

**RULE 210. FEES. (Adopted 10/18/1971, revised 5/1/1972, 6/16/1975, 6/1976 and 7/24/1978, readopted 10/23/1978, revised 5/19/1980, 6/1980, 12/14/1981, 6/30/1986, 12/15/1986, 8/8/1988, 5/2/1989, 12/12/1989, 2/13/1990, 3/27/1990, 6/5/1990, 12/18/1990, 3/5/1991, 5/7/1991, 4/17/1997, and 3/17/2005)**

*Note: The proposed 2024 amendments to Rule 210 include a comprehensive reorganization effort. Please refer to Section 3 of the staff report for a description of which sections were added, deleted, or moved within the rule. The clean text of the 2005 version of Rule 210 is provided here for reference.*

## **SCOPE AND PURPOSE**

This rule establishes the framework for a comprehensive system for recovering expenses incurred for the regulatory programs, plans, procedures and tasks necessary for the Santa Barbara County Air Pollution Control District (the District) to carry out its mandate under the Clean Air Act and California law. The purpose of this rule is to allow the District to recover its reasonable costs incurred for direct and incidental costs associated with its activities, including but not limited to the issuance of permits, inspection, enforcement, planning, research and administration. Authority to establish said regulation is provided for in Health & Safety Code Sections 41512, 41512.5, 42311, and 42364.

### **I. FEES FOR SOURCES WITH DISTRICT PERMITS**

Permit related fees are assessed for District activities which are related to stationary sources requiring a District permit. The activities include, but are not limited to: review and evaluation of applications; reevaluation of permits; source testing; ambient air quality and continuous emissions monitoring; review, evaluation, implementation of plans, agreements, studies, programs and notices; research; planning and implementation of measures to attain and maintain air quality standards and control of air toxics.

#### **A. Filing Fee**

The application filing fee for an Authority to Construct or a Permit to Operate is specified in item I of Schedule F.

#### **B. Fee Schedule Basis**

##### **1. Evaluation Fee**

The fee for processing any application for a new or modified Authority to Construct or Permit to Operate shall be calculated according to the Facility/Equipment Description (see Schedule A), except where (1) the application is for a source which the District determines has the potential to require offsets (or trade-offs), air quality impact analysis, computer modeling or monitoring pursuant to Regulation VIII, or (2) the application is for any of the categories of equipment listed below in (a) through (e), in which case the fee shall be assessed on the Cost Reimbursement Basis set forth in Section I.C., below.

- a. Equipment associated with landfill or storage/treatment pond projects.
- b. Equipment associated with resource recovery projects.
- c. Equipment associated with energy cogeneration projects.
- d. Equipment associated with power plant projects.
- e. Other projects and the related equipment, determined by the District for good cause to require sufficient analysis such that the use of fee schedules shown in Attachment A will not enable the District to recover the cost of permit evaluation.

If an application is withdrawn or the District stops work on the processing of a permit at the request of the applicant, the applicant shall pay a percentage of the evaluation fees as determined by the District based on the work completed to date.

2. Reevaluation Fee

Every three years the District shall reevaluate a PTO to insure compliance by the operator with listed permit conditions and all applicable District Rules and Regulations. The fee shall be calculated in the same manner as the PTO evaluation fees prescribed in Section I.B.1., with the following exceptions:

- a. The minimum triennial reevaluation fee for a stationary source is specified in item 2 of Schedule F to cover costs of District inspection visits as well as the engineering work related to the permits.
- b. For motor vehicle fueling facilities equipped with Phase II vapor recovery nozzles, reevaluation of nozzles (and storage tanks) shall be on an annual basis; the minimum fee specified in item 2 of Schedule F shall not be applicable. The annual fee shall be calculated as specified in item 3 of Schedule F. If the equipment fails the first inspection, fees for any additional inspections shall be assessed specified in item 4 of Schedule F. The annual fee shall be paid within 30 days after notification by the District of the amount due.
- c. Consecutive triennial reevaluations shall not be billed within any one 12 month consecutive period.

The fee for any stationary source, for which a valid PTO exists on the date of adoption of this rule, may be reevaluated on the basis of District cost reimbursement, as prescribed in Section I.C., if any of three conditions is satisfied: (1) the sum of the emissions of Reactive Organic Compounds, Oxides of Nitrogen, Gaseous Sulfur Compounds, and Particulate Matter from all equipment exceeds 25 tons per year, (2) the existing permit is for any category of equipment identified in Section I.B.1.a. through Section I.B.1.e., (3) a prior ATC, PTO or reevaluation was conducted under the provisions of Section I.C. (Cost Reimbursement). The next scheduled permit reevaluation date after adoption of this rule shall be the date for determining the permit reevaluation fee on the cost reimbursement basis. The District shall notify the permit holder of the deposit amount required and no permit reevaluation expenses shall be incurred until the deposit is received. The fee shall include any expenses for inspection, source testing or plan development that is part of the permit reevaluation. Subsequent to the first reevaluation on the cost reimbursement basis, all costs for District activities associated with the stationary source shall be charged to the permit holder on the basis of cost reimbursement.

**C. Cost Reimbursement Basis for Determining Fees**

- a. Reimbursable Costs
  - 1) The applicant or permit holder shall reimburse the District for all "reimbursable costs," as defined below.

2) Reimbursable costs are defined as:

a) District Labor. District labor costs incurred as a result of time spent by District employees and County Counsel for conducting necessary work with regard to a permit application or permit. Hourly rates, including District overhead costs, and County Counsel rates shall be established by the County Auditor-Controller. The rates charged are those established for the dates when work is performed.

b) Overtime. Overtime costs reasonably incurred by the District. Overtime shall be charged at 1.50 times the base hourly rate. Overhead will be charged only on the base rate. Overtime shall only be charged to an application, permit or source upon which overtime effort is expended.

c) Contractors. Outside consultants and contractors. Outside consultants and contractors may be hired by the District, when necessary to assist in conducting the necessary work subject to the provisions below.

