



Antelope Valley
Air Quality Management District

Draft
Staff Report

Proposed Amendments to
Rule 301 – *Permit Fees*
Rule 302 – *Other Fees*

For amendment on
July 19, 2022

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STAFF REPORT

Rule 301 – *Permit Fees* and Rule 302 – *Other Fees*

I. PURPOSE OF STAFF REPORT

A staff report serves several discrete purposes. Its primary purpose is to provide a summary and background material to the members of the Governing Board. This allows the members of the Governing Board to be fully informed before making any required decision. It also provides the documentation necessary for the Governing Board to make any findings, which are required by law to be made prior to the approval or adoption of a document. In addition, a staff report ensures that the correct procedures and proper documentation for approval or adoption of a document have been performed. Finally, the staff report provides evidence for defense against legal challenges regarding the propriety of the approval or adoption of the document.

II. EXECUTIVE SUMMARY

On July 1, 1997 the Antelope Valley Air Pollution Control District (AVAPCD) was created pursuant to statute (former Health & Safety (H&S) Code §40106, A.B. 266-Knight Ch. 542, statutes of 1996) and assumed all air pollution control responsibilities from the South Coast Air Quality Management District (SCAQMD) for the area of Los Angeles County outside the South Coast Air Basin. The SCAQMD rules in effect within the jurisdiction of the AVAPCD remained in effect until the AVAPCD Governing Board superseded or amended them. On January 1, 2002 the AVAQMD was created pursuant to statute (H&S Code §41300 et seq.) to replace the AVAPCD. Once again, the rules in effect at the time of the change remained in effect until the AVAQMD Governing Board superseded or amended them.

The District's mandated functions such as compliance, permit issuance, and permit administration are labor intensive. Therefore, the related fee revenue should be structured to support the relevant regulatory and administrative activities.

The 2022-2023 budget includes anticipated revenue derived from a proposed 10% fee increase to Rule 301 – *Permit Fees* to recover the rising costs of issuing air quality permits, performing inspections, investigations, and enforcing District rules and regulations; a 15% increase to Classification D, E, and F to recover permitting and inspection costs for engines over a specific horsepower as the costs for this type of equipment is not commensurate with the fee revenue received.

The District is proposing a new Plan Fee in Rule 302 for Construction Excavation. The Construction Excavation Plan Fee is necessary to mitigate the increased inspection time spent due to expanded residential, industrial and solar construction. A charge will be assessed based on the total acreage of the project. The fee structure is comparable to similar project fees in neighboring Districts.

The proposed fee adjustments are well within the provisions of Health & Safety Code §42311(a) and falls within the exemption found in Article XIII C §1(e)(3) of the California Constitution.

To allow time to implement the proposed fee changes, the amendment of Rule 301 – *Permit Fees* is proposed to be effective on January 1, 2023. The amendment of Rule 302 – *Other Fees* will be effective immediately.

III. STAFF RECOMMENDATION

Staff recommends that the Governing Board of the AVAQMD adopt amendments to Rule 301 – *Permit Fees* and Rule 302 – *Other Fees* and approve the appropriate CEQA documentation.

IV. LEGAL REQUIREMENTS CHECKLIST

The findings and analysis as indicated below are required for the procedurally correct amendments to Rule 301-*Permit Fees* and Rule 302 – *Other Fees*. Each item is discussed, if applicable, in Section V below. Copies of documents are included in the appropriate Appendix.

FINDINGS REQUIRED FOR RULES & REGULATIONS

- X Necessity
- X Authority
- X Clarity
- X Consistency

- X Non-duplication
- X Reference
- X Public Notice & Comment
- X Public Hearing

REQUIREMENTS FOR STATE IMPLEMENTATION PLAN SUBMISSION (SIP):

- N/A Public Notice & Comment
- N/A Availability of Document
- N/A Notice to Specified Entities (State, Air Districts, USEPA, Other States)
- N/A Public Hearing
- N/A Legal Authority to adopt and implement the document.
- N/A Applicable State laws and regulations were followed.

ELEMENTS OF A FEDERAL SUBMISSION

- N/A Elements as set forth in applicable Federal law or regulations.

CALIFORNIA ENVIRONMENTAL QUALITY ACT REQUIREMENTS (CEQA):

- N/A Ministerial Action
- X Exemption
- N/A Negative Declaration
- N/A Environmental Impact Report
- X Appropriate findings, if necessary.
- X Public Notice & Comment

SUPPLEMENTAL ENVIRONMENTAL ANALYSIS (RULES & REGULATIONS ONLY):

- X Environmental impacts of compliance.
- N/A Mitigation of impacts.
- N/A Alternative methods of compliance.

OTHER:

- N/A Written analysis of existing air pollution control requirements
- X Economic Analysis
- X Public Review

V. DISCUSSION OF LEGAL REQUIREMENTS

A. REQUIRED ELEMENTS/FINDINGS

This section discusses the State of California statutory requirements that apply to the proposed amendments to Rule 301 – *Permit Fees* and Rule 302 – *Other Fees*. These are actions, that need to be performed, and/or information, that must be provided in order to amend the Regulation in a procedurally correct manner.

1. State Findings Required for Adoption of Rules & Regulations:

Before adopting, amending, or repealing a rule or regulation, the AVAQMD Governing Board is required to make findings of necessity, authority, clarity, consistency, non-duplication, and reference based upon relevant information presented at the hearing. The information below is provided to assist the Board in making these findings.

a. Necessity:

The District’s mandated functions such as compliance, permit issuance, and permit administration are labor intensive. Therefore, the related fee revenue should be structured to support the relevant regulatory and administrative activities.

b. Authority:

The District has the authority pursuant to California Health and Safety Code (H&S Code) §40702 to adopt, amend or repeal rules and regulations. The AVAQMD also has the authority to adopt and amend annual fees for the evaluation, issuance and renewal of permits (H&S Code §§41240, 41330, 41512.7, 40711(a), 42310.5, 42311, and 42311.2), enforcement, inspections and air monitoring (H&S Code §§41240, 41330, 40701, 40715, 41512, 41512.5, 42311, 42311.2, 42707, and 42400 et seq.), planning and rule development (H&S Code §§41240, 41330, 41512.7, 40727.2 and 42311), public records act compliance (Government Code 6253), toxic “Hot Spots” (H&S Code §§44344.4, 44380, 44381 and 17 CCR 90703) and “Title V Permitting” (40 CFR 70.9, H&S Code §§41330, 41512.7 and 42311).

c. Clarity:

The proposed amendments to Rule 301 – *Permit Fees* and Rule 302 – *Other Fees* are clear in that they are written so that the persons subject to the rule can easily understand the meaning. Any person or organization applying for and/or holding an AVAQMD Authority to Construct (ATC) or Permit to Operate (PTO) is affected by the proposed amendments to Rule 301. This rule amendment has been developed to adjust fees to Rule 301 to recover the rising costs associated with issuing and enforcing both District and Federal permits; Rule 302 is being amended to recover costs associated with inspection staff time spent due to the increase in residential, industrial and solar construction.

d. Consistency:

