### Rule 317.1

Clean Air Act Nonattainment Fees for 8-Hour Ozone Standards

Cleaning The Air That We Breathe...



## Regulatory Workshop

December 5, 2024 1:00 p.m.

#### Meeting Information:

Zoom Meeting Link: <a href="https://scaqmd.zoom.us/j/97559313527">https://scaqmd.zoom.us/j/97559313527</a>

Meeting ID: 975 5931 3527 (applies to all)

Teleconference Dial In +1 (669) 900-6833



#### 1. Overview of Rule 317.1



2. Annual Emissions Reporting

## Agenda



3. Request for Non-Applicability Determination



4. Rule 317.1 Exclusion Plan



5. Open Discussion





## Background

 Federal Clean Air Act (CAA) Section 185 requires Major Stationary Sources to either reduce their emissions by 20% from a baseline amount or pay a fee based on a prescribed formula each year if the South Coast Air Basin or Coachella Valley fails to attain a federal

ozone standard

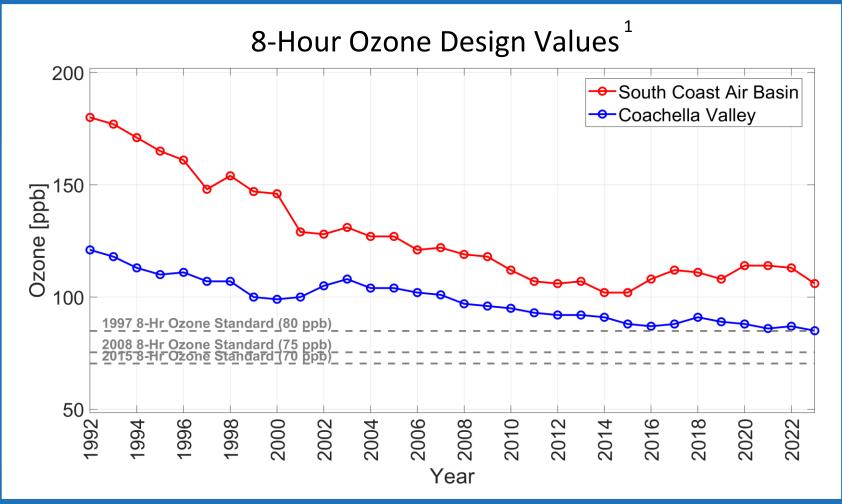
 Fee applies to facilities with 10 tons or more of VOC or NOx emissions per year (Major Stationary Sources)

- Fees collected until attainment
- Rule 317.1 (adopted June 2024) implements
   Section 185 for the 1997 and 2008 ozone
   standards
  - Attainment deadline for 1997 standard: June 15, 2024
  - Attainment deadline for 2008 standard: July 20, 2032





### **8-Hour Ozone Trends**



- Overall air quality has improved
- For 1997 standard,
   South Coast Air Basin
   will not be in
   attainment by 2024 but
   Coachella Valley will
   likely attain following
   an extension<sup>2</sup>

1 – Annual 4<sup>th</sup> highest 8-hour average concentration, averaged over 3 years 2 – Facilities are exempt from Rule 317.1 fees in the extension year



## **Rule 317.1 Key Definitions**

Major Stationary Source - a facility that emits or has the potential to emit VOC and/or NOx emissions of 10 tons or more\* per year

- Excluding fugitive emissions unless the source belongs to one of the categories listed in paragraph 2 of the definition of major source in 40 CFR Part 70, Section 70.2
- Excluding certain emissions from on-road and off-road mobile equipment

**Baseline Emissions** – lower of actual emissions or allowable emissions

- For 1997 ozone standard, baseline emissions will be determined using emissions in 2024
  - A future year will be used for a Major Stationary Source that begins operations after 2024

**Fee Assessment Year** - the calendar year when emissions occurred for which the CAA Nonattainment Fee is being calculated and assessed

• For 1997 ozone standard, the first Fee Assessment Year is 2025



## Rule 317.1 Key Requirements

## Fee Obligations

- Applies to emissions<sup>1</sup> that exceed 80 percent of baseline emissions
  - Baseline emissions are based on emissions in the attainment year<sup>2</sup>
  - Fee rate is \$12,476.67 per ton in 2024<sup>3</sup>
- Applicable facilities are responsible for paying fees for each applicable standard