- i. Prior to utilizing the services of any outside consultant, the District shall (a) notify the applicant or permit holder, in writing, of the reasons why an outside consultant will be retained and (b) provide the applicant or permit holder with the proposed scope of work and (c) identify the consultant proposed by the District. The applicant or permit holder shall have the right to review and comment on the scope of work and to propose no more than three (3) additional consultants or contractors; however, such consideration shall not require a competitive bidding process or a written decision by the District. If at any time the District deems it necessary to make additions, deletions or other modifications to the scope of work, the applicant or permit holder shall have the right to review, and provide comment on the modified scope of work. If the District elects not to revise the scope of work which an applicant or permit holder desires to revise, the District shall advise the applicant or permit holder in writing as to the reasons for the District's decision.
- ii. All proposed contracts which are to be administered under the District's Cost Reimbursement Provisions will be competitively bid if requested in writing by the applicant or permit holder prior to an application being deemed complete. Requests for Proposals (RFPs) with respect to all proposed contracts will be sent to all bidders deemed qualified by the District. District costs for administering the bidding process are reimbursable costs. The applicant shall have the right to appeal the District's selection of and/or the need for a consultant or contractor within ten (10) days to the Air Pollution Control Officer, whose decision shall be final. The Air Pollution Control Officer shall notify the applicant or permit holder in writing of the decision and the reasons therefore.

- iii. In the event an applicant requests use of competitively bid contracts an application shall be automatically deemed incomplete for purposes of District Rules and Regulations and any applicable timelines specified under the Permit Streamlining Act, Government Code section 65943, shall be waived by the applicant pending selection of an outside consultant and execution of a contract.
- iv. If the need for an outside consultant is determined by the District after an application is deemed complete, the procedure of Section I.C.a.2)c)i. shall apply.

b. Notice of Cost Reimbursement and Appeal

- 1) The District shall notify the applicant or permit holder in writing that (a) the District has determined the work will be done on the Cost Reimbursement Basis, (b) the grounds for such determination, (c) the projected total cost to obtain the permit applied for, and (d) the initial deposit amount as determined pursuant to Section I.C.d.
- 2) Upon receipt of such notification, the applicant or permit holder shall have ten (10) days in which to appeal the District's determination to use the cost reimbursement basis to the District Board of Directors. Failure to appeal within said ten (10) days shall bar the applicant or permit holder from contesting the Cost Reimbursement Basis.
- 3) Prior to the District Board hearing any appeal, the applicant or permit holder shall place on deposit with the District an amount equal to the District's projected costs for the next thirty (30) days of District work on the project. If the District prevails, the amount on deposit shall be applied to the cost reimbursement deposit.
- 4) Pending conclusion of any appeal pursuant to Section I.C.b., an application for permit shall be automatically deemed incomplete for purposes of District Rules and Regulations and any applicable timelines specified under the Permit Streamlining Act, Government Code section 65943 shall be waived by the applicant.
- 5) Notwithstanding any other provisions of this rule, the applicant or permit holder shall reimburse the District for costs associated with an appeal if the District prevails. If the appellant prevails, the District Board of Directors may, at its discretion, order that all or a portion of the costs paid be reimbursed to the appellant.

c. Audits

The applicant or permit holder shall have the right to audit any disputed reimbursable cost charged by the District.

- 1) If an applicant or permit holder elects to audit a disputed reimbursable cost item, the party shall notify the District in writing within thirty (30) days after the date of invoice and shall identify the reasons for the dispute.

- 2) The District shall provide the applicant or permit holder with documentary evidence supporting the basis and accuracy of the disputed reimbursable cost item. The District shall provide the documentation within thirty (30) days after receipt of written request, except that the Control Officer may extend the deadline for good cause.
- 3) If within fifteen (15) days of receipt from the District of the documentary evidence supporting the item, the dispute still remains, the applicant or permit holder may request an independent audit. The audit will be conducted by an independent auditor, approved by the applicant and the District.
- 4) Notwithstanding the provisions of I.C.c.1) and I.C.c.3), above, an applicant or permit holder may dispute any alleged fraudulent reimbursable cost by notifying the Control Officer in writing within 30 days of when the applicant or permit holder discovered or should have discovered the fraud. Such notice shall contain a detailed description of the facts and any available evidence which support the allegation. The Control Officer may order an audit and/or require additional information from the applicant or permit holder. The Control Officer shall issue a determination, in writing, within 60 days after receipt of the notice, which time may be extended by the Control Officer for good cause. The Control Officer may order all or a portion of the disputed cost and any costs incurred pursuant to I.C.c.5, below, be reimbursed to the applicant or permit holder. The Control Officer's decision shall be final.
- 5) Notwithstanding any ongoing dispute over costs, including where an audit is requested, the applicant or permit holder shall reimburse the District for all reimbursable costs no later than thirty (30) days after the date of invoice. Failure to pay all fees is grounds for discontinuing all District work on the Project and for denial of the permit application or for not renewing an existing permit. Costs incurred by the District pursuant to Sections I.C.c.2), I.C.c.3) and I.C.c.4), above, are reimbursable costs under this rule.

d. Deposits

When the cost reimbursement basis is used for District work, the applicant or permit holder shall place on deposit adequate funds to cover projected reimbursable costs for the next ninety (90) days of District work on the project. The District shall bill the applicant or permit holder monthly for all incurred expenses and the applicant or permit holder shall reimburse the District within thirty (30) days after the date of the monthly invoice. This process shall ensure sufficient funds are kept on deposit with the District to authorize necessary expenditures without delaying the work to be performed.

