



AIR POLLUTION CONTROL DISTRICT

# 2010 Rule 310 Annual Accountability Report

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For Fiscal Year 2009-2010

July 31, 2010

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 30<sup>th</sup>, 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 for the AAR and the RFP are published 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 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 1<sup>st</sup>. 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 1<sup>st</sup> 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 2009-2010 activities.

## **II. BACKGROUND**

As with many other geographical areas, growth in human population and vehicle population is inevitable. The California Department of Finance projects that the human population in the Imperial County will increase by 20% over the next 10 years, this is estimated to be over 49,000 new residents by the year 2020. Additionally, the total number of new vehicles and vehicle miles traveled (VMT) are also expected to increase at a fast rate. 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 through their implementation. For this reason, the Air District developed Rule 310 as it can assist in mitigating the excess emissions.

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.L. 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 received their approval. To inform city officials and representatives of the impact Rule 310 could potentially have on their cities, Air District staff presented the Rule 310 to all seven city councils. 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 met with representatives of all the cities and the county's building departments to explain the requirements of Rule 310, to formally request their cooperation and assistance, and to setup a Rule 310 application submittal system 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. 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 records. 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 cities and the county are currently submitting these reports to the Air District.

Unfortunately, the recession that has struck the nation since 2008 continues to have an impact in the Imperial County, specifically its building industry. 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. This exemption made it economically feasible for many projects under the development stages to continue with their project without affecting 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.

Secondly, the Air District concluded that a temporary reduction in fee would also be beneficial for the building industry as it recovers from 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 District Board of Directors approved Resolution No. 2009-006 on February 3, 2009.<sup>1</sup> This information was appropriately distributed to all the cities and the county's building department.

Since the initial resolution was passed, two other resolutions approving a continued temporary reduction have also been passed. On December 8, 2009 the Air District

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<sup>1</sup> On February 3, 2009 the Air 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. Subsequently, two additional temporary reductions have been approved by the Air District Board of Directors. The latest reduction automatically terminates on December 31, 2010, unless the Air District Board of Directors takes the affirmative step to reevaluate and extend the reduction of these fees.

Board of Directors approved Resolution No. 2009-094 which gave approval to continue with the 50% Rule 310 fee reduction until June 30, 2010. Most recently, on June 22, 2010, Resolution No. 2010-040 was approved, this resolution continued the 50% Rule 310 fee reduction until December 31, 2010.

#### IV. FEE SCHEDULE

**Table 1** is the Rule 310 fee schedule that applicants were subject to paying during 2009 and 2010. As per Section D of Rule 310, the Consumer Price Index (CPI) did not increase and therefore there was no increase in the Rule 310 fee schedule. The fee schedule for 2010 remained the same as in 2009. This schedule does not reflect the 50% reduction as approved by the February 3, 2009, December 8, 2009 and June 22, 2010 Board Resolutions.

**Table 1. 2009 & 2010 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. Although the Air District reviews the projects and makes recommendations, the decision to fund projects comes from the Review Committee.

On August 1, 2009 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 mitigation funds. The application deadline was October 1, 2009. The Air District received a total of twelve project proposals 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 3, 2010, ten

projects (See Appendix A) were selected to receive Ozone funding (four of the nine committee members were not present for the voting of the project). The Air District mailed out a letter to the project recipients on February 10, 2010 and informed them of the outcome. Nine of the projects that were funded were diesel engine retrofits of agricultural water pumps. The other project that is partially being funded is a sewer jet cleaning system replacement pump for the City of Calipatria. Since the available funds for the PM10 emission reduction projects were limited, the Air District decided to carry over those funds to the 2010/2011 FY year.

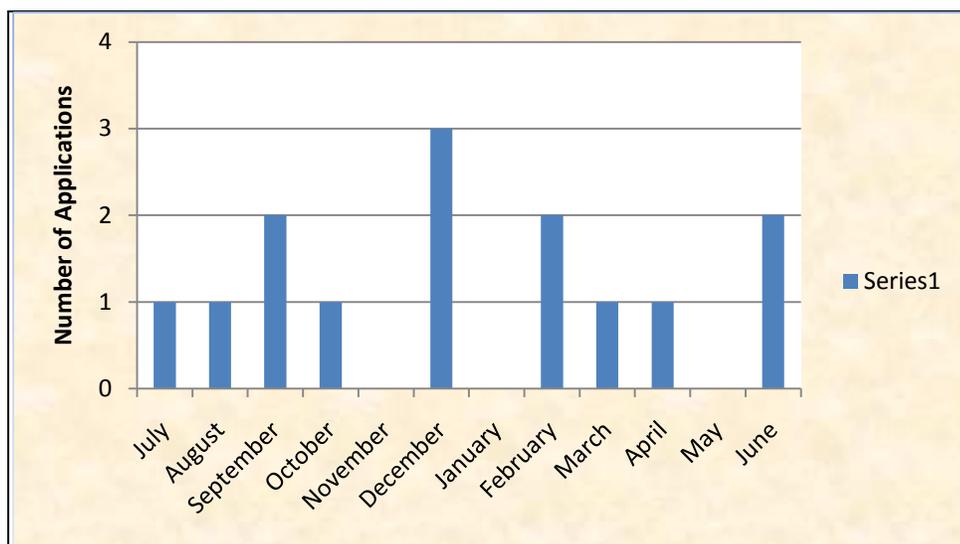
Two of the nine diesel engines for the agricultural water pumps have already been funded. The Air District is waiting for the owner/operator of the other seven agricultural operations to receive their engines before the Air District releases the funds. The Air District is also waiting for the City of Calipatria to receive their new sewer jet cleaning system pump before releasing the funds. The rest of the funds will most likely be released during the month of August 2010.