Cuitania	8-Hour Ozone NAAQS		
Criteria	1997	2008	
Baseline Emissions	2024	2032	
Year Fee Obligation Begins	2025	2033	

- 1 Major stationary source only pays for pollutant which qualifies them as a major stationary source
- 2 Unless Alternative Baseline Emissions are approved
- 3 U.S. EPA annually adjusts the fee rate by CPI



## **CAA Section 185 Fee Amount Example Calculation for VOCs**

**Actual Annual** Tons of VOC **Emitted** 

0.8 X Baseline Annual Tons of VOC

**Annual U.S. EPA CAA §185** 

**Annual CAA** Nonattainment Fee for VOC

#### Hypothetical Facility Calculation for VOCs

- 2024 Baseline Annual Tons of VOCs = 15
- 2025 Annual Tons of VOCs = 13
- 2025 Annual U.S. EPA CAA §185 Fee Rate = \$12,476.67

Annual CAA Nonattainment Fee for VOC =  $[13 - (0.8 \times 15)] \times $12,476.67 = $12,476.67$ 

- Follow same procedure, using NOx, to calculate annual CAA nonattainment fee for NOx
- Add together the annual CAA nonattainment fee for VOC and for NOx to calculate the total annual CAA nonattainment fee



## **Alternative Baseline Option**

Alternative
Baseline
Emissions
Option

- Facility may propose alternate method to determine baseline emissions level if emissions are irregular, cyclical, or vary
- Alternate baseline shall reflect emissions from normal operating conditions
- Alternate method conditioned upon U.S. EPA issuing a guidance document

Alternative
Baseline
Request Due
Date

- Due no later than 180 days after the end of the Attainment Year or no later than 120 days after the U.S. EPA makes a *final* finding that the Basin has failed to attain the Applicable Ozone Standard, whichever is later
  - On August 15, 2024, U.S. EPA issued a proposed finding of failure to attain for South Coast Air Basin for the 1997 ozone standard

U.S. EPA is continuing their evaluation and discussion on the Alternative Baseline Option



## Rule 317.1 Implementation - Rule Applicability

Rule 317.1

 Provides a pathway for owner/operator to demonstrate the facility is not a Major Stationary Source

Notice of Rule
Applicability
for 1997
Standard for
South Coast Air
Basin

- Issued by South Coast AQMD to Major Stationary Sources in South Coast Air Basin\*
- Stage I Based on potential to emit and Title V status in 2024
  - Issued November 8, 2024
  - List of recipients available here: <u>link</u>
- Stage II Additional facilities based on actual emissions in Year 2024
  - To be sent in summer 2025
  - Excluding recipients of the Stage I notice
- Future notifications for new Major Stationary Sources

A Major Stationary Source is subject to Rule 317.1 regardless of whether a notice has been issued



## Rule 317.1 Implementation - Notice of Rule Applicability

Agree with Determination

No response needed if facility is a Major Stationary Source subject to Rule 317.1 fee\*

If voluntarily requesting an enforceable limit to avoid being subject to the rule, submit permit application(s) to reduce PTE and/or submit a Rule 317.1 Exclusion Plan\*#

Disagree with Determination

Uncertain about Determination

Challenge rule applicability by submitting Request for Non-Applicability Determination by February 6, 2025\*^

Review facility's actual emissions (AER reports) and PTE (permits)

Remain subject to Rule 317.1 until the calendar year following approval of the Plan

Remain subject to Rule 317.1 until a determination is made by the Executive Officer

Even if actual emissions are much lower than 10 tons per year, a facility is still a Major Stationary Source if its PTE exceeds 10 tons per year.

<sup>\*</sup>Facilities are required to record and report emissions

<sup>#</sup> No deadline to submit this request; certain criteria must be met (more details in agenda item 4)

<sup>^</sup> Owner/operator may submit a Rule 317.1 Exclusion Plan in parallel



## Rule 317.1 Implementation - Process of Challenging Rule Applicability

## Executive Officer issues a Notice

- Stage I issued November8, 2024 based onpotential to emit (PTE)and Title V status
- Stage II to be issued in 2025 based on actual emissions in 2024^



No later than 90 days after Notice issuance

 Facility electing to challenge applicability provides evidence demonstrating that the facility is not a Major Stationary Source



No later than 90 days before payment due date\*

 The Executive Officer reviews evidence submitted and other available data; and notify the owner or operator the final decision

- Facility remains subject to the rule unless and until the Executive Officer issues notification of the final decision
- After a final decision is made, facility will not be eligible to challenge applicability again

