

# Regulation IV

## Rule 400 – Fee Calculation & Administration

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### TABLE OF CONTENTS

- A. PURPOSE
- B. FEE CALCULATION & FEE SCHEDULES
  - 1. The X-Factor
- C. LIMITATION ON FEES
- D. PERMITS ISSUED BY THE HEARING BOARD
- E. ADVANCED DEPOSIT OF EVALUATION COSTS
- F. CANCELLATION OR DENIAL OF APPLICATIONS
- G. PORTABLE EQUIPMENT, MULTIPLE LOCATIONS
- H. RESOLUTION WHEN MULTIPLE FEE TABLES APPLY
- I. LATE FEES & PENALTIES
  - 1. Delinquent Fee
  - 2. Timely Payment of Fees
  - 3. Delinquency Penalty
  - 4. Improper Payment of Fees
  - 5. Additional Delinquency Penalties
  - 6. Permittee Default
  - 7. Delinquent Fees – Permits Issued by the Hearing Board
  - 8. Extension of Payment Period by the APCO
  - 9. Waiver of the Penalty by the APCO

## RULE 400 FEE CALCULATION & ADMINISTRATION

- A. **PURPOSE:** The purpose of this rule is to allow the District to recover reasonable costs incurred directly and indirectly associated with the implementation of air quality programs under its jurisdiction including the issuance of permits, inspection and enforcement, surveillance, planning, research and monitoring, and administration. The authority to establish this rule is provided for in H&SC §41512, §42311, and §42364.
- B. **FEE CALCULATION & FEE SCHEDULES:** District fees are determined by choosing the appropriate fee schedule(s) and then selecting the applicable multiplier(s) from the tables. The actual fee is then calculated by multiplying the "X-Factor Multiplier" obtained by the current value of the "X-Factor".
1. **X-Factor:** District operational costs are annually estimated on a per hour basis which is referred to as the "X" or the "X-Factor".
- a. **Determination of X-Factor Value:** As part of the annual budgetary process for each fiscal year following the Base Year, the APCO shall identify the appropriate value for "X" necessary to achieve a balanced budget. The value of "X" shall be rounded to the nearest whole dollar, and shall be determined upon two components, either:
- i. The actual program costs for the immediately preceding year; or
- ii. An adjustment in amount not greater than the change in the Consumer Price Index, as determined pursuant to Section 2212 of the Revenue and Taxation Code.
- b. **X-Factor Established by Resolution:** The value of "X" shall be assigned by the Governing Board each fiscal year via resolution.
- c. **Base Year:** Calendar year 2005 is established as the base year with an X-Factor value of \$57.50.
- d. **X-Factor Multiplier:** The resources necessary to perform services, programs, and activities by the District are represented as an X-Factor "Multiplier". The applicable X-Factor Multiplier is listed in the fee tables associated with the appropriate fee schedule(s).
- C. **Limitation on Fees:** Notwithstanding the fees specified in the District Fee Schedules, if the actual costs of processing an ATC or a PTO application substantially differ from the fees as determined by the applicable fee schedule, the applicant may be assessed the actual costs. The costs, as determined by the APCO, shall include but not be limited to the direct and indirect expenditures incurred by the District to evaluate, inspect, and permit the subject equipment or device.
- D. **Permits Issued by the Hearing Board:** An ATC or a PTO issued by the District Hearing Board is subject to the fees established pursuant to this Regulation.
- E. **Advanced Deposit of Evaluation Costs:** Where the APCO determines that either the ATC application or the PTO application evaluation will require special handling and analyses due to the quantity or quality of emissions, or due to the proximity of sensitive receptor(s), or the applicants history, or, the complexity of the equipment, activity, or operation being permitted, the APCO may require the applicant to pay a deposit toward the actual costs of the evaluation up to 100% of the estimated permit application evaluation actual costs. The APCO shall maintain a record of costs incurred and on written request from the applicant submitted within six months of the evaluation shall refund to the applicant any unused evaluation costs.
- F. **Cancellation or Denial of Applications:** If an application for an ATC or a PTO is canceled, or if an application is denied and such denial becomes final, the application fee required herein shall not be refunded nor applied to any subsequent application.

