



Final
Staff Report

Amendment of
Rule 315 – *Federal Clean Air Act Section 185
Penalty (1979 Ozone Standard)*

presented to the
Mojave Desert AQMD Governing Board
on **February 27, 2023**

**Mojave Desert
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STAFF REPORT

Rule 315 - *Federal Clean Air Act Section 185 Penalty (1979 Ozone Standard)*

I. PURPOSE OF STAFF REPORT

A staff report serves several discrete purposes. Its primary purpose is to provide a summary and background material to the members of the Governing Board. This allows the members of the Governing Board to be fully informed before making any required decision. It also provides the documentation necessary for the Governing Board to make any findings, which are required by law to be made prior to the approval or adoption of a document. In addition, a staff report ensures that the correct procedures and proper documentation for approval or adoption of a document have been performed. Finally, the staff report provides evidence for defense against legal challenges regarding the propriety of the approval or adoption of the document.

II. EXECUTIVE SUMMARY

The Mojave Desert Air Quality Management District (MDAQMD) originally adopted Rule 315 – *Federal Clean Air Act Section 185 Penalty* on February 28, 2011. The MDAQMD submitted Rule 315 to the California Air Resources Board (CARB) on March 31, 2011 requesting inclusion in the State Implementation Plan (SIP), and CARB submitted Rule 315 to the United States Environmental Protection Agency (USEPA) on April 22, 2011 as a revision to the SIP. The MDAQMD made further amendments to rule 315 following USEPA request, and amended the rule at the October 24, 2011 Governing Board Meeting. Rule 315 was resubmitted to EPA for inclusion in the SIP on December 5, 2011. More recently, USEPA disapproved Rule 315 (87 FR 59021, 9/29/2022) as submitted in 2011 effective October 31, 2022. The MDAQMD has amended Rule 315 in response to EPA comments listed in the official disapproval.

42 U.S.C. 7511d (Federal Clean Air Act Section 185, or Section 185) requires the imposition of a penalty of \$5,000 per ton (adjusted for inflation) on major facilities within an area classified as severe or extreme ozone which fail to attain the standard by the applicable attainment date unless such major facilities have reduced their ozone precursor emissions by twenty percent (20%) from a specified baseline amount. USEPA has indicated that such penalty provisions need to be adopted in case of a failure to meet the attainment date for each nonattainment standard.

III. STAFF RECOMMENDATION

Staff recommended that the Governing Board of the Mojave Desert Air Quality Management District (District) adopt, after conducting a public hearing, a resolution approving the amendment of Rule 315. The amendments are necessary to implement the requirements of Section 185 of the Federal Clean Air Act to the AQMA.

IV. LEGAL REQUIREMENTS CHECKLIST

The findings and analysis as indicated below are required for the procedurally correct amendment of Rule 315. Each item is discussed, if applicable, in Section V. Copies of related documents are included in the appropriate appendices.

FINDINGS REQUIRED FOR RULES & REGULATIONS:

- X Necessity
- X Authority
- X Clarity
- X Consistency
- X Non-duplication
- X Reference
- X Public Notice & Comment
- X Public Hearing

REQUIREMENTS FOR STATE IMPLEMENTATION PLAN SUBMISSION (SIP):

- X Public Notice & Comment
- X Availability of Document
- X Notice to Specified Entities (State, Air Districts, USEPA, Other States)
- X Public Hearing
- X Legal Authority to adopt and implement the document.
- X Applicable State laws and regulations were followed.

ELEMENTS OF A FEDERAL SUBMISSION:

- X Elements as set forth in applicable Federal law or regulations.

CALIFORNIA ENVIRONMENTAL QUALITY ACT REQUIREMENTS (CEQA):

- N/A Ministerial Action
- X Exemption
- N/A Negative Declaration
- N/A Environmental Impact Report
- X Appropriate findings, if necessary.
- X Public Notice & Comment

SUPPLEMENTAL ENVIRONMENTAL ANALYSIS (RULES & REGULATIONS ONLY):

- X Environmental impacts of compliance.
- N/A Mitigation of impacts.
- N/A Alternative methods of compliance.

OTHER:

- X Written analysis of existing air pollution control requirements
- N/A Economic Analysis
- X Public Review

V. DISCUSSION OF LEGAL REQUIREMENTS

A. REQUIRED ELEMENTS/FINDINGS

This section discusses the State of California statutory requirements that apply to the amendment of Rule 315. These are actions that need to be performed and/or information that must be provided in order to adopt the rules in a procedurally correct manner.

1. State Findings Required for Adoption of Rules & Regulations:

Before adopting, amending, or repealing a rule or regulation, the District Governing Board is required to make findings of necessity, authority, clarity, consistency, non-duplication, and reference based upon relevant information presented at the hearing. The information below is provided to assist the Governing Board in making these findings.

a. Necessity:

The amendment of Rule 315 is necessary to implement the requirements of Section 185 of the Federal Clean Air Act, and to stop potential sanctions being imposed by the USEPA as identified in 87 FR 59021, effective October 31st, 2022, through the adoption of a non-attainment area fee equivalency strategy allowed under Section 172(e) of the Federal Clean Air Act. USEPA has indicated that such penalty provisions need to be adopted in case of a failure to meet the attainment date for each nonattainment standard.

b. Authority:

The District has the authority pursuant to California Health and Safety Code (H&S Code) §40702 to adopt, amend, or repeal rules and regulations.

c. Clarity:

The amendment of Rule 315 is clear in that it is written so that the persons subject to the rule can easily understand the meaning.

d. Consistency:

The amendment of Rule 315 is in harmony with, and not in conflict with or contradictory to, any state law or regulation, federal law or regulation, or court decisions because Federal Clean Air Act Section 185 requires the imposition of a penalty of \$5,000 per ton (adjusted for inflation) on major facilities within ozone non-attainment areas that fail to meet the severe or extreme ozone attainment date unless such major facilities have reduced their ozone precursor emissions by twenty percent (20%) from a

baseline amount. A portion of the jurisdiction of the MDAQMD is located within the AQMA. Therefore, this portion of the MDAQMD is subject to the provisions of Section 185.

e. Non-duplication:

The amendment of Rules 315 does not impose the same requirements as an existing state or federal law or regulation because the Federal Clean Air Act requires the MDAQMD to adopt a rule to implement the requirements of Section 185 for each standard.

f. Reference:

The District has the authority pursuant to H&S Code §40702 to adopt, amend, or repeal rules and regulations.

g. Public Notice & Comment, Public Hearing:

Notice for the public hearing for the proposed amendment of Rules 315 was published on January 25, 2023 for the February 27, 2023 Governing Board Meeting. See Appendix “B” for a copy of the public notice. See Appendix “C” for copies of comments, if any, and District responses.