The proposed amendment of Rule 301 – *Permit Fees* and Rule 302 – *Other Fees* is in harmony with, and not in conflict with or contradictory to any state law or regulation, federal law or regulation, or court decisions because these laws and regulations allow for the proposed amendments to the fee rules.

e. Non-duplication:

The proposed amendment of Rule 301 – *Permit Fees* and Rule 302 – *Other Fees* does not impose the same requirements as any existing state or federal law or regulation because H&S Code §40702 allows the District to adopt, amend or repeal rules and regulations and H&S §42311 and various other sections merely authorize the imposition of such fees but does not specify the types and amounts of fees to be imposed.

f. Reference:

AVAQMD has the authority pursuant to H&S Code §40702 to adopt, amend or repeal rules and regulations and the authority pursuant to H&S Code §42311 to adopt a schedule of annual fees.

g. Public Notice & Comment, Public Hearing:

Notice for the public hearing for the proposed amendment of Rule 301 – *Permit Fees* and Rule 302 – *Other Fees* will be published on June 17, 2022 for the July 19, 2022 Governing Board meeting. See Appendix “B” for a copy of the public notice. See Appendix “C” for copies of comments, if any, and District responses.

2. Federal Elements (SIP Submittals, Other Federal Submittals).

Submittals to USEPA are required to include various elements depending upon the type of document submitted and the underlying federal law that requires the submittal. Rule 301 – *Permit Fees* and Rule 302 – *Other Fees* are fee rules and do not ordinarily require submission to USEPA. Various prior versions of Rule 301 and Rule 302 were previously included in the State Implementation Plan (SIP). USEPA removed these rules from the SIP on November 16, 2004 (69 FR 67062; 40 CFR 52.220(c)(137)(vii)(F)). Therefore, these rules are not required to be a federal submittal.

B. WRITTEN ANALYSIS OF EXISTING REQUIREMENTS

H&S Code §40727.2 requires air districts to prepare a written analysis of all existing federal air pollution control requirements that apply to the same equipment or source type as the rule proposed for modification by the district. The proposed amendments to Rule 301 – *Permit Fees* and Rule 302 – *Other Fees* only modify fees and provide minor clarification. These proposed amendments do not in themselves impose air pollution control requirements. Therefore, the preparation of a written analysis of existing pollution control requirements that apply to the same equipment or source type is not required.

C. ECONOMIC ANALYSIS

1. General.

Fees are a primary revenue source that supports the District’s efforts to implement and enforce the provisions of the Federal Clean Air Act (FCAA), the California Clean Air Act (CCAA) and District Rules and Regulations. Permit fee schedules reflect the expenditure required to provide analysis of applications, inspections of the regulated community, tracking the inventory of pollutants produced by the regulated industry, and enforcement of federal, state and local mandates regarding air pollution among other mandatory District functions.

2. Economic Analysis for Rule 301 – *Permit Fees* and Rule 302 – *Other Fees*.

The AVAQMD is proposing a fee increase to Rule 301 – *Permit Fees* to recover the rising costs of issuing air quality permits, performing inspections, investigations, and enforcing District rules and regulations.

In addition, the District is proposing a new Plan Fee for Construction Excavation to be added to Rule 302 – *Other Fees*. The Construction Excavation Plan Fee is necessary to mitigate the increased staff inspection time spent due to an increase in residential, industrial and solar construction. A charge will be assessed based on the total acreage of the project. The fee structure is comparable to similar project fees in neighboring Districts.

The proposed fee adjustments are well within the provisions of Health & Safety Code §42311(a) and falls within the exemption found in Article XIII C §1(e)(3) of the California Constitution.³

3. Incremental Cost Effectiveness.

Pursuant to H&S Code §40920.6, incremental cost effectiveness calculations are required for rules and regulations which are adopted or amended to meet the CCAA requirements for Best Available Retrofit Control Technology (BARCT) or “all feasible measures” to control volatile compounds, oxides of nitrogen or oxides of sulfur. The proposed amendments to *Rule 301 – Permit Fees* and *Rule 302 – Other Fees* only affect fees and rule structure, and therefore do not require this analysis.

D. ENVIRONMENTAL ANALYSIS (CEQA)

1. Through the process described below, it was determined that a Notice of Exemption would be the appropriate CEQA process for the proposed amendments to *Rule 301 – Permit Fees* and *Rule 302 – Other Fees*.

a. The proposed amendments to *Rule 301 – Permit Fees* and *Rule 302 – Other Fees* meet the CEQA definition of “project.” They are not “ministerial” actions.

b. The proposed amendments to *Rule 301 – Permit Fees* and *Rule 302 – Other Fees* are exempt from CEQA review because they merely adjust fees and fee methodologies and there is not potential that the amendments might cause the release of additional air contaminants or create any adverse environmental impacts, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies.

E. SUPPLEMENTAL ENVIRONMENTAL ANALYSIS

1. Potential Environmental Impacts

The proposed amendments to *Rule 301 – Permit Fees* and *Rule 302 – Other Fees* do not have any potential environmental impacts because the amendments merely adjust fees, make minor format corrections and provide clarification. The amendments do not have any impact upon emissions of air contaminants.

2. Mitigation of Impacts

N/A

3. Alternative Methods of Compliance

N/A

F. PUBLIC REVIEW

See Staff Report Section (V)(A)(1)(g) as well as Appendix B.

VI. TECHNICAL DISCUSSION

A. SOURCE DESCRIPTION

The proposed amendments will affect permit holders and applicants subject to Rule 301 – *Permit Fees*.

B. EMISSIONS

The proposed amendments to Rule 301 – *Permit Fees* and Rule 302 – *Other Fees* only adjust fees, and thus will have no impact on emissions.

C. CONTROL REQUIREMENTS

The proposed amendments to Rule 301 – *Permit Fees* and Rule 302 – *Other Fees* do not impose any control requirements.

D. PROPOSED RULE SUMMARY

This section gives a brief overview of the proposed amendments to Rule 301 – *Permit Fees* and Rule 302 – *Other Fees*. Only a brief summary of each section is included. Readers are encouraged to examine the *[bracketed and italicized]* notations contained in the iterated version of the rule contained in Appendix “A” for notations regarding movement and modification of specific sections and subsections.

1. AVAQMD Rule 301 – *Permit Fees*:

Rule 301 – *Permit Fees*, includes a 10% increase in most fees to recover a portion of the increase in the District’s projected overall operating expenditures related to the costs of issuing air quality permits, performing facility inspections, public complaint investigations and rule development activities, as part of implementing district rules and regulation required pursuant to the provisions of Regulation II – *Permits* and Regulation XIII – *New Source Review*. Rule 301 also includes a 15% increase for (E) fee classifications D-F as the costs for this type of equipment is not commensurate with the fee revenue received.

(A)(4) is proposed for modification to reflect an effective date of January 1, 2023.

(D)(1)(a) is proposed for modification to reflect an increase of 10%, rounded to the nearest dollar.

(D)(1)(a)(i) is proposed for modification to reflect an increase of 10%, rounded to the nearest dollar.

(D)(6)(b)(i) is proposed for modification to reflect an increase of 10%, rounded to the nearest dollar.