- 1) Funds placed on deposit will be subject to the handling charges and credited with interest payments specified in the policy of the Santa Barbara County Auditor Controller's Office including updates.
- 2) At the time the District requests the deposit of funds, or the payment in lieu of initial deposit, the District shall identify in writing the basis for the estimate of the projected costs to cover the first ninety (90) days of application evaluation.
- 3) If, at any time during the District's work, the District determines that additional funds are necessary to cover reimbursable costs for the next ninety (90) days, an additional deposit may be required of the applicant or permit holder. The District's request for an additional deposit shall be in writing and specify the basis for such request. The applicant or permit holder shall pay the additional funds within thirty (30) days after the date of an invoice from the District.

- 4) If at any time the District determines that the amount on deposit is greater than that needed to cover the projected costs for the next ninety (90) day period, the District shall return the amount of the deposit which exceeds the projected costs.
- 5) An applicant or permit holder shall maintain on deposit with the District, sufficient funds to cover projected District cost for a ninety (90) day period for work performed after permit issuance.
- 6) If, at any time during the evaluation of an application or permit, the application is withdrawn or a permit is terminated, or canceled, the amount remaining in the applicant's deposit account shall be refunded, provided that all reimbursable costs for said application or permit have been deducted, including costs reasonably incurred after date of notification, by the District prior to refunding.

Notwithstanding the above, if the projected total cost for District review of an application or a permit is less than \$1,500, the District may request the total projected amount as a nonrefundable, lump sum payment in lieu of an initial deposit.

#### **D. Source Test and Sampling Fees**

These fees shall be in addition to other fees charged pursuant to this section.

1. The District may order Source Testing
  - a. Pursuant to Rule 205.D., prior to the issuance or reissuance of any permit.
  - b. If the District has reasonable cause to believe that discharge of air contaminants into the atmosphere from any source violates any permit condition or any federal, state or local law, order, rule or regulation relating to air pollution.

If the source testing is conducted by the District or its agent, the permit holder or other billable entity responsible for complying with District Rules and Regulations shall pay a fee for the source testing based on the provisions of Section I.C. (Cost Reimbursement).

Alternatively, at the request and expense of the permit holder and with the approval of the District, testing may be performed by a private company. In this case, a fee to recover District costs for review of the source test plan, observation of the source test and evaluation of the source test results shall be assessed as follows:

- c. Unless otherwise provided in this Rule, if a source was assessed a fee for a District permit under the provisions of Section I.B. (Fee Schedule Basis) or if the source is not required to have a District permit, the fee shall be assessed in accordance with Schedule C.
- d. If a source was assessed a fee for a District permit under the provisions of Section I.C. (Cost Reimbursement Basis), the fee shall be assessed in accordance with Section I.C.

2. Sampling of Products and Materials

Pursuant to Health and Safety Code Section 41512, if the District determines that sampling and analysis of products or materials are required to determine compliance with District Rules and Regulations, the permit holder or other billable entity responsible for complying with District Rules and Regulations shall be assessed a fee in accordance with Schedule D.

**E. Other Fees**

1. Transfer of Ownership

An application filed for purposes of transferring a permit from one permit holder to another shall pay a filing fee as specified in item 1 of Schedule F. A change in business name only shall not be assessed a fee.

2. Change in Location

An application to change the location of a permitted item of equipment within the existing boundaries of the facility, which the District determines will have no potential impact on air quality, shall not be assessed a fee. An application to relocate a permitted item of equipment to a new site, outside the existing boundaries of the facility, shall be assessed the filing fee, plus the permit fee for a new ATC and/or PTO as prescribed in Section I.B. or I.C.

3. Change in Permitted Production Rate

An applicant requesting modification of a permit to decrease production rate or throughput limits shall be assessed a fee as specified in item 5 of Schedule F. If the District determines costs will not be recovered from item 5 of Schedule F the Control Officer shall have the option of placing the request under Cost Reimbursement basis as prescribed in Section I.C. If the District determines the modification has the potential to increase emissions or impacts, the applicant shall be assessed fees for the permit modification(s) as prescribed in Section I.B. or I.C..

4. Fee For Administrative Changes

Changes to permits which are deemed by the Control Officer to be administrative shall be assessed and a fee as specified in item 6 of Schedule F.

5. Cooling Towers with Hexavalent Chromium

- a. Any person submitting a compliance plan pursuant to Rule 335, Section I.2. shall pay a fee as specified in item 7 of Schedule F.
- b. Any person submitting a compliance plan pursuant to Rule 335, Section I.2. with the delayed compliance date for wooden cooling towers (Section C.4) shall pay an additional plan filing fee as specified in item 8 of Schedule F.
- c. The required filing fee shall be paid when the compliance plan is submitted.

6. Other Changes

An application to change any provision of an existing permit, other than those changes described in Section E.1. through E.4 above, shall be assessed all fees for a modified ATC and/or PTO as prescribed in Section I.A., I.B. or I.C.

**F. Air Quality Plans**

The fees charged under this Section of Rule 210 are earmarked for the preparation of mandated air quality plans necessary for the attainment and maintenance of ambient air quality standards.

Preparation of Air Quality Plans are mandated by a State Implementation Plan (SIP) call, issued by the U.S. Environmental Protection Agency (EPA), or by the State pursuant to Health and Safety Code Section 40910 et. seq. Fees may be assessed to cover District costs incurred upon notification by the U.S. Environmental Protection Agency (EPA) of an upcoming SIP call as well as after formal notification by EPA. The Control Officer shall report to the Executive Board of the District on a triennial basis summarizing the work performed during the proceeding three years, the work planned and the continued adequacy and necessity of this fee.

Fees shall be charged annually to cover costs incurred by the County for preparation of each Air Quality Plan.