2. Federal Elements (SIP Submittals, Other Federal Submittals).

Submittals to USEPA are required to include various elements depending upon the type of document submitted and the underlying federal law that requires the submittal. The information below indicates which elements are required for the proposed amendment of Rule 315 and how they were satisfied.

a. Satisfaction of Underlying Federal Requirements:

The amendment of Rule 315 – *Federal Clean Air Act Section 185 Penalty (1979 Standard)* is subject to all the requirements for a SIP submittal because Section 185 itself is a mandatory SIP element. Therefore, the MDAQMD will request that amended Rule 315 be submitted for inclusion in the SIP. The criteria for determining completeness of SIP submissions are set forth in 40 CFR Part 51, Appendix V, 2.0.

b. Public Notice and Comment:

Notice for the public hearing for the amendment of Rule 315 was published on January 25, 2023 for the February 27, 2023 Governing Board Meeting. See Appendix “B” for a copy of the

public notice. See Appendix “C” for copies of comments, if any, and District responses.

c. Availability of Document:

A copy of the proposed Rule 315 was made available to the public on January 25, 2023 and the accompanying draft staff report was made available to the public on January 25, 2022.

d. Notice to Specified Entities:

A copy of the amendment of Rule 315 was made available to all affected agencies, including but not limited to CARB and USEPA on January 25, 2023, and the accompanying draft staff report was made available to all affected agencies, including but not limited to CARB and USEPA on January 25, 2023.

e. Public Hearing:

A public hearing to consider the proposed amendment of Rule 315 was noticed for February 27, 2023.

f. Legal Authority to Adopt and Implement:

The District has the authority pursuant to H&S Code §40702 to adopt, amend, or repeal rules and regulations and to do such acts as may be necessary or proper to execute the duties imposed upon the District.

g. Applicable State Laws and Regulations Were Followed:

Public notice and hearing procedures pursuant to H&S Code §§40725-40728 have been followed. See Section (V)(A)(1) above for compliance with state findings required pursuant to H&S Code §40727. See Section (V)(B) below for compliance with the required analysis of existing requirements pursuant to H&S Code §40727.2. See Section (V)(C) for compliance with economic analysis requirements pursuant to H&S Code §40920.6. See Section (V)(D) below for compliance with provisions of the California Environmental Quality Act (CEQA).

B. WRITTEN ANALYSIS OF EXISTING REQUIREMENTS

H&S Code §40727.2 requires air districts to prepare a written analysis of all existing federal air pollution control requirements that apply to the same equipment or source type as the rule proposed for modification by the district. The amendment of Rule 315 implements the requirements of Section 185 of the Federal Clean Air Act through the adoption of a non-attainment area fee equivalency strategy. USEPA has also indicated

that such penalty provisions need to be adopted in case of a failure to meet the attainment date for each nonattainment standard. Therefore, the preparation of a written analysis of existing pollution control requirements that apply to the same equipment or source type is not required.

C. ECONOMIC ANALYSIS

1. General

Rule 315 was adopted to implement a mandatory penalty pursuant to Section 185 of the Federal Clean Air Act (42 U.S.C. §7511d) within the MDAQMD portion of the Southeast Desert Air Quality Management Area (AQMA) 42 U.S.C. 7511d (Federal Clean Air Act Section 185, or Section 185) requires the imposition of a penalty of \$5,000 per ton (adjusted for inflation) on major facilities within an area classified as severe or extreme ozone which fail to attain the standard by the applicable attainment date unless such major facilities have reduced their ozone precursor emissions by twenty percent (20%) from a specified baseline amount. USEPA has indicated that such penalty provisions need to be adopted in case of a failure to meet the attainment date for each nonattainment standard. A portion of the jurisdiction of the MDAQMD is located within the AQMA which has been classified severe for various ozone standards. Therefore, this portion of the MDAQMD is subject to the provisions of Section 185. The remainder of the MDAQMD is not located within the AQMA and is therefore not subject to the provisions of Section 185.

The original version of Rule 315 allowed for aggregating the major facilities emissions in order to show the twenty percent (20%) reduction in emissions across the entire non-attainment area. Using this aggregation method, and based on actual emissions to date, the MDAQMD did not expect any facilities to have to pay the penalty.

The amendments made on 10/24/11 to Rule 315 removed the emissions aggregation method, and instead established a non-attainment fee equivalency strategy. This fee equivalency strategy established a “Tracking Account” for those districts that are located wholly, or in part, in the AQMA (MDAQMD, Antelope Valley Air Quality Management District (AVAQMD)). The “Tracking Account” is credited with actual expenditures of qualified programs designed to fund projects which: are surplus to the SIP for the Federal one-hour ozone standard; have been certified by the APCO, CARB, and the USEPA as being surplus to the SIP; and are designed to result in direct, or to facilitate future, Volatile Organic Compound (VOC) or Oxides of Nitrogen (NO_x) reductions within the District from uses as approved by USEPA. The annual applicable expenditures made within the portions of the three districts that are within the AQMA together during a given calendar year shall be referred to as the “Combined AQMA Equivalency Tracking Account” for that calendar year. The annual applicable penalties made within the portions of the two districts within the AQMA during a calendar year shall be referred to as the “Combined AQMA

Penalties” for that calendar year. The equivalency determination shall be made by subtracting the Combined AQMA Penalty from the Combined AQMA Equivalency Tracking Account. Any remaining balance greater than zero of the Combined AQMA Equivalency Tracking Account shall be carried over to subsequent years. If the balance of the Combined AQMA Equivalency Tracking Account is less than zero, the APCO shall determine the penalty owed by each facility as a pro rata share.

2. Incremental Cost Effectiveness

Pursuant to H&S Code §40920.6, incremental cost effectiveness calculations are required for rules and regulations which are adopted or amended to meet the California Clean Air Act requirements for Best Available Retrofit Control Technology (BARCT) or “all feasible measures” to control VOCs, NO_x or oxides of sulfur.

The amendment of Rule 315 is not subject to incremental cost effectiveness calculations because these rules do not impose BARCT or “all feasible measures.”

D. ENVIRONMENTAL ANALYSIS (CEQA)

The appropriate CEQA process for the proposed amendment of Rule 315 was determined through the process described below.

1. The amendment of Rule 315 meets the CEQA definition of “project”. They are not “ministerial” actions.
2. The amendment of Rule 315 is exempt from CEQA review because Rule 315 is a penalty rule. There is no potential that the amendments might cause the release of additional air contaminants or create any adverse environmental impacts. Therefore, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies. Copies of the documents relating to CEQA can be found in Appendix “D.”

E. SUPPLEMENTAL ENVIRONMENTAL ANALYSIS

1. Potential Environmental Impacts

The amendment of Rule 315 does not have any potential environmental impacts because the rule merely imposes a penalty on major facilities within ozone non-attainment areas that fail to meet the severe or extreme ozone attainment date unless such major facilities have reduced their ozone precursor emissions by twenty percent (20%) from a baseline amount. Therefore, the rule does not have any impact upon emissions of air contaminants.

