

Antelope Valley Air Quality Management District

2551 W Avenue H
Lancaster, CA 93536
www.avaqmd.ca.gov

Governing Board Regular Meeting

Agenda

MEETING LOCATION

Antelope Valley Transit Authority
District Office
42210 6th Street West
Lancaster, CA 93534
661.723.8070

TUESDAY, NOVEMBER 21, 2023
10:00 A.M.

BOARD MEMBERS

Marvin Crist, Chair, City of Lancaster
Austin Bishop, Vice Chair, City of Palmdale
Ron Hawkins, Los Angeles County
Howard Harris, Los Angeles County
Ken Mann, City of Lancaster
Andrea Alarcón, City of Palmdale
Newton Chelette, Public Member

IF YOU CHALLENGE ANY DECISION REGARDING ANY OF THE LISTED PROPOSALS IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED DURING THE PUBLIC TESTIMONY PERIOD REGARDING THAT PROPOSAL OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE GOVERNING BOARD TELEPHONICALLY OR OTHERWISE ELECTRONICALLY AT, OR PRIOR TO, THE PUBLIC HEARING.

DUE TO TIME CONSTRAINTS AND THE NUMBER OF PERSONS WISHING TO GIVE ORAL TESTIMONY, PUBLIC COMMENTS ARE LIMITED TO FIVE MINUTES PER SPEAKER. YOU MAY WISH TO MAKE YOUR COMMENTS IN WRITING TO ASSURE THAT YOU ARE ABLE TO EXPRESS YOURSELF ADEQUATELY.

ALL SCHEDULED ITEMS WILL BE HEARD AT THE ANTELOPE VALLEY TRANSIT AUTHORITY (AVTA) DISTRICT OFFICE, 42210 6TH STREET WEST, LANCASTER, CA 93534 AND THE TELECONFERENCE LOCATION(S), IF APPLICABLE. PLEASE NOTE THAT THE BOARD MAY ADDRESS ITEMS IN THE AGENDA IN A DIFFERENT ORDER THAN THE ORDER IN WHICH THE ITEM HAS BEEN POSTED.

PUBLIC COMMENTS ON ANY AGENDA ITEM WILL BE HEARD AT THE TIME OF DISCUSSION OF THE AGENDA ITEM. PUBLIC COMMENTS NOT PERTAINING TO

AGENDA ITEMS WILL BE HEARD DURING THE PUBLIC COMMENT PERIOD BELOW. PUBLIC COMMENTS ON AGENDIZED ITEMS MAY BE SUBMITTED VIA EMAIL TO PUBLICCOMMENT@AVAQMD.CA.GOV AT LEAST TWO HOURS PRIOR TO THE START OF THE MEETING.

CALL TO ORDER 10:00 A.M.

Pledge of Allegiance.

Roll Call

Items with potential Conflict of Interests — If you believe you have a conflict of interest, please recuse yourself at the appropriate time. If you have a question regarding a potential conflict of interest, please contact District Counsel.

PUBLIC COMMENT

CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION Antelope Valley Air Quality Management District v. United States Environmental Protection Agency, et al. 9th Cir. Case No. 23-1614.

CONSENT CALENDAR

The following consent items are expected to be routine and non-controversial and will be acted upon by the Board at one time without discussion unless a Board Member requests an item be held for discussion under DEFERRED ITEMS.

2. [Approve Minutes from Regular Governing Board Meeting of September 19, 2023. Find that the California Environmental Quality Act does not apply to this item.](#)
3. [Approve Minutes from Regular Governing Board Meeting of October 17, 2023. Find that the California Environmental Quality Act does not apply to this item.](#)
4. [Monthly Grant Funding Summary. Receive and file. Find that the California Environmental Quality Act does not apply to this item.](#)
5. [Monthly Activity Report. Receive and file. Find that the California Environmental Quality Act does not apply to this item.](#)
6. [This Preliminary Financial Report is provided to the Governing Board for information concerning the fiscal status of the District at September 30, 2023.](#)
7. [1\) Approve the FY 23-24 Application for Carl Moyer Program Year 26 Funds and authorize its submission to the California Air Resources Board \(CARB\); 2\) Allocate a maximum of 15 percent of Mobile Source Emissions Reduction \(MSER\) Program funds to serve as the required match funding for the Carl Moyer Memorial Air Quality Standards Attainment Program \(the Moyer Program\); and 3\) Authorize the Executive Director/APCO and staff to execute the agreement, approved as to legal form; and 4\) Find that the California Environmental Quality Act \(CEQA\) does not apply to this item](#)

ITEMS FOR DISCUSSION

DEFERRED ITEMS

NEW BUSINESS

8. 1) Award an amount not to exceed \$24,000 of Mobile Source Emission Reductions Program (AB 2766) funds to Antelope Valley Fair Association (AV Fair) for the replacement of older diesel vehicles and equipment for new, clean engine technologies; 2) Authorize the Executive Director/APCO the option to change the funding source if warranted or if other applicable funding sources become available; 3) Authorize the Executive Director and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel; and 4) Find that the California Environmental Quality Act (CEQA) does not apply to this item.
9. 1) Award an amount not to exceed \$39,532 in Carl Moyer Program funds to Jeovany Herrera Farms to replace an older diesel-powered farm tractor with cleaner technology; 2) Authorize the Executive Director/APCO the option to change the funding source if warranted or if other applicable funding sources become available; 3) Authorize the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel; and 4) Find that this item is not a project pursuant to the California Environmental Quality Act.
10. Conduct a continued public hearing to consider the amendment of Rule 315 - Federal Clean Air Act Section 185 Penalty (1979 Standard) and approve California Environmental Quality Act (CEQA) documentation.: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the California Environmental Quality Act (CEQA) Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, amending the Rule and directing staff actions.
11. Reports: Governing Board Counsel, Executive Director/APCO, Staff.
12. Board Member Reports and Suggestions for Future Agenda Items.
13. Adjourn to Regular Governing Board Meeting of Tuesday, December 19, 2023.

In compliance with the Americans with Disabilities Act, if special assistance is needed to participate in the Board Meeting, please contact the Executive Director during regular business hours at 661.723.8070 x23. Notification received 48 hours prior to the meeting will enable the District to make reasonable accommodations. All accommodation requests will be processed swiftly and resolving any doubt in favor of accessibility.

I hereby certify, under penalty of perjury, that this agenda has been posted 72 hours prior to the stated meeting in a place accessible to the public. Copies of this agenda and any or all additional materials relating thereto are available at www.avaqmd.ca.gov or by contacting Adrianna Castaneda at 661.723.8070 ext. 21 or by email at acastaneda@avaqmd.ca.gov.

Mailed & Posted on: Thursday, November 16, 2023

Adrianna Castañeda
Adrianna Castañeda

The following page(s) contain the backup material for Agenda Item: [Approve Minutes from Regular Governing Board Meeting of September 19, 2023. Find that the California Environmental Quality Act does not apply to this item.](#)

Please scroll down to view the backup material.

**ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
GOVERNING BOARD MEETING
TUESDAY, SEPTEMBER 19, 2023
ANTELOPE VALLEY TRANSIT AUTHORITY DISTRICT OFFICE
LANCASTER, CA**

Draft Minutes

Board Members Present:

Marvin Crist, *Chair*, City of Lancaster
Austin Bishop, *Vice Chair*, City of Palmdale
Andrea Alarcón, City of Palmdale
Newton Chelette, Public Member
Ken Mann, City of Lancaster
Ron Hawkins, Los Angeles County

Board Members Absent:

Howard Harris, Los Angeles County

CALL TO ORDER

Chair **CRIST** called the meeting to order at 10:01 a.m. Chair **CRIST** asked Board Member **MANN** to lead the Pledge of Allegiance. Chair **CRIST** called for roll call, roll call was taken.

PUBLIC COMMENT

- ❖ Chair **CRIST** called for **PUBLIC COMMENT**. At this time, no public comment was made in person, or electronically, moved onto **CONSENT CALENDAR**.

Special Announcements/Presentation:

- ❖ Presentation of the 2022/2023 William J. "Pete" Knight Memorial AIRE Award (no backup materials).
Presenter: Barbara Lods, Executive Director/APCO.
 - Barbara Lods, Executive Director/APCO provided background information on the AIRE Award (Achievement in Reducing Emissions) and presented the 2022/2023 William J. "Pete" Knight Memorial AIRE award to Mr. Bret Banks, for his lifelong commitment to improving air quality while promoting economic growth and development in our community.
- ❖ Dianne Knippel, Executive Director AVC Foundation, presented an Antelope Valley College scholarship in honor of Mr. Bret Banks for his 23-year career focused on controlling air pollution in the Antelope Valley.

CLOSED SESSION

Agenda Item #1- CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION Antelope Valley Air Quality Management District v. United States Environmental Protection Agency, et al. 9th Cir. Case No. 23-1614.

The Governing board entered the Closed session at 10:11 am and concluded at 10:38 am with no report.

CONSENT CALENDAR – The following consent items were acted upon by the Board at one time without discussion. The board voted to move Agenda Item #7 from Consent Calendar to New Business. Upon motion by Board Member **CHELETTE**, seconded by Board Member **ALARCON**, and carried by the following roll
Draft Minutes 09.19.2023

call vote, with six AYES votes by Board Members, MARVIN CRIST, ANDREA ALARCON, AUSTIN BISHOP, NEWTON CHELETTE, RON HAWKINS, and KEN MANN, with Board Member HOWARD HARRIS absent, on the Consent Calendar, as follows:

Agenda Item #2 – Approve Minutes from Regular Governing Board Meeting of August 15, 2023. Find that the California Environmental Quality Act does not apply to this item.

Approved Minutes from Regular Governing Board Meeting August 15, 2023.

Agenda Item #3 – Monthly Grant Funding Summary. Receive and file.

Presenter: Barbara Lods, Executive Director/APCO.

Received and Filed Monthly Grant Funding Summary.

Agenda Item #4 – Monthly Activity Report. Receive and file.

Presenter: Barbara Lods, Executive Director/APCO.

Received and Filed Monthly Activity Report.

Agenda Item #6– Receive and file the Financial Report. This Preliminary Financial Report is provided to the Governing Board for information concerning the fiscal status of the District at July 31, 2023.

Presenter: Barbara Lods, Executive Director/APCO.

Received and filed the Financial Report. This Preliminary Financial Report is provided to the Governing Board for information concerning the fiscal status of the District at July 31, 2023.

CONSENT CALENDAR – The following consent items were acted upon by the Board at one time without discussion. Board Member AUSTIN BISHOP recused himself from this item due to conflicts of interest and left the room prior to the vote. Upon motion by Board Member MANN, seconded by Board Member CHELETTE, and carried by the following roll call vote, with five AYES votes by Board Members, MARVIN CRIST, ANDREA ALARCON, NEWTON CHELETTE, RON HAWKINS, and KEN MANN, with Board Member HOWARD HARRIS absent and Board Member AUSTIN BISHOP recused, on the Consent Calendar, as follows:

Agenda Item #5 - Approve payments to City of Lancaster in the amount of \$287,374.21 for FY23 Quarter 4 expenditures. Find that the California Environmental Quality Act does not apply to this item.

Presenter: Barbara Lods, Executive Director/APCO.

Approved payments to City of Lancaster in the amount of \$287,374.21 for FY23 Quarter 4 expenditures. Find that the California Environmental Quality Act does not apply to this item.

ITEMS FOR DISCUSSION

DEFERRED ITEMS

None.

NEW BUSINESS

Agenda Item #7– Conduct public hearing to consider the amendment of District Rule 1700 — Prevention of Significant Deterioration (PSD): a. Open public hearing; b. Receive staff report; c. Receive public

testimony; d. Close public hearing; e. Make a determination that the California Environmental Quality Act (CEQA) Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, amending Rule 1700 and directing staff actions.

Presenter: Barbara Lods, Executive Director/APCO.

Chair CRIST opened the public hearing. Barbara Lods, Executive Director/APCO, presented background information and answered questions from the Board. Chair CRIST called for public comment, no public comment was made in person, or electronically, being none, Chair CRIST closed the public hearing. Upon motion by Board Member ALARCON, seconded by Board Member MANN, and carried by the following roll call vote, with six AYES votes by Board Members, MARVIN CRIST, AUSTIN BISHOP, ANDREA ALARCON, NEWTON CHELETTE, RON HAWKINS and KEN MANN, with board member HOWARD HARRIS absent, the Board, **Conducted** public hearing to consider the amendment of District Rule 1700 — Prevention of Significant Deterioration (PSD): a. **Opened** public hearing; b. **Received** staff report; c. **Received** public testimony; d. **Closed** public hearing; e. Make a determination that the California Environmental Quality Act (CEQA) Categorical Exemption applies; f. **Waived** reading of Resolution; g. **Adopted** Resolution making appropriate findings, certifying the Notice of Exemption, amending Rule 1700 and directing staff actions.

Agenda Item #8– 1) Award an amount not to exceed \$323,424 in Carl Moyer Program funds to A-G Sod Farms for the replacement of older diesel tractors with new, cleaner technology; 2) Authorize the Executive Director/APCO the option to change the funding source if warranted or if other applicable funding sources become available; 3) Authorize the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel; and 4) Find that this item is not a project pursuant to the California Environmental Quality Act .

Presenter: Julie McKeehan, Grants Analyst.