1. Applicability.

a. All holders of District permits for Authority to Construct or Permit to Operate whose stationary source, as defined in Rule 102, discharges pollutants within the District, shall pay an annual fee as follows:

- 1) Only the pollutants, including precursor pollutants, identified by the EPA in the SIP call or designated a non-attainment pollutant by the Air Resources Board (ARB) shall be included in determining the annual fee.
- 2) Stationary sources that discharge ten (10) tons or more per year of any one of the pollutants identified by the EPA in the SIP call or designated a non-attainment pollutant by the State Board shall be included in assessing the fee.
- 3) The stationary source subject to the fee shall be:
  - a) for a SIP call, all sources located in the geographic region identified in the SIP call;
  - b) for state mandated plans, all sources located in the geographic region identified by the State Board; or
  - c) the Control Officer shall designate the planning area if a region is not identified as specified above.

b. The annual fee shall be calculated and assessed as specified in Sections I.F.2 and I.F.3.

2. Basis of Fee

a. Fees shall be assessed for stationary sources based on emissions. The emissions shall be determined as follows:

- 1) For a stationary source which receives a PTO on or after January 1, 1988, the fee shall be based on the maximum emissions permitted by the PTO except for sources described in Section I.F.2.a.2) below. For a stationary source which

held an ATC, but not a PTO, on or after January 1, 1988, the fee shall be based on maximum annual emissions permitted by the ATC.

- 2) For a source which receives a PTO after January 1, 1988, to comply with Rule 202 exemptions from permit, as revised December 7, 1987 and January 11, 1988, the fee shall be based on emission quantities used for assessment of fees pursuant to Section I.H. based on actual annual emissions at the stationary source.
  - 3) For a stationary source which held a PTO on or prior to January 1, 1988, the fee shall be based on emission quantities used for assessment of fees pursuant to Section I.H.
- c. The District may adopt, by regulation, a schedule of fees to be assessed on areawide or indirect sources which are regulated, but for which permits are not issued by the District to recover the costs of District programs related to these sources (Health & Safety Code Section 42311(g)).
3. Fee Schedule and Assessment of Fee.
    - a. The schedule of fees to be charged for each ton of pollutants subject to this Rule is specified in Schedule B-1.
    - b. The annual fee assessed for each stationary source shall be calculated as the stationary source emissions within the District multiplied by the unit fee prescribed in Schedule B-1.

#### **G. Air Toxics Program**

All stationary sources with a District permit shall pay an annual fee based on annual emissions multiplied by the Air Toxics Program unit fee prescribed in Schedule B-2. The annual toxic emissions shall be determined pursuant to Section I.H. The fees assessed under this provision are independent of any permit fees that may be assessed for an ATC, PTO or reissuance of a PTO.

#### **H. Annual Emission Fee**

1. All stationary sources subject to District permit shall pay an annual fee based on annual emissions multiplied by the unit fees prescribed in Schedule B-3. Actual emissions shall be based on data provided by the permit holder and verified by the District. Such Data shall be sufficient to calculate the total emissions of each air contaminant for all permitted equipment at a stationary source. Pursuant to Health and Safety Code Section 42303, all permit holders subject to this provision shall submit data which are determined necessary by the District to calculate actual emissions. The necessary data shall be submitted within 30 calendar days after receipt of the request from the District.
2. For stationary sources evaluated under Regulation VIII, the annual fee due for each contaminant shall be reduced by the "increment fee" as specified in Regulation VIII paid for that contaminant during the prior twelve months.

#### **I. Programs Conducted by the State Air Resources Board**

The fees assessed under this Section are collected by the District and transmitted to the ARB to enable the ARB to implement the Atmospheric Acidity Protection Program (AAPP) and the California Clean Air Act

(CCAA) mandated by Health and Safety Code Section 39900 et. seq. and Sections 90800-90803, Title 17, California Code of Regulations, respectively. The fees are based on emissions and shall be assessed for certain stationary sources.

AAPP fees shall be assessed for stationary sources with a PTO that discharge 500 tons or more of either nitrogen oxides or sulfur oxides in any calendar year.

CCAA fees shall be assessed for stationary sources with PTO that discharge 500 tons or more, in any calendar year, of any nonattainment pollutant, or precursor.

Both the fees and the calendar year on which the fees are based shall be determined by the ARB, calculated by the following formula:

$$\text{AAPP Fee amount} = A \times \text{AAPP Unit Fee}$$

$$\text{CCAA Fee amount} = B \times \text{CCAA Unit Fee}$$

where:

A = total tons per year of nitrogen oxides and sulfur oxides, expressed as nitrogen dioxide and sulfur dioxide, respectively, from the stationary source during a calendar year. In calculating the fee amount, the actual emissions of either nitrogen oxides or sulfur oxides, if less than 500 tons per year, shall not be counted.

B = total tons per year of the nonattainment and precursor pollutants from the stationary source during a calendar year. The nitrogen oxide and sulfur oxide pollutants shall be expressed as nitrogen dioxide and sulfur dioxide, respectively. In calculating the fee amount, the actual emissions of any nonattainment pollutant or its precursors if less than 500 tons per year, shall not be counted.

AAPP and CCAA Unit Fee = fee expressed as dollars per ton specified for each fiscal year, as determined by the ARB for each of the two programs.

To cover District costs for the collection of the AAPP and CCAA fees, an administrative fee as specified in items 9 and 10, respectively, of Schedule F shall be assessed for each stationary source and for each of the two ARB programs.

Payment of the AAPP and CCAA fees shall be made to the District within sixty (60) calendar days after the invoice date.

## **II. FEES FOR SOURCES WHICH DO NOT REQUIRE DISTRICT PERMITS**

Fees shall be charged to sources of emissions which do not require a District permit, if the District incurs cost to evaluate plans required by law or to determine whether a source is in compliance with federal, state or local air quality rules and regulations.