2. Mitigation of Impacts

N/A

3. Alternative Methods of Compliance

N/A

F. PUBLIC REVIEW

See Staff Report Section (V)(A)(1)(g) and (2)(b), as well as Appendix “B.”

VI. TECHNICAL DISCUSSION

A. SOURCE DESCRIPTION

These rules are applicable to any facility within the AQMA¹ which emits or has the potential to emit NO_x or VOCs in an amount sufficient to make it a Major Facility as defined in District Rule 1301.

B. EMISSIONS

The amendment of rule 315 does not regulate emissions or impose control requirements. Therefore, there will be no direct impact upon emissions.

Rule 315 contains calculations that involve specific facility calendar year inventories of actual NO_x and VOC emissions. The proposed rules include a requirement for the APCO to request each applicable facility provide an emissions inventory in writing each year. This provision does not create an additional emission inventory method or process, each applicable facility is by definition a federal major source and is therefore subject to all recordkeeping and reporting requirements, including the semi-annual and annual emissions reporting specified in existing federal operating permits as required by District Rule 1203(D). Most applicable facilities are also subject to multiple state annual emission inventory requirements. Each facility annual emission inventory is currently reviewed by the District and State personnel, including myriad quality control and quality assurance reviews. Facility annual emission inventories are used for all regulatory purposes, including permit condition compliance, emissions level triggers, New Source Review, state fees, and local, regional and state planning.

Rule 315 includes a non-attainment area fee equivalency strategy, as provided by Section 172(e) of the Federal Clean Air Act. Section 172(e) allows for alternative programs that are no less stringent than the mandated Section 185 program. Under USEPA guidance, such programs may be either “fee equivalent” or “emissions equivalent” or a combination of both strategies. The previous rule amendment proposed a “fee equivalent” program which recognizes funding from fee programs that are surplus to the SIP and are used for air quality improvement projects in the MDAQMD. USEPA guidance requires fees collected under such program be directed towards the reduction of NO_x or VOC emissions. Such funds will be accumulated into a fee equivalency “tracking account” and used to offset the burden otherwise required under the Section 185 penalty collection approach. This “fee equivalency” approach must be used to facilitate pollution reduction

¹ More recently termed Federal Ozone Nonattainment Area (FONA)

efforts, whereas the Federal Clean Air Act does not specify how Section 185 penalty revenues are to be used. Therefore, this “fee equivalent” strategy will have a greater potential for an air quality benefit than the Section 185 penalty.

The district anticipates using programs, including but not limited to, the Carl Moyer Program, AB2766, and the Lawn and Garden Equipment Replacement Program, as part of such fee equivalency expenditures. Table 1 is an example of how the shown programs would be determined (using the 2008 Ozone standard and 2020 fiscal year) in the case of an official finding of failure to attain.

Table 1			
Sample List of Qualified Programs for Section 172(e) Equivalency Tracking Account 2008 Standard			
Name	Ongoing/One-Time	Year	Expenditure
Carl Moyer	Ongoing	Fiscal Year 2020	\$927,923
AB2766	Ongoing	Fiscal Year 2020	\$500,000
Lawn and Garden Equipment Replacement Program	One-Time	Fiscal Year 2020	\$170,554

The previous Federal Ozone Standards have been superseded by the 2015 NAAQS of 70 ppb; however, the previous standards have not been revoked by an official USEPA action. Thus, in the case of an official finding of failure to attain, the fee equivalency amount for the non-modified 1979 standard would be \$0 using the methodology for the example year of 2020.²

C. CONTROL REQUIREMENTS

The amended rule does not impose any control requirements.

D. PROPOSED RULE SUMMARY

Rule 315 – *Federal Clean Air Act Section 185 Penalty (1979 Standard)* defines District authority regarding implementation of the mandatory penalty pursuant to Section 185 of the Federal Clean Air Act (42 U.S.C § 7511d) within the District portion of the Western Mojave Desert AQMA for the 1979 1-hour ozone NAAQS (0.12 ppm).

The MDAQMD has made revisions to Rule 315 in order to make the rule approvable by USEPA and added to the MDAQMD SIP. The amendments include general clarifications, updates to outdated definitions, and corrections to fee equivalency determination equations per EPA direction. A summary of the rule changes is listed below:

² Sentence included by error. Example fee equivalency expenditure programs for the 1979 Ozone standard are listed in Attachment A of Appendix A.

Section (A)(2) Applicability - updated and clarified this section per EPA direction.

Section (A)(3) Exemption – minor clarifications per EPA direction.

Section (B) Definitions – updated definition of Major Facility, various minor grammatical corrections to other rule definitions.

Section (D)(1) – minor clarification per EPA direction.

Section (D)(1)(d) – section removed per EPA direction.

Section (D)(2) – corrected error in penalty determination equation and variable definitions per EPA direction.

Section (E)(1) – replaced prior language with “expenditures” based language to clarify this section per EPA direction.

Section (E)(1) (a) (iii) – specified reductions must be within the AQMA.

Section (E)(2) – Removed references to SCAQMD per EPA direction as SCAQMD has not adopted a rule with the same provisions.

Section (E)(3) – clarification of equivalency determination equation variable definitions per EPA direction.

Section (E)(4) - clarification of equation variable definitions per EPA direction.

Section (E)(4)(b) – deleted “thereafter” per EPA comments.

Section (F)(1) – updated reporting requirements per EPA direction.

Attachment A – section removed per EPA direction and added to this staff report to be used as an example for how the fee equivalency strategy would be implemented.

E. ENVIRONMENTAL JUSTICE ANALYSIS

USEPA has recently indicated that submissions should analyze compliance with various Federal non-discrimination laws³ as well as EPA’s own non-discrimination regulations⁴ and general principles to ensure that actions do not unduly burden already overburdened populations.⁵

The rule and its proposed amendments apply throughout the jurisdiction of the MDAQMD without regional discrimination, or discrimination on any other basis. The

³ Specifically, USEPA has identified Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Section 13 of the Federal Water Pollution Control Act of 1972 and Title IX of the Education Amendments of 1972 as potential laws of concern.

⁴ 40 CFR Parts 5 and 7.

⁵ Commonly referred to as Environmental Justice provisions.

proposed rule is as stringent or more stringent than the previous rule, and will therefore not result in discriminatory emission increases. The provisions of the rule as amended will apply to facilities based upon the attainment status of a particular area on a pollutant by pollutant basis.

No group of people will bear a disproportionate share of negative environmental consequences due to the proposed rule amendments – this is a penalty rule for Major Sources within the AQMA. Therefore, there will be no negative environmental consequences for any group of people due to the proposed rule amendments.