Chair CRIST opened the public hearing. Julie McKeehan, presented background information and answered questions from the Board. Chair CRIST called for public comment, no public comment was made in person, or electronically, being none, Chair CRIST closed the public hearing. Upon motion by Board Member BISHOP, seconded by Board Member MANN, and carried by the following roll call vote, with six AYES votes by Board Members, MARVIN CRIST, AUSTIN BISHOP, ANDREA ALARCON, RON HAWKINS and KEN MANN, with board member HOWARD HARRIS absent, the Board, 1) **Awarded** an amount not to exceed \$323,424 in Carl Moyer Program funds to A-G Sod Farms for the replacement of older diesel tractors with new, cleaner technology; 2) **Authorized** the Executive Director/APCO the option to change the funding source if warranted or if other applicable funding sources become available; 3) **Authorized** the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel; and 4) Find that this item is not a project pursuant to the California Environmental Quality Act.

Agenda Item #9– 1) Award an amount not to exceed \$78,255 in Carl Moyer Program funds to Bookman Ranch for the replacement of an older diesel tractor with new, cleaner technology; 2) Authorize the Executive Director/APCO the option to change the funding source if warranted or if other applicable funding sources become available; 3) Authorize the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel; and 4) Find that this item is not a project pursuant to the California Environmental Quality Act .

Presenter: Julie McKeehan, Grants Analyst.

Chair CRIST opened the public hearing. Julie McKeehan, presented background information and answered questions from the Board. Chair CRIST called for public comment, no public comment was made in person, or

electronically, being none, Chair **CRIST** closed the public hearing. Upon motion by Board Member **ALARCON** seconded by Board Member **HAWKINS**, and carried by the following roll call vote, with six AYES votes by Board Members, **MARVIN CRIST, AUSTIN BISHOP, ANDREA ALARCON, RON HAWKINS and KEN MANN**, with board member **HOWARD HARRIS** absent, the Board, 1) **Awarded** an amount not to exceed \$78,255 in Carl Moyer Program funds to Bookman Ranch for the replacement of an older diesel tractor with new, cleaner technology; 2) **Authorized** the Executive Director/APCO the option to change the funding source if warranted or if other applicable funding sources become available; 3) **Authorized** the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel; and 4) Find that this item is not a project pursuant to the California Environmental Quality Act.

Agenda Item #10– 1) Award an amount not to exceed \$85,721 of Carl Moyer Program funds to Gene Wheeler Farms for the replacement of an older diesel forklift with newer, cleaner technology; 2) Authorize the Executive Director/APCO the option to change the funding source if warranted or if other applicable sources become available; and 3) Authorize the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute agreements, approved as to legal form by the Office of District Counsel, and 4) Find that this item is not a project pursuant to the California Environmental Quality Act .

Presenter: Julie McKeehan, Grants Analyst.

Chair **CRIST** opened the public hearing. Julie McKeehan, presented background information and answered questions from the Board. Chair **CRIST** called for public comment, no public comment was made in person, or electronically, being none, Chair **CRIST** closed the public hearing. Upon motion by Board Member **CHELETTE**, seconded by Board Member **ALARCON**, and carried by the following roll call vote, with six AYES votes by Board Members, **MARVIN CRIST, AUSTIN BISHOP, ANDREA ALARCON, RON HAWKINS and KEN MANN**, with board member **HOWARD HARRIS** absent, the Board, 1) **Awarded** an amount not to exceed \$85,721 of Carl Moyer Program funds to Gene Wheeler Farms for the replacement of an older diesel forklift with newer, cleaner technology; 2) **Authorized** the Executive Director/APCO the option to change the funding source if warranted or if other applicable sources become available; and 3) **Authorized** the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute agreements, approved as to legal form by the Office of District Counsel, and 4) Find that this item is not a project pursuant to the California Environmental Quality Act.

Agenda Item #11– 1) Award an amount not to exceed \$110,768 in Carl Moyer Program funds to Hemme Hay and Feed for the replacement of an older diesel forklift with newer, cleaner technology; 2) Authorize the Executive Director/APCO the option to change the funding source if warranted or if other applicable sources become available; and 3) Authorize the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute agreements, approved as to legal form by the Office of District Counsel, 4) Find that this item is not a project pursuant to the California Environmental Quality Act .

Presenter: Julie McKeehan, Grants Analyst.

Chair **CRIST** opened the public hearing. Julie McKeehan, presented background information and answered questions from the Board. Chair **CRIST** called for public comment, no public comment was made in person, or electronically, being none, Chair **CRIST** closed the public hearing. Board Member **KEN MANN** recused himself from this item due to conflicts of interest and left the room prior to the vote. Upon motion by Board Member **ALARCON**, seconded by Board Member **BISHOP**, and carried by the following roll call vote, with five AYES votes by Board Members, **MARVIN CRIST, AUSTIN BISHOP, ANDREA ALARCON,**

NEWTON CHELETTE, RON HAWKINS, with board member **HOWARD HARRIS** absent and Board Member **KEN MANN** recused, the Board, 1) **Awarded** an amount not to exceed \$110,768 in Carl Moyer Program funds to Hemme Hay and Feed for the replacement of an older diesel forklift with newer, cleaner technology; 2) **Authorized** the Executive Director/APCO the option to change the funding source if warranted or if other applicable sources become available; and 3) **Authorized** the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute agreements, approved as to legal form by the Office of District Counsel, 4) Find that this item is not a project pursuant to the California Environmental Quality Act.

Agenda Item #12– Reports.

Governing Board Counsel –

- No report.

Executive Director/APCO –

- Finance Audit begins in October with records due by Monday September 25, 2023 with CJ Brown.
- Working on NSR with General Counsel, Lockheed and Northrop Grumman.
- Rule 315 Federal Clean Air Act Section 185 Penalty (1979 Ozone Standard) amendment coming forth in October.

Staff –

- No report.

Agenda Item #13– Board Member Reports and Suggestions for Future Agenda Items.

- Board Members Congratulated Mr. Bret Banks on achieving the AIRE award.

Agenda Item #14– Adjourn to Regular Governing Board Meeting of Tuesday, October 17, 2023.

Being no further business, the meeting adjourned at 10:48 a.m. to the next regularly scheduled Governing Board Meeting of Tuesday, October 17, 2023.

The following page(s) contain the backup material for Agenda Item: [Approve Minutes from Regular Governing Board Meeting of October 17, 2023. Find that the California Environmental Quality Act does not apply to this item.](#)
Please scroll down to view the backup material.

**ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
GOVERNING BOARD MEETING
TUESDAY, OCTOBER 17, 2023
ANTELOPE VALLEY TRANSIT AUTHORITY DISTRICT OFFICE
LANCASTER, CA**

Draft Minutes

Board Members Present:

Marvin Crist, *Chair*, City of Lancaster
Austin Bishop, *Vice Chair*, City of Palmdale
Newton Chelette, Public Member
Ken Mann, City of Lancaster
Ron Hawkins, Los Angeles County
Howard Harris, Los Angeles County

Board Members Absent:

Andrea Alarcón, City of Palmdale

CALL TO ORDER

Chair **CRIST** called the meeting to order at 10:05 a.m. Chair **CRIST** asked Board Member **BISHOP** to lead the Pledge of Allegiance. Chair **CRIST** called for roll call, roll call was taken.

PUBLIC COMMENT

❖ Chair **CRIST** called for **PUBLIC COMMENT**. At this time, no public comment was made in person, or electronically, moved onto **CONSENT CALENDAR**.

CLOSED SESSION

Agenda Item #1- CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION Antelope Valley Air Quality Management District v. United States Environmental Protection Agency, et al. 9th Cir. Case No. 23-1614.

The Governing board entered the Closed session at 10:21 am and concluded at 10:35 am with no reportable action.

ITEMS FOR DISCUSSION

DEFERRED ITEMS

None.

NEW BUSINESS

Agenda Item #2– 1) Award an amount not to exceed \$30,000 in Carl Moyer Program funds to Desert Haven Enterprises for the replacement of gasoline riding mowers with zero emissions technology; 2) Authorize the Executive Director/APCO the option to change the funding source if warranted or if other applicable sources become available; and 3) Authorize the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute agreements, approved as to legal

form by the Office of District Counsel, 4) Find that this item is not a project pursuant to the California Environmental Quality Act.

Presenter: Julie McKeehan, Grants Analyst.

Chair **CRIST** opened the public hearing. Julie McKeehan, Grants Analyst, presented background information and answered questions from the Board. Chair **CRIST** called for public comment, no public comment was made in person, or electronically, being none, Chair **CRIST** closed the public hearing. Upon motion by Board Member **MANN**, seconded by Board Member **HARRIS**, and carried by the following roll call vote, with six AYES votes by Board Members, **MARVIN CRIST, AUSTIN BISHOP, NEWTON CHELETTE, HOWARD HARRIS, RON HAWKINS and KEN MANN**, with board member **ANDREA ALARCON** absent, the Board, 1) **Awarded** an amount not to exceed \$30,000 in Carl Moyer Program funds to Desert Haven Enterprises for the replacement of gasoline riding mowers with zero emissions technology; 2) **Authorized** the Executive Director/APCO the option to change the funding source if warranted or if other applicable sources become available; and 3) **Authorized** the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute agreements, approved as to legal form by the Office of District Counsel, 4) Find that this item is not a project pursuant to the California Environmental Quality Act.

Agenda Item #3– 1) Award an amount not to exceed \$40,000 in Carl Moyer Program funds to Desert Haven Enterprises for the replacement of an older diesel tractor with zero emissions technology; 2) Authorize the Executive Director/APCO the option to change the funding source if warranted or if other applicable sources become available; and 3) Authorize the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute agreements, approved as to legal form by the Office of District Counsel, 4) Find that this item is not a project pursuant to the California Environmental Quality Act.

Presenter: Julie McKeehan, Grants Analyst.

Chair **CRIST** opened the public hearing. Julie McKeehan, presented background information and answered questions from the Board. Chair **CRIST** called for public comment, no public comment was made in person, or electronically, being none, Chair **CRIST** closed the public hearing. Upon motion by Board Member **BISHOP**, seconded by Board Member **MANN**, and carried by the following roll call vote, with six AYES votes by Board Members, **MARVIN CRIST, AUSTIN BISHOP, NEWTON CHELETTE, HOWARD HARRIS, RON HAWKINS and KEN MANN**, with board member **ANDREA ALARCON** absent, the Board, 1) **Awarded** an amount not to exceed \$40,000 in Carl Moyer Program funds to Desert Haven Enterprises for the replacement of an older diesel tractor with zero emissions technology; 2) **Authorized** the Executive Director/APCO the option to change the funding source if warranted or if other applicable sources become available; and 3) **Authorized** the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute agreements, approved as to legal form by the Office of District Counsel, 4) Find that this item is not a project pursuant to the California Environmental Quality Act.

Agenda Item #4– 1) Award an amount not to exceed \$387,139 in Carl Moyer Program funds to High Desert Dairy for the replacement of older diesel farming equipment with new, cleaner technology; 2) Authorize the Executive Director/APCO the option to change the funding source if warranted or if other applicable funding sources become available; 3) Authorize the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel; and 4) Find that this item is not a project pursuant to the California Environmental Quality Act.

Presenter: Julie McKeehan, Grants Analyst.

Chair **CRIST** opened the public hearing. Julie McKeehan, presented background information and answered questions from the Board. Chair **CRIST** called for public comment, no public comment was made in person, or

electronically, being none, Chair **CRIST** closed the public hearing. Board Member **KEN MANN** recused himself from this item due to conflicts of interest and left the room prior to the vote. Upon motion by Board Member **CHELETTE** seconded by Board Member **HAWKINS**, and carried by the following roll call vote, with five AYES votes by Board Members, **MARVIN CRIST, AUSTIN BISHOP, NEWTON CHELETTE, HOWARD HARRIS and RON HAWKINS**, with board member **ANDREA ALARCON** absent and Board Member **KEN MANN** recused, the Board, 1) **Awarded** an amount not to exceed \$387,139 in Carl Moyer Program funds to High Desert Dairy for the replacement of older diesel farming equipment with new, cleaner technology; 2) **Authorized** the Executive Director/APCO the option to change the funding source if warranted or if other applicable funding sources become available; 3) **Authorized** the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel; and 4) Find that this item is not a project pursuant to the California Environmental Quality Act.

Agenda Item #5– Conduct a public hearing to consider the amendment of Rule 315 – Federal Clean Air Act Section 185 Penalty (1997 Standard): a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the California Environmental Quality Act (CEQA) Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, amending the Rule and directing staff actions.

Presenter: Barbara Lods, Executive Director/APCO.

The Board pulled this item and continued to November Governing Board Meeting.

Agenda Item #16– Reports.

Governing Board Counsel –

Chair Crist recommended to increase the Executive Director/APCO signing authority to \$10,000.

Executive Director/APCO –

- Finance Auditors will be here October 30th through November 1st.
- Unfunded Pension Liability
- Server was down for 10 days. Replacement was ordered and should be back up and running within the week.

Staff –

- No report.

Agenda Item #13– Board Member Reports and Suggestions for Future Agenda Items.

- No report.

Agenda Item #14– Adjourn to Regular Governing Board Meeting of Tuesday, November 21, 2023.

Being no further business, the meeting adjourned at 10:36 a.m. to the next regularly scheduled Governing Board Meeting of Tuesday, November 21, 2023.

