

PROPOSED RULE 1304.3. QUALIFIED NATIVE LOAD ELECTRICAL GENERATING FACILITY FEE FOR USE OF SO_x AND PM₁₀ OFFSETS

(a) Purpose and Applicability

This rule applies to Qualified Electrical Generating Facilities (QEGFs) sited within the South Coast Air Basin (SOCAB) that have an Integrated Resource Plan (IRP) or an equivalent process approved by a public agency or municipality designed to serve their native load. The purpose of this rule is to allow QEGFs (excluding SO_x RECLAIM sources) that hold insufficient SO_x and/or PM₁₀ Emission Reduction Credits (ERCs) pursuant to Rule 1303(b)(2)(A) and cannot procure them in the open market despite a documented effort to do so the option to pay fees for offsets provided by the SCAQMD. Offsets in SCAQMD internal accounts are valuable public goods and the purpose of this rule is to recoup the fair market value of any such offsets procured by eligible QEGFs electing to use such offsets. The fees will be invested in air pollution improvement strategies consistent with the needs of the Air Quality Management Plan.

(b) Definitions

- (1) COMMENCEMENT OF OPERATION means to have begun the first fire of the new unit(s) or to have been issued a Permit to Operate for the increased capacity, or where the power from such generation is sold, including the sale of test generation.
- (2) CONSTRUCTION means to build, erect, or alter any structure, plot of land, site or piece of equipment or to replace any piece of equipment in whole.
- (3) ENVIRONMENTAL JUSTICE AREA means an area where:
 - (A) at least 10 percent of the population falls below the Federal poverty level based on the most recently published American Community Survey (ACS) data; and
 - (B) the highest 15 percentile of PM_{2.5} concentration measurements interpolated to a 2 kilometer grid of the most recently published Multiple Air Toxics Emissions Study (MATES) modeling domain; or
 - (C) the highest 15 percentile of cancer risk as calculated in the most recently published MATES.

- (5) INTERGRATED RESOURCE PLAN (IRP) means a plan describing the mix of energy supply resources and conservation programs that will meet forecasted energy needs as approved by a local decision-making body.
- (6) LOCAL PUBLICLY OWNED ELECTRIC UTILITY (LPOEU) means a municipal utility, a municipal utility district, a public district, an irrigation district or a joint powers authority as defined in California Public ~~Utilities~~Utilities Code (CPUC) Section 224.3.
- (5) NATIVE LOAD means the wholesale and retail customers that:
- A Local Publicly Owned Electric Utility (LPOEU), by statute, franchise, regulatory requirements, or contract has an obligation to serve;
 - Are the subject of an IRP or equivalent public process approved by the appropriate oversight body of the LPOEU; and
 - On whose behalf a LPOEU has undertaken an obligation to construct and operate those facilities required to meet the reliable electric needs of such customers.
- (4) QUALIFIED ELECTRICAL GENERATING FACILITY (QEGF) means a new facility, or increased capacity at an existing facility, that generates electricity for distribution in the state or local grid system, regardless of whether it also generates electricity for its own use or for use pursuant to a contract.
- (c) Offset ~~Reservation Encumbrance~~ Program Requirements
An LPOEU may ~~elect to participate in the~~ utilization of offsets ~~from the internal offset accounts~~ under the provisions of this rule if they meet all the following applicable eligibility requirements:
- LPOEU Eligibility Requirements
 - The LPOEU has an approved IRP or an equivalent process approved by a public agency or municipality at a publicly noticed meeting;
 - The approving body has adopted an energy policy on preferred resources and a loading order consistent with CPUC policies and regulations, including Renewable Portfolio Standards; and
 - The LPOEU provides power solely for the purpose of supporting its native load only and for grid reliability.
 - LPOEU Offset ~~Encumbrance Reservation~~ Criteria
 - The LPOEU demonstrates that a good faith effort was made to secure ERCs on the open market, ~~by submitting with the reservation request a~~

certified letter requesting the encumbrance offsets signed by a responsible person documenting reasonable efforts undertaken by the applicant to secure the required quantity of ERCs at or below the fee rates in Table A;

~~(B) A minimum, non-refundable, reservation fee for at least one year's worth of offsets requested, as calculated under subparagraph(e)(3)(A), must be paid at the time the reservation is requested;~~

~~(C)~~(B) The permit application(s) for which the requested offsets are needed is/are deemed complete;

~~(D)~~(C) After all qualified reservations encumbrances, including those for Rule 1304.2, the District's internal offset accounts shall have a minimum balance of 50 lbs/day of SOx and 420 lb/day of PM offsets for Rule 1309 and Rule 1304 emitters;

~~(E)~~(D) Cumulative requested offsets shall not cause or contribute to the exceedence of the applicable Rule 1315 Projections of Cumulative Net Emission Increases, the calculation shall consider the lesser of the Request For Quotes (RFQ) by the LPOEU or the requested mega watts MW;

~~(F)~~(E) The QEGF shall be in compliance with all other applicable Regulation XIII requirements; and

~~(G)~~(F) If the QEGF is eligible for offsets from Rule ~~1304.1~~1304(a)(2) or Rule 1309 and Rule 1304.3, then the QEGF must first make use of all Rule ~~1304.1~~1304(a)(2) and Rule 1309 offsets before acquiring any Rule 1304.3 offsets.

