construction and development companies are now very familiar with the requirements of Rule 310. During the early stages of the rule's implementation the Air Pollution Control Officer (APCO) granted a temporary exemption for development projects which had submitted and paid site plan review fees prior to January 1, 2008. This exemption allowed development companies to continue with their projects without affecting their financial standing. However, on December 31, 2010, the temporary exemption ended whereby effective January 1, 2011 all projects, regardless of when they submitted their site plans are required to comply fully with Rule 310.

Recognizing that our nation was experiencing a severe recession, since 2008, the APCO recommended and the Air District Board of Directors approved a temporary reduction in the applicable Rule 310 fees in the amount equal to 50%. The analysis by the Air District indicated that a temporary 50% reduction would not hinder the intent of Rule 310. Simply put, the Air District would still be able to continue to meet Rule 310 emission reduction goals so long as the 50% reduction did not remain permanent but was transitory in nature. The resolutions passed by the Air District Board of Directors are listed below, the first adopted February 3, 2009¹.

1. Resolution No. 2009-006 adopted February 3, 2009 to automatically terminate one year from date of adoption.
2. Resolution No. 2009-094 adopted December 8, 2009 sunset June 30, 2010.
3. Resolution No. 2010-040 adopted June 22, 2010 sunset December 31, 2010.
4. Resolution No. 2010-085 adopted December 14, 2010 sunset December 31, 2011.
5. Resolution No. 2012-043 adopted April 17, 2012 sunset December 31, 2012
6. Resolution No. 2012-155 adopted December 4, 2012 sunset December 31, 2013
7. Resolution No. 2013-109 adopted November 26, 2013 sunset December 31, 2014
8. Resolution No. 2014-142 adopted December 9, 2014 sunset December 31, 2015

¹ February 3, 2009 the Air District Board of Directors approved a one (1) year temporary reduction of Rule 310-Operational Development Fee in amount not to exceed fifty percent (50%) for the applicable fee. Subsequently, three additional temporary reductions were approved by the Air District Board of Directors. The resolution allowed the reduction to continue until December 31, 2011.

IV. FEE SCHEDULE

Table 1 and Table 2 below represent the Rule 310 fee schedule that applicants were subject to paying between July 1, 2014 thru June 30, 2015. Although section D of Rule 310, the Consumer Price Index (CPI) typically prompts an increase in fees the CPI did not increase for 2016. Therefore, fees remained the same for 2016 as there was no fee increase in the CPI August 2015.

Table 1 - 2015 Rule 310 Fee Schedule

2015 Fees		Ozone Precursors		PM ₁₀		Total	
D.1	Residential Single Family Dwelling	\$ 358.00	Unit	\$ 211.50	Unit	\$ 569.50	Unit
D.2	Residential Multiple Family Dwelling	\$ 264.50	Unit	\$ 169.50	Unit	\$ 434.00	Unit
D.3	Commercial	\$ 0.96	Sq ft	\$ 0.64	Sq ft	\$ 1.60	Sq ft
D.4	Warehouse (below 148 ADT)*	\$ 0.30	Sq ft	\$ 0.08	Sq ft	\$ 0.38	Sq ft
2015 Fees	Resolution 50% Reduction	Ozone Precursors		PM ₁₀		Total	
D.1	Residential Single Family Dwelling	\$ 179.00	Unit	\$ 105.75	Unit	\$ 284.75	Unit
D.2	Residential Multiple Family Dwelling	\$ 132.25	Unit	\$ 84.75	Unit	\$ 217.00	Unit
D.3	Commercial	\$ 0.48	Sq ft	\$ 0.32	Sq ft	\$ 0.80	Sq ft
D.4	Warehouse (below 148 ADT)*	\$ 0.15	Sq ft	\$ 0.04	Sq ft	\$ 0.19	Sq ft

* The applicant must demonstrate that the warehouse will generate below 148 Average Daily Trips (ADT) by use of either a Traffic Study or the Institute of Transportation Engineers (ITE) Trip Generation Manual.

Table 2 - 2016 Rule 310 Fee Schedule

2016 Fees		Ozone Precursors		PM ₁₀		Total	
D.1	Residential Single Family Dwelling	\$ 358.00	Unit	\$ 211.50	Unit	\$ 569.50	Unit
D.2	Residential Multiple Family Dwelling	\$ 264.50	Unit	\$ 169.50	Unit	\$ 434.00	Unit
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V. PROJECT SELECTION

As per section E.7 of Rule 310, the Air District established a Rule 310 Review Committee that is responsible for the evaluation, selection and approval of the proposed mitigation projects based on the cost effectiveness of each project. The review committee is composed of nine individuals each representing different public and private sectors. The selection of the representation of the nine sectors provides impartiality to all project proponents requesting funding. The Review Committee which consists of a County Representative; an APCD Advisory Board member, a member of the local Construction Industry, a representative of the Planning Profession, a Public Representative, a representative of the Joint Chamber of Commerce, a representative of the Health Service Community, a representative of the Imperial County Transportation Commission, and a representative of an all industry-wide Agency was established by the Air District Board of Directors to evaluate those mitigation projects requesting funding. Although the Air District reviews the projects and makes recommendations, the decision to fund projects comes from the Review Committee.