The following page(s) contain the backup material for Agenda Item: [Monthly Grant Funding Summary. Receive and file. Find that the California Environmental Quality Act does not apply to this item.](#)

Please scroll down to view the backup material.

Item #4 – Grant Funds Project Summary

October 2023

AB 2766 (\$4 DMV Fee)

\$655,000 Annually by Monthly Distribution

These fees fund the District’s Mobile Source Emission Reductions (MSER) Grant Program. The funds must be used “to reduce air pollution from motor vehicles and for related planning, monitoring, enforcement, and technical studies necessary for the implementation of the California Clean Air Act of 1988”.

Funding Limits: No surplus emission reductions or cost-effectiveness limit requirements.

Current Balance: \$298,093.00

AB 923 (\$2 DMV Fee)

\$614,000 Annually by Monthly Distribution

These fees fund the District’s Mobile Source Emission Reductions (MSER) Grant Program. The funds must be used to remediate air pollution harms created by motor vehicles.

Funding Limits: Carl Moyer eligible projects; unregulated agriculture vehicles and equipment; school bus projects; light-duty vehicle retirement program; and alternative fuel and electric infrastructure projects.

Surplus emission reductions required. Subject to cost-effectiveness limit.

Current Balance: \$711,714.00

Carl Moyer Program

\$1,730,061.00 FY 21/22 Allocation

Carl Moyer Program (CMP) funds provide incentives to gain early or extra emission reductions by retrofitting, repowering, or replacing older more polluting engines with newer, cleaner engines including zero and near zero emission technologies. CMP funding categories include on-road heavy-duty vehicles, off-road equipment, locomotives, marine vessels, light-duty passenger vehicles, lawn mower replacement and alternative fuel infrastructure projects. Surplus emission reductions required. Subject to cost-effectiveness limit.

Current Balance: \$739,778.00

AB 134 Community Air Protection (CAP) Projects

\$855,673 FY 19/20 Allocation

The purpose of AB 134 funds is to implement projects under the Carl Moyer Program specifically for projects that meet the goals of AB 617. These funds are focused on replacing older polluting engines operating in disadvantaged and low-income communities with newer, cleaner engines prioritizing zero-emission projects. CMP funding categories include on-road heavy-duty vehicles, off-road equipment, locomotives, marine vessels, light-duty passenger vehicles, lawn mower replacement and alternative fuel infrastructure projects. Surplus emission reductions required. Subject to cost-effectiveness limit.

Current Balance: \$710,009.00

The following page(s) contain the backup material for Agenda Item: [Monthly Activity Report. Receive and file. Find that the California Environmental Quality Act does not apply to this item.](#)

Please scroll down to view the backup material.



Agenda Item #5

Date: November 1, 2023

Subject: October Operations Activity Report

Permit Inspections - 207

Notices of Violation (NOV) Issued – 1

Vapor Recovery Tests Witnessed – 4

Complaints – 4

Complaint Investigations – 4

Asbestos Notifications – 13

Asbestos Project Inspections - 0

Active Companies - 290

Active Facilities - 547

Active Permits - 1133

Certificate of Occupancy/Building Permit Reviews - 5

CEQA Project Comment Letters - 10

State or Local Air Monitoring Stations (SLAMS) Network Air Monitoring Site:

Lancaster Site (full meteorology, CO, NO_x, O₃, PM₁₀, PM_{2.5})

Full meteorology (exterior temperature, wind speed, wind direction, exterior pressure and relative humidity)

Community Sensors:

13 **PurpleAir** particulate sensors (Del Sur School, Leona Valley Elementary, Anaverde Hills, Esperanza Elementary School, Joe Walker Middle School, Desert Willow Middle School, Amargosa Creek, Eastside High School, Littlerock High School, Knight High School, Westside School District Offices, (2) Wilsona School District.

AVAQMD CEQA PROJECTS						
BOARD MEETING						
11/21/2023						
Date Rec'd	Location	Project Name	Description	Comment	Date Due	Date Sent
10/18/2023	Palmdale	3-Story Apartment Complex with 456 Units	Pre-Application 23-0011 requesting to develop 34.8 vacant acres with a 3-story garden walk-up apartment complex consisting of 456 units. This project site is located 500 feet west of 19th Street West and 1,500 feet south of Rancho Vista Boulevard adjacent to Amargosa Creek in the city of Palmdale, CA (APNs: 3003-003-039 and -057).	Rule 302-Construction Excavation DCP Rule 219-Permitting CARB Equipment EV Charging Grant	10/18/2023	10/26/2023
10/4/2023	Palmdale	1 Industrial Building with Surrounding Land Development	Pre-Application 23-0018 requesting to develop 160 acres of vacant land with one building totaling 400,000 square feet. This project site is located on the northeast corner of Avenue M and 30th Street East in the city of Palmdale, CA (APN: 3170-018-081).	Rule 302-Construction Excavation DCP Rule 219-Permitting CARB Equipment EV Charging Grant	10/18/2023	10/26/2023
9/28/2023	Palmdale	24 Townhouses	Pre-Application 23-0016 for the request to develop a 0.93 vacant parcel with 24 multi-family units. This project site is located on the southeast corner of Avenue Q and 25th Street East in the city of Palmdale, CA (APN: 3018-018-029).	Dust Control Signage & Project Signage Information Form Rule 219-Permitting CARB Equipment EV Charging Grant	10/18/2023	10/26/2023
9/28/2023	Palmdale	2 Apartment Buildings	Pre-Application 23-0017 for the request to develop 2.94 acres of vacant land with two buildings totaling 222,790 square feet for affordable multi-family apartments. This project site is located 10 feet north of Friendly Avenue, on the west side of 9th Street East in the city of Palmdale, CA (APNs: 3008-031-004 and -005).	Dust Control Signage & Project Signage Information Form Rule 219-Permitting CARB Equipment EV Charging Grant	10/18/2023	10/26/2023
10/5/2023	Palmdale	144-Square-Foot Prefab Utility Building to House Electrical Equipment	Minor Site Plan Review 23-0002 requesting to construct a 144-square-foot prefab building to house electrical service equipment. This project site is located on the northwest corner of Avenue T and 70th Street East in the city of Palmdale, CA (APN: 3051-013-043).	Rule 302-Construction Excavation DCP Rule 219-Permitting CARB Equipment	10/18/2023	10/26/2023
10/10/2023	Lancaster	106 Single-Family Lots	Notice of Availability/Notice to Adopt a Mitigated Negative Declaration for Tentative Tract Map No. 83590 requesting to subdivide approximately 28.5 acres into 106 single-family lots. This project site is located north of Avenue J between 32nd Street East and 35th Street East in the City of Lancaster (APNs: 3150-028-001 and -002).	Rule 302-Construction Excavation DCP-TTM Rule 219-Permitting CARB Equipment	11/19/2023	10/26/2023

AVAQMD CEQA PROJECTS						
BOARD MEETING						
11/21/2023						
Date Rec'd	Location	Project Name	Description	Comment	Date Due	Date Sent
10/16/2023	Lancaster	15 Single-Family Residential Lots	Tentative Tract Map (TTM)No. 69560/Variance (VAR) No. 23-001 for the request to subdivide approximately 3.75 gross acres for the construction and occupancy of 15 single-family residential lots in the R-7,000 zone. This project site is located between 7th Street East and 8th Street East, north of Avenue J-6 in the city of Lancaster, CA (APNs: 3140-009-003, -006, and 3140-034-036).	Dust Control Signage & Project Signage Information Form Rule 219-Permitting CARB Equipment	11/9/2023	10/26/2023
10/17/2023	Lancaster	BYD Electric School Bus Manufacturing Facility	Notice of Availability/Notice of Intent to Adopt a Mitigated Negative Declaration for Site Plan Review (SPR) No. 17-003, General Plan Amendment (GPA) No. 17-007, and Zone Change (ZC) No. 17-006 requesting to construct and operate a 630,000-square-foot electric school bus manufacturing facility. Prep booths and paint booths would also be included as part of the manufacturing process. This project site is located on approximately 160 acres on the south side of Avenue H between 55th Street West and 50th Street West in the city of Lancaster, CA (APNs: 3269-011-015 and 3269-011-007).	Rule 302-Construction Excavation DCP Rule 219-Permitting CARB Equipment EV Charging Grant	11/9/2023	11/2/2023
10/17/2023	Lancaster	Phase 1: 196 Rental Units Phase 2: 303 Senior Housing Rental Units	Notice of Availability/Notice of Intent to Adopt a Mitigated Negative Declaration for Site Plan Review (SPR) No. 23-009, Tentative Tract Map No. 23-003 (TTM 84221), General Plan Amendment (GPA) No. 23-001, and Zone Change (ZC) No. 23-001 requesting to construct and operate a 2-Phase, 100% affordable, private, gated housing development. All units within the development would be rental units. Phase 1 consists of a 196-unit development with open space/recreational facilities including a pool, and additional parking for the adjacent Mariposa Park. Phase 2 would be developed after Phase 1 and include up to 303 affordable units for Seniors with similar amenities as Phase 1. This project site is located on approximately 45 acres on the south side of Avenue H between Avenue H and Avenue H-8 in the city of Lancaster, CA (APNs: 3135-001-903 through 3135-001-918).	Rule 302-Construction Excavation DCP Rule 219-Permitting CARB Equipment EV Charging Grant	11/9/2023	11/2/2023

AVAQMD CEQA PROJECTS						
BOARD MEETING						
11/21/2023						
Date Rec'd	Location	Project Name	Description	Comment	Date Due	Date Sent
10/10/2023	Palmdale	Quikrete Bagging & Block Paver Plant Project	Quikrete Bagging and Block Paver Plant Project, CUP 17-012 Major Modification No. 1 and Site Plan Review 22-019 requesting to operate a concrete bagging and block paver manufacturing facility on an approximately 30-acre vacant site. This project site is located south of Palmdale Boulevard, approximately 340 feet east of 75th Street East in the city of Palmdale, CA (APNs: 3024-002-021, 3024-002-022, and 3024-002-007).	Rule 302-Construction Excavation DCP Rule 219-Permitting CARB Equipment EV Charging Grant	11/10/2023	11/2/2023

The following page(s) contain the backup material for Agenda Item: [This Preliminary Financial Report is provided to the Governing Board for information concerning the fiscal status of the District at September 30, 2023.](#)

Please scroll down to view the backup material.

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM # 6

DATE: November 21, 2023

RECOMMENDATION: Receive and file.

SUMMARY: This Preliminary Financial Report is provided to the Governing Board for information concerning the fiscal status of the District at September 30, 2023.

BACKGROUND: The Financial Reports for September 2023 provide pre-audit financial and budgetary performance information for the District for the period referenced.

BALANCE SHEET. The balance sheet summarizes the District's pre-audit financial position on September 30, 2023.

STATEMENT OF REVENUES & EXPENDITURES. A summary of all District revenue and related expenditures incurred in the day to day administration of District Operations.

STATEMENT OF ACTIVITY. The target variance for September is 25%.

The *District Wide* report details revenue and expenses for the District's operating account and grant funds. *Contracted Services* reports the expenses made by the (City of Lancaster) and passed through to the District including salaries. *Report Recap* consolidates both reports.

BANK REGISTERS. This report details the Districts bank activity.

REASON FOR RECOMMENDATION: Receive and file.

REVIEW BY OTHERS: This item was reviewed by Allison Burns, Special Counsel as to legal form and by Barbara Lods, Executive Director/APCO (AVAQMD) on or about November 7, 2023.

PRESENTER: Barbara Lods, Executive Director/APCO.

