

**SACRAMENTO METROPOLITAN
AIR QUALITY MANAGEMENT DISTRICT**

STAFF REPORT

**Rule 250 – Sacramento Carbon Exchange Program
Rule 350 – Greenhouse Gas Program Fees**

February 23, 2010

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EXECUTIVE SUMMARY

On March 23, 2006, the Sacramento Metropolitan AQMD Board of Directors established the District Climate Change Protection Program (DCCPP). This program was designed to address climate change and climate protection by providing outreach and education, data collection and analysis, technical assistance, and participation in the California Climate Action Registry. This program also includes review and comment on proposed legislation, and support and leadership for local efforts in Sacramento County and the region to reduce emissions and to implement mitigation measures such as “Cool Community” actions that contribute to climate protection.

Anticipating that local agencies will need to respond to future state GHG regulations, on August 28, 2008, the Board of Directors authorized the Air Pollution Control Officer (APCO) to develop proposals that would assist local agencies in addressing GHG impacts in the California Environmental Quality Act (CEQA) process as well as future AB32 requirements. The Board also requested that the APCO bring these to the Board for consideration.

Staff developed and evaluated two concepts: 1) a voluntary GHG emission reduction credit banking program and 2) a voluntary GHG mitigation program. Staff brought these two concepts to the Board and recommended developing rules to implement a GHG emission reduction credit banking program and delaying the development of a GHG investment program. On May 28, 2009, the Board approved a resolution which authorized and directed the APCO to proceed with developing rules to implement a GHG emission reduction credit banking program.

Staff is proposing Rule 250, Sacramento Carbon Exchange Program (SCEP). The SCEP is a voluntary program to encourage early GHG emission reductions. This program would allow any person to voluntarily reduce GHG emissions from projects in Sacramento County and receive credits for their voluntary actions. This program will also ensure that the GHG emission reductions are real, permanent, quantifiable, verifiable, enforceable and additional. Staff anticipates that the credits from the SCEP may be used for, but not limited to, satisfying CEQA or other environmental requirements, retirement to reduce a carbon footprint, or any other use authorized by local, state, federal or international laws, regulations, or programs.

Staff is also proposing Rule 350, Greenhouse Gas Program Fees, to recover the District’s costs to implement proposed Rule 250.

BACKGROUND

Since the establishment of the DCCPP in 2006, the Governor of California signed into law Assembly Bill 32 (AB32), the Global Warming Solution Act. AB32 requires California to reduce greenhouse gas (GHG) emissions through a comprehensive program of regulatory and market mechanisms to the 1990 emission levels by the year 2020. In August 2007, Senate Bill 97 (SB97), CEQA: Greenhouse Gas Emissions, was also signed into law. SB97 established that GHG emissions and their associated effects are appropriate subjects for CEQA analysis. It required the Office of Planning and Research to develop guidelines for the feasible mitigation of GHG emissions or the effects of GHG emissions. It also required the Natural Resources Agency to adopt the amendments to the guidelines by January 1, 2010. On December 30, 2009, the Natural

Resources Agency adopted the amendments to the guidelines, and the adopted amendments were filed with the Office of Administrative law (OAL). On February 16, 2010, the OAL submitted the amendments to the Secretary of State, and the amendments will become effective on March 18, 2010.

Once the adopted amendments are effective, CEQA will require agencies to evaluate the impacts from GHG emissions, as well as other environmental impacts, from proposed projects, and if significant, require mitigation of those impacts. A possible method to mitigate the impact of GHG emissions may be purchasing GHG emission reduction credits or carbon credits to offset the increased GHG emissions.

Carbon credits are verified GHG emission reductions created using quantification methods for specific projects. To have monetary value, be used, or traded, carbon credits are registered with a carbon market. Several carbon markets have been established throughout the world, including in the United States. In the United States Government Accountability Office (GAO) Report to Congressional Requesters regarding Carbon Offsets (August 2008), the GAO found that “over 600 organizations develop, market, or sell offsets in the United States, and the market involves a wide range of participants, prices, transaction types, and projects.” Unfortunately, many technical reviews, including the GAO Report, indicate that there are uncertainties with purchasing carbon credits from existing carbon markets. Specifically, the GAO reported that there are “several challenges to [ensure] the credibility of offsets, including problems determining additionality, and the existence of many quality assurance mechanisms for verification and monitoring.” Also, in January 25, 2008, the Attorneys General for the States of Arkansas, California, Connecticut, Delaware, Illinois, Maine, Mississippi, New Hampshire, Oklahoma, and Vermont sent a letter to the Federal Trade Commission (FTC) which requested the FTC to guard against fraud in the carbon market by setting clear guidelines for the sale of carbon credits.

To minimize uncertainties for local agencies, Staff proposes a local GHG emission reduction credit banking program. This program will ensure the GHG emission reduction credits generated locally are real, additional, quantifiable, verifiable, permanent, and enforceable. In addition, a local program would benefit Sacramento County for the following reasons:

- Provides a program that creates high quality and real GHG emission reduction credits
- Includes maintenance and monitoring by the District, which has extensive experience in managing similar banking programs (i.e. emission reduction credits banking program for criteria pollutants)
- Establishes a local mechanism to reward those who voluntarily reduce GHG emissions
- Establishes a local mechanism for anyone who wants to purchase, sell, trade or retire GHG emission reduction credits
- Receives the co-benefits of reducing criteria or toxic pollutants from GHG emission reduction projects which may help achieve better air quality in the region
- Ensures that the local GHG emission reduction projects meet all local, state, and federal regulations and do not undermine the our efforts to protect public health and the environment
- Provides an option to mitigate GHG emissions to meet CEQA requirements

US Carbon Markets: Emission reduction credits must be certified and registered through a carbon market to gain monetary value or be traded. As discussed in the Board memo at the May 2009 Board meeting, there are several carbon markets in the United States that have been or are being developed to bank, sell, trade, and/or track carbon credits. Some of these carbon markets may compete with or have an impact on our program and are discussed below.