It is important to mention that last year's mitigation project has been a success. The Sunflower Baseball Parking lot was completed on January 2010 and a Ribbon Cutting Ceremony took place on February 1, 2010. Pictures of the Ribbon Cutting Ceremony can be found in Appendix B.

## VI. 2009-2010 RULE 310 PROGRAM ANALYSIS

Within the period of July 1, 2009 and June 30, 2010 the Air District received a total of fourteen (14) 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 each month of the past Fiscal Year.

**Figure 1. Rule 310 Applications Received**



As shown in Figure 1, a very small number of Rule 310 applications were submitted to the Air District. The total amount of funds collected between July 1, 2009 and June 30, 2010 is \$73,639.20. The represented breakdown into each account is as follows: The total amount of funds collected to fund Ozone emission reduction projects is \$44,302.72. The total amount of funds collected to fund PM10 emission reduction projects is \$29,336.48. As mentioned above, the Air District is in the process of finishing distributing the funds for the Ozone emission reduction projects which totaled \$196,680.00. The Air District will make available any remaining funds through an RFP process which is schedule to start on August 1, 2010. **Table 2**, provides a summary of the fees collected during the 2009/2010 FY. Please note that Table 2 is already deducting the total amount of Ozone funds scheduled to be released soon with the funds available during the 2009/2010 FY.

**Table – 2: Summary of Rule 310 Funds for the 2009/2010 FY**

		Total Rule 310 Program		
		Ozone	PM10	Total
<b>Beginning Balance</b>	\$	250,615.15	26,902.19	277,517.34
<b>Total Amount Off-Site Fees Received</b>	\$	44,302.72	29,336.48	73,639.20
<b>APCD Administration Fees for 20089/200910 FY</b>	\$	15,000.00*	0	15,000
<b>Grand Total of Available Off-Site Fees Minus Administration Fees</b>	\$	279,917.87	56,238.67	336,156.54
<b>Total Amount Spent(Contracted)</b>	\$	196,680.00	0	196,680.00
<b>Grand Total Balance of Available Off-Site Fees</b>	\$	83,237.87	56,238.67	139,476.54

		Ozone	PM10
<b>Total Off-Site Achieved Emissions Reductions</b>	Tons	9.49	0
<b>Total Average Emissions Reductions Cost Effectiveness</b>	\$/Ton	20,724.97	0

\* The Air District collected \$15,000 from the Ozone Fund to cover Administration Cost for Fiscal Year 2007-2010. This is the first time the Air District has collected Administration Fees. Due to the lack of available funding in the PM10 funds, the Air District opted for collecting the fees from the Ozone fund. Future Administration Fees will be collected from the funding account with the most money available or by rotation.

### **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 2**, the Air District received off-site fees totaling \$73,639.20 from July 1, 2009 through June 30, 2010.

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

For FY 2009-2010 the Air District collected a total of \$29,336.48 in PM10 funds and \$44,302.72 in Ozone funds. Out of the 2009/2010 FY Ozone funds, \$196,680.00 were utilized to fund 10 emission reduction projects. Due to lack of funding, no PM10 projects were funded with the 2009/2010 PM10 funds. The balance remaining on both funds has been carried over to the 2010/2011 fund balance.

### **Total Emission Reduction Realized**

The Air District funded ten (10) Ozone emission reduction projects. Nine of the projects are diesel engines for agricultural water pumps. The other project being partially funded is a sewer jet cleaning system. Collectively the projects funded achieved a total emission reduction of 18,980 lbs. of Ozone precursor emissions or 9.49 tons of emission reductions.

### **Overall Cost-Effectiveness of Funded Project**

Average overall cost-effectiveness is calculated based on total tons of emissions reduced NOx plus PM10, divided by total funds spent. During FY 2009/2010, the Air District is estimated to achieve emission reductions totaling 9.49 tons and expended funds totaling \$196,680.00. The average cost-effectiveness is calculated to be \$20,724.97 per ton of Ozone emission precursors.

<b>Project Title</b>	<b>Business Name</b>	<b>Amount Funded</b>
Sewer Jet Cleaning System Replacement	City of Calipatria	\$24,680
Project # 1 - Diesel Engine Retrofit Project John Deere T06414T458874	Marini Project	\$18,000
Project # 2 - Diesel Engine Retrofit Project Cat 5EN 00721	Marini Project	\$18,000
Project # 3 - Diesel Engine Retrofit Project Cat 10E 02112	Heger Project	\$20,000
Project # 4 - Diesel Engine Retrofit Project Cummins 1487087	Heger Project	\$20,000
Project # 5 - Diesel Engine Retrofit Project John Deere RG6076A671109	Heger Project	\$18,000
Project # 6 - Diesel Engine Retrofit Project John Deere RG6076A168624	Heger Project	\$18,000
Project # 7 - Diesel Engine Retrofit Project Cat 90N 35337	La Brucherie	\$20,000
Project # 8 - Diesel Engine Retrofit Project Isuzu 142635	La Brucherie	\$20,000
Project # 9 - Diesel Engine Retrofit Project	Blackdog Project	\$20,000

APPENDIX “B”



Sun Flower Baseball Parking Lot



Speaker Kristie Riester



Speaker Cheryl Walker



Speaker Brad Poiriez



Speaker Supervisor Kelly



Speaker Ruben Duran