Antelope Valley AQMD
Balance Sheet - Governmental Funds
As of September 30, 2023

Financial Report

	<u>General Fund</u>	<u>AB2766 Mobile Emissions</u>	<u>AB923 Mobile Emissions</u>	<u>Carl Moyer</u>	<u>Total</u>
Assets					
Current Assets					
Cash	5,902,130.45	1,076,224.55	2,027,703.25	2,248,110.46	11,254,168.71
Cash Held For Other Fund	(1,289,118.48)	(14,929.30)	(48,105.22)	1,352,153.00	0.00
Receivables	129,318.38	0.00	0.00	0.00	129,318.38
Pre-Paids	24,194.03	0.00	0.00	0.00	24,194.03
Total Current Assets	4,766,524.38	1,061,295.25	1,979,598.03	3,600,263.46	11,407,681.12
Total Assets	4,766,524.38	1,061,295.25	1,979,598.03	3,600,263.46	11,407,681.12
Liabilities and Net Position					
Current Liabilities					
Payables	280,039.26	0.00	0.00	0.00	280,039.26
Due to Others	(1,201.00)	0.00	0.00	0.00	(1,201.00)
Unearned Revenue	950,227.21	0.00	0.00	3,605,905.13	4,556,132.34
Total Current Liabilities	1,229,065.47	0.00	0.00	3,605,905.13	4,834,970.60
Restricted Fund Balance	0.00	1,020,598.85	1,757,311.23	65,830.33	2,843,740.41
Cash Reserves	1,000,000.00	0.00	0.00	0.00	1,000,000.00
Unassigned Fund Balance	1,549,632.96	0.00	0.00	0.00	1,549,632.96
Pre-Paid	1,378.50	0.00	0.00	0.00	1,378.50
Change in Net Position	53,245.79	(32,896.48)	(50,443.70)	(12,600.00)	(42,694.39)
Total Liabilities & Net Position	3,833,322.72	987,702.37	1,706,867.53	3,659,135.46	10,187,028.08

Antelope Valley AQMD
Statement of Revenues & Expenditures
For the Period Ending September 30, 2023

Financial Report

	<u>General Fund</u>	<u>AB2766 Mobile Emissions Program</u>	<u>AB923 Mobile Emissions Program</u>	<u>Carl Moyer Program</u>	<u>Total Governmental Funds</u>
<u>Revenues</u>					
Application and Permit Fees	199,520.21	0.00	0.00	0.00	199,520.21
AB 2766 and Other Program Revenues	70.00	0.00	0.00	0.00	70.00
Fines	781.17	0.00	0.00	0.00	781.17
Investment Earnings	0.00	0.00	0.00	0.00	0.00
Federal and State	56,356.77	0.00	0.00	0.00	56,356.77
Miscellaneous Income	0.00	0.00	0.00	0.00	0.00
Total Revenues	256,728.15	0.00	0.00	0.00	256,728.15
<u>Expenditures</u>					
Program Staff	9,940.72	0.00	0.00	0.00	9,940.72
Services and Supplies	25,591.57	37,750.00	2,900.00	0.00	66,241.57
Contributions to Other Participants	0.00	0.00	0.00	0.00	0.00
Capital Outlay Improvements and Equipment	4,120.00	0.00	0.00	0.00	4,120.00
Total Expenditures	39,652.29	37,750.00	2,900.00	0.00	80,302.29
Excess Revenue Over (Under) Expenditures	217,075.86	(37,750.00)	(2,900.00)	0.00	176,425.86

Antelope Valley AQMD

Statement of Activity - MTD, MTM and YTD

For 9/30/2023

00 District Wide

	M-T-D Actual	Y-T-D Actual	Y-T-D Budget	% Budget to Actual
Revenues				
Permitting	179,171.54	416,034.48	1,353,600.00	(0.31)
Programs	70.00	215,092.57	3,418,217.00	(0.06)
Application Fees	21,422.00	23,693.00	32,325.00	(0.73)
State Revenue	39,506.77	39,506.77	1,604,523.00	(0.02)
Federal Revenue	16,850.00	16,850.00	63,982.00	(0.26)
Fines & Penalties	292.17	14,787.84	10,000.00	(1.48)
Interest Earned	0.00	13,642.22	10,000.00	(1.36)
Adjustments to Revenue	(584.33)	(4,001.96)	0.00	0.00
Total Revenues	256,728.15	735,604.92	6,492,647.00	(0.11)
Expenses				
Office Expenses	6,190.61	7,924.70	109,800.00	0.07
Communications	2,179.11	6,087.33	22,000.00	0.28
Vehicles	478.79	2,376.37	21,000.00	0.11
Program Costs	40,650.00	664,822.90	3,948,962.00	0.17
Travel	0.00	0.00	12,000.00	0.00
Professional Services				
Financial Audit & Actuarial Svcs	4,234.00	4,234.00	0.00	0.00
Consulting Fees	0.00	0.00	25,000.00	0.00
Stipends	600.00	1,700.00	8,400.00	0.20
Maintenance & Repairs	0.00	0.00	2,000.00	0.00
Non-Depreciable Inventory	40.01	160.04	18,500.00	0.01
Dues & Subscriptions	0.00	2,930.15	36,100.00	0.08
Legal	12,765.65	29,174.18	53,000.00	0.55
Miscellaneous Expense	(242.22)	261.38	1,000.00	0.26
Suspense	(1,063.11)	42.26	0.00	0.00
Capital Expenditures	4,120.00	21,938.98	105,000.00	0.21
Total Expenses	69,952.84	741,652.29	4,362,762.00	0.17
Program Staff				
Excess Revenue Over (Under) Expenditures	186,775.31	(6,047.37)	2,129,885.00	0.00

Antelope Valley AQMD

Statement of Activity - MTD, MTM and YTD

For 9/30/2023

10 Contracted Services

M-T-D Actual	Y-T-D Actual	Y-T-D Budget	% Budget to Actual
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Revenues**Expenses**

Professional Services

Financial Audit & Actuarial Svcs

Total Expenses

408.73	1,499.68	220,000.00	0.01
408.73	1,499.68	220,000.00	0.01

Program Staff

Program Staff

Total Program Staff

9,940.72	35,147.34	1,828,647.00	0.02
9,940.72	35,147.34	1,828,647.00	0.02

Excess Revenue Over (Under) Expenditures

(10,349.45)	(36,647.02)	(2,048,647.00)	(0.02)
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Antelope Valley AQMD

Statement of Activity - MTD, MTM and YTD

For 9/30/2023

Report Recap

	M-T-D Actual	Y-T-D Actual	Y-T-D Budget	% Budget to Actual
Revenues				
Permitting	179,171.54	416,034.48	1,353,600.00	(0.31)
Programs	70.00	215,092.57	3,418,217.00	(0.06)
Application Fees	21,422.00	23,693.00	32,325.00	(0.73)
State Revenue	39,506.77	39,506.77	1,604,523.00	(0.02)
Federal Revenue	16,850.00	16,850.00	63,982.00	(0.26)
Fines & Penalties	292.17	14,787.84	10,000.00	(1.48)
Interest Earned	0.00	13,642.22	10,000.00	(1.36)
Adjustments to Revenue	(584.33)	(4,001.96)	0.00	0.00
Total Revenues	256,728.15	735,604.92	6,492,647.00	(0.11)
Expenses				
Office Expenses	6,190.61	7,924.70	109,800.00	0.07
Communications	2,179.11	6,087.33	22,000.00	0.28
Vehicles	478.79	2,376.37	21,000.00	0.11
Program Costs	40,650.00	664,822.90	3,948,962.00	0.17
Travel	0.00	0.00	12,000.00	0.00
Professional Services				
Financial Audit & Actuarial Svcs	4,642.73	5,733.68	220,000.00	0.03
Consulting Fees	0.00	0.00	25,000.00	0.00
Stipends	600.00	1,700.00	8,400.00	0.20
Maintenance & Repairs	0.00	0.00	2,000.00	0.00
Non-Depreciable Inventory	40.01	160.04	18,500.00	0.01
Dues & Subscriptions	0.00	2,930.15	36,100.00	0.08
Legal	12,765.65	29,174.18	53,000.00	0.55
Miscellaneous Expense	(242.22)	261.38	1,000.00	0.26
Suspense	(1,063.11)	42.26	0.00	0.00
Capital Expenditures	4,120.00	21,938.98	105,000.00	0.21
Total Expenses	70,361.57	743,151.97	4,582,762.00	0.16
Program Staff				
Program Staff	9,940.72	35,147.34	1,828,647.00	0.02
Total Program Staff	9,940.72	35,147.34	1,828,647.00	0.02
Excess Revenue Over (Under) Expenditures	176,425.86	(42,694.39)	81,238.00	0.53

Antelope Valley AQMD
Bank Register from 9/01/2023 to 9/30/2023
General Fund P6A LA County

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
0000488	9/07/2023	DAILY DEPOSIT	0.00	64,840.71	2,441,764.58
R24-04	9/07/2023	AB2766 TRANSFER - JUNE 2023	54,520.74	0.00	2,387,243.84
R24-06	9/07/2023	OPERATING FUND REPLENISHMENT #17	28,753.36	0.00	2,358,490.48
R24-05	9/07/2023	AB923 TRANSFER - JUNE	51,118.30	0.00	2,307,372.18
0000490	9/14/2023	DAILY DEPOSIT	0.00	79,684.10	2,387,056.28
0000489	9/21/2023	DAILY DEPOSIT	0.00	60,820.44	2,447,876.72
0000001	9/28/2023	DAILY DEPOSIT	0.00	1,390,358.07	3,838,234.79
R24-07	9/29/2023	Operating Fund Replenishment #1	438,037.32	0.00	3,400,197.47
Total for Report:			572,429.72	1,595,703.32	

Antelope Valley AQMD
Bank Register from 9/01/2023 to 9/30/2023
Wells Fargo Operating

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
0005362	9/06/2023	[11520] BRET S. BANKS-CONSULTING SERVICES SEPTEMBER 2023	2,500.00	0.00	1,101,112.30
0005363	9/06/2023	[10019] FEDERAL EXPRESS CORPORATION-Invoices 8-199-14846, 9-657-51331	292.79	0.00	1,100,819.51
0005364	9/06/2023	[11405] IT SOLUTIONS INTEGRATED-MONTHLY IT SOLUTIONS AUGUST 2023	1,095.00	0.00	1,099,724.51
0005365	9/06/2023	[11511] JOEL S CRAIG-AIR MONITORING SERVICES AUGUST 2023	1,400.00	0.00	1,098,324.51
0005366	9/06/2023	[11540] LINDE GAS & EQUIPMENT INC.-CYLINDER RENTAL 07/20/2023 - 08/20/2023	24.54	0.00	1,098,299.97
0005367	9/06/2023	[10483] STREAMLINE-WEB HOSTING 09/01/2023 - 10/01/2023	249.00	0.00	1,098,050.97
0005368	9/06/2023	[10046] VERIZON CALIFORNIA - NJ-LONG DISTANCE 08/28/2023 - 09/27/2023	34.32	0.00	1,098,016.65
0000001	9/06/2023	CREDIT CARD TRANSACTION BURNS ENVIRONMENTAL	0.00	1,242.00	1,099,258.65
R24-06	9/07/2023	OPERATING FUND REPLENISHMENT #17	0.00	28,753.36	1,128,012.01
0000491	9/08/2023	CREDIT CARD TRANSACTION T3 CONTRACTORS 1100 E AVE R-4	0.00	1,167.00	1,129,179.01
0000491	9/11/2023	CREDIT CARD TRANSACTION GRANTIE	0.00	606.00	1,129,785.01
0005369	9/13/2023	[01148] ANTELOPE VALLEY PRESS-LEGAL NOTICE - RULE 1700	233.04	0.00	1,129,551.97
0005370	9/13/2023	[10023] LOS ANGELES COUNTY CLERK-Notice of Exemption Rule 1700	75.00	0.00	1,129,476.97
0005371	9/13/2023	[10026] MOJAVE DESERT AQMD-FY 24- JULY 2023	3,922.46	0.00	1,125,554.51
0005372	9/13/2023	[10031] NOVACOAST INC-CAPS CONTINUED DEVELOPER SUPPORT	725.00	0.00	1,124,829.51
0005373	9/13/2023	[10650] PALMDALE TROPHY-AIRE AWARD	137.76	0.00	1,124,691.75
0005374	9/13/2023	[10071] QUADIENT LEASING-POSTAGE METER LEASING 09/02/2023 - 10/01/2023	77.96	0.00	1,124,613.79
0005375	9/13/2023	[11512] SAMUEL OKTAY-ENGINEERING SERVICES AUGUST 2023	3,770.00	0.00	1,120,843.79
0005376	9/13/2023	[10455] STRADLING YOCCA CARLSON & RAUTH-Invoices 399613-0000, 399632-0001, 399633-0002, 399634-0003	13,460.49	0.00	1,107,383.30
0005377	9/13/2023	[11402] TIME WARNER CABLE-SPECTRUM BUSINESS INTERNET 09/01/2023 - 09/30/2023	214.98	0.00	1,107,168.32
0000491	9/13/2023	CREDIT CARD TRANSACTION VULCAN	0.00	4,185.34	1,111,353.66
0000491	9/14/2023	CREDIT CARD TRANSACTION PACIFIC COMMUNITIES	0.00	495.41	1,111,849.07
0000491	9/14/2023	CREDIT CARD TRANSACTION KB ENVIRONMENTAL	0.00	1,980.00	1,113,829.07
0000491	9/15/2023	CREDIT CARD TRANSACTION EXPERT TEXTILE	0.00	584.33	1,114,413.40
0000001	9/25/2023	CREDIT CARD TRANSACTION CALIBER COLLISION	0.00	584.33	1,114,997.73
0000492	9/25/2023	CREDIT CARD TRANSACTION VB BTS II, LLC	0.00	606.00	1,115,603.73

Antelope Valley AQMD
Bank Register from 9/01/2023 to 9/30/2023
Wells Fargo Operating

