



AIR POLLUTION CONTROL DISTRICT

# 2014 Rule 310 Annual Accountability Report

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For Fiscal Year 2013-2014

July 31, 2014

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 resulting emissions from the operation of new commercial and residential development projects throughout Imperial County. The essential mechanism utilized by Rule 310 requires project proponents to mitigate their operational emissions. A project proponent may provide for off-site mitigation, pay an operational development fee, or choose to mitigate through a combination of both. Although the Air District encourages off-site mitigation projects, the reality has been that off-site projects are not only difficult to develop but are time consuming and expensive. As a result, the preferred alternative, payment of a fee is typical.

Rule 310 requires the separation of all fees collected during a given Fiscal Year (FY) into two accounts, one for Ozone Precursors and the other for PM10. The requirement of separating the accounts is in line with proper accounting practices that maintain accountability, prevent intermingling of funds and help identify the cost effectiveness of the program. The rule allows for program self sufficiency, no greater than 10% of the funds are used to offset the cost of administration. The preparation of the Annual Accountability Report (AAR) and the preparation of the Request for Proposal (RFP) begins soon after June 30<sup>th</sup> culminating with the publication of availability of the AAR and the RFP on August 1<sup>st</sup> of each year.

Thus, on August 1<sup>st</sup> 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 Imperial County. 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 1<sup>st</sup>. For a detailed explanation of a MPR see section E.6 of Rule 310. The Air District encourages proponents to call and seek the guidance from our Planning staff.

This AAR fulfills the Air District's obligation under Rule 310. This AAR describes the total monies 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 2013-2014 activities.

## **II. BACKGROUND**

As in many other geographical areas, human and vehicle population have been increasing in California. 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 14<sup>th</sup>, and August 15, 2007. From October 5<sup>th</sup> 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 19<sup>th</sup> 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.

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 and as of 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 first of four (4) resolutions (Resolution No. 2009-006) passed by the Air District Board of Directors on February 3, 2009<sup>1</sup>. The following three (3) resolutions approved a continuance of the 50% reduction:

1. Resolution No. 2009-094 adopted December 8, 2009 terminated June 30, 2010.
2. Resolution No. 2010-040 adopted June 22, 2010 terminated December 31, 2010.
3. Resolution No. 2010-085 adopted December 14, 2010 terminated December 31, 2011.

On January 1, 2012, the Rule 310 fees returned to their original levels however, the Air District Board of Directors approved a continued reduction to the applicable Rule 310 fees in the amount equal to 50%. Resolution No. 2012-043 was adopted on April 17, 2012 and was scheduled to terminate on December 31, 2012. Subsequently, Resolution No. 2012-155 was adopted on December 4, 2012 which extended the 50% Rule 310 fee reduction until December 31, 2013. On November 26, 2014 the Board of Directors approved an extension of the temporary 50% reduction of Rule 310 operations development fee until December 31, 2014, Resolution No. 2013-109

#### IV. RULE 310 OPERATIONAL DEVELOPMENT FEE SCHEDULE

**Table 1** is the Rule 310 fee schedule that applicants were subject to paying between January 1, 2013 and December 31, 2013<sup>2</sup>. As per Section D of Rule 310, the Consumer Price Index (CPI) prompted an increase in 2014 and therefore the Rule 310 fees increased in 2014. The 2014 fee schedule can be seen in **Table 2**. These

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<sup>1</sup> 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.

<sup>2</sup> Rule 310 was amended on June 28, 2011 to include a fee schedule for warehouse developments. Prior to this amendment, warehouses would pay the same fee as a commercial project.

schedules do not reflect the 50% reduction as approved by the December 4, 2012 and November 11, 2013 Board Resolutions.

**Table 2** contains the applicable Rule 310 fee schedule adopted on January 1, 2014. This schedule does not reflect the 50% reduction as approved by the November 26, 2014 Board Resolution.

**Table 1. 2013 Rule 310 Fee Schedule**

		Ozone Precursors	PM10	Total
D.1	Residential Single Family Dwelling	\$347.00/Unit	\$205.00/Unit	\$552.00/Unit
D.2	Residential Multiple Family Dwelling	\$256.00/Unit	\$164.00/Unit	\$420.00/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.

\* 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 of Engineers (ITE) Trip Generation Manual.