Chicago Climate Exchange: The Chicago Climate Exchange (CCX) is one of the largest carbon markets in North America. The CCX utilizes a cap-and-trade system. As part of this cap-and-trade system, there is an offset component where members can generate and trade GHG emission reduction credits. The CCX has developed specific types of projects that may be eligible to generate offsets, including agricultural methane, coal mine methane, landfill methane, agricultural soil carbon, rangeland soil carbon management, forestry, renewable energy, ozone depleting substance destruction, and other projects to be approved on a project-by-project basis. Each project is required to be verified by a third-party CCX-approved verifier. Carbon offset credits may be used to satisfy annual emission reduction commitments or traded on the CCX. Anyone who elects to join the CCX must agree to a legal binding commitment to reduce GHG emissions and open an account. There is an account maintenance fee of \$250 per year. To participate in the offset program, the member must register an offset project. The registration fee is currently \$12-\$15 per 100 metric tons of CO₂ equivalent. In May 2009, New Carbon Finance, a provider of fundamental analysis of the global carbon market, reported that the GHG emission reductions price from CCX was \$1.40 per metric ton of CO₂ equivalent in March and April of 2009, and \$1.71 per metric ton of CO₂ equivalent in January and February of 2009.

Climate Action Reserve: The Climate Action Reserve (CAR) was established in 2006 and has become the parent company for the California Climate Action Registry (CCAR). The purpose of the CAR is to track and register voluntary projects that reduce GHG emissions. The CAR also establishes guidelines to ensure that the offset credits are credible and high quality emission reductions from projects. This is done by using protocols that have been developed by CAR and approved by CAR's board of directors. CAR has approved the following project protocols: Livestock, Forest, Urban Forest, Landfill, Coal Mine Methane, Organic Waste Digestion, Nitric Acid Production, and Ozone Depleting Substances. CCAR is also currently working on a composting project protocol and is reviewing other emission reduction projects for future protocol development. Anyone who elects to join the CAR must open an account and submit projects for listing. After the project has been registered, the project may begin to reduce GHG emissions for credits. There is an account maintenance fee of \$500 per year, and for every project listing, the fee is \$500 per project. Once the GHG emission reductions are verified by a CAR-approved independent verifier, the CAR will issue the GHG emission reduction credits and assess an issuance fee of \$0.15 per metric ton of CO₂ equivalent. To date, CAR has received 143 project applications, with 22 projects in California, and has issued GHG emission reductions credits for 24 projects. In May 2009, New Carbon Finance reported that the GHG emission reduction credit price from CCAR was \$6.30 per metric ton of CO₂ equivalent in March and April of 2009, and \$6.80 per metric ton of CO₂ equivalent in January and February of 2009.

SoCal Climate Solutions Exchange: South Coast Air Quality Management District (SCAQMD) adopted Rule 2701, SoCal Climate Solution Exchange (SCSE), on December 5, 2008 and amended it on February 6, 2009. The SCSE is a voluntary program to encourage, quantify, and certify high quality GHG emission reductions in SCAQMD. The emission reductions will be

achieved through protocols approved by CARB and the SCAQMD governing board of directors. Currently, there are three approved protocols for the SCSE: Manure Management Project Protocol (also known as the Livestock Project Protocol), Forest Sector Project Protocol, and Urban Forestry Project Protocol. SCAQMD is currently working to develop more protocols for the following project categories: boiler efficiency, lawn mowers, leaf blowers, truck stop electrification and replacement of high global warming potential refrigerants. These protocols that may be adopted for the SCSE may be also used in our program since the protocols will need approval from CARB. However, CARB Staff's proposed withdrawal of their approval for all previously approved project protocols will be considered at their board meeting on February 25-26, 2010, and if approved, the SCSE may not have any approved protocols for its program.

Environmental Protection Agency: The Environmental Protection Agency established a program called Climate Leaders where participating companies and EPA work together to develop comprehensive climate change strategies. Participating companies make commitments to reduce their greenhouse gas emissions by completing a corporate-wide emission inventory, setting aggressive emission reduction goals, and reporting their progress to EPA. To help achieve their GHG emission reductions goals, participating companies are allowed to use carbon offsets. Only offsets created using Climate Leaders offset project methodologies may be used. Currently, there are six approved project methodologies for this program: Captured Methane End Use, Commercial Boiler, Industrial Boiler, Landfill Methane, Reforestation/Afforestation, and Transit Bus Efficiency. After meeting their emission reduction goals, participating companies in Climate Leaders are recognized by EPA for their efforts in reducing their greenhouse gas impacts.

CARBON CREDIT CRITERIA

Proposed Rule 250 establishes a voluntary banking program that ensures all GHG emission reductions achieved are high quality by meeting the same key criteria set forth in AB32:

- Real – The emission reductions actually occur and the emission leakage is minimal. Emission leakage is a reduction of GHG emissions from within a project boundary that is offset by an increase of GHG emissions outside of the project boundary.
- Permanent – The emission reductions are real and additional over a specified time period.
- Quantifiable – The emission reductions are measured using tools or tests that are reliable and give confidence.
- Verifiable – The actions that resulted in emission reductions can be audited and there is sufficient evidence to show that the emission reduction occurred and was quantified correctly.
- Enforceable – There is an enforceable mechanism to ensure that the actions are implemented correctly, such as a contractual agreement with specific conditions and terms.
- Additional – The emission reductions are not required by any law or regulation, and would not have occurred anyway.

As stated earlier, the GAO reported that the uncertainties in the current carbon market are due primarily to satisfying the criteria of additional and verifiable. As briefly described above, the concept behind additional is simple. However, in practice, to determine whether a project will

satisfy the criterion of additional may be difficult and complicated. Predictions of future circumstances are necessary to determine whether an emission reduction would have occurred anyway. Fortunately, many different additionality tests have been developed to ensure that the emission reductions are additional. To qualify for credits under the proposed rule, the projects will be required to use an approved protocol which provides the appropriate additionality test.