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
0005378	9/28/2023	[11561] ANDREA ALICIA ALARCON-Attendance Governing Board meeting 09/19/2023	100.00	0.00	1,115,503.73
0005379	9/28/2023	[10076] ANTELOPE VALLEY AQMD-Invoices 1956, 1959	58,144.99	0.00	1,057,358.74
0005380	9/28/2023	[10003] ANTELOPE VALLEY COLLEGE FOUNDATION-COMMUNITY SUPPORT	5,000.00	0.00	1,052,358.74
0005381	9/28/2023	[01148] ANTELOPE VALLEY PRESS-Invoices 00072845, 00072888	624.82	0.00	1,051,733.92
0005382	9/28/2023	[11503] BETTER CLOUD HOSTING-OCTOBER 2023 - DECEMBER 2023	1,800.00	0.00	1,049,933.92
0005383	9/28/2023	[10518] AUSTIN BISHOP-Attendance Governing Board meeting 09/19/2023	100.00	0.00	1,049,833.92
0005384	9/28/2023	[11646] BMO BANK N.A. - PAYMENT-CREDIT CARD 1465	236.16	0.00	1,049,597.76
0005385	9/28/2023	[11646] BMO BANK N.A. - PAYMENT-CREDIT CARD 8190	605.27	0.00	1,048,992.49
0005386	9/28/2023	[10405] CANON FINANCIAL SERVICES-COPIER LEASE 09/01/2023 - 09/30/2023	332.40	0.00	1,048,660.09
0005387	9/28/2023	[10055] NEWTON CHELETTE-Attendance Governing Board meeting 09/19/2023	100.00	0.00	1,048,560.09
0005388	9/28/2023	[10016] COUNTY OF LOS ANGELES-Invoices , , ,	93.80	0.00	1,048,466.29
0005389	9/28/2023	[10057] MARVIN CRIST-Attendance Governing Board meeting 09/19/2023	100.00	0.00	1,048,366.29
0005390	9/28/2023	[10058] RONALD HAWKINS-Attendance Governing Board meeting 09/19/2023	100.00	0.00	1,048,266.29
0005391	9/28/2023	[11405] IT SOLUTIONS INTEGRATED-Invoices 10244-R-0019, 10364	1,320.00	0.00	1,046,946.29
0005392	9/28/2023	[10054] KENNETH MANN-Attendance Governing Board meeting 09/19/2023	100.00	0.00	1,046,846.29
0005393	9/28/2023	[10045] VERIZON BUSINESS-VOIP 09/01/2023-09/30/2023	360.81	0.00	1,046,485.48
0005394	9/28/2023	[01107] VERIZON WIRELESS-AIR MONITORING SIM CARD	40.01	0.00	1,046,445.47
0005395	9/28/2023	[11259] WEX BANK-FUEL PURCHASES SEPTEMBER 2023	466.80	0.00	1,045,978.67
0000001	9/28/2023	CREDIT CARD TRANSACTION TRI VALLEY AUTO BODY HERITAGE OPERATING	0.00	2,629.49	1,048,608.16
0000493	9/28/2023	EFT TRANSACTION NORTHROP GRUMMAN	0.00	20,657.00	1,069,265.16
R24-07	9/29/2023	Operating Fund Replenishment #1	0.00	438,037.32	1,507,302.48
0000001	9/29/2023	CREDIT CARD TRANSACTION SIFI NETWORK USAF - PLANT 42	0.00	1,818.00	1,509,120.48
Total for Report:			97,837.40	503,345.58	

Antelope Valley AQMD

Run: 11/14/2023 at 10:48 AM

Bank Register from 9/01/2023 to 9/30/2023

Page: 1

WF AB2766

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
R24-04	9/07/2023	AB2766 TRANSFER - JUNE 2023	0.00	54,520.74	1,113,974.55
0022716	9/13/2023	[10014] CITY OF LANCASTER-AB 2766 GRANT AVTA FREE FARE SUBSIDIES	17,750.00	0.00	1,096,224.55
0022717	9/13/2023	[11523] COUNTY OF LOS ANGELES - DEPARTMENT OF PUBLIC WORKS-AB 2766 GRANT AVTA FREE FARE SUBSIDIES	10,500.00	0.00	1,085,724.55
0022718	9/28/2023	[11629] EDWIN FEDERICO ACEVEDO-AB 2766 GRANT	500.00	0.00	1,085,224.55
0022719	9/28/2023	[11633] DYLAN BELLOMY-AB 2766 GRANT	500.00	0.00	1,084,724.55
0022720	9/28/2023	[11643] JESSICA A BLANCA SOLAR-AB 2766 GRANT	500.00	0.00	1,084,224.55
0022721	9/28/2023	[11638] KATYA N CANELO-AB 2766 GRANT	500.00	0.00	1,083,724.55
0022722	9/28/2023	[11634] VIJAYALAKSHMI CHIRASANI-AB 2766 GRANT	500.00	0.00	1,083,224.55
0022723	9/28/2023	[11642] JERRY TOSCANO FRAUSTO-AB 2766 GRANT	500.00	0.00	1,082,724.55
0022724	9/28/2023	[11630] HAL FRIEDMAN-AB 2766 GRANT	500.00	0.00	1,082,224.55
0022725	9/28/2023	[11639] PABLO FRAYRE GARCIA-AB 2766 GRANT	500.00	0.00	1,081,724.55
0022726	9/28/2023	[11631] ALLEN GOREE-AB 2766 GRANT	500.00	0.00	1,081,224.55
0022727	9/28/2023	[11635] ANTONIO GUTIERREZ-AB 2766 GRANT	500.00	0.00	1,080,724.55
0022728	9/28/2023	[11637] CHRISTOPHER WILLIAM HAILSTONE-AB 2766 GRANT	500.00	0.00	1,080,224.55
0022729	9/28/2023	[11645] KELLEY MICHELLE JOHNSON-AB 2766 GRANT	500.00	0.00	1,079,724.55
0022730	9/28/2023	[11628] GEORGE JOSEPH MARQUEZ-AB 2766 GRANT	500.00	0.00	1,079,224.55
0022731	9/28/2023	[11627] CAROLYN JEANNETTE MILLAN-AB 2766 GRANT	500.00	0.00	1,078,724.55
0022732	9/28/2023	[11636] TRUNG TRI NIM-AB 2766 GRANT	500.00	0.00	1,078,224.55
0022733	9/28/2023	[11640] VICTOR A PAYES MARTINEZ-AB 2766 GRANT	500.00	0.00	1,077,724.55
0022734	9/28/2023	[11632] GABRIELLA A SANTANA-AB 2766 GRANT	500.00	0.00	1,077,224.55
0022735	9/28/2023	[11641] JEFFREY SHUM-AB 2766 GRANT	500.00	0.00	1,076,724.55
0022736	9/28/2023	[11644] JUSTIN WEBB-AB 2766 GRANT	500.00	0.00	1,076,224.55
Total for Report:			37,750.00	54,520.74	

Antelope Valley AQMD
Bank Register from 9/01/2023 to 9/30/2023
WF AB923

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
R24-05	9/07/2023	AB923 TRANSFER - JUNE	0.00	51,118.30	2,030,603.25
0001084	9/13/2023	[10884] COAST AUTO SALVAGE-AB 923 VOLUNTARY ACCELERATED VEHICLE RETIREMENT	103.53	0.00	2,030,499.72
0001085	9/13/2023	[10884] COAST AUTO SALVAGE-AB 923 GRANT VOLUNTARY ACCELERATED VEHICLE RETIREMENT	1,096.47	0.00	2,029,403.25
0001086	9/13/2023	[10884] COAST AUTO SALVAGE-AB 923 GRANT LAWN MOWER EXCHANGE PROGRAM	1,700.00	0.00	2,027,703.25
Total for Report:			2,900.00	51,118.30	

The following page(s) contain the backup material for Agenda Item: [7. 1\) Approve the FY 23-24 Application for Carl Moyer Program Year 26 Funds and authorize its submission to the California Air Resources Board \(CARB\); 2\) Allocate a maximum of 15 percent of Mobile Source Emissions Reduction \(MSER\) Program funds to serve as the required match funding for the Carl Moyer Memorial Air Quality Standards Attainment Program \(the Moyer Program\); and 3\) Authorize the Executive Director/APCO and staff to execute the agreement, approved as to legal form; and 4\) Find that the California Environmental Quality Act \(CEQA\) does not apply to this item](#)

Please scroll down to view the backup material.

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM # 7

DATE: November 21, 2023

RECOMMENDATION: 1) Approve the FY 23-24 Application for Carl Moyer Program Year 26 Funds and authorize its submission to the California Air Resources Board (CARB); 2) Allocate a maximum of 15 percent of Mobile Source Emissions Reduction (MSER) Program funds to serve as the required match funding for the Carl Moyer Memorial Air Quality Standards Attainment Program (the Moyer Program); 3) Authorize the Executive Director/APCO and staff to execute the agreement, approved as to legal form; and 4) Find that the California Environmental Quality Act (CEQA) does not apply to this item.

SUMMARY: This agenda item the Governing Board formally approves the District's continued participation in the Moyer Program, and the acceptance of funds allocated and awarded to the District for eligible projects and program administration for FY 23-24. The District will comply with the terms and conditions of the current Moyer Guidelines and the District's Moyer Program Policies and Procedures Manual. This agenda item also authorizes the District to accept and enter into agreement funding for "Rural District Assistance Program" (RAP), State Reserve and Community Air Protection (CAP) funds all administered through the Carl Moyer Program, including the acceptance of Moyer Program funds through inter-district transfer; and allocates District funds, under budget authority or fiduciary control, for the required match up to 15 percent of the awarded Moyer Program funds. In addition, this item authorizes the Executive Director/APCO and staff to execute agreements with CARB which binds the parties to the terms and conditions set forth in the application and the current Moyer Program Guidelines.

BACKGROUND: The purpose of the program is to reduce emissions by providing financial incentives to both the public and private sectors to implement eligible projects to reduce emissions from on-road and off-road engines and equipment including construction and agricultural, forklifts, transit and school buses, an accelerated vehicle retirement program, alternative fuel and electric infrastructure projects, and lawn mower equipment replacement. The state legislature authorized continuing funding for statewide implementation of the Moyer Program for FY 23-24. The AVAQMD has successfully implemented the program in past years to reduce emissions through clean air projects. On occasion the District may have projects that qualify for the "Rural District Assistance Program" (RAP), State Reserve and Community Air Protection (CAP) portion of Moyer Program funds. The District will also solicit any available Moyer Program funds accessible through inter-district transfer.

cc: Barbara Lods
Julie McKeenan

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM # 7

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REASON FOR RECOMMENDATION: The Moyer Program Guidelines require that the Governing Board formally approve District application, allocate match funds and authorize the Executive Director/APCO and staff to execute the agreement with CARB.

REVIEW BY OTHERS: This item was reviewed by Allison E. Burns Special Counsel to the Governing Board as to legal form and by Barbara Lods, Executive Director/APCO on or before November 13, 2023.

FINANCIAL DATA: Carl Moyer Program funds are supplementary to the AVAQMD budget. Staff estimates sufficient funds to be available in the MSER Program (AB 2766 and/or AB 923 revenues) grant pools to meet the required match funding commitment which will be allocated to the grant program as needed. The distribution of these funds is included in the FY 23-24 budget.

PRESENTER: Julie McKeehan, Grants Analyst

The following page(s) contain the backup material for Agenda Item: 1) Award an amount not to exceed \$24,000 of Mobile Source Emission Reductions Program (AB 2766) funds to Antelope Valley Fair Association (AV Fair) for the replacement of older diesel vehicles and equipment for new, clean engine technologies; 2) Authorize the Executive Director/APCO the option to change the funding source if warranted or if other applicable funding sources become available; 3) Authorize the Executive Director and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel; and 4) Find that the California Environmental Quality Act (CEQA) does not apply to this item.

Please scroll down to view the backup material.

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM # 8

DATE: November 21, 2023

RECOMMENDATION: 1) Award an amount not to exceed \$24,000 of Mobile Source Emission Reductions Program (AB 2766) funds to Antelope Valley Fair Association (AV Fair) for the replacement of older diesel vehicles and equipment for new, clean engine technologies; 2) Authorize the Executive Director/APCO the option to change the funding source if warranted or if other applicable funding sources become available; 3) Authorize the Executive Director and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel; and 4) Find that the California Environmental Quality Act (CEQA) does not apply to this item.

SUMMARY: This item awards an amount not to exceed \$24,000 of Mobile Source Emission Reductions Program (AB 2766) funds. In August 2023, the AVAQMD Governing Board awarded AV Fair \$171,591 to permanently retire two (2) older diesel vehicles and (4) older diesel light towers in exchange for grant funding to purchase units of new, cleaner engine technologies that include zero emissions. Staff is seeking approval to award AV Fair an additional amount not to exceed \$24,000 to accommodate an increase in pricing due to updated sales quotes bringing the total grant amount for the initial proposed project not to exceed \$195,591.

BACKGROUND: AVAQMD received an application from AV Fair in May 2023 proposing to permanently retire (2) older diesel vehicles and (4) older diesel light towers in exchange for grant funding to purchase units of new, cleaner engine technologies that include zero emissions. Staff evaluated the project pursuant to the Mobile Source Emission Reductions Program guidelines for the use of AB 2766 funds and proposed to support the project with eighty-percent (80%) of the project costs. Applicant proposed voluntary participation in the District's mobile source emission reductions program in effort to reduce emissions by permanently retiring older polluting vehicles and equipment. The removal and destruction of older polluting vehicles provides emission reductions that help the Valley towards attainment of the national ambient air quality standards.

cc: Barbara Lods
Julie McKeehan

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM # 8

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REASON FOR RECOMMENDATION: Governing Board approval is needed for the use of District funds. Additionally, Governing Board authorization is needed for the Executive Director/APCO and staff to negotiate and execute an agreement with the grant recipient.

REVIEW BY OTHERS: This item was reviewed by Allison E. Burns, Special Counsel to the Governing Board, as to legal form and by Barbara Lods, Executive Director/APCO on or before November 13, 2023.

FINANCIAL DATA: Funding is available from the District's Mobile Source Emission Reductions Program (AB 2766) funds.

INTERESTED PARTIES: Antelope Valley Fair Association

PRESENTER: Julie McKeehan, Grants Analyst

The following page(s) contain the backup material for Agenda Item: [1\) Award an amount not to exceed \\$39,532 in Carl Moyer Program funds to Jeovany Herrera Farms to replace an older diesel-powered farm tractor with cleaner technology;](#) [2\) Authorize the Executive Director/APCO the option to change the funding source if warranted or if other applicable funding sources become available;](#) [3\) Authorize the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel;](#) and [4\) Find that this item is not a project pursuant to the California Environmental Quality Act.](#)

Please scroll down to view the backup material.