<sup>^</sup> Excluding recipients of the Stage I notice

<sup>\*</sup>Unless the owner or operator is notified that additional time is needed to investigate



## Next Steps - Key Milestones in 2025 and 2026 for 1997 Standard - South Coast Air Basin

Determination
of rule
applicability
based on actual
emissions in
2024

Issuance of Notice of Rule Applicability – Stage II

Determination of baseline emissions

Issuance of
Notice of
Baseline
Emissions\*

Determination of 2025 nonattainment fees

Issuance of invoices

\*Alternative Baseline Request (optional and initiated by a facility) is an independent process from Notice of Baseline Emissions (issued by South Coast AQMD)

A Major Stationary Source is subject to Rule 317.1 regardless of whether the owner or operator received a Notice of Rule Applicability or an invoice





## **Annual Emission Reporting (AER) Program Overview**

#### **Purpose**

 South Coast AQMD requires permitted facilities to submit AER and payment of annual fees based on emissions of air contaminants

#### Rule 301 (e)

> 4 tons per year (tpy) VOC, SOx, NOx, SPOG, PM; and 100 tpy CO

### **Applicability**

Criteria
Pollutant and
Toxics
Emissions
Reporting
(CTR)

Currently Phase 2 of phase-in

## Assembly Bill (AB) 2588

To satisfy "Hot Spots" Emission Inventory Criteria Guidelines Regulation

#### Rule 317/317.1

Collect
emissions for
determining
Baseline and
Actual
Emissions



## Rule 317.1 Requirements in AER Program

Rule 317.1 Facilities

Required to submit AER annually

Additional Requirements

- Rule 317.1 facilities must also report the following:
  - Architectural Coatings
  - Clean Air Solvents
  - Charbroilers and Deep-Fat Fryers (unpermitted)
  - Portable Equipment Registration Program (PERP)

**Emission Fees** 

 Emissions categories above are not subject to Rule 301 (e) criteria and toxic emission fees



### **General Guidelines for Reporting**



#### **Best Available Data**

Rule 301 (e) requires
 emissions to be calculated
 using best available data (e.g.,
 emission factors, control
 efficiencies, method in
 determining throughput)



#### Consistency

- Consistency in reporting and methodology
   Changes to methodology and
- Changes to methodology and throughputs from year-toyear without documentation may be deemed unacceptable

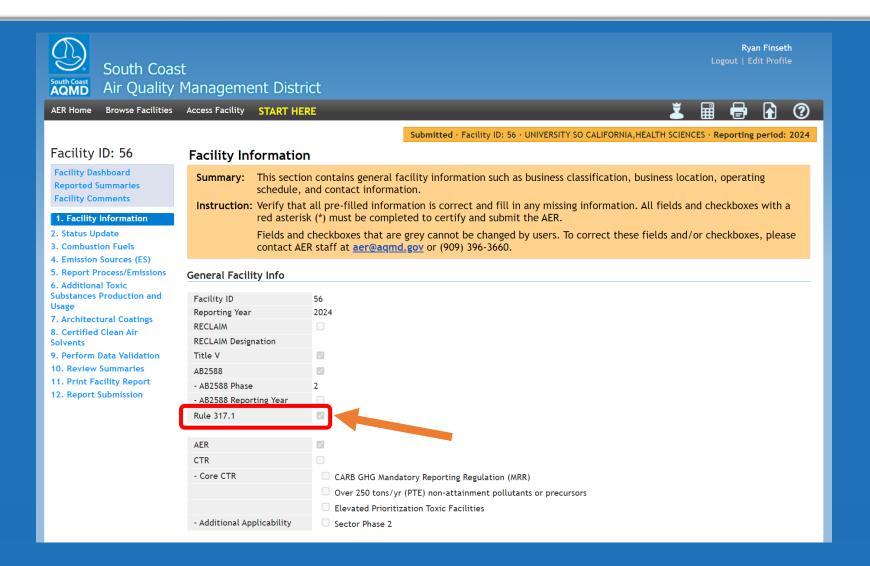


#### **Reporting Issues**

- Reporting issues may prompt further evaluation and amendments
- Some examples include outlier emissions or significant deviations



