

MONTEREY BAY UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 308 -- TITLE V: FEDERAL OPERATING PERMIT FEES

(Adopted November 17, 1993; Revised June 21, 1995, June 19, 1996, June 18, 1997; June 17, 1998; June 16, 1999; June 21, 2000; June 20, 2001; and June 19, 2002.)

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PART 1 GENERAL

1.1 Purpose

The purpose of this Rule is to provide funding for the issuance and enforcement of Federal Operating Permits (FOPs) which meet the requirements of Title V of the Federal Clean Air Act and amendments (the Act). The fees required pursuant to this Rule shall be in addition to fees for District permits to operate and other fees required by other District rules.

1.2 Applicability

The provisions of this Rule shall apply to any facility that is required to apply for and maintain a Federal Operating Permit pursuant to Rule 218 (Title V: Federal Operating Permits).

1.3 Exemptions

Reserved.

1.4 Effective Dates

This Rule, as most recently revised, is effective on July 1, 2002.

1.5 References

The requirements of this Rule arise from the provisions of the Federal Clean Air Act and its amendments (42 U.S.C Section 7401 *et seq.*); and USEPA regulations setting forth the requirements for an Operating Permit Program (Final Rule, 40 CFR Part 70). Referenced or related District Rules include: 218 (Title V: Federal Operating Permits); and 300 (District Fees).

PART 2 DEFINITIONS

2.1 Air Pollution Control Officer (APCO)

The Air Pollution Control Officer for the Monterey Bay Unified Air Pollution Control District.

2.2 District

The Monterey Bay Unified Air Pollution Control District (MBUAPCD).

2.3 Federal Clean Air Act (the Act)

Federal Clean Air Act and its amendments (42 U.S.C Section 7401 *et seq.*)

2.4 Federal Operating Permit (FOP)

A Federal Operating Permit issued under the provisions of Rule 218.

2.5 Federally Enforceable Conditions

Those conditions on a permit which require compliance with a federally enforceable requirement, as defined in District Rule 218.

2.6 National Ambient Air Quality Standards (NAAQS)

Air quality standards set by the Administrator of the United States Environmental Protection Agency to protect public health and welfare and, in general, consisting of primary and secondary standards. Primary standards are to protect the public health, while secondary standards are intended to protect the public welfare, e.g., plants, crops, and materials.

2.7 Permit

In this Rule, permit means a Federal Operating Permit unless otherwise noted.

2.8 State Implementation Plan (SIP)

The plan which is required by the Act to be submitted by each State, and approved by the USEPA, to achieve and maintain federal ambient air quality standards (NAAQS).

2.9 Title V

Title V (Federal Operating Permits Program) of the Clean Air Act.

2.10 United States Environmental Protection Agency (USEPA)

The Administrator or appropriate delegate of the United States Environmental Protection Agency.

PART 3 REQUIREMENTS

3.1 Application Fees

3.1.1 Every applicant for an initial FOP, or the renewal or modification of an existing FOP, shall pay a filing fee of \$243.

3.1.2 Every applicant for a change of ownership where a FOP has been issued under Rule 218 shall pay a filing fee of \$98, plus a fee based on the District's actual cost to complete the permit process, at \$98 per hour of staff time.

3.2 Federal Operating Permit Fee

Initially, the FOP Fee is due on an annual basis commencing upon the first annual renewal date of the facility's District Permit(s) to Operate. Upon issuance of the FOP, the annual renewal date will become the date of issuance of the FOP and the Annual Federal Operating Permit Fee (AFOPF) will be due one year after the date of permit issuance and annually thereafter. The AFOPF shall be calculated as set forth in Section

4.1 of this Rule. This AFOPF shall be due and payable 30 days after a statement is issued by the District. In the event all or part of the fee prescribed in the statement is not paid in accordance with these provisions within this 30-day period, the penalties prescribed by Section 4.2 of this Rule shall apply.

3.3 Evaluation Fees

Every applicant who files a FOP application with the APCO pursuant to Section 3.1 of Rule 218 shall, in addition to the filing fee prescribed herein, pay an evaluation fee of \$98 per hour for every District staff hour necessary to complete the FOP evaluation pursuant to Rule 218. This evaluation fee shall be due and payable 30 days after a statement is issued by the District. The FOP shall be issued upon receipt of the applicant's payment of this fee. In the event all or part of the fee prescribed in the statement is not paid in accordance with these provisions within this 30-day period, the penalties prescribed by Section 4.2 of this Rule shall apply.