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM # 9

DATE: November 21, 2023

RECOMMENDATION: 1) Award an amount not to exceed \$39,532 in Carl Moyer Program funds to Jeovany Herrera Farms to replace an older diesel-powered farm tractor with cleaner technology; 2) Authorize the Executive Director/APCO the option to change the funding source if warranted or if other applicable funding sources become available; 3) Authorize the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel; and 4) Find that this item is not a project pursuant to the California Environmental Quality Act.

SUMMARY: This item awards an amount not to exceed \$39,532 in Carl Moyer Program funds to Jeovany Herrera Farms for the replacement of a 1953 Ford Tractor with a 2023 Kubota certified to the Final Tier 4/current emission standards.

BACKGROUND: AVAQMD received an application from Jeovany Herrera Farms (Applicant) for grant funding towards retirement and replacement of an older diesel-powered farm tractor. Applicant is not subject to any diesel off-road equipment regulation and proposes voluntary participation in the off-road equipment replacement program to reduce emissions by early retirement of older, higher polluting diesel equipment and replacing with new, cleaner diesel technology that meets the current emission standards. Staff has evaluated the project for eligibility pursuant to the Carl Moyer Program guidelines and finds the proposed project eligible for 80% percent toward the replacement equipment. Retirement of the proposed tractor produces an estimated .27 tons/yr. early emission reductions. Early fleet turnover provides emission reductions that help the Valley towards attainment of the national ambient air quality standards.

cc: Barbara Lods
Julie McKeehan

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM # 9

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REASON FOR RECOMMENDATION: Governing Board approval is needed for the use of District funds. Additionally, Governing Board authorization is needed for the Executive Director/APCO and staff to negotiate and execute an agreement with the grant recipient.

REVIEW BY OTHERS: This item was reviewed by Allison E. Burns, Special Counsel to the Governing Board, as to legal form and by Barbara Lods, Executive Director/APCO on or before November 13, 2023.

FINANCIAL DATA: Funding is available from the District's Carl Moyer Program funds.

INTERESTED PARTIES: Jeovany Herrera

PRESENTER: Julie McKeehan, Grants Analyst

The following page(s) contain the backup material for Agenda Item: [Conduct a continued public hearing to consider the amendment of Rule 315 - Federal Clean Air Act Section 185 Penalty \(1979 Standard\) and approve California Environmental Quality Act \(CEQA\) documentation.](#): a. [Open public hearing](#); b. [Receive staff report](#); c. [Receive public testimony](#); d. [Close public hearing](#); e. [Make a determination that the California Environmental Quality Act \(CEQA\) Categorical Exemption applies](#); f. [Waive reading of Resolution](#); g. [Adopt Resolution making appropriate findings, certifying the Notice of Exemption, amending the Rule and directing staff actions.](#)

Please scroll down to view the backup material.

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM # 10

DATE: November 21, 2023

RECOMMENDATION: Conduct a continued public hearing to consider the amendment of Rule 315 - *Federal Clean Air Act Section 185 Penalty (1979 Standard)* and approve California Environmental Quality Act (CEQA) documentation.: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the California Environmental Quality Act (CEQA) Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, amending the Rule and directing staff actions.

SUMMARY: Rule 315 is proposed for amendment in response to a USEPA disapproval of the current version adopted in 2011 (87 FR 59021, 9/29/2022).

BACKGROUND: The Antelope Valley Air Quality Management District (AVAQMD) originally adopted Rule 315 – *Federal Clean Air Act Section 185 Penalty* on February 15, 2011. The AVQMD submitted Rule 315 to the California Air Resources Board (CARB) on March 3, 2011 requesting inclusion in the State Implementation Plan (SIP), and CARB submitted Rule 315 to the United States Environmental Protection Agency (USEPA) in April 2011 as a revision to the State Implementation Plan (SIP). The AVAQMD amended Rule 315 on October 18, 2011 to include additional provisions at the request of USEPA to make the rule approvable and eliminate the possibility of sanctions. On October 31, 2022 published the official disapproval of the 2011 version (87 FR 59021) of Rule 315. The AVAQMD is now amending rule 315 *Federal Clean Air Act Section 185 Penalty (1979 Standard)* in response to USEPA comments.

A Notice of Exemption, Categorical Exemption (Class8; 14 Cal. Code Reg. §15308) will be prepared by the AVAQMD for the amendment of Rule 315 pursuant to the requirements of CEQA.

This item was noticed for the October 17, 2023 Governing Board meeting. The item was continued to the November 21, 2023 Governing Board meeting due to the failure of the District's server; staff was unable to retrieve rule documents.

REASON FOR RECOMMENDATION: Health & Safety Code §§40702 and 40703 require the Governing Board to hold a public hearing before adopting rules and regulation. Also, 42 U.S.C. §7410(l) (FCAA §110(l)) requires that all SIP revisions be adopted after public notice and hearing.

REVIEW BY OTHERS: This item was reviewed by Allison Burns, Special Counsel to the Governing Board, as to legal form on or about November 7, 2023.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Barbara Lods, Executive Director/APCO

RESOLUTION NO. 23-05

A RESOLUTION OF THE GOVERNING BOARD OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT MAKING FINDINGS, CERTIFYING THE NOTICE OF EXEMPTION, AMENDING RULE 315 – FEDERAL CLEAN AIR ACT SECTION 185 (1979 OZONE STANDARD) PENALTY AND DIRECTING STAFF ACTIONS.

On November 21, 2023, on motion by Member _____, seconded by Member _____, and carried, the following resolution is adopted:

WHEREAS, the Antelope Valley Air Quality Management District (AVAQMD) has authority pursuant to California Health and Safety Code (H & S Code) §§40702, 40725-40728 to adopt, amend or repeal rules and regulations; and

WHEREAS, the AVAQMD is proposing to amend Rule 315 – *Federal Clean Air Act Section 185 Penalty (1979 Ozone Standard)*; and

WHEREAS, the proposed amendments will implement the requirements of Section 185 of the Federal Clean Air Act to stop potential sanctions being imposed by the United States Environmental Protection Agency (USEPA) as identified in 87 FR 59021, effective October 31, 2022; and

WHEREAS, potential sanctions include an increase in the new source review offset ratio and suspension of federal highway transportation funding; and

WHEREAS the Antelope Valley Air Quality Management District (AVAQMD) originally adopted Rule 315 – *Federal Clean Air Act Section 185 Penalty* on February 15, 2011; and

WHEREAS, the AVAQMD submitted Rule 315 to the California Air Resources Board (CARB) on March 3, 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 State Implementation Plan (SIP); and

WHEREAS, USEPA made a finding of completeness on May 19, 2011 and

WHEREAS, the AVAQMD made further amendments to Rule 315 to include additional provisions at the request of USEPA, and

WHEREAS, USEPA disapproved Rule 315 (87 FR 59021, 9/29/2022) as submitted in 2011 effective October 31, 2022; and

RESOLUTION NO. 23-05

1 **WHEREAS**, the AVAQMD is now proposing to amend Rule 315 in response to EPA
2 comments listed in the official disapproval; and

3 **WHEREAS**, 42 U.S.C. 7511d (Federal Clean Air Act Section 185, or Section 185,
4 requires the imposition of a penalty of \$5,000 per ton (adjusted for inflation) on major
5 facilities within an area classified as severe or extreme ozone which fail to attain the standard
6 by the applicable attainment date unless such major facilities have reduced their ozone
7 precursor emissions by twenty percent (20%) from a specified baseline amount; and

8 **WHEREAS**, USEPA has indicated that such penalty provisions need to be adopted in
9 case of a failure to meet the attainment date for each nonattainment standard, and

10 **WHEREAS**, the AVAQMD is now amending Rule 315 to address comments by
11 USEPA listed in the disapproval; and

12 **WHEREAS**, the proposed amendments to the rule are necessary to implement the
13 requirements of Section 185 of the Federal Clean Air Act, and to stop potential sanctions being
14 imposed by the USEPA as identified in 87 FR 59021, effective October 31, 2022; and

15 **WHEREAS**, any penalty revenue collected pursuant to Rule 315 will be used to
16 generate emission reductions at major facilities subject to Rule 315; and

17 **WHEREAS**, the AVAQMD has the authority pursuant to H&S Code §40702 to amend
18 rules and regulations; and

19 **WHEREAS**, the proposed amendments are clear in that the meaning can be easily
20 understood by the persons impacted by the rule; and

21 **WHEREAS**, the proposed amendments are in harmony with, and not in conflict with,
22 or contradictory to existing statutes, court decisions, or state or federal regulations because
23 Federal Clean Air Act Section 185 requires the imposition of a penalty of \$5,000 per ton
24 (adjusted for inflation) on major facilities within ozone non-attainment areas that fail to meet
25 the severe or extreme ozone attainment date unless such major facilities have reduced their
26 ozone precursor emissions by twenty percent (20%) from a baseline amount; and

27 **WHEREAS**, the proposed amendments do not impose the same requirements as any
28 existing state or federal regulation because the Federal Clean Air Act requires the AVAQMD

RESOLUTION NO. 23-05

1 to adopt a rule to implement the requirements of Section 185; and

2 **WHEREAS**, the proposed amendments are needed to implement the requirements of
3 Section 185 of the Federal Clean Air Act, and to stop potential sanctions being imposed by the
4 USEPA as identified in 87 FR 59021, through the adoption of a non-attainment area fee
5 equivalency strategy; and

6 **WHEREAS**, a public hearing has been properly noticed and conducted, pursuant to
7 H&S Code §40725, concerning the proposed amendments to Rule 315; and

8 **WHEREAS**, a Notice of Exemption, a Categorical Exemption (Class 8, 14 CCR
9 §15308) for the proposed amendments to Rule 315, completed in compliance with the
10 California Environmental Quality Act (CEQA), has been presented to the Governing Board of
11 the AVAQMD; each member having reviewed, considered and approved the information
12 contained therein prior to acting on the proposed amendments to Rule 315, and the Governing
13 Board of the AVAQMD having determined that the proposed amendments will not have any
14 potential for resulting in any adverse impact upon the environment; and

15 **WHEREAS**, the Board has considered the evidence presented at the public hearing;
16 and

17 **NOW, THEREFORE, BE IT RESOLVED**, that the Governing Board of the
18 AVAQMD finds that the proposed amendments to Rule 315 – *Federal Clean Air Act Section*
19 *185 Penalty (1979 Ozone Standard)* are necessary, authorized, clear, consistent, non-
20 duplicative and properly referenced; and

21 **BE IT FURTHER RESOLVED**, that the Governing Board of the AVAQMD hereby
22 makes a finding that the Class 8 Categorical Exemption (14 CCR §15308) applies and certifies
23 the Notice of Exemption for the proposed amendments to Rule 315; and

24 **BE IT FURTHER RESOLVED**, that the Governing Board of the AVAQMD does
25 hereby adopt, pursuant to the authority granted by law, the proposed amendments to Rule 315,
26 as set forth in the attachments to this resolution and incorporated herein by this reference; and

27 **BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately
28 upon adoption, and that the Executive Director is directed to file the Notice of Exemption in

RULE 315

Federal Clean Air Act Section 185 Penalty (1979 Ozone Standard)

(A) General

(1) Purpose

The purpose of this 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 is applicable to any Major Facility within the District Portion of the AQMA.
- (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).
- (c) This 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 the 1979 one-hour ozone NAAQS.

(3) Exemption

- (a) No Facility otherwise subject to this rule shall be required to remit a FCAA Section 185 penalty under this rule for any calendar year in which the Facility emits verified Actual Emissions equal to or less than 80 percent of its Baseline Emissions.
- (b) No Facility otherwise subject to this rule shall be required to remit a Federal Clean Air Act Section 185 penalty during any calendar year in which the District has demonstrated fee equivalency in accordance with the procedures contained in Section (E) below

(B) Definitions

For the purposes of this rule the definitions contained in District Rule 1301 shall apply unless otherwise defined below.

- (1) “Actual Emissions” - Actual total Facility calendar year emissions to atmosphere of each of NO_x and 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” - The entirety of the District is located within the AQMA.
- (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 as described in 40 CFR 81.305 (Ozone one-hour standard).
- (6) “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, 42 U.S.C. §7410.