In regards to access to all potentially affected persons, since July 1, 2019 the MDAQMD has complied with California AB 434. This law requires compliance with the latest Web Content Accessibility Guidelines (WCAG) to ensure that posted content maintains full accessibility compliance for all persons. WCAG ensures websites and posted content are certified for compliance and that a contact phone number and contact person are provided for any inquiries on access. This document, the proposed rule, and all related materials will be provided to the public and all interested persons in WCAG compliant format.

The proposed rule amendments have been made available to all interested persons through public notice, direct notice, and website postings. The proposed rule will be discussed and acted upon in a properly noticed public hearing, at which people will have an opportunity to participate in the amendment decision, contribute to the decision, and express concerns with the decision (in person, in writing, and in digital form). Accommodation for non or limited English speakers in both materials and meeting participation is available upon request.

F. SIP HISTORY

1. SIP History.

Rule 315 – *Federal Clean Air Act Section 185 Penalty (1979 Standard)* was submitted for inclusion in the SIP in 2011. EPA disapproved this rule effective October 2022.

2. SIP Analysis.

USEPA has indicated that the 10/24/2011 version of the rule is not approvable in its current format. USEPA has recommended a variety of changes to allow for full approvability. The MDAQMD will be requesting CARB to submit the amendments to Rule 315 – *Federal Clean Air Act Section 185 Penalty (1979 Ozone Standard)*, including USEPA’s requested changes, for inclusion in the MDAQMD SIP superseding the prior submission.

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Appendix “A”

Rule 315 Iterated Revisions

The iterated version is provided so that the changes to an existing rule may be easily found. The manner of differentiating text is as follows:

1. Underlined text identifies new or revised language.
2. ~~Lined out text~~ identifies language which is being deleted.
3. Normal text identifies the current language of the rule which will remain unchanged by the amendment of the proposed amendments.
4. *[Bracketed italicized text]* is explanatory material that is not part of the proposed language. It is removed once the proposed amendments are adopted.

Rule 315

Federal Clean Air Act Section 185 Penalty

(1979 Ozone Standard)

(A) General

(1) Purpose

The purpose of this ~~rule~~ Rule is to implement the mandatory penalty pursuant to Section 185 of the Federal Clean Air Act (FCAA) (42 U.S.C. §7511d) within the District portion of the Southeast Desert Modified Air Quality Maintenance Area (AQMA) for the 1979 one-hour ozone (0.12 ppm) National Ambient Air Quality Standards (NAAQS).

(2) Applicability

(a) This ~~rule~~ Rule is applicable to any Major Facility within the District Portion of the AQMA, ~~which emits or has the potential to emit nitrogen oxides (NO_x) or Volatile Organic Compounds (VOC) in an amount sufficient to make it a Major Facility as defined in District Rule 1301.~~

(b) This Rule shall become applicable if and when the AQMA is determined to have failed to attain the 1979 one-hour ozone NAAQS, not before the applicable attainment date (2007).

(bc) This ~~rule~~ Rule shall cease to be applicable when the EPA takes a final action to terminate the anti-backsliding requirement associated with the Section 185 penalty for AQMA is designated as attaining the 1979 one-hour national ambient air quality standard for ozone NAAQS.

(3) Exemption

(a) No ~~facility~~ Facility otherwise subject to this ~~rule~~ Rule shall be required to remit a ~~Federal Clean Air Act Section~~ FCAA Section 185 penalty under this rule during for any calendar year in which the ~~facility~~ Facility emits verified ~~actual emissions~~ Actual Emissions equal to or less than 80 percent of its ~~combined~~ Baseline Emissions ~~amounts~~.

(b) No ~~facility~~ Facility otherwise subject to this ~~rule~~ Rule shall be required to remit a ~~Federal Clean Air Act Section~~ FCAA Section 185 penalty under this rule during for any calendar year in which the District has demonstrated fee equivalency for the AQMA in accordance with the procedures contained in Section (E) below.

(B) Definitions

For the purposes of this ~~rule~~ Rule the definitions contained in District Rule ~~1301-102 –~~ Definition of Terms shall apply unless otherwise defined below.

- (1) “Actual Emissions” - Actual total ~~facility~~ Facility calendar year emissions to ~~atmosphere~~ Atmosphere of each of Oxides of Nitrogen (NO_x) and Volatile Organic Compounds (VOC) reported to the District through a verified emission inventory. Fugitive Emissions from a Facility shall not be included in the calculation unless the Facility belongs to one of the twenty-seven major source categories listed under ~~subsection (2) of~~ the definition of “major source” in 40 CFR 51.165(a)(1)(iv)(C).
- (2) “Baseline Emissions” - Baseline emissions are calculated for each of NO_x and VOC Facility emissions to the atmosphere for which the source is classified as a Major Facility, in accordance with Section (D) below.
- (3) “District Portion of the AQMA” - That portion of the District’s jurisdiction that is within the AQMA; south of latitude 35 degrees, 10 minutes north, and west of longitude 115 degrees, 45 minutes west.
- (4) “Major Facility” - Any Facility which emits or has the Potential to Emit (PTE) NO_x or VOC in an amount greater than or equal to 25 tons per year. The Fugitive Emissions of a Facility shall not be included in the determination of whether a Facility is a Major Facility unless the Facility belongs to one of the twenty-seven (27) categories of Facilities as listed in 40 CFR 51.165(a)(1)(iv)(C).
- (5) “Southeast Desert Modified Air Quality Maintenance Area” (AQMA) - That ~~area portion of the Metropolitan Los Angeles Air Quality Control Region~~ as described in 40 CFR 81.305 (Ozone one-hour standard).
- (56) “State Implementation Plan” (SIP) - The federally approved body of regulations representing control strategies to minimize air pollution adopted by state and local air pollution control agencies in compliance with Section 110 of the ~~Clean Air Act~~ FCAA, 42 U.S.C. §7410.

(C) Requirements

- (1) Verification of Actual Emissions

By June 1, on an annual (calendar year) basis, any ~~facility~~ Facility subject to the provisions of this ~~rule~~ Rule shall submit a verified inventory of Actual Emissions for the previous calendar year in accordance with Rule 107 – Certification and Emission Statements and ~~Federal Clean Air Act~~ FCAA Section 182(a)(3)(B).