Another concern expressed in the GAO report was the uncertainty that the emission reductions are verifiable. To address this concern, verification of GHG emission reductions will be performed by Staff, unless Staff specifically requires that the applicant uses an accredited third-party verifier or the APCO has approved a request from the applicant to use an accredited third-party verifier. Staff has extensive experience managing and evaluating emission reductions in the criteria pollutant banking program. Staff will ensure that the project will be executed according to the approved protocols and Project Plans.

It is important for the District to ensure that the GHG emission reductions are real. Because of the global impact of GHG, it is difficult for the District to control emission leakage. However, by using approved protocols, issues potentially leading to emission leakage are evaluated and accounted for to ensure the emission reductions are real and the emission leakage is minimized.

SUMMARY OF PROPOSED RULES

Rule 250 – Sacramento Carbon Exchange Program

Applicability: Proposed Rule 250 applies to anyone who wants to apply for carbon credits for emission reduction activities that occur in Sacramento County. This proposed rule also applies to anyone who may own, purchase, sell, trade or retire certified carbon credits that are registered with the District.

Project Plan Submittal Requirement: Staff proposes to require that the carbon credits are generated following project quantification protocols adopted by the EPA, CAR or a similar entity approved by the Air Pollution Control Officer or reviewed by CARB. A similar entity means another agency, organization, or business with sufficient expertise and other characteristics likely to develop approvable project protocols. The process to generate carbon credits would require registering a Project Plan that specifically describes the GHG emission reduction project. The Project Plan must include the approved protocol that the project will follow, the nature of the emission reductions, the funding sources including the parties providing the funding, the anticipated date the emission reductions will start occurring, the location of the project, the length of time of the project, the responsible person (as defined in Rule 101, General Provisions and Definitions) for the project, and any other information required by the approved protocol. The Project Plan must also specify the owner of the carbon credits. The proposed rule defines the owner as the person responsible for the emission source and responsible for funding the emission reduction project. In cases where the person responsible for the emission source differs from the person responsible for funding the emission reduction project, the District will require that the two parties enter into a contractual agreement to specify the rightful owner of the certified carbon credits. If the contractual agreement allows for multiple owners, then the certified carbon credits will be separated and issued according to the agreement between the parties. Also, as part of the

Project Plan submittal, the applicant must certify that the project or emission reductions from the project are not and will not be registered with any other program. Staff wants to ensure that the emission reductions are not counted elsewhere.

Upon receipt of the Project Plan, District Staff will review the plan to ensure that the specific project complies with all local, state, and federal rules, regulations, or statutes. Staff performs project plan review to determine whether they follow the approved protocol and that the emission reductions are real, additional, quantifiable, verifiable, permanent and enforceable. District Staff will also ensure that the Project Plan includes all required information. If additional information is required, District Staff will request in writing that the applicant provide the additional information. In addition, District Staff may require that the Project Plan meet other specific conditions prior to being approved. After review of a complete Project Plan, District Staff will make a preliminary decision. If the preliminary decision is to approve the Project Plan, District Staff will publish the preliminary decision in a local newspaper. The notice will state the APCO's preliminary decision to approve the Project Plan, how pertinent information can be obtained, and invite public comment for a 30-day period following the date of publication. The District will take a final action on the Project Plan after considering all written comments. The final action to approve the Project Plan will also be published in a local newspaper.

Approved Protocols: Approved protocols are methods to accurately quantify reductions of greenhouse gases for a specific project type. An approved protocol reviews all aspects of a specific project to ensure that the GHG emission reductions are real, additional, quantifiable, verifiable, permanent, and enforceable. Initially, Staff had proposed to use only protocols approved by CARB. However, CARB Staff has proposed to withdraw approval for all previously approved protocols at their February 25-26, 2010 board meeting. To ensure that there are available approved protocols regardless of CARB's actions, Staff is proposing to allow project protocols that are adopted by the EPA, CAR or a similar entity approved by the APCO or have been reviewed by CARB to be used in the District's banking program.

Generation of Carbon Credits: When the Project Plan is approved, the applicant may proceed with the Project Plan to generate GHG emission reductions. Greenhouse gas emission reductions that were generated prior to approval of the Project Plan are also eligible to be certified provided they meet the requirements of the Project Plan as well as all other requirements of this rule. The baseline emissions and emission reductions will be calculated using methods specified in the approved protocol.

Verification of Carbon Credits: After the project generates GHG emission reductions, the emission reductions must be verified prior to the issuance of the GHG emission reduction credits. Verification will be performed by District Staff unless the District specifically requires that the applicant use a third-party verifier. This provision will insure that the issuance of emission reductions of greenhouse gases will not be delayed if the District lacks the resources to verify the emission reductions. In the event that the District does not require a third-party verifier, the applicant may petition to the APCO to use a third-party verifier. A third-party verifier may be any person who is not affiliated with or related to the project or applicant and is not associated with the District. To be qualified as a third-party verifier and approved by the APCO, the third-party verifier must be accredited by American National Standard Institute to meet ISO 14065 or by CARB and fill out a conflict of interest form. The third-party verifier must demonstrate sufficient knowledge of and

experience with the specific project type. Within 30 days after receiving the required information, the APCO must notify the applicant and the third-party verifier whether the third-party verifier is eligible to perform verification service. Project verification will occur at the beginning of each calendar year for the emission reductions resulting from the past calendar year.

A third-party verifier is required to submit a verification report for the project generating carbon credits. District Staff will review the report to ensure that the verification report is complete, accurate, and in conformance with the approved protocol. During the review of the third-party verification report, District Staff may request additional information or clarification. If the specified information is not submitted, District Staff may deny the issuance of certified carbon credits or conduct a separate verification of greenhouse gas emission reductions.

Issuance of Certified Carbon Credits: After the emissions reductions have been verified, District Staff will issue a certificate for the GHG emission reductions. The carbon credit certificate will include the owner of the certificate, the date of issuance, the unique tracking number for each metric ton of CO₂E, the quantity of emissions reduced in CO₂E, and the relevant project information, including any specific conditions that were added during the Project Plan approval process. If at some point in the future stationary source permits require offsets for GHG, then state law (Health and Safety Code Section 40713) provides for an appeal of the decision to issue credits before the District hearing board.