**Table 2. 2014 Rule 310 Fee Schedule**

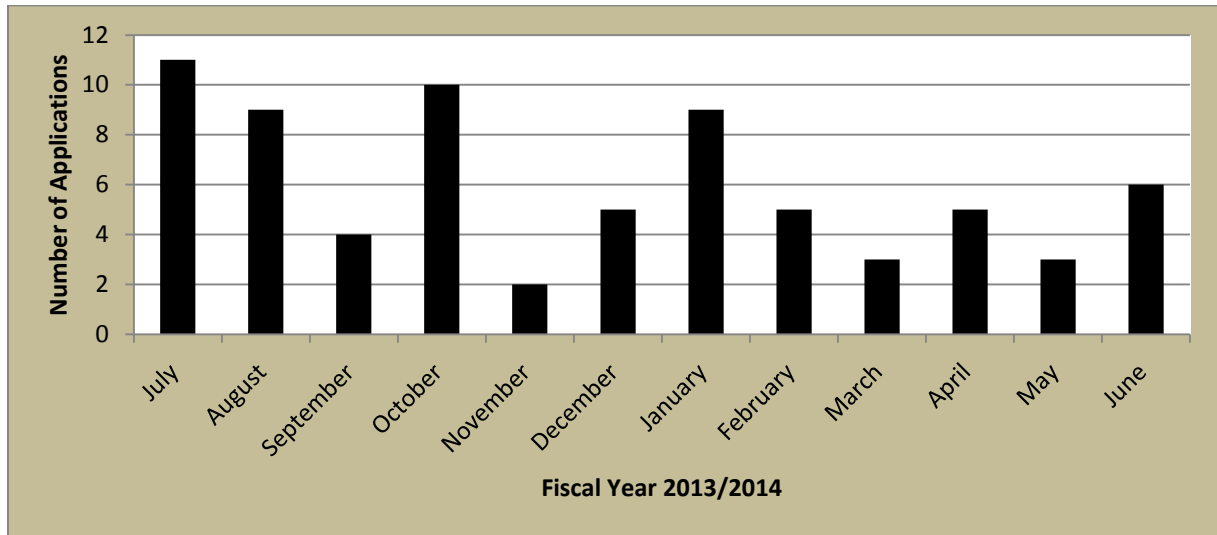
		Ozone Precursors	PM10	Total
D.1	Residential Single Family Dwelling	\$352.00/Unit	\$208.00/Unit	\$560.00/Unit
D.2	Residential Multiple Family Dwelling	\$260.00/Unit	\$166.50/Unit	\$426.50/Unit
D.3	Commercial	\$0.96/sq.ft.	\$0.64/sq.ft.	\$1.60/sq.ft.
D.4	Warehouse (below 148 ADT)*	\$0.30/sq.ft	\$0.08/sq.ft.	\$0.38/sq.ft.

\* 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 of Engineers (ITE) Trip Generation Manual.

## V. 2013-2014 RULE 310 OPERATIONA DEVELOPMENT FEE PROGRAM ANALYSIS

Within the period of July 1, 2013 and June 30, 2014 the Air District received a total of seventy two (72) 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 during the past Fiscal Year.

**Figure 1. Rule 310 Applications Received On 2013/2014 Fiscal Year**



As shown in **Figure 1**, the number of Rule 310 applications that were submitted to the Air District and were subject to Rule 310 fees have decreased from last year (92) to this year (72). The total amount of funds collected between July 1, 2013 and June 30, 2014 is \$ 269,937.80. The represented breakdown into each account is as follows: The total amount of funds collected to fund Ozone emission reduction projects is \$ 164, 375.68. The total amount of funds collected to fund PM<sub>10</sub> emission reduction projects is \$ 105, 562.12. The Air District will make available the funds through an RFP process which is schedule to start on August 1, 2014. **Table 3**, provides a summary of the fees collected during the 2013/2014 FY.

