



AIR POLLUTION CONTROL DISTRICT

2009 Rule 310 Annual Accountability Report

For Fiscal Years 2007-2008 And 2008-2009

July 31, 2009

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). Both are due, according to Rule 310, by 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's of 2007-2008 and 2008-2009 activities.

II. BACKGROUND

Rule 310 was developed after analyzing several growth trends that were negatively impacting and have continued to impact the air quality in the Imperial County. The Imperial County's population has seen a vast increase in human population in the past decade and is anticipated to continue to increase. It is projected that the human population of the county will potentially increase by 20% over the next 12 years, with over 42,000 new residents by the year 2020. Population growth results in increased area source emissions from activities such as increased consumer product use, fuel combustion, and landscape maintenance. Additionally, the total number of new vehicles and vehicle miles traveled (VMT) are expected to increase at an even faster rate than the population growth rate. From 2008 to 2020 the Imperial County is expected to see a 27% increase in vehicle population and a 30% increase in VMT. Furthermore, it is important to note that although development has drastically slowed down in the Imperial County, it is expected to climb up once the economy stabilizes.

The Air District developed the contents of Rule 310 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.L. Horton, Duggins Construction, El Centro Regional Medical Center, Clean Air Initiative Group, Center for Health Education and Prevention, and the ICAPCD. As prescribed by law, the Air District held three public workshops for the proposed rule on August 14th, and August 15, 2007. The general public was given an opportunity to comment on the findings of the staff reports from October 5th through November 5, 2007. Comments provided by the public were incorporated into the proposed rule. The Air Pollution Control District Advisory Board met to discuss the proposed new rule on August 22, 2007 and between September 19th, and October 18, 2007, the Air District gave presentations on Rule 310 to all seven incorporated city councils during scheduled meetings. On November 6, 2007, Rule 310-Operational Development Fee was adopted by the Imperial County Air Pollution Control District Board of Directors.

III. IMPLEMENTATION

After the adoption of Rule 310, Air District staff met with representatives of all the cities and the county's building departments to explain the requirements of Rule 310 and to setup a Rule 310 application submittal system that would work for everyone involved. During the meetings Air District staff requested formal cooperation from the cities and

the county's building department for implementation of this rule. 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 have advised applicants to either visit or contact the Air District for more information. The resulting implementation process included a pre-permit review process by each city or county agency. During the pre-permit review period if a city or county agency determines that a project is subject to Rule 310 requirements, the applicant is asked to fill out a Rule 310 application and to pay the appropriate fees directly to the Air District. This would require the applicant to visit the Air District with requested plot maps and engineering designs, an application and 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 is 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 record. In order to maintain compliance, the Air District requested the submittal of a monthly permit issuance and building report for each affected city and county building department. The permit reports submitted by each city and county building department include only those permits issued the previous month in question.

Unfortunately, the year 2009 has been a year riddled with economic downturns that has not only affected the United States in general but Imperial County specifically. To address these issues and help alleviate the unfortunate economic crisis in the Imperial County, two decisions were made by the Air District. First, the Air District decided to exempt developments that had paid site plan review fees or submitted building applications to the cities or the county prior to January 1, 2008 from paying the fee rule. This exemption made it economically feasible for many projects under the development stages to continue with their project without harming their financial standing. The Air District informed all city and county building departments of the limited one time exemption policy by US Postal mail and e-mail. An examination of all previously paid applications revealed a need to refund fees paid for project which fell under the exemption. Therefore, the Air District contacted and notified affected project proponents and refunded all applicable fees.

Secondly, the Air District evaluated Rule 310 in terms of an economic impact. While the results did not indicate a significant impact, the Air District concluded that a temporary reduction in fee would be beneficial as well as supportive of an industry which was heavily impacted by the occurring economic downturn. Therefore, the Air District proposed a resolution to temporarily reduce the Rule 310 fee by fifty percent (50%) for a single year. The amount of the reduction was determined by the Air District not to be a significant deterrence to the overall purpose of the Rule so long as the reduction was temporary. Thus, allowing a temporary reduction to project applicants still assured the Air District a continuance of a maintained program with acceptable levels of emission reductions that meet Rule 310 goals. The Air Pollution Board of Directors approved the

resolution on February 3, 2009.¹ This information was appropriately distributed to all the cities and the county's building department.