(D) Calculations

(1) Baseline Emissions for a Facility shall be calculated as specified below:

- (a) For a Facility that began operation prior to 2007, the Baseline Emissions shall be the lower of:
 - (i) The Actual Emissions during 2007; or
 - (ii) The amount of emissions allowed by permit condition during 2007, or if no permit has been issued for 2007, the allowable emissions under the applicable implementation plan.
- (b) For a facility that began operation during 2007, the Baseline Emissions shall be the lower of:
 - (i) The amount of emissions allowed by permit condition during 2007; or
 - (ii) The Actual Emissions from the operation period extrapolated over calendar year 2007 using the inverse of the fraction of the duration of actual operation in days over 365.-
- (c) For a ~~facility~~ Facility that begins operation after 2007, the Baseline Emissions shall be the amount allowed under the applicable implementation plan for the first year of operation, extrapolated for the full year.
- ~~(d) For an irregular, cyclical or otherwise significantly varying Facility that began operation prior to 2003, Baseline Emissions may be calculated as the average of the verified Actual Emissions for any two years of the years 2003 through 2007 that the APCO determines are the most representative of operation, if the facility demonstrates in writing to the satisfaction of the APCO and USEPA that they are not a regular Facility.~~

(2) Penalty Determination

- (a) The penalty for a Facility shall be \$5,000, adjusted pursuant to subsection (D)(2)(b), per ton of Actual Emissions during a calendar year that exceed 80 percent of the ~~baseline emissions~~ Baseline Emissions, as specified below:

$$P = 5000 \times [E_a - (0.8 \times E_b)] \times (1 + C)$$

Where:

P	=	Penalty (in dollars)
E _a	=	Actual Emissions
E _b	=	Baseline Emissions

C = Percent change in the Consumer Price Index since 1990 as determined by subsection (D)(2)(b)

- (b) The change in the Consumer Price Index shall be determined in accordance with the provisions of 42 U.S.C. §7511d(b)(3) (Federal Clean Air Act §185(b)(3)) and 42 U.S.C. §7661a(b)(3)(B)(v) (Federal Clean Air Act §502(b)(3)(B)(v)).

(E) Equivalency Determination

- (1) Expenditures used for the Federal Clean Air Act Section 185 Fee Equivalency Determination ~~“Tracking Account”~~
- (a) The Air Pollution Control Officer (APCO) shall establish and maintain a record of actual expenditures as described in this section.~~Federal Clean Air Act Section 185 Equivalency “Tracking Account.”~~ The expenditures record.~~Such Tracking Account~~ shall be credited with actual expenditures occurring in calendar years beginning the first calendar year in which ~~this rule is adopted~~fees are due on qualified programs that are designed to fund projects which:
- (i) Are surplus to the SIP; ~~for the Federal 1979 one-hour ozone NAAQS Ozone standard;~~
- (ii) Have been certified in writing by the APCO, the Executive Officer of the California Air Resources Board (CARB) and USEPA as being surplus to the SIP; and
- (iii) Are designed to result in direct, or to facilitate future, ~~VOC or NO_x~~ or VOC reductions within the District portion of the AQMA~~from uses~~ as approved by USEPA.
- (b) Expenditures credited to the ~~Federal Clean Air Act~~FCAA Section 185 Equivalency determination~~“Tracking Account”~~ need not actually be held by or disbursed by the District provided the source of the expenditures is an eligible project in a qualified program.
- (c) Expenditures shall be credited on a dollar for dollar basis and shall not be discounted due to the passage of time.
- (d) If expenditures credited for a given year are greater than those necessary for the demonstration of equivalency for that year the surplus may accumulate and be used as needed to demonstrate equivalency in subsequent years.
- (2) AQMA Accounting
- (a) By July 1, on an annual basis, the APCO shall ~~request submit~~ an accounting of applicable expenditures for the previous calendar year, as defined in subsection (E)(1)(a), made within the portions of the AQMA

that are under the jurisdiction of the ~~Antelope Valley Air Quality Management District~~ District to the APCO of ~~and the South Coast Air Quality Management District (SCAQMD) and the APCO of the Antelope Valley Air Quality Management District (AVAQMD).~~ from the APCO or Executive Officer of each respective district.

- (b) By July 1, on an annual basis, the APCO shall ~~request-submit~~ an accounting of the applicable penalty obligations ~~s for the previous calendar year~~, as determined in subsection (D)(2), for sources within the portions of the AQMA that are under the jurisdiction of ~~the District to the APCO of the SCAQMD and the APCO of the AVAQMD~~ the Antelope Valley Air Quality Management District and the South Coast Air Quality Management District from the APCO or Executive Officer of each respective district.
- (c) By July 1, on an annual basis, the APCO shall ~~request-submit~~ an accounting of the applicable penalty fees collected ~~for the previous calendar year~~ within the portions of the AQMA that are under jurisdiction of the ~~Antelope Valley Air Quality management District and the South Coast Air Quality Management District from the APCO or the Executive Officer of each respective District~~ District to the APCO of the SCAQMD and the APCO of the AVAQMD.
- (d) The annual applicable expenditures made within the portions of the ~~three two (23)~~ districts that are within the AQMA together during a given calendar year shall be referred to as the “Combined AQMA ~~Expenditures~~Equivalency Tracking Account” for that calendar year.
- (e) The annual applicable penalty obligations determined within the portions of the ~~three two (23)~~ districts that are within the AQMA together during a given calendar year shall be referred to as the “Combined AQMA Penalties” for that calendar year.

(3) Equivalency Determination

- (a) By August 1, on an annual basis, the APCO shall also make a determination of equivalency according to the following formula:

$$B_f = (B_i + E) - AP$$

Where:

B_i = The ~~initial~~ balance of the ~~Federal Clean Air Act~~FCAA Section 185 Combined AQMA Equivalency “Tracking Account” as existing at the beginning of the calendar year for which the equivalency determination is being made.

E	=	The expenditures credited to the Federal Clean Air Act FCAA Section 185 The Combined AQMA Expenditures Equivalency “Tracking Account” during the calendar year for which the equivalency determination is being made. <u>Such expenditures are</u> <u>pursuant to sections (E)(2)(a) and (E)(2)(d) above.</u>
AP	=	The Combined AQMA Penalties Penalty amount determined by the APCO pursuant to subsections (E)(2)(b) and (E)(2)(e) above.
B _f	=	The balance of the Federal Clean Air Act FCAA Section <u>185</u> Combined AQMA Equivalency Tracking Account to be carried over into the subsequent calendar year as B _i if such amount is greater than zero. The remaining penalty to be allocated to applicable Facilities pursuant to subsection (E)(4) below if such amount is less than zero.

(4) Partial Equivalency Determination and Calculation of Penalty

- (a) If the balance of the ~~Federal Clean Air Act~~
~~FCAA~~ Section 185 Combined
AQMA Equivalency Tracking Account is less than zero in any particular
year then the APCO shall determine the penalty amount owed by each
Facility as follows:

$$P_{ry} = P_y \times \left(\frac{|B_{fy}|}{AP_y} \right)$$

Where:

P _{ry}	=	Residual penalty for calendar year y
P _y	=	Penalty amount for calendar year y as calculated in subsection (D)(2)
B _{fy}	=	Absolute value of negative balance of equivalency FCAA Section 185 Combined AQMA Equivalency Tracking Account for calendar year y as calculated in subsection (E)(3)(2)
AP _y	=	Sum of Combined AQMA Penalties as determined pursuant to subsections (E)(2)(b) and (E)(2)(e) for calendar year y. <u>all P_y as calculated in subsection</u> <u>(D)(2)</u>

- (b) No later than August 15, on an annual basis as required, the APCO shall
~~thereafter~~ notify the ~~facility~~Facility by mail of the penalty amount due and
payable as calculated on a ~~facility~~Facility basis in subsection (E)(4)(a),

~~and selected as required in accordance with subsection (A)(3)(c).~~ -with the penalty due within 30 days. If the penalty is not paid by the due date specified in the notice, the subject ~~facility~~ Facility permits will be suspended and a suspension notification will be made by mail within 15 days of the due date. A suspended permit may be reinstated by payment of the applicable penalty.