### **A. Fees for Asbestos Demolition and Renovation**

A non-refundable fee shall be assessed for asbestos demolition and renovation operations subject to the notification provisions of District Regulation X, Rule 1001, National Emission Standards for Hazardous Pollutants. The fee shall be assessed in accordance with Schedule E and shall be paid by the asbestos demolition and renovation contractor at the time an asbestos demolition and renovation project notice is filed with the District.

**B. Fees for Determination of Permit Exemption**

If a request is made for a written determination of whether equipment is exempt from the requirement for a District permit, a fee as specified in item 11 of Schedule F shall be assessed to the equipment owner or operator to determine the eligibility for exemption.

**III. OTHER COST REIMBURSEMENT ACTIVITIES**

**A. Monitoring Fee**

The owner/operator of a stationary source shall pay all District costs associated with installation, operation, maintenance of equipment, and the review, transmittal, storage, and evaluation of data for ambient and continuous emission monitoring activities required under District rules, regulations, permit conditions, or agreements. These costs shall be assessed and paid in accordance with Section I.C. (Cost Reimbursement Basis).

**B. Other Inspection and Enforcement Fees**

If inspection and enforcement activities are required by permit conditions or to investigate or correct a violation, and the District determines a permit holder is responsible, a fee may be assessed and shall be paid by the violator as prescribed in Section I.C. (Cost Reimbursement Basis). Violations are defined as infractions of District rules or specific permit conditions. The District's activities may be triggered by the following conditions:

1. Notice of Violation which leads to a settlement in which the permit holder agrees to pay such cost or where the Notice of Violation results in a finding that the permit holder has committed the alleged violation.
2. Inspections and other activities required by permit conditions, including any plans or procedures which require District action, such emergency procedures.

**C. Plans, Agreements, and Studies**

Fees shall be assessed for District activities, identified below, which may be performed for a stationary source. The fee shall be assessed in accordance with the provisions of Section I.C. (Cost Reimbursement Basis) and shall be paid by the owner/operator of the stationary source to the extent the District determines the need for the activity is caused by the stationary source. The activities include the following:

1. Review and preparation of plans including, but not limited to, Curtailment Plans, Episode Plans, Source Test Plans, Odor Monitoring Plans.
2. Review and preparation of special agreements, including offset agreements.
3. Review and preparation of special studies required by the District or requested by the applicant.
4. Review and preparation of environmental documents required under CEQA or NEPA in which the District is lead agency, responsible agency or trustee agency.

## **IV. HEARING BOARD FEE**

### **A. Variance**

1. Except as otherwise provided in this Rule, every applicant or petitioner for a variance from these rules, except an emergency variance, shall pay a filing fee as specified in item 12.a of Schedule F.
2. If a petition is filed for a variance from the requirements of a District permit that was assessed a fee under Cost Reimbursement Basis, the petitioner shall pay a fee as specified in accordance with Section I.C. Additionally, every petitioner shall pay a filing fee as set forth in item 12.b of Schedule F.
3. Each additional ton of pollutant emissions or portion thereof allowed as the result of the issuance of any variance shall result in an emission fee, calculated on the basis of each excess ton of emissions and a fee shall be assessed as specified in item 12.e. of Schedule F.

### **B. Permit Appeal**

Every applicant or petitioner in a proceeding before the Hearing Board to appeal the denial, suspension or conditional approval of a permit shall pay a filing fee as specified in item 12.c. of Schedule F. An additional fee as specified in item 12.d. of Schedule F. shall be paid for each two hours, or portion thereof, of hearing in addition to the first hearing day necessary to dispose of the appeal. In the event a petition is withdrawn prior to the hearing, one-half the filing fee may be refunded. No appeal shall be heard unless all permit processing fees have been paid including those cases where the fee itself is being appealed. A portion of the fees may be refunded to the extent determined by the Hearing Board. The Hearing Board shall order the appeal filing fee refunded where the Hearing Board determines the appellant has prevailed on the appeal.

Notwithstanding any fees assessed for evaluating or reevaluating a permit, if the Hearing Board directs the District and the petitioner to negotiate the resolution of the issues under appeal and the negotiations are not conducted during a Hearing Board hearing, the Hearing Board shall establish a specified hour limit for negotiation and the petitioner shall be assessed a fee on the basis of Cost Reimbursement to recover costs for District staff and County Counsel labor incurred during such negotiations.

### **C. Abatement Orders**

Upon investigation and determination that a violation of Health and Safety Code Sections 41700 or 41701 or of any order, permit condition or any District rule or regulation prohibiting or limiting the discharge of air contaminants into the air is found to exist, the Air Pollution Control Officer shall notify the violator in writing of the District's intent to assess fees to recover all administrative costs, including County Counsel costs, associated with the preparation, issuance and implementation of abatement orders and of the violator's right to a hearing on objections thereto. When an abatement order is issued and every thirty (30) calendar days thereafter until the case is concluded, an invoice shall be issued summarizing the labor hours and associated costs actually incurred payable by the violator. The labor costs shall be based on hourly rates, approved by the County Auditor-Controller in effect at the time costs are incurred. If the violator objects to the invoiced amount, a request to the Hearing Board for a hearing shall be filed within ten (10) calendar days of the invoice date. Within thirty (30) calendar days of the filing of a request for hearing and on ten (10) calendar days written notice to the violator, the hearing shall be held on the objection in order to determine the validity thereof. In the event no request for hearing is filed or after the Hearing Board affirms the validity of the invoiced costs, the violator shall pay the District the amount stated within thirty calendar (30) days of the invoice date if no request for hearing is filed or within thirty calendar (30) days of the hearing date if a hearing is held. These fees do not preclude fines collected under mutual settlement policy.

## V. GOVERNING PROVISIONS

### A. Payment of Fees and Penalties

Unless otherwise provided in this Rule, this section is applicable to all fees mandated by this Rule and by the Health and Safety Code.

