

**SACRAMENTO METROPOLITAN  
AIR QUALITY MANAGEMENT DISTRICT**

For Agenda of **April 29, 2010**

**To:** Board of Directors  
Sacramento Metropolitan Air Quality Management District

**From:** Larry Greene  
Executive Director/Air Pollution Control Officer

**Subject:** Adopt a Resolution Approving Proposed Rule 350 – Greenhouse Gas Program Fees

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**Recommendation**

1. Determine that proposed Rule 350 is exempt from the California Environmental Quality Act (CEQA); and
  2. Approve the attached resolution adopting Rule 350.
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**Executive Summary**

Rule 250, Sacramento Carbon Exchange Program, was adopted on March 25, 2010. This rule established a voluntary program that provides a local mechanism to bank carbon credits from projects that reduce greenhouse gas emissions within Sacramento County. Rule 250 also establishes the administrative requirements to register and use certified carbon credits.

In order to recover the District's costs to implement the greenhouse gas (GHG) emission reduction credit banking program established by Rule 250, Staff is proposing Rule 350, Greenhouse Gas Program Fees. Proposed Rule 350 will set fees to recover Staff time when Staff evaluates a Project Plan, verifies GHG emission reductions, issues and registers certified carbon credits, and maintains the District registry for certified carbon credits.

Section 42311(e) of the California Health and Safety Code requires two public hearings for a fee rule. The Board held the first public hearing for proposed Rule 350 on March 25, 2010. No oral or written public comments were received during the hearing. During a discussion after closing the public hearing, the Board members expressed concerns regarding the costs to generate GHG emission reductions compared to the value of the GHG emission reduction credits on the carbon market. Staff will address those concerns in a presentation to the Board.

Staff recommends that the Board determine that proposed Rule 350 is exempt from CEQA and approve the attached resolution adopting Rule 350.

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## Attachments

The table below identifies the attachments to this memo.

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## Background

In May of 2009, the Board approved a resolution which authorized and directed Staff to develop a rule to implement a greenhouse gas emission reduction credit banking program. On March 25, 2010, the Board adopted Rule 250, Sacramento Carbon Exchange Program, which established that program. Rule 250 implements a voluntary program to encourage early GHG emission reductions and provides a mechanism to verify GHG emission reductions for credit banking and future use.

Any project proponent interested in banking credits under Rule 250 is required to submit a Project Plan to show that the project will follow an approved protocol in Sacramento County. Each Project Plan is reviewed and approved by Staff to ensure it complies with the requirements of Rule 250. After approval has been granted, the project may be implemented to generate emission reductions. GHG emission reductions for the past year are verified for approved projects at the beginning of each calendar year. Either Staff or a third-party verifier will verify the GHG emission reductions. After the emission reductions have been verified and accepted, Staff will issue the certified carbon credits to the owner designated by the Project Plan.

Rule 250 also governs the registration, transfer, and administrative procedures to track the use and retirement of certified carbon credits that are registered with the District. Certified carbon credits may be used to satisfy CEQA or for other environmental requirements, retired to reduce a carbon footprint, or for any other use authorized by local, state, federal or international laws, regulations, or programs.

In order to recover the District's costs to implement Rule 250, Staff is proposing Rule 350, Greenhouse Gas Program Fees. Proposed Rule 350 will be a new fee rule. Section 42311(e) of the California Health and Safety Code requires the Board to hold a public hearing for the adoption or amendment of any fee rule as part of a regularly scheduled meeting and consider any oral or written testimony from the public. The Board held that public hearing at the March 25, 2010 Board meeting and received no oral or written testimony from the public. During the discussion after closing the public hearing, the Board members raised issues concerning the costs of generating GHG emission reductions compared to the value of GHG emission reduction credits on the market. The Board requested that Staff review a realistic project that could be implemented in Sacramento County to determine the costs to bank and sell GHG emission reduction credits in various carbon banks. Staff will address those concerns in a presentation to the Board. The Board also requested that Staff report back to the

Board in one year on the status of the carbon credit banking program. Staff commits to providing that report.