Registering and Tracking Carbon Credits: All carbon credit certificates will be registered in a local registry managed by the District. The local registry will be available to the public. Registered certificates are not transferrable from one person to another unless the certificate owner (transferor) has submitted a written agreement and surrendered the original certificate to the District. The written agreement must be signed by the transferor and the transferee and must authorize the transfer of certified carbon credits. If not all certified carbon credits are transferred, the new amounts in the names of the appropriate owners will be entered in the register, and new carbon credit certificates will be issued. When transferring from one person to another, the recipient of the certificate should check the validity of the certificate by contacting District Staff. Possession of a certificate does not ensure that certified carbon credits are available or valid for use. Similarly, anyone retiring a carbon credit will be required to submit a written notice.

Use of Carbon Credits: Staff anticipates that GHG emission reduction credits may be used for CEQA or other required mitigations, retirement to reduce carbon footprint by an individual, household, facility, corporation, community, city, or other group, or other use authorized by local, state, federal or international laws, regulations, or programs. It is intended that the certified carbon credits be compatible to the extent possible with other crediting programs.

Rule 350 – Greenhouse Gas Program Fees

Purpose: The purpose of proposed Rule 350 is to establish fees to recover all District costs to implement the GHG emission reduction credit banking program. Staff's time will be used to process and review plans, verify proposed projects, issue carbon credits, monitor carbon credit transactions, and maintain an updated carbon registry. Fees are assessed for these activities as noted below.

Project Plan Fees: An initial Project Plan fee will be required with the submittal of the Project Plan. The initial fee will be \$960 to begin the plan evaluation. The initial Project Plan fee is based on 5 hours at an hourly rate of \$192. This fee is the minimum time needed to review the Project Plan for completeness, perform a written analysis, make the preliminary and final decisions, and prepare public notices. If, within 30 days of receiving the Project Plan, the APCO determines that, due to the complexity of the project, the Project Plan evaluation will exceed the 5 hours, the APCO may require that an additional fee be based on the actual hours spent by District Staff to evaluate the Project Plan. This fee will be assessed at a rate of \$192 per hour. In some cases, the District may need the use of a contractor who specializes in a field that relates directly to the project to adequately and properly review the Project Plan. The applicant will be required to pay additional fees to cover the actual cost of the contractor. The applicant must deposit fees that represent the estimated cost for District Staff and any contractor to evaluate the Project Plan.

If the project requires the District to prepare environmental document to satisfy CEQA requirements, then the applicant will pay a fee to recover the actual time spent by District Staff. This fee will be assessed at a rate of \$192 per hour. If the District does not have the resources to prepare the environmental documents, then the District may use a contractor to perform this work. The applicant will be required to pay a fee to cover the actual cost of the contractor. The applicant must deposit fees that represent the estimated cost for District Staff and any contractor to prepare the CEQA documents.

In addition to the above fees, the applicant will be required to pay the actual costs for publishing legal notices as required in proposed Rule 250. Proposed Rule 250 requires that the preliminary and final decisions to approve a Project Plan be published in a local newspaper prior to approving the Project Plan. In addition, notices may be required to comply with CEQA. The cost to publish a legal notice in the Sacramento Bee is currently \$200 - \$250.

Verification and Credit Fees: An initial verification and credit fee will be assessed when District Staff reviews recordkeeping documents, verifies emissions data and calculations, performs on-site inspections, writes verification reports, reviews verification reports submitted by a third-party verifier, issues the certificate of emission reductions, registers the certified carbon credits, and maintains the credit registry. The initial fee must be paid along with the submittal of data required to verify the emission reductions from the project as required in proposed Rule 250. The proposed rule sets two fees: one if the District verifies the emission reductions and a lower fee if the applicant uses a third-party verifier. The initial fee for District Staff verification is \$1,920, which will cover up to 10 hours of staff work. The initial fee for third-party verification is \$960, which will cover up to 5 hours of staff work. For each initial fee, the time specified in the proposed rule is the minimum time needed to verify the emission reductions are valid. If, within 30 days of receiving the data, the APCO determines that, due to the complexity of the project, the verification process will exceed 10 hours for District verification or 5 hours for third party verification, the APCO may require that an additional fee be based on the actual hours spent by District Staff to verify the emission reductions. This fee will be assessed at a rate of \$192 per hour. In some cases, the District may need to use a contractor who specializes in a field that relates directly to the project. The applicant will be required to pay additional fee to cover the cost of the contractor. The applicant must deposit fees that represent the estimated cost for District Staff and any contractor to verify emission reductions and issue certified carbon credits.

Transfer Fee: A fee is required to transfer a certificate from one person to another. The fee is set at \$192 in order to cover the administrative time to update the certificate. Staff estimates that it would not take more than 1 hour.

Retirement of Certificate: There is no fee associated in retiring a GHG certificate. The certificate will be maintained in the register as reference but will not be available for future transfer or use. Once a credit is retired, it cannot be reactivated.

COMPATIBILITY WITH AB32 REQUIREMENTS

The AB32 Scoping Plan requires that carbon credits or offsets used for compliance with AB32 requirements be quantified using CARB-adopted methodologies and verified and enforced through CARB regulations. CARB intends to develop regulations for the use of offsets during the rulemaking process for the cap-and-trade program. In addition, the resolution for the AB32 Scoping Plan specifically states that the implementation of future cap and trade regulations, including the reporting and verification of offsets, should be administered at the state level. As such, the role of local districts is limited in the state program, and district-operated GHG emission reduction credit banking programs, like the one established by proposed Rule 250, may not be compatible with the state cap and trade/offset program.