(3) Transfer Use of Offsets ~~to~~ by QEGFs

The debit of necessary offsets, for use pursuant to the provisions of this rule, shall be made only upon satisfaction of all of the following conditions:

(A) The appropriate California Environmental Quality Act (CEQA) document has been certified by the appropriate oversight body of the LPOEU;

~~(B) A reservation has been made pursuant to paragraph (d)(2); and~~

~~(C)~~(B) Pursuant to paragraph (e), if the Single Payment option is chosen, then the QEGF Single Payment Offset Fee (QF_{Si}) balance of the applicable fee less the reservation fee amount is remitted at the time of the issuance of the Permit to Construct. For the Annual Payment option, the ~~reservation fee amount is credited for the first year~~QEGF Annual Payment Offset Fee (QF_{Ai}) is remitted at the time of the issuance of the Permit to Construct.

- (d) Offset ~~Reservation-Encumbrance~~ Program Operation
- Qualifying applicants may request the type and amount of offsets as part of a submitted permit application subject to the following conditions:
- (1) ~~Reservation-Encumbrance~~ of offsets shall be on a first-come, first-served basis;
 - (2) ~~Requested-A request for an reservation-encumbrance~~ of offsets shall be approved by the Executive Officer in the form of a letter and shall be available for the facility or its successor(s) for a period not to exceed 24 months from the confirmation date of the ~~reservation-encumbrance~~, after which the ~~reservation-encumbrance~~ shall be cancelled, and the ~~reservation-encumbrance~~ fee shall be forfeit. The ~~reservation-encumbrance~~ may be extended by an additional 36 months by the Executive Officer.
 - (3) If the ~~reservation-encumbrance~~ is cancelled pursuant to paragraph (d)(2), the ~~reserved-encumbered~~ offsets shall be released and eligible for other uses pursuant to District rules.
 - (4) The District shall post the total ~~reserved-encumbered~~ offsets from the District's internal offset accounts on a quarterly basis on the District website and account for Rule 1304.2 offset ~~reservations-encumbrances~~ in the annual Preliminary and Final Determinations of Equivalency pursuant to Rule 1315(d).
- (e) Offset Fees
- (1) A qualified applicant electing to use the offset provisions in this rule shall pay the QEGF Offset Fee, calculated pursuant to paragraph(e)(3), for each pound per day of each pollutant (i), for which the SCAQMD provides offsets. This fee may be paid on an annual basis (QF_{Ai}), as a single payment (QF_{Si}), or a combination of both at the election of the applicant.
 - (2) The QEGF Offset Fee, for a specific pollutant (i), where (i) is either SO_x or PM₁₀, shall be calculated by multiplying the pollutant specific Annual Offset Fee Rate (A_i) or Single Payment Offset Fee Rate (S_i) respectively in Table A, by the SO_x or PM₁₀ permitted potential to emit level(s) of the new facility unit(s) or increase in existing generation capacity calculated pursuant to the equations in paragraph (e)(3).

Table A: Pollutant Specific Offset Fee Rates

Pollutant (i)	Annual Offset Fee Rate (A _i) (\$per lb/day)*	Single Payment Offset Fee Rate (S _i) (\$ per lb/day)*
SO _x **	3,266	81,657
PM10	4,107	102,654

** Offset Fee rates A_i and S_i are adjusted annually by the Regulation III CPI. The rates published in Table A above are for FY 2015-2016 and are valid through 6/30/16. Furthermore, the rate in effect at the time of either the issuance of the Permit to Construct or the debit of offsets from the District accounts shall be used, as applicable.

**SO_x fees for non-RECLAIM sources only;

- (3) The offset fee shall be calculated pursuant to the equations in subparagraphs (A) and (B):

(A) Annual Payment Option

QEGF construction or increased capacity on or after [Date of Adoption] with SO_x and/or PM10 offsets debited from the SCAQMD internal offset accounts:

$$QEGF \text{ Annual Payment Offset Fee } (QF_{Ai}) = A_i \times PTE_{new_i}$$

(B) Single Payment Option

QEGF construction or increased capacity on or after [Date of Adoption] with offsets debited from the SCAQMD internal offset accounts:

$$QEGF \text{ Single Payment Offset Fee } (QF_{Si}) = S_i \times PTE_{new_i}$$

Where;

QF_{Ai} = QEGF Annual Offset Fee Payment (GF_A) for pollutant (i).