(C) Requirements

- (1) Verification of Actual Emissions

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

(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, 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
- (a) The Air Pollution Control Officer (APCO) shall establish and maintain a record of actual expenditures as described in this section. The expenditures record shall be credited with actual expenditures occurring in

calendar years beginning the first calendar year in which fees are due on qualified programs that are designed to fund projects which:

- (i) Are surplus to the SIP, and;
 - (ii) Have been certified by the APCO, the Executive Officer of 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 reductions within the District from uses as approved by USEPA.
- (b) Expenditures credited to the Federal Clean Air Act Section 185 Equivalency Determination 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 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 District to the APCO of Mojave Desert Air Quality Management District (MDAQMD)
 - (b) By July 1, on an annual basis, the APCO shall submit an accounting of the applicable penalty obligations 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 MDAQMD
 - (c) By July 1, on an annual basis, the APCO shall 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 District to the APCO of MDAQMD.
 - (d) The annual applicable expenditures made within the portions of the two districts that are within the AQMA together during a given calendar year shall be referred to as the “Combined AQMA Expenditures” for that calendar year.
 - (e) The annual applicable penalty obligations determined within the portions of the two 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 balance of the 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 Combined AQMA Expenditures during the calendar year for which the equivalency determination is being made. Such expenditures are pursuant to sections (E)(2)(a) and (E)(2)(d)
- AP = The Combined AQMA Penalty amount determined by the APCO pursuant to subsections (E)(2)(b) and (E)(2)(e) above.
- B_f = The balance of the FCAA Section 185 Combined AQMA Equivalency Tracking Account to be carried over into the subsequent calendar year as B_1 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 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 FCAA Section 185 Combined AQMA Equivalency Tracking Account for calendar year y as calculated in subsection(E)(3).
- AP_y = Combined AQMA Penalties as determined pursuant to subsections (E)(2)(b) and (E)(2)(e) for calendar year y

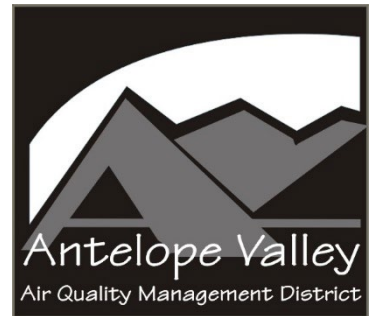
- (b) No later than August 15, on an annual basis as required, the APCO shall notify the Facility by mail of the penalty amount due and payable as calculated on a Facility basis in (E)(4)(a), with the penalty due within 30 days. If the penalty is not paid by the due date specified in the notice, the subject 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) 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 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 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 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.

[SIP: See AV Full SIP Table at <https://avaqmd.ca.gov/rules-plans>]

Antelope Valley
Air Quality Management District



Draft
Staff Report

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

For adoption on
November 21, 2023

2551 W AVENUE H
LANCASTER, CALIFORNIA 93536
PHONE (661) 723-8070

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STAFF REPORT
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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 Antelope Valley Air Quality Management District (AVAQMD) originally adopted Rule 315 – *Federal Clean Air Act Section 185 Penalty* on February 15, 2011. The AVAQMD submitted Rule 315 to the California Air Resources Board (CARB) on March 3, 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 State Implementation Plan (SIP). USEPA made a finding of completeness on May 19, 2011. The AVAQMD made further amendments to Rule 315 to include additional provisions at the request of USEPA. USEPA disapproved Rule 315 (87 FR 59021, 9/29/2022) as submitted in 2011 effective October 31, 2022. The AVAQMD is now proposing to amend 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.

This item was noticed for the October 17, 2023 Governing Board meeting. The item was continued to the November 21, 2023 Governing Board meeting due to the failure of the District's server; staff was unable to retrieve rule documents.

III. STAFF RECOMMENDATION

Staff recommends that the Governing Board of the AVAQMD adopt, after conducting a public hearing, a resolution approving the amendment of Rule 315 – *Federal Clean Air Act Section 185 Penalty (1979 Ozone Standard)*. The proposed amendment of Rule 315 is necessary to implement the requirements of Section 185 of the Federal Clean Air Act.

IV. LEGAL REQUIREMENTS CHECKLIST

The findings and analysis as indicated below are required for the procedurally correct amendment of Rule 315 – *Federal Clean Air Act Section 185 Penalty (1979 Ozone Standard)*. Each item is discussed, if applicable, in Section V below. Copies of documents are included in the appropriate Appendix.

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 proposed amendment of Rule 315. These are actions, that need to be performed, and/or information, that must be provided in order to amend the rule in a procedurally correct manner.

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

Before adopting, amending, or repealing a rule or regulation, the AVAQMD 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 AVAQMD Governing Board in making these findings.

a. Necessity:

The proposed 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 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:

AVAQMD 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 proposed amendments are clear in that they are written so that the persons subject to the rule can easily understand the meaning.

d. Consistency:

The proposed 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. The jurisdiction of the AVAQMD is located entirely within the AQMA, therefore the AVAQMD is subject to the provisions of Section 185.

e. Non-duplication:

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

f. Reference:

AVAQMD 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 Rule 315 will be published September 15, 2023 for the October 17, 2023 Governing Board Meeting. See Appendix “B” for a copy of the public notice. See Appendix “C” for copies of comments, and AVAQMD 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 which 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 Ozone Standard)* is subject to the requirements for a SIP submittal because Section 185 itself is a mandatory SIP element. Therefore, the AVAQMD will request that Rule 315 be included 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 proposed amendment of Rule 31 will be published September 15, 2023 for the October 17, 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:

Copies of proposed amended Rule 315 was made available to the public on September 15, 2023 and the accompanying draft staff report was made available to the public on September 15, 2023.

d. Notice to Specified Entities

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

e. Public Hearing:

A public hearing to consider the proposed amendment of Rule 315 was noticed for October 17, 2023.

f. Legal Authority to Adopt and Implement:

The AVAQMD 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 proposed amendment of Rule 315 will implement the requirements of Section 185 of the Federal Clean Air Act, and stop potential sanctions being imposed by USEPA as identified in 75 FR 232, January 5, 2010, through the adoption of a non-attainment area fee equivalency strategy. 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

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. The jurisdiction of the AVAQMD is located entirely within the AQMA which failed to meet the one-hour ozone standard on or before 2007. Therefore, the AVAQMD is 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 20 percent reduction in emissions across the entire non-attainment area. Using this aggregation method, and based on actual emissions to date, the AVAQMD did not expect any facilities to have to pay the penalty.

The amendments made on 10/18/2011 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 AVAQMD and Mojave Desert Air Quality Management District (MDAQMD), in part. 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, VOC or NO_x reductions within the District from uses as approved by USEPA. The annual applicable expenditures made within the portions of the two 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.

Under the proposed equivalency method, and based on actual emissions and applicable SIP-surplus revenues, the AVAQMD does not expect any facilities to have to pay the penalty.

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 volatile compounds, oxides of nitrogen or oxides of sulfur.

The proposed amendment of Rule 315 is not subject to incremental cost effectiveness calculations because this rule does not impose BARCT or “all feasible measures.”

D. ENVIRONMENTAL ANALYSIS (CEQA)

Through the process described below, it was determined that a Notice of Exemption would be the appropriate CEQA process for the proposed amendment of Rule 315.

1. The proposed amendment of Rule 315 meets the CEQA definition of “project.” They are not “ministerial” actions.
2. The proposed amendment of Rule 315 is exempt from CEQA review because Rule 315 is a penalty rule. There is no potential that the amendment 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 proposed amendment 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

This rule is applicable to any facility within the AQMA 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 proposed amendment of Rule 315 does not regulate emissions or impose control requirements. Therefore, there will be no direct impact upon emissions.

Rule 315 specifies calculations that involve specific facility calendar year inventories of actual NO_x and VOC emissions. The proposed rule includes a requirement for the APCO to request each applicable facility 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 3003(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 is being amended to include 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. This rule amendment proposes a “fee equivalent” program which will recognize funding from fee programs that are surplus to the SIP and are used for air quality improvement projects in the AVAQMD. 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 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, AB923 and the Lawn and Garden Equipment Replacement Program, as part of such fee equivalency expenditures. The tables below are an example of how the shown programs would be determined (using the 2020 fiscal year) in the case of an official finding of failure to attain.

Qualified Programs for Section 172 (e) Equivalency Tracking Fiscal Year 2020

Carl Moyer Memorial Air Quality Standards Attainment Program (Moyer Program)

The Carl Moyer Memorial Air Quality Standards Attainment Program¹ (Moyer Program or program) is a grant program that funds the incremental cost of cleaner-than-required engines, equipment, and other sources of air pollution. Since 1998, the Moyer Program has been successful in reducing smog-forming and toxic emissions cost-effectively. Its primary objective is obtaining cost-effective emission reductions surplus to the State Implementation Plan (SIP) – furthering the State’s efforts towards attaining health-based ambient air quality standards.

In Fiscal Year 2020, the Antelope Valley Air Quality Management District (AVAQMD or District) allocated \$207,871 in Carl Moyer Program funds to eligible projects. In total, four pieces of large off-road equipment were replaced with Tier 4 Final options. The emission reduction benefits are shown in the chart below and are consistent with the project life. Note, the baseline equipment was destroyed to ensure permanent and surplus emission reductions for the projects. These emission reduction numbers are consistent with the Carl Moyer Program annual emission reductions for off-road equipment.

FY2020 Carl Moyer Large Equipment Emission Reductions (tons/year)		
NOx	ROG	PM10
1.38	0.13	1.48

The AVAQMD has continuously participated in the Carl Moyer Program. Since fiscal year 2021, the District has allocated over \$780,754, in Carl Moyer project funds to replace over 12 pieces of off-road equipment to upgraded Tier 4 final engines.

AB 2766

In 1997, under the authority of California Health & Safety Code Section 44220² promulgated by Assembly Bill 2766 (Sher), the AVAQMD Governing Board authorized the Department of Motor Vehicles to impose a \$4 motor vehicle registration fee on District vehicles to provide funds to meet new responsibilities mandated under the California Clean Air Act (CCAA). Allowable usage for these funds includes programs that reduce air pollution from motor vehicles and/or related planning, monitoring, enforcement, and technical studies necessary.

In Fiscal Year 2020, the AVAQMD provided \$561,595 in AB 2766 funds for six on-road vehicle upgrades to the 2010 model year engine emission standards. The allocations can be used to provide transit services such as shuttle services or subsidizing transit passes for residents, bike lanes, trip reduction programs, zero-emission vehicles, and alternative fuel infrastructure projects. The following reductions were achieved for the Mobile Source Emission Reductions (MSER) program in fiscal year 2020. These emission reduction numbers are consistent with the goals of Assembly Bill 2766.

¹ This is a statewide program in the State of California. For more information including background and funding guidance, please consult <https://ww2.arb.ca.gov/our-work/programs/carl-moyer-memorial-air-quality-standards-attainment-program>

² Many air districts in the State of California participate in this program. For State level information, please consult <https://ww2.arb.ca.gov/resources/fact-sheets/motor-vehicle-registration-fee-program>

FY2020 AB 2766 Emission Reductions (tons/year)		
NOx	ROG	PM10
20.25	17.55	0.221

The AVAQMD has continuously supported these programs and allocates AB 2766 funds each year.

AB 923

In 2005, under the authority of California Health & Safety Code Section 44223³ promulgated by Assembly Bill 923 (Firebaugh), the AVAQMD Governing Board authorized the Department of Motor Vehicles to impose a \$6 motor vehicle registration fee on District vehicles to broaden the parameters of the Carl Moyer Program to include agricultural sources, light and medium-duty vehicles projects, and projects that reduce particulate matter and/or reactive organic gases (previously emission reductions were specific to nitrogen oxides).

The new revenue from the additional \$2 surcharge provided funding on Carl Moyer eligible projects, the new purchase, retrofit, repower, or add-on of previously unregulated agricultural sources of air pollution, the new purchase of school buses pursuant to the Lower-Emission School Bus Program, and an accelerated vehicle retirement or repair program to reduce emissions from vehicular sources and off-road engines.

The following reductions were achieved for the Mobile Source Emission Reductions (MSER) program in fiscal year 2020. These emission reduction numbers are consistent with the goals of Assembly Bill 923 and represent Carl Moyer eligible projects. An estimated \$364,239 provided replacement of two large off-road equipment with Tier 4 Final options, five heavy-duty diesel trucks were replaced with 2010 model year engine or cleaner emission standards and twenty-three voluntary accelerated vehicle retirements. Note, the baseline equipment was destroyed to ensure permanent and surplus emission reductions.

FY2020 AB 923 Emission Reductions (tons/year)		
NOx	ROG	PM10
18.84	15.03	1.49

The following reductions were achieved for the VAVR program in fiscal year 2020. These emission reduction numbers are consistent with the Carl Moyer Program emission factors for light duty vehicles.

FY2020 AB 923 VAVR Emission Reductions (tons/year)		
NOx	ROG	PM10
317.6	452.8	0.96

³ Many air districts in the State of California participate in this program. For State level information, please consult

<https://ww2.arb.ca.gov/our-work/programs/carl-moyer-program-laws-and-regulations>

The AVAQMD has continuously supported these programs and allocates AB 923 funds each year.

Lawn & Garden Replacement Program

Since 2009, the AVAQMD has operated a Lawn & Garden Replacement (LGER) Program⁴. The LGER Program provides a streamlined approach to reduce emissions from certain small off-road engines by replacing existing combustion lawn & garden equipment with cordless, zero-emission alternatives.

In Fiscal Year 2020, the district replaced a total of 139 pieces of combustion lawn & garden equipment with zero-emission alternatives. The eligible equipment for replacements were trimmers, leaf blowers and walk-behind mowers. The total expenditure for the fiscal year was \$37,304 dollars. The breakdown of the equipment is shown below; as well as the emission reductions in tons/year/unit of equipment. These emission reduction numbers are consistent with the Carl Moyer Program emission numbers for lawn & garden equipment, and include both evaporative and exhaust reactive organic gas emissions.