AUTHORITY

The District obtains authority to adopt the proposed rules to implement a GHG emission reduction credit banking program from the following Health and Safety Code sections:

- Section 40000: gives the District the primary responsibility for controlling air pollution from all sources, other than emissions from motor vehicles;
 - Section 40702: gives the District the authority to adopt rules and regulations which are necessary and proper to execute the powers and duties granted to the District;
 - Section 40709: gives the District the authority to establish by regulation a banking system for emission reductions of air contaminants;
 - Section 40711: gives the District the authority to adopt a schedule of fees to cover the District cost of confirming emission reductions and operating an emission reduction registry; and
 - Section 41512.5: gives the District the authority to adopt a schedule of fees applicable to emission sources not included in the District permit system.
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LEGAL MANDATES

Proposed Rule 250 is a voluntary program that creates a mechanism to encourage local projects for reductions of greenhouse gas emissions. Proposed Rule 350 establishes a fee to recover the cost to implement proposed Rule 250. These proposed rules were developed at the direction of the District's Governing Board and not in response to legal mandates.

SOCIOECONOMIC IMPACT

The provisions of Section 40728.5 of the California Health and Safety Code require, in part, that:

"Whenever a district intends to propose the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations, that agency shall, to the extent that data are available, perform an assessment of the socioeconomic impacts of the adoption, amendment, or repeal of the rule or regulation. ...This section does not apply to the adoption, amendment, or repeal of any rule or regulation that results in any less restrictive emissions limit if the action does not interfere with the district's adopted plan to attain ambient air quality standards, or does not result in any significant increase in emissions."

Proposed Rule 250 establishes a voluntary program to register GHG emission reduction credits, and proposed Rule 350 establishes a fee to recover the cost to implement proposed Rule 250. These rules do not establish emission limits. They will not result in any significant increase in emissions, nor will they interfere with the District's attainment plan. Therefore, a socioeconomic impact analysis is not required.

ENVIRONMENTAL REVIEW AND COMPLIANCE

Staff conducted a Review for Exemption for proposed Rule 250 pursuant to section 15061 of the state CEQA guidelines. Proposed Rule 250 establishes a program to quantify and certify voluntary GHG emission reductions, and is similar to other GHG credit programs, such as the Climate Action Reserve, which operates in California. The District is not involved with funding or generating emission reductions under proposed Rule 250. Staff finds that proposed Rule 250 is exempt from CEQA under Section 15061(b)(3) of the state CEQA guidelines because it can be seen with certainty that there is no possibility that it may have a significant effect on the environment.

Section 15273(a)(1) of the state CEQA Guidelines provides that CEQA does not apply to the establishment of fees by public agencies for the purpose of meeting operating expenses. Proposed Rule 350 establishes fees to recover the District's costs to implement proposed Rule 250. Therefore, Staff finds that proposed Rule 350 is exempt from CEQA.

FINDINGS

Rule 250 – REQUIRED FINDINGS

FINDING	FINDING DETERMINATION
Authority: The District must find that a provision of law or of a state or federal regulation permits or requires the District to adopt, amend, or repeal the rule.	The District is authorized to adopt Rule 250 by Health & Safety Code Sections (HSC) 40000, 40702, and 40709. [HSC Section 40727(b)(2)].
Necessity: The District must find that the rulemaking demonstrates a need exists for the rule, or for its amendment or repeal.	Proposed Rule 250 is necessary to provide a local mechanism to verify GHG emission reductions and to ensure that GHG emission reduction generated locally are real, additional, quantifiable, verifiable, permanent, and enforceable. [HSC Section 40727(b)(1)].
Clarity: The District must find that the rule is written or displayed so that its meaning can be easily understood by the persons directly affected by it.	The District has reviewed the proposed rule and determined that it can be understood by the affected parties. [HSC Section 40727(b)(3)].
Consistency: The rule is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations.	The District has found that the proposed rule does not conflict with, and is not contradictory to, existing statutes, court decisions, or state or federal regulations. [HSC Section 40727(b)(4)].
Non-Duplication: The District must find that either: 1) The rule does not impose the same requirements as an existing state or federal regulation; or (2) that the duplicative requirements are necessary or proper to execute the powers and duties granted to, and imposed upon the District.	This proposed rule is a voluntary program to reduce GHG emissions and to generate local GHG emission reduction credits. It does not duplicate any existing state or federal regulations. [HSC Section 40727(b)(5)].
Reference: The District must refer to any statute, court decision, or other provision of law that the District implements, interprets, or makes specific by adopting, amending or repealing the rule.	Health and Safety Code Sections 40709, 40710, and 40711. [HSC Section 40727(b)(6)].
Additional Informational Requirements (Health and Safety Code Section 40727.2): In complying with HSC Section 40727.2, the District must identify all federal requirements and District rules that apply to the same equipment or source type as the proposed rule or amendments.	Proposed Rule 250 is a voluntary program to reduce GHG emissions and does not require any limits on GHG emissions. Therefore, a written analysis of federal regulations and other District rules is not required. [HSC Section 40727.2(g)].

Rule 350 – REQUIRED FINDINGS

FINDING	FINDING DETERMINATION
Authority: The District must find that a provision of law or of a state or federal regulation permits or requires the District to adopt, amend, or repeal the rule.	The District is authorized to adopt a fee to recover costs by Health and Safety Code Sections 40702, 40711 and 41512.5. [HSC Section 40727(b)(2)].
Necessity: The District must find that the rulemaking demonstrates a need exists for the rule, or for its amendment or repeal.	The proposed rule is necessary in order to recover costs of the District to implement Proposed Rule 250. [HSC Section 40727(b)(1)].
Clarity: The District must find that the rule is written or displayed so that its meaning can be easily understood by the persons directly affected by it.	The District has reviewed the proposed rule and determined that it can be understood by the affected parties. [HSC Section 40727(b)(3)].
Consistency: The rule is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations.	The District has found that the proposed rule does not conflict with, and is not contradictory to, existing statutes, court decisions, or state or federal regulations. [HSC Section 40727(b)(4)].
Non-Duplication: The District must find that either: 1) The rule does not impose the same requirements as an existing state or federal regulation; or (2) that the duplicative requirements are necessary or proper to execute the powers and duties granted to, and imposed upon the District.	The District has found this proposed rule does not duplicate any existing state or federal regulations. [HSC Section 40727(b)(5)].
Reference: The District must refer to any statute, court decision, or other provision of law that the District implements, interprets, or makes specific by adopting, amending or repealing the rule.	Health and Safety Code Sections 40702 and 41512.5. [HSC Section 40727(b)(6)].
Additional Informational Requirements (Health and Safety Code Section 40727.2): In complying with HSC Section 40727.2, the District must identify all federal requirements and District rules that apply to the same equipment or source type as the proposed rule or amendments.	Proposed Rule 350 is a fee rule and does not affect emissions. Therefore, a written analysis of federal regulations and other District rules is not required. [HSC Section 40727.2(g)].