IV. FEE SCHEDULE

Table 1 is the Rule 310 fee schedule that applicants were subject to paying during 2008. As per rule requirements on January 1, 2009 the fees were adjusted and an updated fee schedule was posted. **Table 2** shows the 2009 fee schedule. This schedule does not reflect the 50% reduction as approved by the February 3, 2009 Board Resolution.

Table 1. 2008 Rule 310 Fee Schedule

		Ozone Precursors	PM10	Total
D.1	Residential Single Family Dwelling	\$312.00/Unit	\$184.00/Unit	\$496.00/Unit
D.2	Residential Multiple Family Dwelling	\$231.00/Unit	\$147.00/Unit	\$378.00/Unit
D.3	Commercial	\$0.96/sq.ft.	\$0.64/sq.ft.	\$1.60/sq.ft.

Table 2. 2009 Rule 310 Fee Schedule

		Ozone Precursors	PM10	Total
D.1	Residential Single Family Dwelling	\$324.50/Unit	\$191.50/Unit	\$516.00/Unit
D.2	Residential Multiple Family Dwelling	\$240.00/Unit	\$153.00/Unit	\$393.00/Unit
D.3	Commercial	\$0.96/sq.ft.	\$0.64/sq.ft.	\$1.60/sq.ft.

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, Construction Industry, Planning Profession, Public Representative, Joint Chamber of Commerce, Health Service Community, IVAG Regional Council, and Industry of Agency was established by the APCO to evaluate those mitigation projects requesting funding.

¹ On February 3, 2009 the Imperial County Air Pollution Control District Board of Directors approved a one (1) year temporary reduction of Rule 310- Operational Development Fee in an amount not to exceed (50%) percent for the applicable fee. The temporary fee reduction automatically terminates one (10 year from the date of adoption of the resolution, unless the Imperial County Air Pollution Control District Board takes the affirmative step to reevaluate and extend the reduction of these fees.)

Although the Air District reviews the projects and makes recommendations, the decision to fund projects comes from the Review Committee.

On October 5th, 2008 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 mitigation funds. The application deadline was November 28, 2008. The Air District received a total of five project proposals, 4 proposals for the PM10 funds and 1 proposal for the Ozone funds.

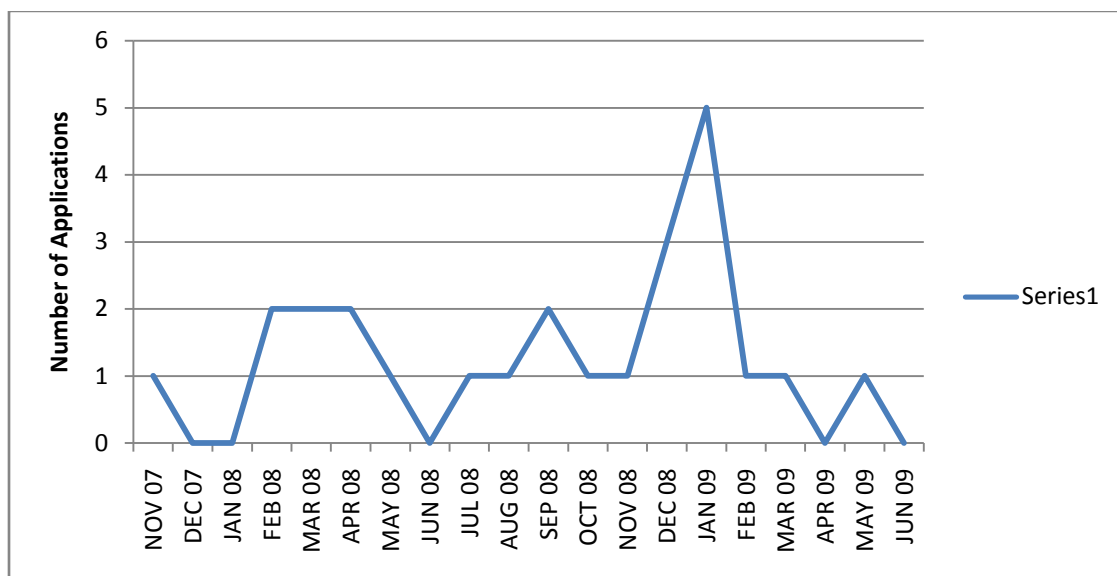
The Air District provided the Rule 310 Committee with copies of all the project proposals and scheduled a meeting to discuss and vote on the projects. On February 19, 2009 the Sunflower Baseball Park was selected to receive PM10 funding by a 5-1 vote (three of the nine committee members were not present for the voting of the project). The Air District presented the awarded funds to the City of El Centro Parks and Recreation Department on April 20, 2009. Since the Ozone project proposal did not meet the criteria, the Review Committee decided to not fund the project. The ozone funds were carried over to the 2008/2009 FY year.