⁴ This program is an element of the statewide Carl Moyer program. For more information, including state guidance, please consult <https://ww2.arb.ca.gov/our-work/programs/carl-moyer-program-road-source-categories/carl-moyer-program-lawn-and-garden>

FY2020 LAWN & GARDEN REPLACEMENT PROGRAM (lbs./year / tons/year)							
		RO G	NO x	PM1 0	ROG	NOx	PM10
Equipment Type	Total Units	<i>pounds per year</i>			<i>tons per year</i>		
Trimmers	49	94	3	1.0	0.0016	0.0016	0.0005
Leaf Blowers	24	53	1	0.9	0.0266	0.0006	0.0004
Walk Behind Mowers	66	47	10	0.1	0.0235	0.0048	0.0001

Since 2009, the AVAQMD has replaced a total of 1,340 combustion lawn & garden equipment with zero-emission alternatives. As the program has evolved additional eligible equipment categories have been added to the program. In addition to trimmers, leaf blowers and walk-behind mowers, residents can also exchange chainsaws, edgers, brush cutters and stand/sit mowers. Since 2016 the program has been funded using a combination of Mobile Source Emission Reductions Program local funds (AB 2766 and AB 923). In calendar year 2023, the District allocated over \$400,000 dollars to replace equipment.

Qualified Programs, Environmental Justice and Disadvantaged Communities

These qualified programs (for Section 172(e) equivalency with Section 185 penalty fees) apply throughout the District. Each program results in emission reductions within the District by definition. No group of people will bear a disproportionate share of negative environmental consequences as the programs only generate positive environmental consequences (emission reductions). The programs are voluntary and are not regionally limited. The qualified programs do not burden already burdened or disadvantaged communities; as cost-effective emission reduction subsidy programs they materially benefit those communities.

C. CONTROL REQUIREMENTS

The amended rule does not impose any control requirements.

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 AVAQMD is now proposing revisions to Rule 315 in order to make the rule approvable by USEPA and added to the AVAQMD 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:

D. PROPOSED RULE SUMMARY

This section gives a brief overview of the proposed amendments in Rule 315.

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, for consistency with Regulation XIII.

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.

E. ENVIRONMENTAL JUSTICE ANALYSIS

USEPA has recently indicated that submissions should analyze compliance with various Federal non-discrimination laws⁵ as well as EPA’s own non-discrimination regulations⁶ and

⁵ 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.

⁶ 40 CFR Parts 5 and 7.

general principles to ensure that actions do not unduly burden already overburdened populations.⁷

The rule and its proposed amendments apply throughout the jurisdiction of the AVAQMD without regional discrimination, or discrimination on any other basis. The 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 FONA. Therefore, there will be no negative environmental consequences for any group of people due to the proposed rule amendments.⁸

In regards to access to all potentially affected persons, the AVAQMD 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 contact 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 Ozone 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 2011 version of the rule is not approvable in its current format. USEPA has recommended a variety of changes to allow for full approvability.

⁷ Commonly referred to as Environmental Justice provisions.

⁸ Please note that the proposed use limitation for the 5 engines located at PG&E Hinkley will result in a greater emission decrease than would be provided by retrofitting those engines (See Discussion in section V.C.2. above).

The AVAQMD will be requesting CARB to submit the proposed amendments to Rule 315 – *Federal Clean Air Act Section 185 Penalty (1979 Ozone Standard)*, including USEPA’s requested changes, for inclusion in the AVAQMD 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 current rule which will remain unchanged by the adoption of the proposed amendments.
4. *Italicized text* identifies explanatory material that is not part of the proposed language.

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RULE 315
Federal Clean Air Act Section 185 Penalty
(1979 Ozone Standard)

(A) General

(1) Purpose

The purpose of this 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 is applicable to any Major Facility within the District Portion of the AQMA, ~~which emits or has the potential to emit nitrogen oxides (NOx) or Volatile Organic Compounds (VOC) in an amount sufficient to make it a Major Facility as defined in District Rule 1301.~~ [removed for consistency with MDAQMD Rule 315]
- (b) This rule shall ~~become~~ cease to be 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) designated as attaining the one-hour national ambient air quality standard for ozone.
- (c) This 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 the 1979 one-hour ozone NAAQS.

[Applicability - updated and clarified this section per EPA direction]

(3) Exemption

- (a) No ~~f~~Facility otherwise subject to this rule shall be required to remit a ~~Federal Clean Air Act~~ Section 185 penalty under this rule for any ~~during any~~ calendar year in which the ~~f~~Facility emits verified ~~a~~Actual ~~e~~Emissions equal to or less than 80 percent of its ~~combined~~ Baseline Emissions ~~amounts~~. [minor clarifications per EPA direction]
- (b) No ~~f~~Facility otherwise subject to this rule shall be required to remit a Federal Clean Air Act Section 185 penalty during any calendar year in which the

District has demonstrated fee equivalency in accordance with the procedures contained in Section (E) below

(B) Definitions

For the purposes of this rule the definitions contained in District Rule 1301 shall apply unless otherwise defined below.

- (1) “Actual Emissions” - Actual total ~~Facility~~ calendar year emissions to atmosphere of each of NO_x and 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” - The entirety of the District is located within the AQMA.
- (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).

[updated definition of Major Facility for consistency with MDAQMD and in response to USEPA comment dated 09/20/2023.]
- (45) “Southeast Desert Modified Air Quality Maintenance Area (AQMA)” – That ~~portion of the Metropolitan Los Angeles Air Quality Control Region area~~ 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, 42 U.S.C. §7410.

(C) Requirements

- (1) Verification of Actual Emissions

315-2

By June 1, on an annual basis (calendar year), any ~~f~~Facility subject to the provisions of this rule shall submit a verified inventory of Actual Emissions for the previous calendar year in accordance with Rule 107 – *Certification of Submissions and Emission Statements* and Federal Clean Air Act Section 182(a)(3)(B). *[Rule title corrected per USEPA comment 09/20/2023]*

(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.
[minor clarification per EPA direction]

(b) For a ~~f~~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 ~~F~~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. [removed for consistency with MDAQMD Rule 315 per EPA direction]~~

(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, 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) <i>[corrected error in penalty determination equation and variable definitions per EPA direction. Comment from 09/20/2023 incorporated.]</i>

- (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 “Tracking Account” Determination *[replaced prior language with “expenditures” based language to clarify this section per EPA direction]*
- (a) The Air Pollution Control Officer (APCO) shall establish and maintain a Federal Clean Air Act Section 185 Equivalency “Tracking Account.” ~~record of actual expenditures as described in this section. Such Tracking Account~~ The expenditures record shall be credited with actual expenditures occurring in calendar years beginning the first calendar year in which fees are due ~~this rule is adopted~~ on qualified programs that are designed to fund projects which:
- Are surplus to the SIP, ~~and for the Federal one hour Ozone standard;~~
 - Have been certified by the APCO, the Executive Officer of CARB and USEPA as being surplus to the SIP; and
 - Are designed to result in direct, or to facilitate future, VOC or NO_x reductions within the District from uses as approved by USEPA.
- (b) Expenditures credited to the Federal Clean Air Act 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. *[Changed for consistency per USEPA comment 09/20/2023.]*

- (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 ~~submit request~~ 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 ~~District to the APCO of Mojave Desert Air Quality Management District (MDAQMD) and the South Coast Air Quality Management District from the APCO or Executive Officer of each respective district.~~
 - (b) By July 1, on an annual basis, the APCO shall ~~submit request~~ an accounting of the applicable penalty obligations 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 MDAQMD Mojave Desert 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 ~~submit request~~ 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 ~~District to the APCO of MDAQMD Mojave Desert Air Quality management District and the South Coast Air Quality Management District from the APCO or the Executive Officer of each respective District.~~
- [Removed references to SCAQMD in (E)(2)(a,b and c) per EPA direction as SCAQMD has not adopted a rule with the same provisions]*
- (d) The annual applicable expenditures made within the portions of the ~~two three~~ 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 ~~two three~~ 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~~ 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 Section 185~~ The Combined AQMA ~~Equivalency Expenditures~~ “Tracking Account” during the calendar year for which the equivalency determination is being made. Such expenditures are pursuant to sections (E)(2)(a) and (E)(2)(d) above. [subsection corrected per USEPA comment 09/20/2023]
- AP = The Combined AQMA 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~~ Section 185 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.

[clarification of equivalency determination equation variable definitions per EPA direction]

(4) Partial Equivalency Determination and Calculation of Penalty

- (a) If the balance of the ~~Federal Clean Air Act~~ 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:

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

~~$$P_{ry} = P_y \times (|B_{fy}| / AP_y)$$~~

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 FCAA Section 185 Combined AQMA Equivalency Tracking Account ~~equivalency tracking account~~ for calendar year y as calculated in subsection(E)(23).
- AP_y = ~~Sum of all P_y as calculated in subsection (D)(2). Combined~~ AQMA Penalties as determined pursuant to subsections (E)(2)(b) and (E)(2)(e) for calendar year y

- (b) No later than August 15, on an annual basis as required, the APCO shall ~~thereafter~~ notify the ~~f~~Facility by mail of the penalty amount due and payable as calculated on a ~~f~~Facility basis in (E)(4)(a), with the penalty due within 30 days. If the penalty is not paid by the due date specified in the notice, the subject ~~f~~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.

[deleted "thereafter" and capitalized "f" in facility per EPA comments]

(F) Reporting Requirements

- (1) The APCO shall file a report for the prior year accounting with CARB and USEPA that contains the following: ~~Commencing the year this rule is adopted, and on or before 12/31 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 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~~ 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~~ 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.

[updated reporting requirements per EPA direction]

[SIP: See AV Full SIP Table at <https://avaqmd.ca.gov/rules-plans>]

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APPENDIX "B"
PUBLIC NOTICE DOCUMENTS

1. Draft Proof of Publication– Antelope Valley Press, September 15, 2023

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NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the Governing Board of the Antelope Valley Air Quality Management District (AVAQMD) will conduct a public hearing on October 17, 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 of Antelope Valley Transit Authority District Office located at 42210 6th Street West Lancaster, CA 93534, 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 posted on the AVAQMD website at www.avaqmd.ca.gov and are also available at the AVAQMD Office at 2551 West Avenue H, Lancaster, CA 93536.

Written comments may be submitted to Barbara Lods, Executive Director/APCO at the above office address. Written comments should be received no later than October 16, 2023 to be considered. If you have any questions you may contact Barbara Lods 661-723-8070 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 AVAQMD has determined that a Categorical Exemption (Class 8 – 14 Cal. Code Reg §15308) applies and has prepared a *Notice of Exemption* for this action.

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APPENDIX "C"
PUBLIC COMMENTS AND RESPONSES

1. USEPA comments on AVAQMD Rule 315, September 20, 2023.

1. District Response to USEPA Comment:
USEPA recommended changes were completed on comments 1-9 below.

9/20/2023

Thank you for the opportunity to comment on the draft language for Antelope Valley Rule 315. Our comments below are based on the redline-strikeout copy of draft Rule 315 sent to us on August 16, 2023, and titled "AV315 Preliminary D1 2023 15 Aug.docx."

If you have questions, please contact Mae Wang at (415) 947-4137, wang.mae@epa.gov, or Donnique Sherman at (415) 947-4129, sherman.donique@epa.gov.

1. (A)(2)(c): A typographic error appears in the phrase "...the 1979 one-hour ozone NAAQS."
2. (A)(3)(a): We recommend deleting the words "combined" and "amounts."
3. (A)(3)(a), (A)(3)(b), and (B)(1): For consistency, consider capitalizing "facility" in the first sentence.
4. (B)(4): To meet the requirements of federal Clean Air Act section 185, Rule 315 would only need to apply to major sources of VOC and NOx. Additionally, since Rule 315 is intended to apply only to the 1-hour ozone NAAQS, we recommend deleting any reference to District Rule 1303 and simply including the 25 tpy threshold directly in the rule. The text in (B)(4)(1) related to NSR should be deleted. Please see Mojave Desert AQMD Rule 315 paragraph (B)(4) for reference.
5. (C)(1): For consistency, consider capitalizing "facility." The title of AVAQMD Rule 107 is "Certification of Submissions and Emission Statements."
6. (D)(2)(a): The definition of the variable C should specify that it refers to the change in the CPI since 1990.
7. (E)(1)(b): For consistency with (E)(1), use the term "Federal Clean Air Act Section 185 Fee Equivalency Determination."
8. (E)(3)(a) formula, definition of E: The referenced paragraphs should be (E)(2)(a) and (E)(2)(d).
9. (E)(4)(b): For consistency, consider capitalizing "facility."

APPENDIX "D"
CALIFORNIA ENVIRONMENTAL QUALITY ACT
DOCUMENTATION
(Certified copy to be included as available)

1. Draft Notice of Exemption – Los Angeles County

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NOTICE OF EXEMPTION

TO: Los Angeles County Clerk
12400 E. Imperial Hwy, #1001
Norwalk, CA 90650

FROM: Antelope Valley
Air Quality Management District
2551 W Avenue H
Lancaster, CA 93536

AVAQMD Clerk of the Governing Board

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

PROJECT LOCATION – SPECIFIC: Los Angeles County portion of the Mojave Desert Air Basin.

PROJECT LOCATION – COUNTY: Los Angeles County

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: Antelope Valley AQMD

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Antelope Valley 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: Barbara Lods **PHONE:** (661) 723-8070

SIGNATURE: _____ **TITLE:** Executive Director/APCO **DATE:** November 21, 2023

DATE RECEIVED FOR FILING:

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APPENDIX "E" BIBLIOGRAPHY

The following documents were consulted in the preparation of this staff report and the proposed amendment of Rule 315:

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

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