REFERENCES

Assembly Bill 32 (2006), California Global Warming Solution Act of 2006.

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South Coast AQMD, "Rule 2701, SoCal Climate Solutions Exchange," Amended February 6, 2009.

South Coast AQMD, "Staff Report – Proposed Rule 2700 General, Proposed Rule 2701 SoCal Climate Solutions Exchange," November 2008.

State of Vermont, Office of the Attorney General. Letter "Re: Carbon Offset Workshop – Comment, Project No. P074207," to Federal Trade Commissioner/Office of the Secretary, January 25, 2008.

United States Government Accountability Office (GAO) Report to Congressional Requesters, "Carbon Offsets," August 2008.

**APPENDIX A
 SUMMARY OF PROPOSED RULES**

Rule 250, Sacramento Carbon Exchange Program

SECTION NUMBER	PROPOSED LANGUAGE
101	Sets the purpose of the rule to provide an administrative mechanism for quantifying, certifying, issuing and tracking carbon credits in the District.
102	Sets the applicability of the rule to any person who submits a Project Plan in Sacramento County to reduce greenhouse gas emissions or who may own, purchase, sell, trade, or retire carbon credits.
103	Incorporates the District's standard severability language in case the rule is challenged in court.
201	Sets the definition of Additional as emission reductions that are achieved throughout the duration of the activity and are not otherwise required by or would occur as a result of any regulations. This definition is similar to SCAQMD Rule 2700.
202	Sets the definition of Approved Protocol as the quantification methodology that is adopted by the EPA, CAR or a similar entity approved by the APCO or reviewed by CARB. A similar entity means another agency, organization, or business with sufficient expertise and other characteristics likely to develop approvable project protocols.
203	Sets the definition of Carbon Dioxide Equivalent as the amount of carbon dioxide that would have the same global warming potential as a given amount of another greenhouse gas. This definition is taken from AB32.
204	Sets the definition of Certified Carbon Credit as the greenhouse gas emission reduction credits created following an approved protocol and verified and issued by the Air Pollution Control Officer.
205	Sets the definition of Enforceable as a legally binding mechanism to ensure that the project is implemented correctly. This definition is consistent with the SCAQMD Staff Report for Rules 2700 and 2701.
206	Sets the definition of Global Warming Potential as the capacity to heat the atmosphere, calculated as the ratio of the time-integrated radiative forcing from the instantaneous release of 1 kg of substance relative to that of 1 kg of CO ₂ . The global warming potential for each greenhouse gas listed in Table 1 is taken from the IPCC (Intergovernmental Panel on Climate Change) Fourth Assessment Report: Climate Change 2007 (2007).
207	Sets the definition of Greenhouse Gas. The list of gases is consistent with AB32.
208	Sets the definition of Permanent as emission reductions that are real and additional over a specified time period. This definition is consistent with the SCAQMD Staff Report for Rules 2700 and 2701.
209	Sets the definition of Project Plan as a detailed description of the project and the method to control and reduce greenhouse gas emissions.
210	Sets the definition of Quantifiable to mean that the method to measure the amount and type of greenhouse gas emission reductions uses tools or tests that

SECTION NUMBER	PROPOSED LANGUAGE
	are reliable and give confidence. This definition is consistent with the SCAQMD Staff Report for Rules 2700 and 2701.
211	Sets the definition of Real as emission reductions that actually occur. This definition is expanded from the SCAQMD Staff Report for Rules 2700 and 2701.
212	Sets the definition of a Third-Party Verifier as any person who is not affiliated with or related to the project or the applicant and has no relationship with the District other than providing an independent service to verify greenhouse gas emission reductions.
213	Sets the definition of Transfer as the change in ownership of a carbon credit certificate from one person to another. This definition is consistent with District Rule 204.
214	Sets the definition of Verifiable to mean that the actions that resulted in the carbon credit can be audited and there is sufficient evidence to show that the emission reductions occurred and were quantified correctly. This definition is consistent with the SCAQMD Staff Report for Rules 2700 and 2701.
301	Sets the standard to allow only emission reductions that are real, additional, quantifiable, verifiable, permanent, and enforceable to be certified as carbon credits. A Project Plan must be submitted by the applicant and approved by the APCO. This section is similar to Section 301 in District Rule 204. Emission reductions must be generated in accordance with the approved protocol and pursuant to the requirements of the Project Plan and be verified. Emission reductions from activities prior to approval of the Project Plan must meet all of the rule requirements to be certified.
302	Allows specific uses for certified carbon credits. This section is consistent with SCAQMD Rule 2701.
401	Requires any person who elects to voluntarily reduce greenhouse gas emissions to submit a Project Plan and pay an initial Project Plan fee. Lists the required elements of the Project Plan. This list is similar to SCAQMD Rule 2701.
402	Sets the process to approve or disapprove a Project Plan. This process is similar to the process in District Rule 204.
403	Specifies that the withdrawal of a Project Plan by the applicant shall result in cancellation. This section is similar to Section 407 in District Rule 204.
404	Requires all greenhouse emission reductions be verified by the District or a third-party verifier if required by the APCO. The applicant may petition to the APCO to use a third-party verifier.
405	Sets the process to issue a carbon credit certificate, including payment of fees.
406	Requires all carbon credit certificate issued by the District to be registered in a District Register.
407	Sets the process to transfer a carbon credit certificate from one person to another. This section is similar to the process to transfer credits in District Rule 204.
408	Specifies any person who retires or otherwise uses carbon credits must submit a written notice the APCO. Carbon credits that have been retired cannot be reactivated.
501	Requires all monitoring be performed in accordance with the approved protocol

SECTION NUMBER	PROPOSED LANGUAGE
	specified by the Project Plan.
502	Requires all records be maintained for at least five years after the end of the project and made available to the APCO upon request. This section is consistent with SCAQMD Rule 2701.