### **AER WebTool – Rule 317.1 Identifier**





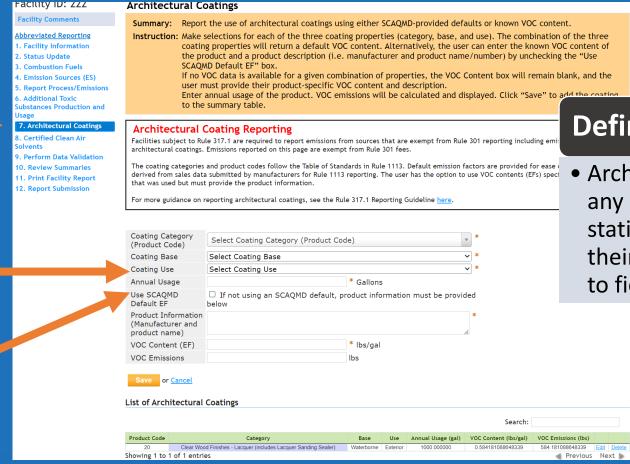
## **AER Program Reporting: Architectural Coatings**

Revised

\*NEW\* reporting module

Annual usage must be reported in gallons

Default emission factors available



#### **Defined in Rule 1113**

 Architectural Coatings are any coatings applied to stationary structures or their appurtenances, or to fields and lawns



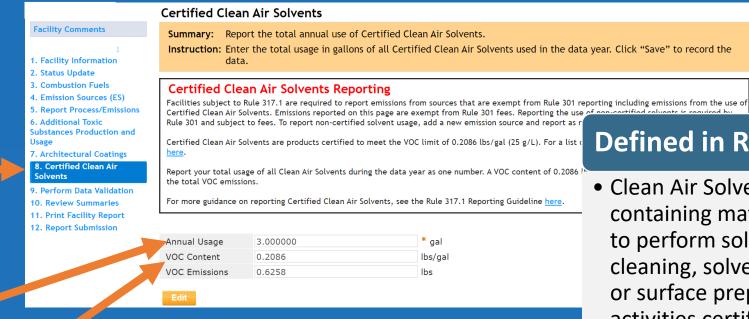
### **AER Program Reporting: Clean Air Solvents**

Revised



Annual usage must be reported in gallons

Default emission factor = 0.2086 lb/gal or 25 g/L



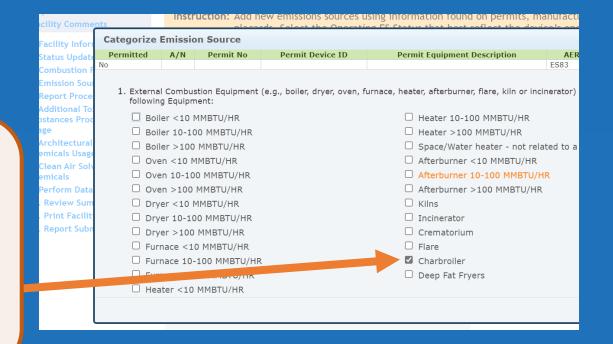
#### **Defined in Rule 102**

 Clean Air Solvents are VOCcontaining materials used to perform solvent cleaning, solvent finishing, or surface preparation or activities certified by South Coast AQMD



## AER Program Reporting: Unpermitted Charbroilers and Deep-Fat Fryers

- Must be added manually to list of Emission Sources
- Allows users to categorize an external combustion emission source
- Default emission factors available



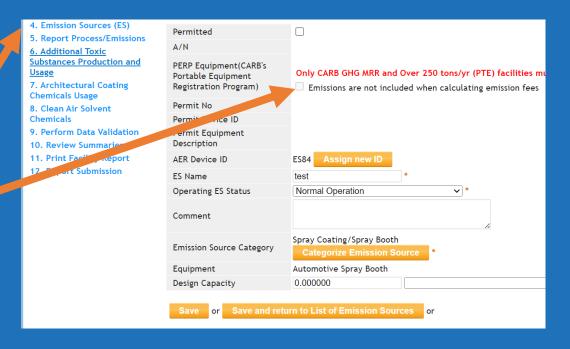
## Charbroilers and Deep-Fat Fryers

- Typically exempt from AER
- However, Rule 317.1 requires NOx and VOC emissions to be reported annually



### **AER Program Reporting: PERP**

 PERP equipment must be added manually to list of Emission Sources



#### **CARB PERP**

- PERP equipment typically exempt from AER
- However, Rule 317.1 requires emissions to be reported annually



### **2024 AER Program Reminders**

## AER Program Public Workshop

- General overview of AER Program and reporting requirements
- January 15, 2025 at 1:30 PM