On August 1, 2015 a RFP legal ad was published in the local newspaper and on the Imperial County website in order for the public, local agencies, cities, private developers and the general public to have an opportunity to apply for the Ozone and PM₁₀ mitigation funds collected during FY 2014/2015 (Table 3)

Table 3 – Rule 310 available funding for Ozone and PM₁₀ for FY 2014/2015

Ozone Accountability (FY 14/15)		
Balance Forward	\$	343,202.41
*Pending Allocated Projects	\$	311,466.00
Total Ozone Fees FY 2014/2015	\$	303,107.72
10% Adm Fees FY 2014/2015	\$	(29,396.20)
Fy 2012/2013 Funded Projects	\$	(311,466.00)
Total Available for Funding	\$	616,913.93

PM Accountability (FY 14/15)		
Balance Forward	\$	111,946.28
*Pending Allocated Projects	\$	300,270.00
Total Ozone Fees FY 2014/2015	\$	195,210.26
10% Adm Fees FY 2014/2015	\$	(18,813.87)
Fy 2012/2013 Funded Projects	\$	(300,270.00)
Total Available for Funding	\$	288,342.67

Like the prior year the application deadline was set as November 1, 2015 however the Air District continued to receive applications well after the end date. Prior to the release of the August 1, 2015 the Air District developed an easier application for applicants to utilize. However, many applicants continued to utilize the old forms that required a little more explanation. In addition, the Air District, opened discussion with Magnolia School, and the County of Imperial for submittal of applications. As such some of the project applicants requested an extension of time to submit their applications. As a result, the Air District did not receive applications until well into first quarter of 2016. This delayed the review by the Air District and any potential meeting with the committee to discuss allocation of funding by early 2016. The Air District received approximately 9 agricultural

tractor applications, One school bus replacement (Magnolia School) project proposal and large off road equipment applications for Ozone. No PM₁₀ project applications were submitted.

CONCLUSION OF PRIOR YEAR FUNDING

Table 3 above reflects the pending projects and year yet to be paid out. For Ozone, 8 agricultural tractors awarded for fiscal year 2012/2013 have yet to be paid out (\$311,466.00). For PM₁₀, the pending allocation shown after the “Balance Forward” above of \$111,946.28 reflects the awarded amount to the City of Brawley for \$300,270.00. This project spanned over more than one report. Thus, the balance forward reflects the negative pending payout of \$300,270.00 with the final payout occurring during fiscal year 2014/2015.

Table 4 below reflects the awarded amount for Ozone and PM₁₀ for fiscal year 2014/2015 funding; One Ozone project and two paving projects for PM₁₀. All three projects are subject to requirements prior to payment.

VI. 2014-2015 RULE 310 PROGRAM ANALYSIS

Within the period of July 1, 2015 and June 30, 2016 the Air District received a total of 53 applications for residential or commercial projects. The applications reflected 122 residential units, 3 multi-residential units, 58 commercial and one warehouse project. While this reflects a decrease from 72 applications for last fiscal year the difference can be attributed a higher number of “exempt” projects.

Table 4 – Rule 310 available funding for Ozone and PM₁₀ for FY 2015/2016

Ozone Accountability (FY 15/16)		
Balance Forward	\$	616,913.93
*Pending Allocated Projects	\$	
Total Ozone Fees Fy 2015/2016	\$	257,532.57
10% Adm Fees Fy 2015/2016	\$	(25,726.91)
Fy 2013/2014 Funded Projects	\$	-
Fy 2014/2015 Funded Projects	\$	-
*Pending Allocated Projects	\$	(123,409.11)
Total Available for Funding	\$	725,310.48

Interest \$5,238.21

PM Accountability (FY 15/16)		
Balance Forward	\$	288,342.67
*Pending Allocated Projects	\$	
Total Ozone Fees Fy 2015/2016	\$	167,504.24
10% Adm Fees Fy 2015/2016	\$	(16,777.18)
Fy 2013/2014 Funded Projects	\$	-
Fy 2014/2015 Funded Projects	\$	-
*Pending Allocated Projects	\$	(286,817.90)
Total Available for Funding	\$	152,251.83

Interest \$2,654.31

Total Amount of Off-Site Fees Received

Provisions within Rule 310 allow applicants to defer payments of off-site mitigation fees to the time that a Certificate of Occupancy (or equivalent documentation) is issued, no deferment of off-site mitigation fees were issued.

Total Expenditure of Off-Site Fees Received

A total of 8 Ozone projects (agricultural tractors) and one PM₁₀ (City of Brawley paving project) were completed. While the Ozone payouts were at different times over the year the City of Brawley finalized its project June of 2015 with a final payment June 29, 2015.

For fiscal year 2014/2015 the three projects selected by the committee included one ozone project at \$123,409.11 and two PM₁₀ paving projects, Cities of El Centro and Brawley totaling \$286,817.90. All payouts cannot exceed the amount awarded and full payout of the amount awarded is contingent on fulfilling requirements that meet the 10 year reduction requirement.

Total Emission Reduction Expected to be Realized in the Near Future

Future annual reductions are estimated at 2.83 tons per year for NO_x and a total of 4.227 tons per year of PM₁₀. These reductions are contingent on the projects being completed per requirements that guarantee a 10 year term of life.