QF_{Si} = QEGF Single Offset Fee Payment (GF_S) for pollutant (i).

i = SO_x, PM10

A_i = Table A, Annual Offset Fee Rate for pollutant (i), in terms of dollars per pound per day, annually.

S_i = Table A, Single Payment Offset Fee Rate for pollutant (i), in terms of dollars per pound per day.

PTENew_i = Permitted potential to emit of new or increased capacity (total new capacity – total prior capacity) unit(s) for

pollutant i , in pounds per day. (Maximum permitted monthly emissions \div 30).

(f) Offset Fee Payment Schedule and Refunds

The applicant or owner/operator of a QEGF electing to use the offset provisions in this rule shall remit the offset fees as follows:

(1) For the annual payment option:

- (A) The applicant must remit the first year annual offset fee payment, which is non-refundable, prior to the issuance of the ~~p~~Permit to ~~e~~Construct and such fees shall be based on the total amount of the permitted potential to emit corresponding to the constructed MW capacity for which a permit to construct is being issued by SCAQMD for the facility. Subsequent payments shall be remitted annually based on the cumulative total of MW capacity that commenced operation (multi-year projects), on or before the anniversary date of the original commencement of operation of such MW capacity at the fee rates in effect at the time the fee is due.
- (B) Prior to the commencement of construction of each new electrical generating permit unit/increase in capacity, an applicant can request the Executive Officer to have their permit amended to limit the permitted maximum monthly and/or annual generation capacity and can seek a refund for the fee adjustment corresponding to the requested reduction in permitted potential to emit.
- (C) If the applicant or owner/operator of a QEGF fails to pay the applicable QEGF Offset Fee (GF_i) amount, for each applicable pollutant (i), within thirty (30) days after the due date, the associated permit(s) will expire and no longer be valid. Such permit(s) may be reinstated within sixty (60) days by full payment of the fees owed plus 50%.
- (D) The applicant or owner/operator of a QEGF that has elected the annual fee payment option may switch to the single payment option upon submittal of a written request to the EO for such a change in payment method. The amount of the single payment offset fee due shall be based on offset fee rates applicable at the time the written request for the change in payment method is submitted to the EO. The sum of the annual offset fees remitted prior to the submittal of a request for change to a single payment option shall be credited towards the single payment offset fee due.

- (2) For the single payment option, the applicant must remit the entire fee prior to issuance of the Permit to Construct.

- (3) The amount of any payments made in satisfaction of the requirements of the rule, less ~~an amount equal to the first year of offsets initially remitted as a reservation fee, as required in subparagraph (c)(2),~~ shall be refunded, less an administrative processing fee as specified in paragraph (g)(2), for both the single and multi-year annual payments, if a written request by the facility applicant is received prior to the commencement of operation. Such a request for refund shall automatically trigger cancellation of the Permit to Construct and/or Operate, unless such offsets are replaced by an equivalent amount of Emission Reduction Credits.
- (4) Offsets provided pursuant to this rule to a QEGF may be utilized only by the QEGF to which they are provided and only for the life of the QEGF from ~~e~~Commencement of ~~o~~Operation through cessation of operation. Such offsets are not any form of property, and may not be sold, leased, transferred, or subject to any lien, pledge, or voluntary or involuntary hypothecation or transfer, and shall not be assets in bankruptcy, for purposes of taxation, or in any other legal proceeding. Notwithstanding the foregoing, QEGF's ~~reservation encumbrance~~ and use of offsets pursuant to this rule shall not be affected by a valid Change of Owner/Operator.
- (g) Use of Offset Fee Proceeds
- (1) Offset Fee proceeds paid pursuant to this rule shall be deposited in an SCAQMD restricted fund account and shall be used to obtain emission reductions consistent with the needs of the Air Quality Management Plan. Priority shall be given to funding air quality improvement projects in communities where the QEGF projects are located and Environmental Justice Areas.
- (2) Up to 8% of the Offset Fee proceeds, deposited in a restricted fund account, may be used by the Executive Officer to cover administrative costs related to implementation of this rule.
- (h) Severability
- If any provision of this rule is held by judicial order to be invalid, or invalid or inapplicable to any person or circumstance, such order shall not affect the validity of the remainder of this rule, or the validity or applicability of such provision to other persons or circumstances. In the event any of the exceptions to this rule is held by judicial order to be invalid, the persons or circumstances covered by the exception shall instead be required to comply with the remainder of this rule.