(D)(9)(b) is proposed for modification to reflect an increase of 10%, rounded to the nearest dollar.

(D)(11)(a)(i) is proposed for modification to reflect an increase of 10%, rounded to the nearest dollar.

(E) Classification A through C, Electrical Generating Equipment and Nozzles are proposed for a 10% adjustment.

(E) Classification D through F, Reciprocating Internal Combustion Engines are proposed to be adjusted by 15%.

2. AVAQMD Rule 302 – *Other Fees*:

Rule 302 – *Other Fees* establishes a new fee based on actual project acreage under construction to recover the related staff costs as part of implementing District rules and regulations required pursuant to the provisions of Regulation II – *Permits* and Regulation XIII – *New Source Review* associated with the increased inspection time spent due to the upsurge in residential, industrial and solar construction.

(F)(3) This subsection has been added to assess a Construction Excavation fee based on acreage of the proposed project.

E. RULE HISTORY

Prior to July 1, 1997 the Antelope Valley was contained within the SCAQMD. On July 1, 1997 the AVAPCD replaced the SCAQMD as the agency with jurisdiction over the Los Angeles County portion of the Mojave Desert Air Basin (MDAB). On January 1, 2001 the AVAPCD was replaced by the AVAQMD. Pursuant to both statutory changes, the rule and regulations of the predecessor district were retained until the Governing Board adopted, amended or rescinded them. At the first meeting both the AVAPCD and the AVAQMD, the respective Governing Boards reaffirmed all the rules and regulations in effect at the time the agency changed.

The jurisdiction of the AVAPCD and the AVAQMD were specified in the statutes as the portion of the Los Angeles County contained within the MDAB. The MDAB was formerly known as the Southeast Desert Air Basin (SEDAB). In 1997 the SEDAB was split into the MDAB and the Salton Sea Air Basin. Descriptions of these air basins can be found in 17 Cal. Code Regs. §§60109 and 60144. Since USEPA adopts SIP revisions in California as effective within jurisdictional boundaries of local air districts, when the local air district boundaries change the SIP as approved by USEPA for that area up to the date of the change remains as the SIP in that particular area. Thus, upon creation of the AVAPCD on July 1, 1997 the AVAPCD acquired the SIP applicable to the Antelope Valley portion of the SCAQMD that was affected as of June 30, 1997. Likewise, the AVAQMD acquired the SIP that was effective in the jurisdiction of the AVAPCD as of December 31, 2000. Therefore, the SIP history for this region is based upon the rules adopted, effective, and approved for the Antelope Valley by SCAQMD.

Rule 301 was originally adopted by the SCAQMD on 02/04/1977. It has been subsequently amended 05/27/77, 01/06/78, 06/16/78, 04/04/80, 09/05/80, 06/05/81,

09/09/82, 12/03/82, 06/03/83, 05/04/84, 07/06/84, 11/02/84, 12/06/85, 05/01/87, 06/03/88, 12/02/88, 01/06/89, 06/02/89, 06/01/90, 06/07/91, 12/06/91, 06/05/92, 07/10/92, 06/11/93, 10/08/93, 06/10/94, 05/12/95, 10/13/95, 05/10/96, 05/09/97, 03/17/98, 11/15/05 effective 01/01/06, 09/18/07 effective 01/01/08, 06/17/08 effective 01/01/09, 06/15/10 effective 01/01/11, 06/19/12 effective 01/01/13, 06/18/13 effective 01/01/14, 07/15/14 effective 01/01/15, 07/21/15 effective 01/01/16 , 07/19/16; effective 01/01/17 , 07/18/17 effective 01/01/18; 07/17/18 effective 01/01/19; 7/16/19 effective 1/01/2020, 08/18/2020 effective 01/01/2021 and 07/20/21 effective 01/01/2022. The last version is the current version in the AVAQMD rulebook.

Rule 301 is proposed for amendment to adjust most fees by 10% to recover the rising costs of issuing air quality permits, performing inspections, investigations, and enforcing District rules and regulations. In addition, Rule 301 also includes a 15% increase for (E) fee classifications D-F as the costs for this type of equipment is not commensurate with the fee revenue received.

Rule 302 – *Other Fees* is proposed for amendment to establish a new fee based on actual project acreage under construction to recover the related staff costs as part of implementing District rules and regulations required pursuant to the provisions of Regulation II – *Permits* and Regulation XIII – *New Source Review* associated with the increased inspection time spent due to the upsurge in residential, industrial and solar construction.

F. PROPOSITION 26 ANALYSIS

On November 2, 2010 the California voters added Article XIIC §1(e) to the California Constitution (commonly referred to as Proposition 26). This provision added a new definition of “tax” which resulted in a variety of fees and charges imposed by local governmental entities to be subject to voter approval. The provisions also provided several exceptions to this voter approval requirement including but not limited to:

A charge imposed for a specific benefit conferred or privilege granted directly to the payer that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

A charge imposed for a specific government service or product provided directly to the payer that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.

A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

If a fee increase falls within one or more of these exceptions it is considered not a tax and thus not subject to voter approval.

1. Justification for Fee Adjustment to Rule 301 – *Permit Fees*

In general, air district permit fees would fall under this exemption so long as they are reasonably related to the costs of issuance and enforcement of the permits. A similar requirement that air district fees be reasonably related to costs of district programs is found in Health & Safety Code §42311(a) and includes language indicating that a CPI adjustment is part of a measure of the reasonable increase in district costs. In addition, the California League of Cities in its April 2011 implementation guide for Prop 26¹ opined that a CPI increase is part of the reasonable regulatory cost of issuing a license or permits and thus does not need voter approval.

The budget includes anticipated revenue derived from a proposed 10% fee increase to most permit fees and a 15% increase to certain fees for internal combustion engines. The proposed increase is expected to recover the costs of permitting, performing inspections, investigations and enforcing District rules and regulations. Rule 302 – *Other Fees* is proposed for amendment to establish a new fee based on actual project acreage under construction to recover the related staff costs as part of implementing District rules and regulations required pursuant to the provisions of Regulation II – *Permits* and Regulation XIII – *New Source Review* associated with the increased inspection time spent due to the upsurge in residential, industrial and solar construction

The proposed fee adjustment is well within the provisions of Health & Safety Code §42311(a) and falls within the exemption found in Article XIII C §1(e)(3) of the California Constitution.