**Table 3 - Summary of Rule 310 Funds for the 2013/2014 FY**

		Total Rule 310 Program		
		Ozone	PM10	Total
<b>Beginning Balance</b>	\$	471, 504.71	300, 394.10	771, 898.81
<b>Total Amount Off-Site Fees Received</b>	\$	164, 375.68	105, 562.12	269, 937.80
<b>APCD Administration Fees for 2013/2014 FY</b>	\$	2837.96	1, 814.23	4, 652.19
<b>Grand Total of Available Off-Site Fees Minus Administration Fees</b>	\$	633, 042.43	404, 141.99	1, 037, 184.42
<b>Total Amount Proposed For Spending (Contracted)</b>	\$	311, 466.00	300, 270.00	611, 736.00
<b>Grand Total Balance of Available Off-Site Fees</b>	\$	321, 576.43	103, 871.99	425, 448.42

\*2012/2013 FY funds awarded for PM10 Project will be granted when the project is complete.

		Ozone	PM10
<b>Total Off-Site Proposed Emissions Reductions With 2013/2014 FY Funds</b>	<b>Tons</b>	8.49	2.67
<b>Total Proposed Average Emissions Reductions Cost Effectiveness</b>	<b>\$/Ton</b>	\$ 4, 428.90	\$ 13, 162.68

### **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. One deferment of off-site mitigation fee was issued in FY 2013/2014. One deferment application was issued in FY 2011/2012. The full payment of the off-site mitigation fees are expected once the projects are built and receive the Certificate of Occupancy. This payment will be reflected in the Accountability Report that represents the FY in which the fees are paid. As presented in **Table 3**, the Air District received off-site fees totaling \$269, 937.80 from July 1, 2013 through June 30, 2014.

## **VI. RULE 310 MITIGATION PROJECT SELECTION**

Per Rule 310 Operational Development Fee, Section E titled “Administrative Requirement”, funds generated by Operational Development Fees shall be redistributed by the APCD for various mitigation projects throughout the County of Imperial.

To comply with this requirement, on August 1, 2013, the Air District published a RFP legal ad 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 2012/2013. For that FY, \$ 471, 504.71 was made available for Ozone mitigation projects and \$ 300, 394.10 was made available for PM10 mitigation projects. The application deadline was November 1, 2013. The Air District received a total of fifteen project proposals for the Ozone funds and one proposal for the PM10 mitigation funds.

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.

The projects that applied for Ozone funds under the Rule 310 Operational Development Fee, consisted of tractor replacements. The projects were required to a meet cost effectiveness analysis threshold of \$ 17, 469. 00 [\$/tons of weighted surplus emissions reduced]. The applicants were also required to provide usage and ownership evidence, such as fuel or maintenance records, and invoices or tax records as ownership proof.

A total of fourteen (14) Rule 310 funding applications were received for tractor replacement projects. One (1) forklift replacement application was also received; however, the application was dismissed as the applicant did not meet the timelines for project documentation submittal. Only one application was received under PM10 projects, for the paving of Volunteers Park Parking Lot located at River Dr. & N. First St., Brawley, California.

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 24, 2014, thirteen (13) of the fourteen (14) tractor replacement projects were selected to receive the PM10 funds available. One tractor replacement project was not selected for funding, as a result of the applicant's failure to fulfill the program requirements.

On the same date, February 24, 2014, the Volunteers Park Parking Lot paving project was selected for funding. According to the timeline provided by the applicant, City of Brawley, the project is expected to be completed by August 21, 2015.

## **VII. CONCLUSION OF PRIOR YEAR FUNDING**

A total of 13 (thirteen) Ozone projects, and 1 (one) PM10 project were selected for funding with 2012/2013 resources.

### **Total Expenditure of Off-Site Fees Received**

A total of 13 projects were funded with 2012/2013 FY Ozone funds. The PM10 project that was selected to receive \$ 300, 270.00 of FY 2012/2013 PM10 funds, will receive this fund by the expected time of completion by August, 2015. Any remaining balance on the funds has been carried over the 2013/2014 fund balance.



### **Total Emission Reduction Expected to be Realized in the Near Future**

The emission reductions expected for Ozone projects are a total of 2.67 tons per year, and a total of 8.49 tons per year are expected to be reduced by the PM10 project.

### **Overall Cost-Effectiveness of Proposed Funded Projects**

The Ozone projects funded with 2012/2013 funds had an average cost effectiveness of 4,428.90 [\$/Ton]. The PM10 project funded with FY 2012/2013 funds resulted in 13,162.68 [\$/Ton] overall cost effectiveness.