

MONTEREY BAY UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 305 - FEES FOR RISK ASSESSMENTS, RISK NOTIFICATIONS, AND RISK REDUCTION PLANS AND REPORTS

(Adopted 11/9/88; and Revised 1/18/89, 5/16/90, 5/15/91, 6/26/91, 4/15/92, 5/12/93, 5/25/94, 4/26/95, 12/20/95, 6/19/96, 6/18/97, 6/17/98, 6/16/99, 6/21/00, 6/20/01, 6/19/02, 6/18/03; and 6/16/04).

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PART 1 GENERAL

1.1 Purpose

The purpose of this Rule is to provide revenue to implement the requirements of the Air Toxics "Hot Spots" Information and Assessment Act of 1987 as provided in Health and Safety Code Section 44300 through 44394, and District Rule 1003. The fees required pursuant to this Rule shall be in addition to permit and other fees currently required.

1.2 Applicability

This Rule applies to any facility which manufactures, formulates, uses, or releases any of the substances listed by the California Air Resources Board, pursuant to the California Health and Safety Code Section 44320, or any other substance that reacts to form a substance so listed, unless the facility is determined to be exempt as defined in Rule 1003, Section 1.3.

1.3 Exemptions

Facilities that do not meet the applicability definition are exempt from fees.

1.4 Effective Date

This Rule as revised is effective July 1, 2004.

PART 2 DEFINITIONS

2.1 Air Release or Release

Any activity that may cause the issuance of air contaminants, including the actual or potential spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of a substance into the ambient air and that results from the routine operation of a facility or that is predictable, including, but not limited to, continuous and intermittent releases and predictable process upsets or leaks.

2.2 District

The Monterey Bay Unified Air Pollution Control District unless otherwise specified herein.

2.3 Facility

Every structure, appurtenance, installation, and improvement on land which is associated with a source of air releases or potential air releases of a hazardous material, as identified by the District.

2.4 Facility State Fee

The individual facility fees determined by the State Air Resources Board and the California Office of Environmental Health Hazard Assessment methodology. The amounts are based on the State Rule found in the *Air Toxics "Hot Spots" Information and Assessment Act*, Subchapter 3.6, *Air Toxics "Hot Spots" Fee Regulation*, Section 90700-90705. The fees in the Rule are set annually by the California Air Resources Board and the California Office of Environmental Health Hazard Assessment implement and administer the Act.

2.5 Operator

The person who owns or operates a facility or part of a facility.

2.6 Public Notification Process

The process of public notifying all property addresses within the risk area set by the Board requiring public notification.

2.7 Risk Audits

Reports sent to the District which describe the significant contributors to the total air risk from a facility.

2.8 Risk Reduction Plans

Reports sent to the District describing how emissions can be reduced to most effectively reduce the total air risk from a facility.

2.9 Supplemental Risk Assessment

A risk assessment that does not follow the methodology of the District.

PART 3 FEES

3.1 Fee Determination

3.1.1 Public Notification Fees

Sources required to complete the Public Notification Process are required to pay for the cost of District time at \$101 per hour, postage, and the cost of the mailing service to provide the public notification mailings.

3.1.2 Audit and Plan Fees

Sources required to prepare a Risk Audit and Risk Reduction Plan are required to pay for the cost of District time at \$101 per hour for the review effort.

3.1.3 Supplemental Risk Assessment Fee

Sources electing to prepare a supplemental risk assessment report are required to pay a fee of \$101 per hour for the District risk assessment review.

3.1.4 State Fee

Facilities identified in the State Fee Rule, *Air Toxics "Hot Spots" Information and Assessment Act*, Subchapter 3.6, *Air Toxics "Hot Spots" Fee Regulation*, Section 90700-90705, shall pay in accordance with the State fee schedule.

3.2 Fee Payment and Collection

A statement will be sent to each affected source stating the amount required. Payment is required within 30 days or the fee will be considered past due. The 30-day payment period for fee payment may be extended for extraordinary circumstances at the discretion of the District Air Pollution Control Officer (APCO). The adequacy of cause to extend the period shall be decided on a case-by-case basis by the APCO.

3.3 Fee Penalty

If any fee payment required pursuant to this Rule is not submitted within 30 days of the issuance date of the District's billing statement, it shall be considered delinquent, and penalties for the delinquency shall be imposed as set forth below.

3.3.1 For purposes of this Part any fee payment shall be considered to be timely if it is postmarked on or before the 30th day following the statement issuance date. If the 30th day falls on a Saturday, Sunday, or holiday, the fee payment may be postmarked on the next business day with the same effect as if it had been postmarked on the 30th day.

3.3.2 If no fee payment is submitted within the time prescribed by Section 3.3.1 above, a delinquency penalty of 50 percent of the amount of the billed fee, to a maximum of \$500.00, shall be added to the amount of fee due.

3.3.3 If a fee payment is timely paid, but the tendered amount is less than the amount due, the payment shall not be accepted, and the time for proper payment continues to run.

3.3.4 If a fee payment is delinquent and the fee plus the delinquency penalty is not received within 60 days of the issuance date of the District's billing statement, the delinquency penalty shall be increased to 100 percent of the original amount due, to a maximum of \$1,000.00.

3.3.5 If, in the case of a failure to pay the fees required pursuant to this part, the delinquent

fee plus penalties assessed pursuant to Section 3.3.2 and 3.3.4 above are not submitted within 90 days of the date of the District's first statement issuance pursuant to Section 3.3.1 of this Rule, the facility shall be considered to be in default of its fee obligation and in violation of this Rule. In such case the Air Pollution Control Officer shall immediately petition the District Hearing Board to hold a hearing to determine whether any or all of the facility's permits should be revoked pursuant to Health and Safety Code Section 42307.

3.3.5.1 After the District has initiated a permit revocation action through the filing of an accusation but before the revocation of any permit pursuant to Health and Safety Code Section 42307, the facility may still cure its default by submitting all outstanding fees plus delinquency penalties and a \$332 revocation initiation fee.

3.3.5.2 If any Permit to Operate is revoked by the Hearing Board on account of such default, it may be reinstated upon written request of the facility and upon full payment of all fees, penalties, revocation initiation fee, and a reinstatement fee of \$499.

3.3.5.3 Should any individual, partnership, corporation or other entity, be in default of its responsibilities under Rule 305, it shall not be issued any permit or authority to construct under Rule 200 until such obligation is satisfied in full. For the purposes of this Rule, "other entity" shall include any entity in which a principal or equity holder is in default of Rule 305.

3.3.5.4 The District may also pursue any other remedy allowed by law.

3.3.6 The penalty for fee delinquency may be waived for extraordinary circumstances at the discretion of the APCO. The adequacy of cause to waive the penalty shall be decided on a case-by-case basis by the APCO.

3.4 Transfer of Fees Collected

The Air Pollution Control Officer shall transfer the revenues required by the State by this Rule, and subchapter 3.6, sections 90700-90705 of the State's Air Toxic "Hot Spots" Fee Regulation, to the California Air Resources Board for deposit in the Air Toxics Inventory and Assessment Account.

Any fee revenues received by the District which exceed District and State costs shall be carried over for expenditure in the subsequent fiscal year.

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