¹ <http://www.cacities.org/Resources-Documents/Policy-Advocacy-Section/Hot-Issues/Proposition-26-Implementation-Guide>

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APPENDIX "A"
Rule 301 – *Permit Fees*
Rule 302 – *Other Fees*
Iterated Version

The iterated version is provided so that the changes to an existing rule may be easily found. The manner of differentiating text is as follows:

1. Underlined text identifies new or revised language.
2. ~~—Lined out text~~ identifies language which is being deleted.
3. Normal text identifies the current language of the current rule which will remain unchanged by the adoption of the proposed amendments.
4. *Italicized text* identifies explanatory material that is not part of the proposed language

Rule 301 – *Permit Fees*
Rule 302 – *Other Fees*

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(Adopted: 02/04/77; Amended: 05/27/77; Amended: 01/06/78; Amended: 06/16/78; Amended: 04/04/80; Amended: 09/05/80; Amended: 06/05/81; Amended: 09/09/82; Amended: 12/03/82; Amended: 06/03/83; Amended: 05/04/84; Amended: 07/06/84; Amended: 11/02/84; Amended: 12/06/85; Amended: 05/01/87; Amended: 06/03/88; Amended: 12/02/88; Amended: 01/06/89; Amended: 06/02/89; Amended: 06/01/90; Amended: 06/07/91; Amended: 12/06/91; Amended: 06/05/92; Amended: 07/10/92; Amended: 06/11/93; Amended: 10/08/93; Amended: 06/10/94; Amended: 05/12/95; Amended: 10/13/95; Amended: 05/10/96; Amended: 05/09/97; Amended: 03/17/98; Amended: 11/15/05 effective 01/01/06 amended 09/18/07 effective 01/01/08; Amended 06/17/08 effective 01/01/09; Amended 06/15/10 effective 01/01/11; Amended: 06/19/12; effective 01/01/13; Amended 06/18/13; effective 01/01/14; Amended: 07/15/14 effective 01/01/15; Amended: 07/21/15 effective 01/01/16; Amended 07/19/16 effective 01/01/17; Amended 07/18/17, effective 01/01/18; Amended 07/17/18, effective 01/01/19; Amended 07/16/19, effective 01/01/2020; Amended 08/18/2020, effective 01/01/2021; Amended 07/20/2021, effective 1/01/2022; Amended 07/19/2022, effective 01/01/2023

RULE 301 PERMIT FEES

(A) General

(1) Purpose

- (a) This rule sets forth the fees required for various permit activities required pursuant to the provisions of Regulation II – *Permits*, and Regulation XIII – *New Source Review*.

(2) Applicability

- (a) This rule applies to:

- (i) Any person subject to the provisions of Regulation II – *Permits*, Regulation XIII – *New Source Review*, or Regulation XVII – *Prevention of Significant Deterioration*.
- (ii) Any governmental entity.
 - a. Federal, State or local governmental agencies or public districts shall pay the fees to the extent allowed pursuant to the provisions of Chapter 2, Division 7, Title 1 of the Government Code (commencing with Section 6103); Part 4, Division 26 of the Health and Safety Code (commencing with Section 41500) and Part 6, Division 26 of the Health and Safety Code (commencing with Section 44300).
- (iii) Any facility subject to the Provisions of Regulation XXX – *Federal Operating Permits (Title V)*.
 - a. Any facility subject to the provisions of Regulation XXX – *Federal Operating Permits (Title V)* shall also be subject to the provisions of District Rule 312.

(3) Limitations

- (a) Revenue derived from permit fees shall be limited as required by Health and Safety Code Sections 42311, 42311.2 and 42311.5.

(4) Effective Date

- (a) The amendments to this rule adopted on 07/~~2019~~/20~~21~~22 shall be effective on 01/01/20~~22~~23.

(B) Definitions

For the purpose of this rule, the following definitions shall apply:

- (1) “Alteration Or Modification” – Any physical change, change in method of operation of, or addition to, an existing equipment requiring an application for Permit to Construct pursuant to Rule 201. Routine maintenance and/or repair shall not be considered a physical change. A change in the method of operation of equipment, unless previously limited by an enforceable permit condition, shall not include:
- (a) An increase in the production rate, unless such increase will cause the maximum design capacity of the equipment to be exceeded; or
- (b) An increase in the hours of operation.
- (2) “Cancellation” (or Cancel) – An administrative action taken by the District which nullifies or voids a previously pending application for a permit.
- (3) “Emission Reduction Credit” (ERC) – The amount of emissions reduction which is verified and determined by the APCO to be eligible for credit in an emissions reduction bank pursuant to District Rule 1309.
- (4) “Equipment” – Any article, machine, or other contrivance, or combination thereof, which may cause the issuance or control the issuance of air contaminants, and which:
- (a) Requires a permit pursuant to Rules 201 and/or 203; or
- (b) Is in operation pursuant to the provisions of Rule 219.
- (5) “Expiration” – The end of the period of validity for an application, Permit to Operate, or a temporary Permit to Operate.
- (6) “Facility” – Any source, equipment, or grouping of equipment or sources, or other air contaminant-emitting activities which are located on one or more contiguous properties within the District, in actual physical contact or separated solely by a public roadway or other public right-of-way, and are owned or operated by the same person (or persons under common control). Such above-described groupings, if on noncontiguous properties but connected only by land carrying a pipeline, shall not be considered one facility.
- (7) “Stationary Source” (or Source) – Any article, machine, equipment, contrivance or combination thereof which emits or has the potential to emit any regulated air

pollutant and is required to have a permit pursuant to the provisions of District Rules 201, 202 and 203.

- (8) “Temporary Permit to Operate” – An interim authorization to operate equipment until the Permit to Operate is granted or denied. A temporary Permit to Operate is not issued by the District but may exist pursuant to District Rule 202.

(C) Requirements and Procedures

- (1) Fees, as specified herein, are required for the following activities:
- (a) Filing of a permit application.
 - (b) Evaluation of new or modified equipment and/or Facilities that may cause air pollution or equipment intended to control air pollution.
 - (c) Issuance of authority to construct(s).
 - (d) Issuance of permit(s) to operate.
 - (e) Annual permit to operate renewal.
 - (f) Annual authority to construct renewal.
 - (g) Change of location or ownership of a permit.
 - (h) Alteration, modification, addition or revisions to equipment.
 - (i) Permit granted or denied by Hearing Board.
 - (j) Issuance of signed duplicate or corrected permit.
 - (k) Issuance of permit(s) for previously unpermitted or altered equipment.
 - (l) Filing of application for issuance or modification of ERCs pursuant to District Rule 1309.
 - (m) Reinstatement of a delinquent permit.
 - (n) Any fees applicable to equipment located at a facility subject to Regulation XXX – *Federal Operating Permits (Title V)*.
 - (i) Any facility subject to the provisions of Regulation XXX – *Federal Operating Permits (Title V)* shall also be subject to the provisions of District Rule 312.
- (2) Fees shall be paid when due as specified herein.
- (a) Application and Duplicate Permit Fees

- (i) Application filing fees required pursuant to Section (D)(1) shall be submitted in conjunction with the application.
 - (ii) Fees for signed duplicate or corrected permit fees required pursuant to Section (D)(9) shall be submitted in conjunction with the request for the duplicate or corrected permit.
- (b) Project Evaluation Fees for Complex Sources.
- (i) Project evaluation fees for complex sources required pursuant to Section (D)(2) shall be submitted not later than thirty (30) days of written notification to the applicant that the application is subject to this fee.
 - (ii) If the applicant fails to pay the project evaluation fee for complex sources when due the APCO shall, after written notice to the applicant, cancel the application.
- (c) Initial and Annual Permit fees.
- (i) Permit fees shall be invoiced as follows:
 - a. At least thirty (30) days before the expiration date as shown on the permit; or
 - b. In the case of an initial permit fee thirty (30) days after issuance of the permit or the due date on the invoice produced after issuance of the permit, whichever is later.
 - (ii) The permit owner/operator or applicant will be notified by First Class mail, postage prepaid, of the amount to pay and the due date of the invoice.
 - (iii) If the fee is not paid on or before the due date of the invoice the permit shall become delinquent on the due date of the invoice or expiration date on the permit, whichever occurs first, and shall no longer be valid.
 - (iv) If the applicable fees remain unpaid, within thirty (30) days after the due date of the invoice or expiration date of the permit, whichever occurs first, the owner/operator or applicant shall be notified in writing by first class mail, postage prepaid:
 - a. That the permit has become delinquent for non-payment of fees and is no longer valid; and
 - b. The consequences of continuing to construct or operate with an invalid permit.
 - (v) If, after notification, the permit remains delinquent for more than three (3) months, the permit shall become inactive in the District's records.