(F) Reporting Requirements

- (1) ~~Commencing the year this rule is adopted in 2019, and on or before 12/31 thereafter the last day of each calendar year thereafter, The~~ APCO shall file a report for the prior year accounting with CARB and USEPA that contains the following:
 - (a) A listing of all Facilities subject to this ~~rule~~ Rule and the potential penalty obligation as calculated pursuant to Section (D) above for the prior calendar year;
 - (b) The Combined AQMA Penalties for the prior calendar year;
 - (c) The balance of the ~~Federal Clean Air Act~~ FCAA Section 185 Combined AQMA Equivalency Tracking Account, if any, at the beginning of the prior calendar year;
 - (d) A listing of all qualified programs, program descriptions, description of funding, certification of eligibility for each program, and expenditures associated with each program that were credited into the ~~Federal Clean Air Act~~ FCAA Section 185 Combined AQMA Equivalency Tracking Account during the prior calendar year;
 - (e) The results of the calculation pursuant to subsection (E)(3)(a) above; and
 - (f) The results of the remaining penalty allocation calculation pursuant to subsection (E)(4)(a) if any.

See SIP Table at www.mdaqmd.ca.gov

~~Attachment A~~

List of Qualified Programs for Section 172(e) Equivalency Tracking Account			
Name	Ongoing/One-Time	Year	Expenditure
Carl Moyer	Ongoing	Year 13 (Fiscal Year 2010/2011)	\$574,000
AB2766	Ongoing	01/10-12/10	\$1,446,000
AB118 (AQIP)			
Lawn and Garden Equipment Replacement Program	One-Time	2010/2011	\$100,000
Advance Technology Demonstration Project	One-Time	2011/2013	\$30,000

Note: Attachment A moved to Staff Report to be used as an example.

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Appendix “B”

Public Notice Documents

1. Proof of Publication – The Sun, San Bernardino
2. Proof of Publication – Riverside Press Enterprise

THE SUN
Local News Matters.
esbsun.com

The Sun (San Bernardino)
473 E. Carnegie Drive, Suite 250
San Bernardino, California 92408
(909) 386-3884

0011581764

Mojave Desert Air Quality Management District
14306 Park Avenue
Victorville, California 92392

**PROOF OF PUBLICATION
(2015.5 C.C.P.)**

**STATE OF CALIFORNIA
County of San Bernardino**

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not party to or interested in the above-entitled matter. I am the principal clerk of the printer of The Sun (San Bernardino), a newspaper of general circulation, printed and published in the City of San Bernardino*, County of San Bernardino, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of County of San Bernardino, State of California, under the date of 06/20/1952, Case No. 73084. The notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

01/24/2023

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated at San Bernardino, California

On this 24th day of January, 2023.



Signature

*The Sun (San Bernardino) circulation includes the following cities:
[UNKNOWN LIST]

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the Governing Board of the Mojave Desert Air Quality Management District (MDAQMD) will conduct a public hearing on February 27, 2023 at 10:00 A.M. to consider the amendment of **Rule 315 - Federal Clean Air Act Section 185 Penalty (1979 Ozone Standard)**.

SAID HEARING will be conducted in the Governing Board Chambers located at the MDAQMD offices 14306 Park Avenue, Victorville, CA 92392-2310 where all interested persons may be present and be heard. Copies of the rule and the staff report for the proposed amendment of **Rule 315 - Federal Clean Air Act Section 185 Penalty (1979 Ozone Standard)** are on file and may be obtained from the Senior Executive Analyst at the MDAQMD Offices. Written comments may be submitted to Brad Poiriez, APCO, at the above office address. Written comments should be received no later than February 23, 2023 to be considered. If you have any questions you may contact Alan De Salvo at (760) 245-1661 x6726 for further information. Traducción esta disponible por solicitud.

Rule 315 is proposed for amendment in response to the United States Environmental Protection Agency's (USEPA's) request to correct deficiencies listed in the official disapproval (87 FR 59021).

Pursuant to the California Environmental Quality Act (CEQA) the MDAQMD has determined that a Categorical Exemption (Class 8 - 14 Cal. Code Reg §15308) applies and has prepared a Notice of Exemption for this action.
The Sun (San Bernardino)
Published: 1/24/23

**RECEIVED
MOJAVE DESERT AQMD**

JAN 25 2023

CLERK OF THE BOARD
BY 

THE PRESS-ENTERPRISE

KEEP YOUR EYES ON THE PRIZE
pe.com

The Press-Enterprise
3512 14 Street
Riverside, California 92501
(951) 368-9229

Mojave Desert Air Quality Management District
14306 Park Avenue
Victorville, California 92392

Publication: The Press-Enterprise

PROOF OF PUBLICATION OF

Ad Desc: 0011581756

FILE NO. 0011581756

PROOF OF PUBLICATION

I am a citizen of the United States. I am over the age of eighteen years and not party to or interested in the above-entitled matter. I am an authorized representative of THE PRESS-ENTERPRISE, a newspaper of general circulation, printed and published daily in the County of Riverside, and which newspaper has been adjudicated a newspaper of general circulation by the Superior Court of the County of Riverside, State of California, under date of April 25, 1952, Case Number 54446, under date of March 29, 1957, Case Number 65673, under date of August 25, 1995, Case Number 267864, and under date of September 16, 2013, Case Number RIC 1309013; that the notice, of which the annexed is a printed copy, has been published in said newspaper in accordance with the instructions of the person(s) requesting publication, and not in any supplement thereof on the following dates, to wit:

01/24/2023

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Date: January 24, 2023.
At: Riverside, California


Signature

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the Governing Board of the Mojave Desert Air Quality Management District (MDAQMD) will conduct a public hearing on February 27, 2023 at 10:00 A.M. to consider the amendment of Rule 315 - Federal Clean Air Act Section 185 Penalty (1979 Ozone Standard).


SAID HEARING will be conducted in the Governing Board Chambers located at the MDAQMD offices 14306 Park Avenue, Victorville, CA 92392-2310 where all interested persons may be present and be heard. Copies of the rule and the staff report for the proposed amendment of Rule 315 - Federal Clean Air Act Section 185 Penalty (1979 Ozone Standard) are on file and may be obtained from the Senior Executive Analyst at the MDAQMD Offices. Written comments may be submitted to Brad Poiriez, APCO at the above office address. Written comments should be received no later than February 23, 2023 to be considered. If you have any questions you may contact Alan De Saivio at (760) 245-1661 x6726 for further information. Traducción esta disponible por solicitud.