The Sunflower Baseball Parking lot paving project is still in process. The City of El Centro Parks and Recreation department is scheduled to conclude the project October of 2009.

VI. 2007-2009 RULE 310 PROGRAM ANALYSIS

Within the period of November 2007 and June 2009 the Air District received a total of twenty-five (25) Rule 310 applications that were required to comply with the rule's conditions. All applicants/developers opted to pay the required fees. Figure 1, provides a breakdown of the Rule 310 applications received since its adoption.

Figure 1. Rule 310 Applications Received



As shown in Figure 1, a very small number of Rule 310 applications have been submitted to the Air District. The total amount of funds collected between November 2007 and June 2009 was \$383,417.34. The represented breakdown into each account is as follows: The total amount of funds collected to fund Ozone emission reduction projects was \$250,615.15. The total amount of funds collected to fund PM10 emission reduction projects was \$132,802.19. As mentioned above, the Air District has only funded one PM10 emission reduction project totaling \$105,900.00. The Air District will make available any remaining funds through an RFP process which is schedule to start on August 1, 2009. **Table 3**, provides a summary of the fees collected during the 2007/2008 FY. **Table 4**, provides a summary of the fees collected during the 2008/2009 FY.

Table – 3: Summary of Rule 310 Funds for the 2007/2008 FY

		Total Rule 310 Program		
		Ozone	PM10	Total
Beginning Balance	\$	0	0	0
Total Amount Off-Site Fees Received	\$	212,278.28	110,053.72	322,332.00
APCD Administration Fees	\$	0	0	0
Grand Total of Available Off-Site Fees	\$	212,278.28	110,053.72	322,332.00
Total Amount Spent(Contracted)	\$	0	0	0
Grand Total Balance of Available Off-Site Fees	\$	212,278.28	110,053.72	322,332.00

Table – 4: Summary of Rule 310 Funds for the 2008/2009 FY

		Total Rule 310 Program		
		Ozone	PM10	Total
Beginning Balance	\$	212,278.28	110,053.72	322,332.00
Total Amount Off-Site Fees Received	\$	38,336.87	22,748.47	61,085.34
APCD Administration Fees for 2008/2009 FY	\$	0	0	0
Grand Total of Available Off-Site Fees	\$	250,615.15	132,802.19	383,417.34

Total Amount Spent(Contracted)	\$	0	105,900.00	105,900.00
Grand Total Balance of Available Off-Site Fees	\$	250,615.15	26,902.19	277,517.34

		Ozone	PM10	Total After 10 Years
Total Off-Site Achieved Emissions Reductions	Tons		1.56	15.65
Emissions Reductions Cost Effectiveness	\$/Ton			7,933.00

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, however no request for deferments have been received by the Air District. As presented in **Table 4**, the Air District received off-site fees totaling \$383,417.34 from November 2007 through June 30, 2009.

Total Expenditure of Off-Site Fees Received

For FY 2007-2008 the Air District collected a total of \$110,053.72 in PM10 funds and \$212,278.28 in Ozone funds. Out of the 2007/2008 FY PM10 funds, a \$105,900.00 emission reduction project was funded. No Ozone projects were funded with the 2007/2008 Ozone funds. The balance remaining has been carried over to the 2008/2009 fund balance.

Total Emission Reduction Realized

The Air District funded one (1) PM10 emission reduction project. The funded project is a paving project for the El Centro Sunflower Elementary School Baseball parking lot. The project funded achieved a total emission reduction of 3,129 lbs. of PM10 emissions per year. Being that the project will have a minimum project life of ten (10) years, the project has the potential of mitigating 31,290 pounds of PM10 or 15.65 tons by 2019.

Overall Cost-Effectiveness of Funded Project

Average overall cost-effectiveness is calculated by dividing the annualized cost by the emissions reduction, which was estimated to be 3,129 lbs of PM10. During this reporting period, the average cost-effectiveness is calculated to be \$7,933.00/ton of PM10 emissions.