#### **AER Deadline**

- AER and emissions fee payment must be received by May 1, 2025 at 5 pm
- AER WebTool: https://aerreportingtoolpro.aqmd.gov/

#### Resources

- AER Webpage:
  - https://www.aqmd.gov/aer
- Email: <u>aer@aqmd.gov</u>
- **Hotline:** (909) 396-3660



**Clean Air Act Nonattainment Fees** 



 Purpose – to allow facilities to evaluate their emissions sources and provide supporting documentation for the District to re-evaluate applicability to Rule 317.1

#### Example

- A Title V facility (Affected source under the Acid Rain Program) receives Notice of Rule Applicability
  - Both PTE and actual emissions are below 10 tons per year for NOx and/or VOCs

#### Procedures of submittal

- Fill in the request form (<u>link</u>) with <u>all</u> supporting documentation
- Submit it by February 6, 2025: Rule317.1@aqmd.gov

#### Only a complete form will be processed

- All supporting documentation must be provided
- Evidence submitted and other available data will be reviewed



### Request for Non-Applicability **Determination Form**

Section A – Facility Information

#### **Section B – Industry Source Category**

• Fugitive emissions are included in determining applicability for a source belonging to one of the categories listed in the definition of major source in 40 CFR Part 70

Section C – Title V Status

#### Section D – Facility Emission Information – Potential to Emit (PTE)

- PTE from permitted equipment
- PTE from unpermitted equipment (e.g. Rule 1146.2 boilers)
- PTE from fugitive emissions (e.g. coatings and solvents)

must be included

Supporting information

South Coace! All Quality Management Debics!  Rule 317.1 Request for Non-Applicability Determination  Complete one from per facility  Who is required to complete and stability Score  Your facility has been defined as a May Saltowary Source based on the potential to emit (PTE) and will be required to pay applicable nonattainment fees. Please complete and about 15th Score  Your facility has been defined as a May Saltowary Source based on the potential to emit (PTE) and will be required to pay applicable nonattainment fees. Please complete and about 15th Score  Your facility had been complete submissions will not be processed.  Section A. Facility Mormation  1. Facility Mane:  2. South Coset AQIMD Facility (D:  2. South Coset AQIMD Facility (D:  3. Facility Address:  4. Mailing Address (if different from above):  5. Contact Name  5. Title  7. Phone Number  8. Email  Section B.—Industry Source Category  9. Sover the Saltily Selecting to one of the categories listed in paragraph 2 of the definition of major source in  4. We filt of the Visiting						
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Released November 1						Released November 8,

Form available for download here

Section E - Additional Information

Section F – Authorization/Signature



## Section D – Facility Emission Information – Potential to Emit (PTE)

o BOX 12a/13a – Determine PTE from permitted equipment

Actual emissions not accepted

- Identify active permitted equipment at the facility
- Identify operational limits in the permits
- Identify limits in permits or rules
- BOX 12b/13b Determine PTE from unpermitted equipment
  - o Example: Rule 219 permit exempt equipment, Rule 1146.2 boilers
  - In absence of PTE, actual emissions may be used
- BOX 12c/13c Determine PTE from fugitive emissions
  - Example: coatings and solvents
  - In absence of PTE, actual emissions may be used
- **BOX 14** Provide supporting information
  - List of all permits and PTE for each

PTE represents the maximum capacity of a facility to emit under its physical and operational design. Operational design is typically determined by limits in permits (throughput, operating hours, etc.).



# 4. Rule 317.1 Exclusion Plan

**Clean Air Act Nonattainment Fees** 



### **Pre-Application Process**

#### **Rule 317.1 Exclusion Plans**

#### Determine Eligibility

- Detailed in Rule 317.1 Staff Report p 2-16
   <a href="https://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2024/2024-jun7-024.pdf?sfvrsn=4">https://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2024/2024-jun7-024.pdf?sfvrsn=4</a>
- Review basis of Rule 317.1 applicability
- Opportunity to appeal applicability Rule 317.1 (d)(6)

#### Annual Emission Reports (AERs)

- Requiring less than 80% of major source thresholds for previous five years
- Amend and finalize AERs *BEFORE* submitting exclusion plans
- o Ensure fugitive emissions are quantified, if applicable

#### Title V exclusion differs from Rule 317.1 exclusion

- Title V exclusion can accomplish Rule 317.1 exclusion
- Longer processing times, permit evaluation and conditions, and additional fees process