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The Press-Enterprise
Published: 1/24/23

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MOJAVE DESERT AQMD

JAN 24 2023

CLERK OF THE BOARD
BY 

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Appendix “C”

Public Comments and Responses

1. USEPA Comments on MDAQMD Draft Rule 315, November 01, 2022
2. USEPA Comments on MDAQMD Draft Rule 315, February 9, 2023

1. USEPA Comments on MDAQMD Draft Rule 315, November 01, 2022

Thank you for the opportunity to comment on the draft language for Mojave Desert Rule 315. Please find below our current comments.

1. Rule title: For clarity, we recommend specifying “1979 Ozone Standard.”

1. District response: recommended changes were completed.

2. (D)(1)(b)(i): For clarity, we recommend specifying that the amount of emissions are those allowed by permit condition “during 2007.”

2. District response: recommended changes were completed.

3. (D)(1)(c): For clarity, we recommend adding language that the baseline emissions are the amount allowed under the applicable implementation plan for the first year of operation, extrapolated for the full year as necessary.

3. District response: recommended changes were completed.

4. (E)(1): To avoid confusion and ensure proper calculation of the equivalency determination, we recommend removing references to the ‘Federal Clean Air Act Section 185 Equivalency “Tracking Account”’ in this section. Section (E)(1) appears to be a discussion of the expenditures, not the balance or calculation involved in the equivalency determination. A suggestion for the heading of (E)(1) would be: Expenditures used for the Federal Clean Air Act Section 185 fee equivalency determination.

4. District response: recommended changes were completed.

5. (E)(1)(a): To avoid confusion, we recommend removing the reference to the Equivalency Tracking Account in this paragraph, and simply stating that the APCO shall maintain a record of actual expenditures as described in this paragraph.

5. District response: recommended changes were completed.

6. (E)(1)(a)(i): For clarity and consistency, we recommend deleting the reference to the 1979 one-hour ozone NAAQS.

6. District response: recommended changes were completed.

7. (E)(1)(b): For clarity and consistency, we recommend removing the reference to the ‘Federal Clean Air Act Section 185 Equivalency “Tracking Account.”’

7. District response: recommended changes were completed.

8. (E)(2)(b): We recommend specifying “applicable penalty obligations” to clarify that the accounting is to reflect all the penalty obligations for sources in the District.

8. District response: recommended changes were completed.

9. (E)(2)(d): The reference to the Combined AQMA Equivalency Tracking Account seems to be incorrect in this paragraph and does not seem consistent with the equation in (E)(3)(a). We recommend changing the reference to a term such as “Combined AQMA Expenditures,” and then using that same term in the equation of (E)(3)(a).

9. District response: recommended changes were completed.

10. (E)(3)(a) equation:

B_i: For clarity, we recommend deleting the word “initial.”

E: For clarity, we recommend using the same term that is used in (E)(2)(d) (for example, “Combined AQMA Expenditures”) and then clarifying that these expenditures are pursuant to (E)(2)(a) and (E)(2)(d) above.

AP: For consistency, we recommend referring to the “Combined AQMA Penalties.”

B_r: The reference to B_i should be corrected to B_j

10. District response: recommended changes were completed.

11. (E)(4)(a) equation:

11. District response: recommended changes were completed.

$|B_y|$: For consistency, we recommend using the term, "the FCAA Section 185 Combined AQMA Equivalency Tracking Account." The reference to subsection (E)(2) should be corrected to (E)(3).

AP_y : For clarity and consistency, we recommend defining AP_y as "Combined AQMA Penalties as determined pursuant to subsections (E)(2)(b) and (E)(2)(e) for calendar year y."

12. (E)(4)(b): The phrase "and selected as required in accordance with subsection (A)(3)(c)" seems erroneous.

12. District response: recommended changes were completed.

13. (F)(1): It is unclear why reporting would commence in 2019. We recommend removing reference to a specific year.

13. District response: recommended changes were completed.

2. USEPA Comments on MDAQMD Draft Rule 315, February 9, 2023

1. (B)(3): To clarify the boundaries of the District's jurisdiction within the AQMA, we recommend editing to read, ".....That portion of the District's *jurisdiction that is within the AQMA*; that is south of latitude...."

1. District response: recommended changes were completed.

2. (B)(5): For clarity, we suggest removing the reference to the Metropolitan Los Angeles Air Quality Control Region. This term does not appear to be defined in this rule, or in Rule 102.

2. District response: The District does not concur that this reference could cause confusion as Metro LA AQCR is already defined by USEPA in 40 CFR 81.17. However per EPA recommendation the reference has been removed.

3. (E)(1)(a)(iii): To be credited, facilitated reductions must be within the nonattainment area. We recommend replacing "District" with "District Portion of the the AQMA."

3. District response: recommended changes were completed.

4. (E)(2)(b): For clarity, edit to read, "...that are under the jurisdiction of the District to the APCO of the AVAQMD."

4. District response: recommended changes were completed.

5. (E)(3)(a) definitions of B_i and B_r: The current December 6, 2022, draft rule uses the term "FCAA Section 185 Combined AQMA Expenditures" while the previous August 24, 2022, draft used the term "FCAA Section 185 Combined AQMA Equivalency Tracking Account." We previously suggested changing this terminology in other parts of the rule, but think that changing it here may be confusing. In general, we think a clear set of terminology could be to refer to expenditures into the account (effectively credits to the account) as Combined AQMA Expenditures, and funds used to establish equivalency to penalty payments (effectively, debits from the account) as Combined AQMA Penalties, and refer to the balance of the account at a particular time as the Combined AQMA Equivalency Tracking Account. The new version of the rule seems to generally do this, but in these two definitions, we think the concept being referred to is more the balance of the account than it is the expenditures, and thus retaining the tracking account language in these two definitions would make more sense.

5. District response: recommended changes were completed.

6.(E)(3)(a) definition for E: For clarity, delete "expenditures credited to the FCAA Section 185" and define E as simply, "The Combined AQMA Expenditures during the calendar year for which..."

6. District response: recommended changes were completed.

7. (E)(4)(a) introductory paragraph and definition for |B_{ty}|: See comment #5 and ensure consistency of terminology with the resolution of that comment.

7. District response: recommended changes were completed.

8. (E)(4)(a) definition for AP_y: For clarity, delete the words "Sum of" and the quotation marks at the end of the sentence.

8. District response: recommended changes were completed.

9. (E)(4)(b): We suggest removing "thereafter", since "No later than August 15" suggests there should be no notification from the APCO to the facility after August 15.

9. District response: recommended changes were completed.

10.(F)(1)(c): See comment #5 and ensure consistency of terminology with the resolution of that comment.