(3) Reinstatement of Permits

- (a) A permit which is delinquent but has not become inactive may be reinstated by payment in full of all outstanding fees, fines and penalties, including but not limited to other fees imposed pursuant to District

Regulation III and fines or penalties imposed pursuant to the provisions of Article 3, Chapter 4, Part 4 of Division 26 of the Health and Safety Code (commencing with section 42400).

(4) Inactive Permits

- (a) A permit which has become inactive is null and void. The equipment which was the subject of the inactive permit may be permitted again by the District so long as the owner/operator submits a new permit application. Such new permit application will be processed as if the equipment was an entirely new unit requiring a permit.

(5) Refunds

- (a) No claim for refund for any fee required by this rule shall be honored unless:
 - (i) For initial permit fees, such claim is submitted within ninety (90) days after the permit was issued.
 - (ii) For renewal permit fees, such claim is submitted within ninety (90) days after the prior permit expiration date.
- (b) Refunds shall be pro-rated for the period between the date the request is received or prior permit expiration date, whichever is applicable, and the current permit expiration date.
- (c) Fees established as surcharges are not refundable and are assessed in addition to the schedules established for permit fees. Surcharges are assessed and applicable as specified herein.
- (d) The application filing fee set forth in section (D)(1) is non-refundable.

(6) Pro-rated fees

- (a) The APCO may pro-rate any of the following fees excluding any applicable filing fee:
 - (i) Initial Permit Fee;
 - (ii) Annual Permit to Operate Renewal Fee;
 - (iii) Permit to Construct Renewal Fee;
 - (iv) Alteration, Modification, Addition or Revision Fees.
- (b) Pro-rated fees shall be calculated based upon the fees and fee schedule in effect on the date of issuance of the permit to which the fees apply.
- (c) Fees shall be pro-rated for the period between the date of the issuance of the affected permit and the expiration of the permit.

(7) Service Charge for Returned Checks

- (a) Any person who submits a check to the District on insufficient funds or on instructions to stop payment on the check, absent an overcharge or other legal entitlement to withhold payment, shall be subject to a \$25.00 service charge.

(8) Credit Card Payments

- (a) If any person wishes to pay using a credit card the person shall also pay any costs imposed by the company processing the credit card transaction.

(D) Fees

(1) Application Filing Fee

- (a) Any person who applies for the issuance of a new or modified permit shall be assessed a fee of ~~\$551.00~~606.00, except for:
 - (i) Any facility subject to the Provisions of Regulation XXX – *Federal Operating Permits (Title V)* shall be assessed a fee of ~~\$916.00~~1,008.00.
- (b) The application filing fee is non-refundable and shall not be applied to any subsequent application.
- (c) Applications shall not be accepted unless they are accompanied by the application filing fee.

(2) Project Evaluation Fee for Complex Sources

- (a) Any person who submits an application which is related to projects to construct or modify any of the following, shall be assessed a project evaluation fee for complex sources.
 - (i) Equipment associated with landfills;
 - (ii) Equipment associated with resource recovery projects;
 - (iii) Equipment associated with energy cogeneration projects;
 - (iv) Equipment associated with electrical power plants;
 - (v) Other permit units subject to the provisions of District Rule 1303(B);
 - (vi) Emissions of hazardous and toxic material requiring a Health Risk Assessment pursuant to District Rule 1401(E)(3) or a Case-By-Case MACT determination pursuant to District Rule 1401(F)(2) and/or waste disposal or treatment facilities;
 - (vii) Any facility requiring a permit under Regulation XVII – *Prevention of Significant Deterioration*; and
 - (viii) Any other permit units where the APCO or his or her designee has determined that an analysis required pursuant to these Rules or

Regulations would require over two (2) hours of staff time to complete.

- (b) A deposit of \$6,500.00 to be applied toward the project evaluation fee for complex sources shall be paid within 30 days of written notification by the District that the application is subject to this fee.
- (c) The project evaluation fee for complex sources shall be based on the District's total actual and reasonable labor time and other reasonable expenses for the evaluation required to develop a permit to construct and/or permit to operate.
 - (i) This fee shall be calculated at a labor rate of \$173.00 per hour plus actual expenses.
 - (ii) The fee shall accrue and be applied against the deposit.
 - (iii) Should the District's costs as calculated pursuant to subsection (i) above not exceed the deposit; the remainder of the deposit will be returned to the applicant.
 - (iv) Should the District's costs as calculated pursuant to subsection (i) above exceed the deposit the excess will be billed to the applicant.
 - a. The applicant shall be notified, in writing, of the amount of any such excess fee and the due date for payment of the fee.
 - b. An accounting of costs and written notice to the applicant shall be issued to the applicant at least quarterly.
- (d) Actual expenses of the District include consultant services which are engaged by the District for the purpose of project evaluations. When project evaluations are performed for the District under such a contract, the applicant will be assessed fees for the actual total and reasonable costs incurred by the District staff to oversee, review and approve the evaluation as well as the actual cost to the District of the contractor evaluation.
- (e) Actual expenses of the District include project notice fees which are incurred on behalf of project public notices.
- (f) The provisions of Section (C)(2) do not apply to this fee. If the applicant fails to pay the project evaluation fee for complex sources when due the APCO shall, after written notice to the applicant, cancel the application.

(3) Initial Permit Fee

- (a) Except as otherwise provided in this Rule, any person who applies for a new or modified permit shall, upon notification that the application has been approved, be assessed the initial permit fee for the issuance of a permit to construct or permit to operate in the amount prescribed in schedules set forth in section (E)(1).
 - (i) For applications containing mutually exclusive alternative construction scenarios the APCO may, upon written request of the applicant, assess an alternate initial permit fee. Such alternate initial permit fee shall not be less than the highest initial permit fee for any single alternative scenario set forth in the application and shall not be more than the sum of the initial permit fees for all alternative scenarios set forth in the application.
- (b) After the provisions for granting permits as set forth in Division 26 of the Health and Safety Code and these Rules and Regulations have been complied with, the applicant shall be notified, in writing, of the amount of the fee to be paid as the initial permit fee.
 - (i) Notice may be given by personal service or by mail, postage prepaid.