#### 1. Payment of Fees

- a. Payment of any filing fee shall be made at the time an application, petition or notice is filed.
- b. Payment of any fee other than a filing fee shall be made to the District within thirty (30) calendar days after the invoice date.

#### 2. Penalty for Nonpayment of Fees Other Than Cost Reimbursement

If payment is not received within thirty (30) calendar days after the invoice date, the Air Pollution Control Officer shall promptly notify the person subject to the fee in writing that the payment is overdue and a penalty shall be imposed if payment is not received within sixty (60) calendar days of the invoice date. The penalty shall be ten (10) percent of the fee initially invoiced for each thirty (30) calendar day period, or portion thereof, that the payment is overdue and the Air Pollution Control Officer may initiate action to revoke the permit. For fees mandated by Health and Safety Code Section 44300 et. seq., the penalty shall not exceed 100% of the fee.

#### 3. Payment of Deposits and Fees Based on Cost Reimbursement and Requirements for Appeal

- a. The applicant or permit holder shall make a deposit and pay any fee required pursuant to this Rule within thirty (30) days after the date of District invoice. If an applicant or permit holder fails to meet this requirement, the District may discontinue work on the project.
- b. If an application for permit has been deemed complete and the initial deposit or other required fee is not paid within thirty (30) days after the date of District invoice, the Control Officer may deny the permit.
- c. If the initial deposit or other required fee for reevaluation or implementation of an existing permit is not paid within thirty (30) days, after the date of District invoice, the permit may not be reissued and the existing permit may be suspended by the District or may be grounds for permit revocation pursuant to Health and Safety Code Section 42307.
- d. Where an application has been denied or an existing permit has been suspended pursuant to Sections V.A.3.b and V.A.3.c above, and that decision by the Air Pollution Control Officer has been appealed to the Hearing Board, the appeal shall not be heard until all invoiced funds are submitted to the District. Furthermore, the appeal shall be dismissed by the Hearing Board if the appellant did not first exhaust the administrative remedies as set forth in Sections I.C.b. and I.C.c.

#### 4. Failure to Obtain Permit

An applicant seeking an ATC or PTO for equipment for which an Authority to Construct was required but not obtained, shall pay a fee double that prescribed for the ATC in Section I. If operation of equipment is conducted without a valid PTO, the fee prescribed in Section I. for the PTO plus annual permit renewal and emission fees that would have been assessed with a valid PTO, shall be doubled. The amount due may be reduced by the amount paid under a Notice of Violation issued for the unpermitted equipment.

5. Payment for Reapplication

If a permit has been suspended or voided due to nonpayment of fees and application is made to reinstate the permit, no permit shall be issued and no cost will be incurred by the District with regard to that permit until all prior fees and associated penalties have been paid. If, during the processing/evaluation of a permit application, an application is withdrawn or payment of fees by the applicant does not conform to the provisions of this Rule, the District shall terminate work on the application. No reapplication, or any new application by the same applicant shall be accepted by the District until all fees and penalties for the terminated application have been paid.

6. Nonpayment of Fees - General

The District may refuse to issue or to reissue any permit or accept any application for a permit from an applicant or permit holder responsible for payment of any delinquent fee until all delinquent fees and all associated penalties are paid in full.

**B. Effective Date**

All fees specified in this Rule shall become effective on the date of Rule adoption.

**C. Annual Adjustment in Fees**

Any fees prescribed in this Rule may be adjusted annually by the Air Pollution Control Officer based on the change in the California Consumer Price Index (CPI) for the preceding year, as determined pursuant to Section 2212 of the Revenue and Taxation Code. All other revisions of this Rule require approval of the District's Board of Directors. As provided for in Health and Safety Code, 42311, as amended, sufficient fees shall be charged to enable the District to recover estimated reasonable costs of all District programs related to permitted stationary sources.

**D. Use of Fee Schedules**

In the event more than one fee schedule is applicable to an item of equipment, article, machine or other contrivance, the higher fee schedule shall prevail. Where several items of equipment are permitted under a single PTO, the fee shall be assessed as the sum of the fees for the individual items.

**E. Consolidation of Existing Permits**

Where more than one PTO has been issued for the equipment at any one stationary source, and one or more of the permits is due for renewal, or an application is filed for permit modification, the District may consolidate permits, including consolidation into a single permit for the entire plant or facility. At the time of consolidation, a single date will be set for permit renewal of all equipment included in the consolidated permit. In determining the fee for a consolidated permit, credit will be given for any PTO which has not yet expired on the issuance date of a consolidated permit. The fee for the consolidated permit will be reduced on a pro rata basis for the time remaining on the unexpired permit in determining the fee for the consolidated permit.

**F. Rule Precedence and Applicability**

Notwithstanding any rule to the contrary, this Rule shall apply to all permit holders or applicants regardless of the date of their application or permit issuance, and the rules in effect on that date. Pursuant to the Health and Safety Code, Sections 39047 and 42311(a), this section shall apply to all persons applying for a permit or holding a permit.

**G. Refund of Filing Fee**

Except as otherwise provided in this Rule, any required filing fee or portion thereof shall not be refunded or applied to any subsequent application or petition.

**H. Reevaluation Date**

The date on which a permit reevaluation is due is three years from the initial issuance of the PTO and every three years thereafter, notwithstanding any delay in reissuance of a PTO due to an appeal.

## SCHEDULE A

### Facility/Equipment Description / Fee Schedule

The fees prescribed in this section pertain to any article, machine, equipment or other contrivance (hereinafter, "equipment") which emits air contaminants, or causes such emissions, and which is not exempted under Rule 202.