Rule 350, Greenhouse Gas Program Fees

SECTION NUMBER	PROPOSED LANGUAGE
101	Sets the purpose of the rule to establish fees to recover the District's costs to implement and administer greenhouse gas emission reduction programs pursuant to Rule 250, Sacramento Carbon Exchange Program.
200	States that the definitions used in this rule are defined in Rule 250, Sacramento Carbon Exchange Program.
301	Sets fees to recover the District's cost for the evaluation of Project Plans. An initial fee is due on submittal of the Project Plan. Additional fees may be required and are based on District Staff time and any cost to use a contractor. The applicant must deposit an amount that represents the estimated additional fees. The applicant is also required to pay a fee for the actual hours spent by District Staff and/or the actual cost of a contractor in preparing CEQA documents. The applicant must deposit an amount that represents the estimated cost of preparing these documents. A public notification fee is also required to recover the cost of publishing notices in a local newspaper.
302	Set fees to recover the District's cost for the verifying and certifying greenhouse gas emission reductions. An initial fee is due along with the submittal of data required for verification of emission reductions. Additional fees may be required and are based on District Staff time and any cost to use a contractor. The applicant must deposit an amount that represents the estimated cost of verifying the emission reductions.
303	Sets a fee to recover the District's cost to transfer a certified carbon credit from one person to another.
401	Specifies that fees may be adjusted on an annual basis by the Consumer Price Index if approved by the Board during the annual budget process.

**APPENDIX B
COMMENTS AND RESPONSES**

Public Workshop

January 7, 2010, 2:00 PM

Attendees: John Lane, Teichert
Tiffany Lathrop, YSAQMD
Yushuo Chang, PCAPCD
June Livingston, BERCC
Dan Cole, Siemens
Jennifer Cornes, Campbell Soup
Stu Husband, SMUD
Kathleen Ave, SMUD
Rick Bettis, Breathe California/Sierra Research
Chris Benedict, Combstoga-Rovers & Associates
Ryman Simangan, Air Resources Board
Kitty Oliver, Air Resources Board
Vickie Fry, SRCSD/SASD
Erik DeKok, City of Sacramento
Dan Mendonsa, County of Sacramento
Jim Burke, SMUD
Steve Reinhart, Wood Group
Mike Goodrich, Los Rios Community College District
Fausto Guzman, MBC
Dan Gwiazdan, Entertainment Centers Plus

Oral Comments from the Public Workshop

Comment #1: Why is the District moving forward with proposed Rules 250 and 350 when the District's program may be a duplicate program in the state and federal programs that are currently being developed? Why not wait until the state or federal programs are in place?

Response: Staff is aware that the state and federal program may develop programs similar to the SCEP, however, the state and federal programs may not be available for a few years. Proposed Rule 250 is intended to address immediate needs for carbon credits, especially for the purpose of meeting CEQA requirements. Emission reductions banked through the SCEP may be use to meet CEQA requirements as long as the credits are authorized by the local or state agency. Once the state or federal programs are established, Staff may consider amending the rules, if needed, to conform to the state or federal programs.

Comment #2: What are the guarantees that someone will accept these credits outside of Sacramento County?

Response: Staff will only certify emission reductions that meet approved protocols and

the requirements of this rule including real, additional, quantifiable, permanent, and enforceable. However, Staff cannot guarantee that the certified carbon credits will be accepted by agencies located inside or outside of Sacramento County. The acceptance or use of credits depends on the requirements or regulations of the agency requiring the GHG credits.

Comment #3: How do I avoid having credits getting re-certified by another agency?

Response: See response to comment #2. In addition, Staff will maintain all documents related to the certified carbon credits and assist the other agency if the other agency wants to re-certify the emission reductions.

Comment #4: What about credits generated outside of Sacramento County?

Response: Proposed Rule 250 provides a mechanism to bank GHG emission reductions from activities that occur in Sacramento County. GHG emission reductions from activities outside of Sacramento County are not eligible to be banked in the SCEP.

Comment #5: Are the credits surrendered with an offset ratio of 1:1? If yes, then there is no air quality benefit in reducing GHG.

Response: Proposed Rule 250 does not specify any requirement related to the use of these credits including offset ratios when credits are surrendered. The acceptance or use of credits depends on the requirements or regulations of the agency requiring the GHG credits.

Comment #6: Will the value of credits decline over time?

Response: Certified carbon credits are issued for a specific amount each year, and the amount of the credits will not decline by any provision in Rule 250. However, the acceptance and use of credits depends on the requirements or regulations of the agency requiring GHG credits. For example, an agency may require credits to be reduced in value based on when the credits were banked, subsequent regulatory actions, or other factors.

Comment #7: What is the market value of GHG credits?

Response: The market value of GHG credits varies between programs and depends on the demand for carbon credits. Owners of the certified carbon credits will set the price. Staff does not set the price for certified carbon credits.

Comment #8: What type of projects has Staff envisioned that might come forward? Are there estimates of how much credit will be banked in this program?

Response: Staff is unable to predict how many projects might come forward or how much credit will be banked. Staff knows that only projects that follow

approved protocols are eligible for emission reductions credits.

Comment #9: Proposed Rule 250 only allows the emission reduction projects that follow CARB-approved protocols. Is there any consideration of opening the rule to allow project protocols other than CARB-approved protocols?