(4) Annual Permit to Operate Renewal Fee

- (a) Permits to operate shall be annually renewable, upon payment of fees.
- (b) The annual permit to operate renewal fee shall be calculated pursuant to the schedules set forth in section (E)(1).
- (c) The annual permit to operate renewal fee shall be invoiced as specified in Section (C)(2)(c) above.

(5) Permit to Construct Renewal Fee

- (a) Authorities to construct may be renewed, upon payment of fees, pursuant to the provisions of District Rule 201.
- (b) The authority to construct renewal fee shall be calculated pursuant to the schedules set forth in section (E)(1).
 - (i) For applications containing mutually exclusive alternative construction scenarios the APCO may, upon written request of the applicant, assess an alternate authority to construct renewal fee. Such alternate authority to construct renewal fee shall not be less than the highest authority to construct renewal fee for any single alternative scenario set forth in the application and shall not be

more than the sum of the authority to construct renewal fees for all alternative scenarios set forth in the application.

- (c) Authorities to construct may only be renewed for two (2) years after the initial date of issuance, unless the application is canceled or an extension of time pursuant to the provisions of District Rule 205 has been granted by the APCO.
 - (d) The authority to construct renewal fee shall be invoiced as specified in Section (C)(2)(c) above.
 - (e) When construction is completed prior to the expiration of the authority to construct, the authority to construct may thereupon act as a temporary permit to operate pursuant to the provisions of District Rule 202. The residual fee for the authority to construct, calculated as a pro-rated fee for the period between the completion of construction and the expiration date of the permit, shall be applied to a pro-rated initial permit fee for the same period. Any positive difference between the residual fee and the pro-rated initial permit fee shall be invoiced as set forth in Section (C)(2).
- (6) Change of Location or Ownership Fees
- (a) Permits, pursuant to the provisions of District Rule 209, are only valid for the location specified in the permit.
 - (i) Any person who applies for a permit requesting a change in the location of equipment included on a currently valid permit shall request in writing a change of location for the equipment and may be assessed an initial permit fee if the change in location also creates additional alteration(s), modification(s), addition(s) or revision(s) in either the subject permit or other permits at the same facility.
 - (ii) The person will be notified by mail, postage prepaid, of the amount of the initial permit fee due as a result of the change of location and the due date for payment of the fee.
 - (iii) The APCO or his or her designee may, upon the applicant's written request, waive the initial permit fee.
 - (b) Permits, pursuant to the provisions of District Rule 209, are only valid as to the person named on the permit.
 - (i) Any person who applies for a permit requesting a change of ownership of equipment included on a currently valid permit shall be assessed a transfer fee of ~~\$324~~\$353.00 for each permit being transferred from one person to another.
 - (ii) The filing fee set forth in Section (D)(1) are waived for applications solely requesting a change of ownership
 - (iii) The transfer fee for applications solely requesting a change of

ownership is due at the time the application is filed.

- (c) Any person submitting an application for a permit requesting a change of location and/or change of ownership which also requests alterations, additions or revisions to the permit shall be assessed either the fees set forth in this Section or in Section (D)(7) whichever is greater.

(7) Alteration, Modification, Addition or Revision Fees

- (a) Any person who applies for a permit requesting alterations, modifications, additions, or revisions of the permit resulting from a change to equipment included on a currently valid permit shall be assessed an application filing fee pursuant to Section (D)(1) and a permit revision fee.
- (b) The permit revision fee shall be calculated as follows:
 - (i) The initial permit fee for a permit which includes the alteration, addition or revision minus the previous years annual permit to operate renewal fee pro-rated for the period between the date of issuance for the permit containing the alteration addition or revisions and the original permit(s) expiration date.
- (c) The permit revision fee shall be invoiced as set forth in Section (C)(2)(c)(i).
- (d) Any person submitting an application for a permit requesting a change of location and/or change of ownership which also requests alterations, additions or revisions to the permit shall be assessed either the fees set forth in this Section or in Section (D)(6) whichever is greater.

(8) Fees Applicable when Permit Granted or Denied by Hearing Board

- (a) If a permit is granted by the Hearing Board after denial of an application by the APCO or after the application has been deemed denied pursuant to District Rule 215, the applicant shall be assessed the appropriate fees set forth in this Rule.
- (b) The applicant shall be notified, in writing, of the amount of the fee and the due date for payment of the fee.
- (c) Previously paid fees are not refundable if the Hearing Board denies the issuance of a permit which was granted by the APCO.

(9) Signed Duplicate or Corrected Permit Fees

- (a) A request for a signed duplicate permit or for administrative corrections to a permit shall be made in writing by the permit holder.
- (b) The permit holder may be assessed a fee of \$~~160~~176.00 for issuing each signed duplicate or corrected permit.
- (c) The fee for a signed duplicate or corrected permit is due at the time the permit is requested.

- (10) Previously Unpermitted or Altered Equipment Fee.
- (a) When equipment is built, erected, installed, altered, or replaced (except for identical replacement) without the owner or operator obtaining a permit to construct in accordance with Rule 201, the owner or operator shall be assessed a previously unpermitted equipment fee.
 - (b) The previously unpermitted equipment fee shall be calculated as fifty percent (50%) of all applicable permit fees which would have been required for each year of unpermitted activity, plus the full amount of all applicable permit fees for the year immediately preceding the year when the permit to operate is granted.
 - (c) The unpermitted equipment fee is due when the permit to operate is granted.
 - (d) The assessment of an unpermitted equipment fee shall not limit the District's right to pursue any other remedy provided for by law.
 - (e) The provisions of this subsection shall not apply if a permit is required solely due to a change in Rule 219.
 - (f) The APCO may waive the unpermitted equipment fee for good cause upon the written application of the person assessed the fee.
- (11) Fees for Issuance of Emission Reduction Credits
- (a) Any person submitting an application for Emission Reduction Credits pursuant to District Rule 1309 shall pay the following fees:
 - (i) An initial application fee of ~~\$9541,049~~.00 for each application submitted.
 - (ii) An analysis fee based upon the actual and reasonable labor time in excess of ten (10) hours labor billed at the rate of \$173.00 per hour.
 - (iii) The actual cost of publication of notice if such is required pursuant to District Rule 1309.
 - (b) Any person submitting a document effecting an encumbrance or transfer of Emission Reduction Credits pursuant to District Rule 1309 shall pay a fee of \$173.00 for each document submitted.
- (12) Reinstatement Fee for a Delinquent Permit
- (a) Any person who applies for delinquent permit reinstatement pursuant to the provisions of subsection (C)(3)(a) shall be assessed a fee equal to the amount of all outstanding fees, fines and penalties for the particular unit that is the subject of the permit and an initial permit fee for that unit for the current year.

(E) Schedules for Fees

(1) Initial Permit and Annual Permit to Operate Renewal and Authority to Construct Renewal Fees.