1. Miscellaneous Equipment:

Miscellaneous equipment is any equipment not included in a fee schedule listed below and which emits or may emit air contaminants or causes such emissions. Miscellaneous equipment shall be assessed a fee as follows:

- a. If equipment other than miscellaneous equipment at a stationary source is included in any fee schedule listed below, the miscellaneous equipment shall be assessed a fee of \$40 per item of equipment.
- b. If the miscellaneous equipment is the only equipment at a stationary source, the minimum fee assessed under this schedule for all miscellaneous equipment shall be \$250.

2. Electric Motor Horsepower Fee Schedule:

Any equipment where an electric motor is used to drive the equipment, except for oilfield wellhead pumping units and items 10 and 11 of Schedule A, shall be assessed a fee based on the total rated motor horsepower of each motor included in any such equipment, in accordance with the following formula:

Fee = \$20.75 times (X), (rounded to nearest dollar)

Where "X" is horsepower, and the

Minimum fee = \$40.34

Maximum fee = \$4,015.00

3. Fuel Burning Equipment Fee Schedule:

Any equipment in which fuel is burned, with the exception of incinerators which are covered in Schedule 4, shall be assessed a fee based upon the maximum design fuel consumption of the equipment expressed in British thermal units (Btu) per hour, using gross heating values of the fuel in accordance with the following formula:

Fee = \$300 times (X), (rounded to nearest dollar)

Where "X" is the maximum fuel consumption in 1,000,000 Btu per hour and the

Minimum fee = \$40.34

Maximum fee = \$4,015.00

4. Electrical Energy Fee Schedule:

Any equipment which uses electrical energy shall be assessed a fee based on the total kilovolt amperes (KVA) ratings, in accordance with the following formula:

Fee = \$4.03 times (X), (rounded to the nearest dollar)

Where "X" is the KVA rating in 10's, and the

Minimum fee = \$40.34

Maximum fee = \$4,015.00

5. Incinerator Fee Schedule:

Any equipment used primarily to dispose of combustible refuse by wholly consuming the material charged, leaving only ashes or residue, shall be assessed a fee based on the maximum cross sectional area of the combustion chamber(s), in accordance with the following formula:

Fee = \$50 times (X), (rounded to nearest dollar)

Where "X" is the total horizontal inside cross-sectional area in square feet and the

Minimum fee = \$40.34

Maximum fee = \$2,007.00

6. Stationary Container Fee Schedule:

Any stationary tank, reservoir, or other container, except gasoline storage tanks at motor vehicle fueling facilities, shall be assessed a fee based on volumetric capacity, in accordance with the following formula:

Fee = \$2.30 times (X), (rounded to nearest dollar)

Where "X" is the capacity in 1000 gallons and the

Minimum fee = \$40.34

Maximum fee = \$2,007.00

7. Dry Cleaning Equipment Fee Schedule:

Any equipment used in a dry cleaning operation using organic solvents shall be assessed a fee of \$40.00 for each item of equipment.

8. Motor Vehicle Gasoline Fueling Facilities Fee Schedule:

Motor vehicle gasoline fueling facilities equipped with Phase II vapor recovery dispensing nozzles shall be assessed a fee, which includes the fee for gasoline storage tanks, in accordance with the following formula:

Fee = \$23 times (X)

Where "X" is the number of nozzles and the

Minimum fee = \$160.00

Maximum fee; none

Motor vehicle gasoline fueling facilities without Phase II vapor recovery dispensing nozzles shall be assessed a fee of \$300.00 regardless of the number of dispensing nozzles.

9. Ethylene Oxide Sterilizer Fee Schedule:

Any ethylene oxide sterilizer and associated control equipment shall be assessed a fee based on the total amount of ethylene oxide used, in accordance with the following formula:

<b>Amount of Ethylene Oxide Used per Year, in Pounds</b>	<b>Fee</b>
250 pounds per year or less	\$1600.00
Over 250 pounds per year	\$4000.00

10. Rock Crusher Fee Schedule:

Equipment used to crush rocks shall be assessed a fee of \$40.00 for each device. This applies to jaw crushers, cone crushers, and hammer mills.

11. Stacker Belt Fee Schedule:

A belt used to stack minerals to form a storage pile shall be assessed a fee of \$40 for each stacker belt.

FEE RATES SHOWN HERE HAVE BEEN INCREASED.  
PLEASE SEE THE ADJUSTED FEE TABLES.

**SCHEDULE B-1  
FEE FOR AIR QUALITY PLAN**

<b>EMISSION RANGE (tons per year)</b>	<b>AIR QUALITY PLAN FEE</b>
0 - 10	0
>10 - 25	\$31 per ton
>25 - 100	\$47 per ton
>100	\$62 per ton

Emission Range shall be determined as the sum of Reactive Organic Compounds and Oxides of Nitrogen (expressed as nitrogen dioxide) for the ozone attainment plan pursuant to the California Clean Air Act of 1988.

FEE RATES SHOWN HERE HAVE BEEN INCREASED.  
PLEASE SEE THE ADJUSTED FEE TABLES.

**SCHEDULE B-2  
FEE FOR AIR TOXICS PROGRAM**

<b>EMISSION RANGE (pounds/year)</b>	<b>AIR TOXICS PROGRAM UNIT FEE</b>
0 - 2,000	0
> 2,000	\$0.25 per pound of air toxic emissions

*FEE RATES SHOWN HERE HAVE BEEN INCREASED.  
PLEASE SEE THE ADJUSTED FEE TABLES.*

**SCHEDULE B-3  
ANNUAL EMISSION FEE  
[Effective 5/7/91]**

<b>Emission Range (tons per year)</b>	<b>Emission Fee</b>
0 - 10	\$250 total
>10 - 25	\$ 55 per ton
>25 - 100	\$ 83 per ton
>100	\$110 per ton

Emission Range shall be determined as the sum of Reactive Organic Compounds, Oxides of Nitrogen (expressed as nitrogen dioxide), Gaseous Sulfur Compounds (expressed as sulfur dioxide), and Particulate Matter.