#### Discuss facility specific scenarios with permitting engineer

o Permitting Staff List: <a href="https://www.aqmd.gov/nav/contact/permitting-staff">https://www.aqmd.gov/nav/contact/permitting-staff</a>



## **Plan Application Process**

#### **Rule 317.1 Exclusion Plans**

- Submit Forms
  - Form 400-A, Form 400-CEQA, Form 317.1 (in development)
  - Potential Title V revision application
- Submit applicable Plan fees in Rule 306
  - Title V facilities will require revision fees
- Include documentation to verify basis of exclusion request
- o If approved, Plan will require:



Enforceable Limits

- NOx and/or VOC
- Consistent with Major Source definition

Monthly Recordkeeping

- Signed and Certified for accuracy
- Maintained for five years

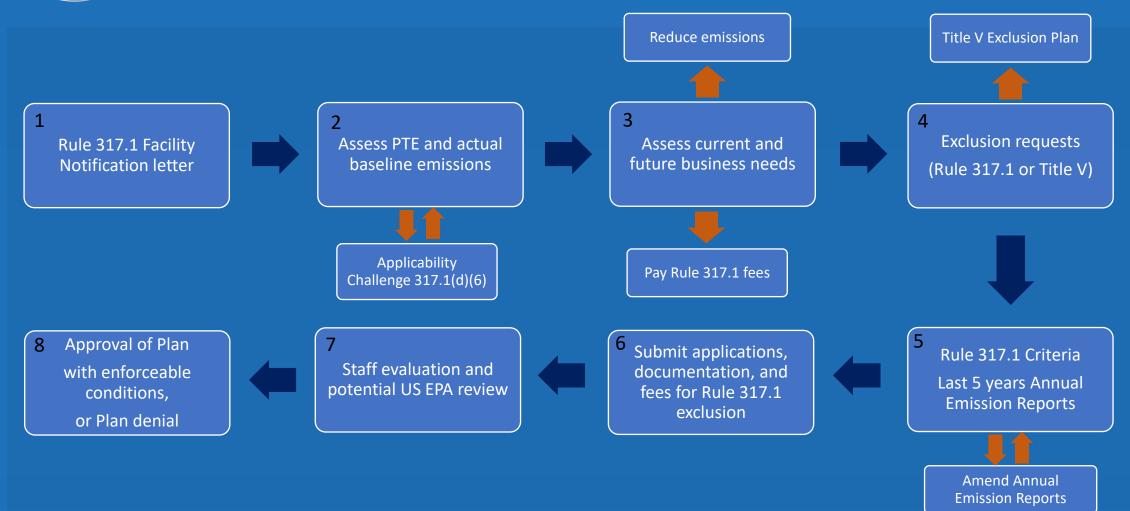
Reporting of Exceedances

- At time of exceedance
- No later than
   February 1 of following year



## **Process Flow Example**

**Rule 317.1 Exclusion Plan** 





#### **More Information**

**Rule 317.1 Compliance Webpage** 

https://www.aqmd.gov/home/rules-compliance/compliance/rule-317-1

Permit/Exclusion Plan Application Forms <a href="https://www.aqmd.gov/home/permits/permit-application-forms">https://www.aqmd.gov/home/permits/permit-application-forms</a>

**Rule 317.1** 

https://www.aqmd.gov/docs/default-source/rule-book/reg-iii/rule-317-1.pdf



#### **Staff Contacts**

#### **Rule 317.1**

#### Mojtaba Moghani, Ph.D.

Program Supervisor (WOC)





#### **Neil Fujiwara**

**Program Supervisor** 





#### Kalam Cheung, Ph.D.

Planning & Rules Manager

(909) 396-3281

kcheung@aqmd.gov

#### **Michael Krause**

Asst. Dep. Executive Officer





mkrause@aqmd.gov

#### **Annual Emissions Reporting**

#### **AER Hotline**



(909) 396-3660



aer@aqmd.gov

For questions regarding Rule 317.1 Exclusion Plan or the facility's PTE, please contact your facility's permit engineer https://www.aqmd.gov/nav/contact/permitting-staff



## 5. Open Discussion

- Please use the "raise hand" feature to request to speak:
  - Click on the button
  - **Dial** \*9
- When it is your turn to speak, your name will be announced
  - If you are a panelist, use the "unmute" feature to speak:
    - Click on the button
    - C Dial \*6
  - If you are not a panelist, the meeting host will unmute you