- (a) Any Equipment or Process subject to the provisions of this rule shall be assigned a fee classification based upon the equipment and/or process type as set forth in Table 1 of this rule.
- (b) Any Equipment or Process subject to the provisions of this rule which is not otherwise listed in Table 1 of this rule shall be assigned fee classification B.
- (c) All applicable fees shall be assessed pursuant to the fee classifications listed in Table 1 according to the following schedule:

Equipment/Process Classification	Fee Amount
Classification A	\$531.21 <u>584.33</u>
Classification B	\$1,902.51 <u>2,092.76</u>
Classification C	\$4,563.86 <u>5,020.25</u>
Classification D – Reciprocating Internal Combustion Engines rated 50 bhp to 499 bhp and All Emergency Engines	\$531.21 <u>610.89</u>
Classification E - Reciprocating Internal Combustion Engines rated 500 bhp to 749 bhp.	\$1,092.51 <u>1,256.39</u>
Classification F - Reciprocating Internal Combustion Engines rated 750 bhp or greater	\$2,083.69 <u>2,296.24</u>
Electrical Generating Equipment (non-emergency) rated 100,000,000 Btu/hr and less	\$6,325.07 <u>6,957.58</u> plus \$150.86 <u>166.95</u> per each 1,000,000 Btu/hr
Electrical Generating Equipment (non-emergency) rated greater than 100,000,000 Btu/hr	\$17,559.37 <u>19,315.31</u> plus \$38.48 <u>42.33</u> per each 1,000,000 Btu/hr
Nozzles (Rule 461)	\$57.47 <u>63.22</u> per product/per nozzle

[SIP: Not SIP.]

**Table 1
Equipment/Process Classifications**

Equipment	Classification A	Classification B	Classification C
Basic Process Systems including ancillary equipment	Any Abrasive Blasting; Anodizing; Blending; Chemical (no toxics, hazardous) Milling; Cooling Tower; Any Degreaser; Deposition Ceramics; Dry Cleaning; Etching; Film Cleaner; Grinder; Ink Mfg; Laundry; Liquid Container Filling; Packaging; Polystyrene Extrusion; Polyurethane Mfg; Refrigerant Handling and/or Processing; Smoke Generator; Soldering; Stripping; Vacuum Metallurgy	Adhesives; Air Stripper; Ammonia Process; Asphalt Process; Auto Body Shredding; Battery Charging/Mfg; Chemical (toxics, hazardous) Milling; Degreaser; Plastic/Resins Handling; Soil Vapor Extraction; Vacuum Generator; Any process not otherwise listed under any category	Landfill Gas Treatment; Liquid Hazardous Waste Processing; LPG Distiller
<u>Other Processes</u>			
Bulk and Crustal Material Handling	Aggregate Conveying, Loading and/or Unloading; Bulk Chemical Terminal; Green Waste Screening; Paper Conveying; Weigh Station	Aggregate Production; Concrete Batch Plant; Concrete/Asphalt Crushing; Other Conveying; Loading/unloading; Other Screening; Soil Treatment	All others including Asphalt Batch Plant
Coating including Printing and Coating Within Spray Booths	Asphalt/Tar Pot; Asphaltic; Can/Coil; Any Dip Tank; Fabric; Film; Flow; Paper; Printing Press, IR/UV Over, Air Dry or Screen; Roller; Spray; Stereolithography; Striping; Tablet	Asphalt Saturator; Printing Press Other; Spraying Resin/Gel Coat; Wood	
Feed/Food Preparation and Handling	Charbroiler with integral control; Feed Handling; Restaurant Charbroiler	Bakery Oven; Charbroiler no integral control; Feed Processing	All others
Fuel Handling and Storage	Bulk Loading/Unloading <50,000 gpd; Fuel Oil; LPG; Spill Sump Tank; Waste Oil; Railcar unloading to Truck; Tank with no controls	Aircraft Fueling; Bulk Loading/Unloading Rack 50,000 to <200,000 gpd; Fuel Gas Mixer; Hydrant Fueling; Natural Gas Odorizer; Toxics or Hazardous Storage Tank; Fixed Roof Tank; Tank with control system; LPG Tank with Vaporizing System; LPG Tank Truck Loading; LPG Treatment	Bulk Loading/Unloading Rack 200,000+ gpd; Gasoline Blending Plant; All others

**Table 1
Equipment/Process Classifications**

Equipment	Classification A	Classification B	Classification C
Incinerators		Crematory	All others
Sewage, Stormwater, Wastewater and Water Treatment	<10,000 gpd; Fluid Elimination; Landfill Condensate/Leachate Collection/Storage	10,000 to <50,000 gpd; Up to 5 million gpd sewage treatment; Aeration; Groundwater treatment; Landfill Gas Collection; Sewage sludge composting; Sludge Handling	All others
Storage, Non-Fuel	Asphalt <50,000 gal; Baker-Type; Dry Material; Sump Tank; Tank with control; Tank with sparging	Aqueous Ammonia; Asphalt 50,000+ gal; Catalyst	
<u>Air Pollution Control Devices</u>			
Afterburner	Non-catalytic; no more than one MMBtu per hour (supplemental fuel); single source	All others (including boilers and incinerators)	
Biofilter	No more than 100 cfm	All others	
Carbon Absorber/Adsorber	single source no toxics	All others (non-regenerating)	All others
Catalytic Reduction	Non-selective	Selective	
Dust Control including Baghouses and Cyclones	No more than 500 ft ² of filter area; all cyclones and settling chambers; All negative air machines	More than 500 ft ² of filter area; Any size hot baghouse (special filter material)	
Electrostatic Precipitators (ESP)	Less than 3000 cfm or any extruder or any restaurant	All others	
Flares	Portable	All others	Enclosed landfill/digester gas
Scrubbers and/or Mist Control including Sparging	No toxics, NO _x or SO _x control and single source and single stage; or for acid or any restaurant or any sparger	All others, including Ultraviolet Oxidation	

**Table 1
Equipment/Process Classifications**

Equipment	Classification A	Classification B	Classification C
Sterilizers	Hospital ethylene oxide	All others	
Vapor Control		All	
<i>Fuel Burning Equipment (Not Cogeneration or Generating Electricity Equipment Other Than Emergency Equipment)</i>			
Autoclaves; Chillers; Distiller; Dryers, Furnaces, Heaters, Kilns, Ovens, Roasters, Stills	<5 MMBtu/hr; Glass Furnace less than one tpd pull; Laundry; Metal Recovery; Non-Organics Dryer; Non-Toxics Evaporator; Pavement Heater	5 to <50 MMBtu/hr; Arc; Burn-Off; Catalyzed Metal Recovery; Chip Dryer; Cupola; Curing Oven with toxics/hazardous; Electric; Evaporator (Toxics); Frit; Galvanizing; Glass Furnace one to <50 tpd pull; Organics Dryer; Pot/Crucible; Natural Gas Kiln; Reveratory	All others
Boilers	<5 MMBtu/hr	5 to <50 MMBtu/hr; Up to 10 MMBtu landfill or digester gas	All others
Turbines	<0.3 MW(e) Emergency	0.3+ MW(e) Emergency; <50 MW(e) not on Landfill or Digester Gas	All others
Cogeneration and Electrical Generating Equipment (including Duct Burners) Equipment under this category shall be assessed a permit renewal fee calculated based on design maximum fuel consumption of the equipment expressed in British thermal units per hour, using gross heating value (See (E)(1)(c))			
Nozzles (Rule 461) Permits subject to District Rule 461 shall be assessed a single permit renewal fee calculated as follows: the number of fuel dispensing nozzles multiplied by the number of products dispensed through each nozzle at the facility.			
Reciprocating Internal Combustion Engines Equipment under this category shall be assessed a permit renewal fee based on the nameplate bhp of the engine with the exception of those engines designated as “Emergency” engines pursuant to 1110.2 which shall be assessed as Classification D. (See (E)(1)(c)).			