10. District response: comment noted.

11. (F)(1)(d): See comment #5 and ensure consistency of terminology with the resolution of that comment.

11. District response: comment noted.

Appendix “D”
California Environmental Quality Act
Documentation

1. Notice of Exemption – San Bernardino County
2. Notice of Exemption – Riverside County

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RECEIVED
MOJAVE DESERT AQMD

FEB 27 2023

NOTICE OF EXEMPTION

TO: Clerk/Recorder
Riverside County
3470 12th St.
Riverside, CA 92501

FROM: Mojave Desert
Air Quality Management District
14306 Park Ave
Victorville, CA 92392-2310

CLERK OF THE BOARD

BY



☒ MDAQMD Senior Executive Analyst

PROJECT TITLE: Amendment of Rule 315 - *Federal Clean Air Act Section 185 Penalty (1979 Ozone Standard)*

PROJECT LOCATION – SPECIFIC: San Bernardino County portion of the Mojave Desert Air Basin and Palo Verde Valley portion of Riverside County.

PROJECT LOCATION – COUNTY: San Bernardino and Riverside Counties

DESCRIPTION OF PROJECT: Rule 315 will be amended in response to a USEPA disapproval of the current version adopted and submitted in 2011 (87 FR 59021, 9/29/2022). Rule 315 will be amended per USEPA direction to improve clarity and correct deficiencies.

NAME OF PUBLIC AGENCY APPROVING PROJECT: Mojave Desert AQMD

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Mojave Desert AQMD

EXEMPT STATUS (CHECK ONE)

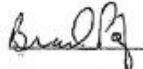
Ministerial (Pub. Res. Code §21080(b)(1); 14 Cal Code Reg. §15268)

Emergency Project (Pub. Res. Code §21080(b)(4); 14 Cal Code Reg. §15269(b))

☒ Categorical Exemption – Class 8 (14 Cal Code Reg. §15308)

REASONS WHY PROJECT IS EXEMPT: The amendment of Rule 315 is exempt from CEQA review because the action will not create any adverse impacts on the environment. Rule 315 is a penalty rule and will not create any new emissions. Because there is no potential that the amendments might cause the release of additional air contaminants or create any adverse environmental impacts, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies.

LEAD AGENCY CONTACT PERSON: Brad Poiriez **PHONE:** (760) 245-1661

SIGNATURE:  **TITLE:** Executive Director **DATE:** 02/27/2023

DATE RECEIVED FOR FILING:

FILED / POSTED

County of Riverside
Peter Aldana
Assessor-County Clerk-Recorder

E-282300220
02/27/2023 03:08 PM Fee: \$ 50.00
Page 1 of 1

Removed: By: Deputy



MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT

BRAD POIRIEZ, Executive Director

14306 Park Avenue, Victorville, CA 92392-2310 • 760.245.1661 • Fax 760.245.2022 • www.MDAQMD.ca.gov • @MDAQMD

City of ARIZONA Town of APPLE VALLEY City of BARSTON City of BURTE City of HOBOKEN City of NILES County of RIVERSIDE County of SAN BERNARDINO City of TWENTYNINE PALMS City of VICTORVILLE Town of YUCCA VALLEY

COUNTY OF
SAN BERNARDINO

MAR - 2 2023

NOTICE OF EXEMPTION

TO: County Clerk
San Bernardino County
385 N. Arrowhead, 2nd Floor
San Bernardino, CA 92415
CLERK OF THE BOARD

FROM: Mojave Desert
Air Quality Management District
14306 Park Ave
Victorville, CA 92392-2310

DATE FILED & POSTED

Filed On: 3/2/23

Removed On: 4/14/23

Receipt No: 26-03022023-192



☒ MDAQMD Senior Executive Analyst

PROJECT TITLE: Amendment of Rule 315 - Federal Clean Air Act Section 185 Penalty (1979 Ozone Standard)

PROJECT LOCATION - SPECIFIC: San Bernardino County portion of the Mojave Desert Air Basin and Palo Verde Valley portion of Riverside County.

PROJECT LOCATION - COUNTY: San Bernardino and Riverside Counties

DESCRIPTION OF PROJECT: Rule 315 will be amended in response to a USEPA disapproval of the current version adopted and submitted in 2011 (87 FR 59021, 9/29/2022). Rule 315 will be amended per USEPA direction to improve clarity and correct deficiencies.

NAME OF PUBLIC AGENCY APPROVING PROJECT: Mojave Desert AQMD

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Mojave Desert AQMD

EXEMPT STATUS (CHECK ONE)

Ministerial (Pub. Res. Code §21080(b)(1); 14 Cal Code Reg. §15268)

Emergency Project (Pub. Res. Code §21080(b)(4); 14 Cal Code Reg. §15269(b))

☒ Categorical Exemption - Class 8 (14 Cal Code Reg. §15308)

REASONS WHY PROJECT IS EXEMPT: The amendment of Rule 315 is exempt from CEQA review because the action will not create any adverse impacts on the environment. Rule 315 is a penalty rule and will not create any new emissions. Because there is no potential that the amendments might cause the release of additional air contaminants or create any adverse environmental impacts, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies.

LEAD AGENCY CONTACT PERSON: Brad Poiriez PHONE: (760) 245-1661

SIGNATURE: Brad Poiriez TITLE: Executive Director DATE: 02/27/2023

DATE RECEIVED FOR FILING:

MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT

BRAD POIRIEZ, EXECUTIVE DIRECTOR

14306 Park Avenue, Victorville, CA 92392-2310 • 760.245.1661 • Fax 760.245.2022 • www.MDAQMD.ca.gov • @MDAQMD

City of ARBONATO Town of APPLE VALLEY City of BAKSTOWN City of BENTON City of Hesperia City of INDIAN WELLS County of RIVERSIDE County of SAN BERNARDINO City of TWENTYNINE PALMS City of VICTORVILLE Town of YUCCA VALLEY

Appendix “E”

Bibliography

The following documents were consulted in the preparation of this staff report.

1. 42 U.S.C. 7511d (Federal Clean Air Act Section 185)
2. 42 U.S.C. 7511d (Federal Clean Air Act Section 172(e))
3. Guidance to Developing Fee Programs Required by the Clean Air Act Section 185 for the 1-hour Ozone NAAQS (January 5, 2010)
4. SCAQMD Rule 317 – Clean Air Act Non-Attainment Fees, Amended February 4, 2011
5. SCAQMD Proposed Amended Rule 317 Board Item Documents, February 4, 2011
6. SJVUAPCD Rule 3170 – Federally Mandated Ozone Nonattainment Fee, Amended May 19, 2011
7. SMAQMD Rule 307 Clean Air Act Fees, Adopted September 26, 2002
8. United States Court of Appeals, Section 185 EPA Guidance Opinion, July 1, 2011
9. 87 FR 59021 2022 29 Sep
10. 79 FR 50574 2014 25 Aug

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