Response: Because of the global nature of climate change, GHG crediting project protocols are very complex, particularly addressing the criterion of “additional”. Therefore, Staff had initially proposed to only allow CARB-approved protocols because these protocols have been reviewed by CARB to ensure that the project will not be regulated by current or future state regulations or cause GHG emissions to increase elsewhere (leakage). However, CARB has recently proposed to withdraw their approval from all previously approved protocols. As such, Staff has reviewed other feasible protocols that would generate high quality credits to be used in the District’s banking program. Staff is now proposing to allow protocols that are approved by the EPA, CAR, or a similar entity approved by the APCO or have been reviewed by CARB. For each Project Plan that follows approved protocols, Staff will include in the written evaluation of the Project Plan a determination of whether the emission reductions are real, additional, quantifiable, verifiable, permanent, and enforceable. Staff has amended the rule language and this staff report to reflect the changes.

Comment #10: What about Staff’s conflict of interest in verifying GHG emission reductions?

Response: Staff has extensive experience in verifying emission reductions in the criteria pollutant program. Staff has also been certified by CARB as GHG verifiers for CARB’s Mandatory Reporting Requirement Program (MRRP). Staff intends to use the principles applied in the criteria pollutant program and the concepts and methods used in the MRRP in verifying GHG emission reductions. In addition, Staff meets CARB’s conflict of interest requirements in Section 95133, Title 17 of the California Code of Regulations.

Comment #11: Because Staff may comment on projects during the CEQA process, is there a conflict if a project that was commented by Staff was used to bank GHG emission reductions?

Response: Staff’s comment on environmental documents and implementation of the SCEP will be conducted by different divisions within the District. There is no conflict of interest. This is consistent with state law which requires the District to establish criteria pollutant regulations and provide credits through the District bank.

Comment #12 When commenting on projects during the CEQA review process, would Staff force projects to use only GHG credits from the District bank?

Response: Staff will not force projects to use emission reduction credits from the District

bank. Staff, however, will recommend that projects use emission reductions credits from a legitimate and credible carbon bank.

Comment #13: What is the status of the state CEQA Guidelines?

Response: On December 30, 2009, the Natural Resources Agency adopted the amendments to the CEQA Guidelines. The adopted amendments were filed with the Office of Administrative Law (OAL) on December 31, 2009. OAL has 30 days to review the amendments to the CEQA Guidelines. On February 18, 2010, the OAL submitted the amendments to the Secretary of State for inclusion in the California Code of Regulations.

Comment #14: If the city or county has already committed to reducing greenhouse gas in a general plan, would those emission reductions be bankable?

Response: The GHG emission reductions committed in a general plan will not be bankable because the emission reductions will not meet the criterion of “additional”. To clarify this, Staff has amended Section 301 of Rule 250 to state that “to be certified as carbon credits, the emission reductions shall meet an approved protocol for a specific project type and consider any Sacramento specific conditions or requirements to be real, additional, quantifiable, verifiable, permanent, and enforceable.”

Comment #15: What about GHG offsets required for stationary sources?

Response: GHG impacts from new stationary sources may be addressed during the CEQA review process. When permitting new or modified stationary sources, state or federal laws do not yet require air districts to specifically require GHG emissions offsets. If and when they are required, the District will take necessary actions to incorporate requirements for GHG offsets in the appropriate rule for stationary sources.

Comment #16: Has Staff given thought to how much these credits might be worth on the market?

Response: See response to Comment #7. Staff has not analyzed the worth of these credits on the market.

Written comments received from California Air Resources Board dated January 6, 2010

Comment #17: Any offsets used to comply in a California program would need to be approved by and registered with CARB according to the program’s regulatory provisions. An offset registry administered by a district would not replace requirements for compliance offsets registered with CARB.

Response: Proposed Rule 250 does not establish any requirements for the use of certified carbon credits, including the use of any credits for compliance with

the California Cap-and-Trade Regulations or other programs. Proposed Rule 250, Section 302.4 states that certified carbon credits may be used for “any use authorized by a local, state, federal, or international law, regulation, or program.” Therefore, any offsets used to comply in a state program would need to meet all requirements of the state regulation.

Comment #18: GHG emission reductions from activities from a capped source would be ineligible to be banked as carbon credits. Once a Cap-and-Trade Program is in place, reductions made by capped sources would be neither surplus nor additional, and so should not be considered voluntary reductions.

Response: Proposed Rule 250 only authorizes banking of voluntary emission reductions that follow an approved protocol. In addition, Staff will review each project to ensure that the emission reductions meet the six criteria which would exclude activities by capped sources to meet CARB’s Cap-and-Trade Regulation. Staff will also ensure that the projects meet all requirements of proposed Rule 250 and all other local, state, and federal laws, regulations, or programs.

Comment #19: There is no assurance that District-registered GHG emission reductions will be recognized under the state Cap-and-Trade Regulation; therefore, language in Rule 250 should clarify that credits generated under this rule would not be available for complying with the Cap-and-Trade Regulation, unless otherwise provided for in the California Regulation.

Response: Since the Cap-and-Trade Regulations have not been finalized, it is unclear whether it will recognize credits banked under proposed Rule 250. Proposed Rule 250, Section 302.4 states that certified carbon credits may be used for “any use authorized by a local, state, federal, or international law, regulation, or program.” Credits registered with the District will be allowed only if the California Regulation recognizes and allows the use of those credits. The Cap-and-Trade Regulation was specifically discussed on page 8 of the Staff Report, noting that a district-operated GHG crediting program, like the one established by proposed Rule 250, may not be compatible with the state cap and trade/offset program.

Written comments received from Stu Husband dated January 7, 2010

Comment #20: Section 404.4 of Rule 250 requires that third party verifiers meet specific criteria, including submission of a Conflict of Interest Form to the District. Is there an administrative step that the District will take to notify the applicant and/or third party verifiers of approval/denial within so many days of receiving complete information?

Response: Staff has amended proposed Rule 250 to include an administrative step to notify the applicant and the third party verifier whether the third-party is eligible to perform the verification service within 30 days of receiving the required information.