

NORTH COAST AIR QUALITY MANAGEMENT DISTRICT

Rule 405 - Hearing Board Petition Fees

(Adopted July 13, 1976 as Humboldt Co. APCD and Mendocino County APCD)(Adopted November 3, 1982 as Unified District)(Amended October 13, 1983; December 7, 1989; August 28, 1990; June 1, 1993; Recodified and Revised May 19, 2005).

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RULE 405 HEARING BOARD PETITION FEES

- 1.0 HEARING BOARD FILING FEES:** Every applicant or petitioner for variance, or for the extension, revocation or modification of a variance, or for an appeal from a denial or conditional approval of an Authority to Construct or Permit to Operate or appeal of Hearing Board decision, or request for rehearing including any federal, state or local governmental agency or public district, except for the Air Pollution Control Officer filing on behalf of the AQMD, shall pay to the Clerk of the Hearing Board, on filing, a Hearing Board petition filing fee of \$200.00 for each hearings held by the Chairman of the Hearing Board and \$500.00 for a petition for a hearing involving the entire Hearing Board. Where two or more petitions are heard during the same hearing board meeting, then 50% of each petition check be returned to the petitioner.
- 2.0 ADDITIONAL HEARING BOARD FEES:** Additional Hearing Board fees and costs may be assessed by the District Hearing Board and District Board as a direct result of the action which the applicant or petitioner has brought before the Hearing Board.
- 3.0 REFUND FOR SPECIFIED APPEALS/ FEE WAIVER:**

3.1 Third party appeals and rehearing that lead to the overturning of a previous decision by the Hearing Board or the Air Pollution Control Officer shall be refunded 75% of the filing fee.

3.2 Pursuant to HSC Section 42311.2, notwithstanding Rule 405 fee requirements, the Hearing Board may waive all or part of these fees if it determines that circumstances warrant that waiver.

4.0 COSTS OF HEARING TRANSCRIPTS AND RECORDINGS: Any person requesting a written transcript or tape recording of the hearing shall pay the cost of such transcript or recording. The parties to Hearing Board proceedings may be directed by the Hearing Board to pay the cost of transcripts necessary for the Hearing Board's determination of the matter, in such proportion as the Hearing Board may order.

5.0 EXCESS EMISSION FEES:

5.1 Excess Emissions Fee: Each applicant or petitioner for a variance from these Rules and Regulations shall pay to the Clerk of the Hearing Board, in addition to the filing fees required in Rule 405, Section 1.0 above, an emissions fee based on the total weight of emissions discharged, other than those described in section 5.2, during the variance period in excess of that allowed by these rules in accordance with the schedule set forth in Table I, or the amount set forth in paragraph 5.3, whichever is greater.

In the event that more than one rule limiting the discharge of the same contaminant is violated, the excess emission fee shall consist of the fee for violation which will result in the payment of the greatest sum. For the purposes of this paragraph, opacity rules and particulate mass emission rules shall not be considered rules limiting the discharge of the same contaminant.

5.2. Excess Visible Emission Fee: Each applicant or petitioner for a variance from Rule 104, permit limitation or Health and Safety Code Section 41701 shall pay to the Clerk of the Hearing Board, in addition to the filing fees required in Rule 405, Section 1.0 above, and the excess emission fees required in 5.1 . above (if any), an emission fee based on the difference between the opacity allowed by Rule 404 or permit limitation and the opacity of the emissions allowed from the source or sources operating under the variance, in accordance with the schedule set forth in Table 1, Schedule 5.10.6.

5.3. Minimum Fees: When a variance is granted from a rule or rules which limit the discharge of air contaminants, such that an excess emission fee is due, a fee of at least \$15.00 per day shall be imposed and remitted.

5.4. Applicability: The provisions of Rule 405, Section 5.1 shall apply only to those rules that specify quantitative emission limits.

5.5. Fee Determination:

5.5.1 The excess emission fees shall be calculated by the petitioner based upon the requested number of days of operation under variance multiplied by the expected excess emissions as set forth in paragraphs 5.1 and 5.2 above. The calculations and proposed fees shall be set forth in the petition.

5.5.2 The Hearing Board may adjust the excess emission fee required by paragraphs 5.1 and 5.2 of this rule based on evidence regarding emissions presented at the time of the hearing.

5.6. Adjustment of Fees: If after the term of a variance for which emissions fees have been paid, petitioner can establish, to the satisfaction of the Executive Officer, that emissions were actually less than those upon which the fee was based, a pro rata refund shall be made. If excess emissions during the term of the variance are greater than calculated under subsection 5.5, the Executive Officer shall recalculate the excess emission fees and assess an additional fee.

5.7 Emission Fee Assessment: The actual assessment of an excess emissions fee shall occur once the Hearing Board grants a variance.

5.8. Fee Payment: Failure to pay the excess emission fees required by Sections 5.1, 5.2 and 5.3 of this rule within fifteen (15) days of the effective date of the variance shall invalidate the variance.

5.9. Discretionary Powers: Any person may allege that payment of any of the foregoing excess emission fee provisions will cause an unreasonable hardship and may be excused from payment of such fees or a portion of such fees by order of the Hearing Board if the Board in its discretion determines after hearing evidence thereon that payment of such fees would cause financial hardship to the petitioner with no corresponding benefit to the public.

5.10 Schedule of Excess Emissions Fees:

Table I

Air Contaminant	Dollar Per Ton
5.10.1 Organic gases, except methane and those containing sulfur:	\$200.00
5.10.2 Oxides of nitrogen (expressed as nitrogen dioxide)	\$100.00
5.10.3 Oxides of sulfur (expressed as sulfur dioxide)	\$100.00
5.10.4 Total reduced sulfur compounds (expressed as hydrogen sulfide)	\$200.00
5.10.5 Particulate matter	\$200.00
5.10.6 Opacity Emissions	

For each source within excess of the limits of Rule 104 Visible Emissions or of a permit limitation the fee is calculated as follows:

Fee = (Actual Opacity - Allowed Opacity) x (\$3.50/day x number of days allowed under the variance) x 100.

Note: For purposes of this rule, actual opacity shall be defined as the highest 3 minute average in any one hour. For sources subject to New Source Performance Standards, actual opacity shall be defined as the highest 6 minute average opacity during a 24 hour period. The actual and allowed opacity shall be expressed in a percent opacity x100