- G. **Portable Equipment, Multiple Locations:** When permits have been issued to operate movable equipment at two or more locations, only one annual fee shall be due and payable.
- H. **Resolution When Multiple Fee Tables Apply:** In determining the fees to be charged, identical or like equipment within each process unit that requires a permit may be totaled for each schedule. In the event that more than one fee schedule is applicable to an ATC or PTO, the governing schedule shall be that which results in the highest fee.

I. **LATE FEES & PENALTIES**

1. **Delinquent Fee:** If any fee payment required pursuant to Regulation IV is not submitted within 30 days of the issuance date of a District's billing statement, it shall be considered delinquent, and penalties for the delinquency shall be imposed as set forth below.
2. **Timely Payment of Fees:** For purposes of this Rule, any fee payment shall be considered to be timely if it is postmarked on or before the 30<sup>th</sup> day following the statement issuance date. If the 30<sup>th</sup> 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 30<sup>th</sup> day.
3. **Delinquency Penalty:** If no fee payment is submitted within the time prescribed in Section 2 above, a delinquency penalty of 25 percent of the amount of the billed fee, to a maximum of \$1,000, shall be added to the amount of fee due, and the permittee shall thereupon be notified by mail of the increased fee.
4. **Improper Payment of Fees:** 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.
5. **Additional Delinquency Penalties:** If any fee payment is delinquent and the fee plus the delinquency penalty is not received within 30 days of the District notification pursuant to Section 3 above, the delinquency penalty shall be increased to 50 percent of the original amount due, to a maximum of \$1,000, and the permittee shall thereupon be notified by mail of the increased fee.
6. **Permittee Default:** If, in the case of a failure to pay permit fees required pursuant to Rule 405 and Rule 406, the delinquent fee plus penalties assessed pursuant to Section 5 above are not received within 30 days of the date of the District's notification, the permittee shall be considered to be in default of its permit fee obligation and in violation of this Rule. In such case, the District shall immediately notify the applicant that its PTO or ATC has expired and that further operation of the subject equipment without a valid permit is prohibited. Such expiration 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.
  - a. In the event the person whose permit has expired applies for a new permit, the unpaid annual renewal fee portion of this delinquent fee shall be prorated from the original permit's annual renewal date to the date of billing for the replacement permit and added to the permit fee for the replacement permit.
7. **Delinquent Fees— Permits Issued by Hearing Board:** If, in the case of a failure to pay the permit fee for a permit issued by the District Hearing Board, the delinquent fee plus penalty assessed pursuant to Section 3 of this Rule is not received within 30 days of the date of the District's notification, the delinquency penalty shall be increased to 50 percent of the original amount due, to a maximum of 50 percent of the original amount due, to a maximum of \$1,000, and the permittee shall thereupon be notified by mail of the increased fee.

- a. If the delinquent permit fee plus penalties assessed pursuant to Sections 3 and 7 of this Rule are not submitted within 30 days of the District's notification, the permittee shall be in default of its fee obligation and in violation of this Rule. In such case, the APCO shall 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 California H&SC §42307.
  - b. After the District has initiated a permit revocation action through the filing of an accusation with the District Hearing Board, but before the revocation hearing is held, the permittee may still cure its default by submitting all outstanding fees, plus delinquency penalties and a \$150 revocation initiation fee.
  - c. If any PTO is revoked by the District Hearing Board on account of such default, it may be reinstated or replaced with a new permit, upon written request of the permittee and upon payment of all outstanding fees, penalties, revocation initiation fee, and a reinstatement fee of \$250.
8. **Extension of Payment Period by the APCO:** The 30-day payment period for fee payment required pursuant to Section I of this Rule may be extended by the APCO for extraordinary circumstances and for good cause shown. The adequacy of cause to extend the period shall be decided on a case-by-case basis by the APCO.
9. **Waiver of Penalty by the APCO:** The penalty for fee delinquency may be waived by the APCO for extraordinary circumstances and good cause shown. The adequacy of cause to waive the penalty shall be determined on a case-by-case basis, and may include, but is not necessarily limited to: illness, injury, or accident caused to the responsible party.