FEE RATES SHOWN HERE HAVE BEEN INCREASED.  
PLEASE SEE THE ADJUSTED FEE TABLES.

**SCHEDULE B - 3**  
**[Effective July 1, 1991]**

ANNUAL EMISSION FEE

<b>Emission Range (tons per year)</b>	<b>Emission Fee</b>
0 - 10	\$250 total
>10 - 25	\$69 per ton
>25 - 100	\$104 per ton
> 100	\$138 per ton

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Emission Range shall be determined as the sum of Reactive Organic Compounds, Oxides of Nitrogen (expressed as nitrogen dioxide), Gaseous Sulfur Compounds (expressed as sulfur dioxide), and Particulate Matter.

FEE RATES SHOWN HERE HAVE BEEN INCREASED.  
PLEASE SEE THE ADJUSTED FEE TABLES.

**SCHEDULE C**  
**FEE SCHEDULE FOR REVIEW, OBSERVATION AND EVALUATION OF SOURCE TESTS FOR EQUIPMENT**  
**EVALUATED UNDER SCHEDULE A\***

SOURCE	SOURCE TEST FEE**
Boiler or Heater	\$1,025
Piston Type Engine	
- one engine	\$1,025
- each additional engine	\$ 273
Thermal Oxidizer	\$1,025
Wet Scrubber (gaseous)	\$1,025
Wet Scrubber (particulates)	\$1,365
Baghouse	\$1,365
Gas Turbine	\$1,365
Heater Treater	\$1,365
Other	\$1,365

\* This fee schedule shall not be used to determine fees for source testing of equipment which discharges non-criteria pollutants, including toxics and heavy metals. Such equipment will be assessed fees on the Cost Reimbursement Basis (Section I.C.)

\*\* If source testing includes determining the efficiency of an emission control device, the fee shall be increased by 50 percent. If source testing is conducted offshore, the fee shall be increased by 25 percent.

**SCHEDULE D  
SAMPLE AND LABORATORY ANALYSIS FEES**

<b>SAMPLE TYPE</b>	<b>COST PER SAMPLE*</b>
Sulfur in Fuel Oil	\$123
Sulfur in Fuel Gas	\$198
Btu in Fuel Gas	\$198
Crude Oil TVP	\$313
Coatings - Volatile Content	\$238
Solvent Speciation	\$348
Asphalt Analysis	\$198
Asbestos Content	\$ 98

\* Fees include costs incurred by the District for sample analysis by an independent laboratory.

FEE RATES SHOWN HERE HAVE BEEN INCREASED.  
PLEASE SEE THE ADJUSTED FEE TABLES.

**SCHEDULE E  
FEES FOR ASBESTOS DEMOLITION AND RENOVATION**

At the time written notice is required to be submitted to the District, contractors for asbestos demolition/renovation operations subject to District Regulation X., Rule 1001, Subpart M of Attachment I and federal regulation 40 CFR, Part 61, Subpart 61.145, shall pay the following fee:

Quantity of Asbestos	Fee
Demolition only:	
Less than 260 linear feet or 160 square feet	\$75
Demolitions and renovations:	
Greater than 260 linear feet or 160 square feet but less than 500 linear or square feet	\$300
Greater than 500 but less than 1000	\$425
1000 or greater but less than 2500	\$570
2500 or greater but less than 5000	\$705
5000 or greater but less than 10,000	\$825
10,000 or greater	\$975

FEE RATES SHOWN HERE HAVE BEEN INCREASED.  
PLEASE SEE THE ADJUSTED FEETABLES.

**SCHEDULE F**

**Item #**

1. Authority to Construct or Permit to Operate Application Filing Fee - \$230.41 per application.
  2. Minimum triennial Permit to Operate reevaluation fee (except for motor vehicle fueling facilities) - \$250.
  3. Annual Permit to Operate reevaluation fee for motor vehicle fueling facilities equipped with Phase II vapor recovery nozzles - \$14 per nozzle.
  4. Additional reinspection fee for Phase II motor vehicle fueling facilities failing the first inspection - \$14 per nozzle per additional inspection.
  5. Fee for change in Production rate - \$250 per permit.
  6. Fee for Administrative Change - \$250 per permit.
  7. Fee for Cooling Towers with Hexavalent Chromium compliance plan - \$310 per compliance plan submitted.
  8. Fee for Cooling Towers with Hexavalent Chromium with delayed compliance plan date - \$100 per delayed compliance plan submitted.
  9. Annual Atmospheric Acidity Protection Program (AAPP) Administrative Fee - \$350 per stationary source.
  10. Annual California Clean Air Act (CCAA) Administrative Fee - \$350 per stationary source.
  11. Fee for Written Determination of Permit Exemption - \$350 per determination.
  12. Hearing Board:
    - a. Filing Fee (Fixed Fee Permit):
      - Emergency Variance: \$60 if the requested length of the variance is fifteen (15) days or less; \$120 if the requested length of the variance is greater than fifteen (15) days.
      - Interim Variance                   \$ 140
      - 90 - day Variance                   \$ 750
      - Regular Variance                   \$ 750
- Additional Fee for Regular Variances:
- Regular Variances: If the requested length of the variance is greater than three (3) month, the petitioner shall pay an additional fee of \$275 for each month or portion thereof over three (3) months that the variance is requested.

b. Filing Fee (Cost Reimbursement Permit):

-	Emergency Variance	\$60
-	Interim Variance	\$345
-	90-day Variance	\$345
-	Regular Variance	\$345

c. Permit appeal filing fee - \$400 per petition.

d. Permit appeal hearing time after first hearing day, for each two hours or portion thereof - \$200.

e. Excess emissions fee shall be \$160 per ton.

FEE RATES SHOWN HERE HAVE BEEN INCREASED.  
PLEASE SEE THE ADJUSTED FEE TABLES.