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### **Proposed Rule 350 Requirements**

Proposed Rule 350 establishes fees to recover all District costs to implement the GHG emission reduction credit banking program established by Rule 250. Staff's time will be used to process and review Project Plans, verify emission reductions, issue certified carbon credits, monitor transactions, and maintain an updated District registry. The following are the proposed fees:

- **Project Plan Fees:** An initial Project Plan fee of \$960 will be required with the submittal of the Project Plan by the applicant and to begin Staff's Project Plan evaluation. The initial Project Plan fee is based on an anticipated staff evaluation time of 5 hours at an hourly rate of \$192. If the complexity of the project causes the Project Plan evaluation to exceed 5 hours, an additional fee based on the actual hours spent by District Staff to evaluate the Project Plan will be required and will be assessed at \$192 per hour. The hourly fee rate includes administrative costs including Staff's salary and benefits, overhead costs, and other related program costs. A deposit of this additional fee, based upon the estimated additional hours to be spent by District Staff, will be required prior to evaluation of the Project Plan. The applicant is also required to pay additional fees for the cost to prepare any necessary CEQA documents, and, if required, the actual cost of a contractor. These additional fees are required before CEQA documents are prepared or a contractor is hired. The applicant is also responsible for the actual costs for publishing preliminary and final notices of approval in a local newspaper.
  - **Verification and Credit Fees:** The initial Verification and Credit Fee sets two different fees: one that applies when the District verifies the emission reductions and a lower fee that applies if the applicant uses a third-party verifier. The initial fee for 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. If the complexity of the project causes the verification process to exceed 10 hours for District verification or 5 District Staff hours for third party verification, an additional fee based on the actual hours spent by District Staff to verify the emission reductions will be assessed at \$192 per hour. A deposit of this additional fee, based upon the estimated additional hours to be spent by District Staff, will be required prior to verification. 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 fees to cover the cost of the contractor.
  - **Transfer Fee:** A fee of \$192 is required to transfer a credit certificate from one owner to another.
  - **Retirement of Certificate:** There is no fee to register the use or retirement of a GHG certificate.
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## **District Impacts**

The costs to implement Rule 250 will be fully recovered by the fees proposed in Rule 350. The proposed fees were calculated to recover the direct costs of Staff time, overhead costs, indirect costs for other associated District programs, costs for contractors, and costs for publishing notices.

At this time, Staff does not anticipate a significant increase in workload, and additional Staff resources are not needed. However, if the District receives more than the anticipated number of applications from parties interested in generating emission reduction credits under Rule 250, then additional Staff resources may be needed to handle the workload.

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## **Environmental Review and Compliance**

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 Rule 250. Therefore, Staff finds that proposed Rule 350 is exempt from CEQA.

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## **Public Outreach and Comment**

Public noticing for this hearing, the March 25, 2010 meeting, and a workshop held on January 7, 2010 included:

- Mailing notices to:
  - interested parties including all permitted stationary sources;
  - local county and city agencies and officials; and
  - individuals who have requested to receive rulemaking notices.
- Publishing the notice in the Sacramento Bee.
- Publishing the notice on the District web site.

The workshop included presentations and discussions of both Rule 250 and Rule 350. Staff received several comments and questions concerning Rule 250 at the workshop, as well as written comments from the public and California Air Resources Board. However, Staff did not receive any comments regarding the proposed fees in Rule 350. At the public meeting on March 25, 2010, the Board received no oral or written comments from the public regarding Rule 350.

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**Conclusion**

Proposed Rule 350 is intended to recover the cost of implementing Rule 250. Therefore, Staff recommends that the Board determine that proposed Rule 350 is exempt from CEQA and approve the attached resolution adopting Rule 350.

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Respectfully submitted,

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Larry Greene  
Executive Director/Air Pollution Control Officer

Approved as to form:

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Kathrine Pittard  
District Counsel

**Attachment A**

**Resolution**

**Attachment B**  
**Proposed Rule 350**

**Attachment C**

**Staff Report**

**Attachment D**

**Evidence of Public Notice**