PART 4 ADMINISTRATIVE REQUIREMENTS

4.1 Annual Federal Operating Permit Fees (AFOPF)

All sources subject to this Rule shall complete the Annual Renewal Information Request provided by the District within the time period specified in the Request. Failure to timely complete and submit the Request may result in suspension of the FOP.

- 4.1.1 The District will determine the permittee's AFOPF based upon the permittee's Billable Emissions, as defined by Section 2.3 of Rule 300 (Permit Fees), multiplied by the dollar amount per ton shown in Section 4.1.2 of this Rule. The minimum AFOPF shall be \$582 per year.

For facilities with annual Billable Emissions greater than or equal to 300 tons per year as of June 18, 1997, the Billable Emissions will be based on a four-year rolling emission average, beginning with the averaging period of calendar years 1991 through 1994 to determine the fees for fiscal year 1997-98, and advancing this rolling averaging period by one year in each subsequent fiscal year. For any facility newly determined to be such a major source after June 18, 1997, AFOPFs will be determined from the average of the first such four year period or from the first four year period representative of normal operation. Until this consecutive four year period is attained, major source AFOPFs will be averaged for the partial period.

4.1.2 The AFOPF dollar amount per ton of emissions will be adjusted annually, if necessary, during the District's budget process based upon the CPI as required by the Act and upon the emissions inventory for sources subject to Rule 218. Presently, the fees are \$18.32 per ton of emissions.

4.1.2.1 The AFOPF fees for landfill gas emissions from municipal solid waste landfills are \$1.77 per ton of landfill gas emissions.

4.2 Federal Operating Permit Fee Penalties

If any fee payment required pursuant to Part 3 of 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.

4.2.1 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.

4.2.2 If no fee payment is submitted within the time prescribed by Section 4.2.1, a delinquency penalty of 50 percent of the amount of the billed fee, to a maximum of \$5,000, shall be added to the amount of the fee due, and the permittee shall thereupon be notified by mail of the increased fee.

4.2.3 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.

4.2.4 If a fee payment is delinquent and the fee plus the delinquency penalty is not received within 30 days of the District's notification pursuant to Section 4.2.2, the delinquency penalty shall be increased to 75 percent of the original amount due, to a maximum of \$7,500, and the permittee shall thereupon be notified by mail of the increased fee.

4.2.5 If, in the case of a failure to pay evaluation fees required pursuant to Part 3, the delinquent fee plus penalties assessed pursuant to Section 4.2.4 are not submitted within 30 days of the date of the District's notification, the permittee shall be considered to be in default of its evaluation fee obligation and in violation of this Rule. In such case the APCO shall immediately notify the applicant that its FOP is denied and that further operation of the subject equipment without a valid permit is prohibited. Such denial shall not preclude the applicant from submitting another permit application and beginning the process anew, although the delinquent fee and

penalty shall become an obligation owing to the District, which may be recovered along with any permit fee from such new application.

- 4.2.6 If, in the case of a failure to pay AFOPF required pursuant to Part 3, the delinquent AFOPF plus penalties assessed pursuant to Section 4.2.4 are not submitted within 30 days of the date of the District's notification, the FOP shall automatically expire for failure to renew. In such case, the District shall immediately notify the permittee that its FOP has expired and that further operation of the subject equipment without a valid permit is prohibited. Such expiration shall not preclude the permittee from submitting an application for a replacement permit, although the delinquent fee and penalty shall become an obligation owing to the District, which may be recovered along with any permit fee from such new application.

4.3 Extension of Payment Period by the APCO

The 30-day payment period for fee payment required pursuant to Part 3 of this Rule may be extended for extraordinary circumstances at the discretion of the 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.

4.4 Waiver of Penalty by the APCO

The penalty for fee delinquency may be waived for extraordinary circumstances at the discretion of the APCO, provided that there have been no prior delinquencies. The adequacy of cause to waive the penalty shall be decided on a case-by-case basis by the APCO.

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