Rule 302 Other Fees

(A) General

(1) Purpose:

- (a) This rule sets forth fees which may be charged for various activities, documents and services, including but not limited to: provision of publications, performing analysis, filing, evaluation and enforcement of Plans, State Mandated fees, and activities regulated pursuant to District Rule 1403 – *Asbestos Emissions from Demolition/Renovation Activities*.

(2) Applicability

(a) This rule applies to

- (i) Any person subject to a fee listed below.
- (ii) Any governmental entity subject to a fee listed below.
 - a. Federal, state and local government agencies or public districts shall pay the fees to the extent allowed pursuant to the provisions of Chapter 2, Division 7, Title 1 of the Government Code (commencing with Section 6103); Part 4, Division 26 of the Health and Safety Code (commencing with Section 41500) and Part 6, Division 26 of the Health and Safety Code (commencing with Section 44300).

(3) Effective Date

- (a) The amendments to this rule as adopted on ~~07/16/19~~07/19/2022 shall be effective immediately.

(B) Definitions

The definitions contained in District Rule 102 shall apply unless the term is otherwise defined herein:

- (1) “Active Operations” – Any activity capable of generating Fugitive Dust, including, but not limited to, Earth-Moving Activities, Construction/Demolition Activities, or heavy- and light-duty vehicular movement.
- (2) “Dust Control Plan” – A document setting forth information and methods to control or measure the emissions of dust required pursuant to District Rule 403.
- (3) “Plan” – A document to be submitted to the District by District Rule or Regulation; or State or Federal law or regulation, providing a description or procedures necessary to

accomplish the particular objective and containing those items set forth in the underlying requirement.

- (4) “Source Test Protocol” – a test work Plan or protocol includes a process description, field sampling methods, analytical test methods, test schedules, equipment calibration and a results presentation format used to determine the type and quantity of pollutants emitted from sources by sampling the effluent stream.
- (5) “Source Test Report” – a document that provides the analytical results from an emission source test used to determine the type and quantity of pollutants emitted from sources by sampling the effluent stream. The report should contain an executive summary, field sampling methods, analytical test methods, equipment calibration and a results presentation to determine the type and quantity of pollutants emitted from sources by sampling the effluent stream.

(C) Payments, Adjustments and Refunds

- (1) Fees shall be paid when due as specified herein.
 - (a) Analysis Fees
 - (i) Analysis fees shall be invoiced as follows:
 - a. Directly by the entity retained by the District to perform the test and or analysis; or
 - b. By the District within thirty (30) days of receipt of an invoice by the District for testing and/or analysis services.
 - (ii) If invoiced by the District, the person ordered to provide the analysis or test by the Air Pollution Control Officer (APCO) will be notified by First Class mail, postage prepaid, of the amount to pay and the due date of the invoice.
 - (iii) A fee not paid within thirty (30) days of the due date of the invoice shall constitute grounds for the denial, revocation or suspension of all permits to operate at sources subject to permit requirements and shall constitute a violation of this Rule for any source, whether or not subject to permit requirements.
 - (b) Asbestos Fees
 - (i) Asbestos fees shall be paid with the written notice of intent to demolish, renovate or abate.
 - (c) Plan Fees
 - (i) Plan filing and evaluation fees shall be paid at the time of submission of the Plan.
 - (ii) If a Plan requires an annual renewal the District shall invoice the Plan renewal fee at least thirty (30) days prior to the expiration date of the Plan.

- a. The invoice shall be sent via First Class mail, posted prepaid to the contact person indicated in the Plan.
- b. Payment of annual review fee shall be due in thirty (30) days from the date of mailing.
- (iii) A fee not paid within thirty (30) days of the due date of the invoice shall constitute grounds for the denial, revocation or suspension of the Plan and shall constitute a violation of this Rule for any source, whether or not subject to permit requirements.

(d) Publication Fees

- (i) Publication fees shall be paid prior to the delivery of the publication requested.

(e) State Mandated Fees

- (i) State mandated fees shall be due as specified in the regulation which imposes the mandate and allows the District to collect the state imposed fees for such mandate.

(2) Credit Card Payments

- (a) Fees may be paid by credit card directly from the District website.
- (b) If any person wishes to pay using a credit card the person shall also pay any costs imposed by the company processing the credit card transaction.

(3) Refunds

- (a) Asbestos fees are non-refundable.
- (b) The Plan filing and evaluation fee set forth in section (B)(1) is non-refundable.

(4) Service Charge for Returned Checks

- (a) Any person who submits a check to the District on insufficient funds or on instructions to stop payment on the check, absent an overcharge or other legal entitlement to withhold payment, shall be subject to a \$25.00 service charge.

(D) Analysis Fees

- (1) Any person ordered by the APCO to provide an analysis of materials used by or the determination of emissions from any source of air contaminants shall pay all direct costs associated with such tests as invoiced by the entity which is retained by the District or the owner/operator, to perform the tests.
- (2) Data and sample collection methods, analysis methods and the qualifications of testing personnel or firms shall be determined by the APCO.

(E) Asbestos Fees

- (1) Any person who is required by District Rule 1403 – *Asbestos Emissions from Demolition/Renovation Activities* to submit a written notice of intention to demolish shall pay, at the time of delivery of notification, a non-refundable fee of \$244.00.
- (2) Any person who is required by District Rule 1403 – *Asbestos Emissions from Demolition/Renovation Activities* to submit a written notice of intention to renovate or abate shall pay a non-refundable fee based upon the area to be renovated or abated:

Linear Feet	Square Feet	Cubic Feet	Fee
260 – 999	100 – 999	35 – 218	\$585.00
1,000 – 4,999	1,000 – 4,999	219- 1094	\$1167.00
5,000 – 9,999	5,000 – 9,999	1,095 – 2,188	\$1755.00
10,000 or more	10,000 or more	2,189 or more	\$2341.00

(3) Expedited Handling Fee

- (a) Any person subject to a fee pursuant to subsections (E)(1) or (2) above who submits the written notice of intention to demolish, renovate or abate and such notice is delivered or postmarked less than fourteen (14) calendar days before the project start date listed on the notification shall pay, in addition to the above fees, an expedited handling fee of \$75.00

(4) Fee Calculation

- (a) Fees are assessed on a per notification basis and multiple fees may apply.
- (b) The total fee for any project shall be the sum of the applicable fees under subsection (1) and (2) above.

(5) No notification shall be considered received pursuant to Rule 1403, unless it is accompanied by the required payment.

(F) Plan Fees

(1) Air Toxics Plans

(a) Any person filing a Health Risk Assessment or a Risk Reduction Audit Plan pursuant to the Air Toxic “Hot Spots” Information and Assessment Act as amended (California Health & Safety Code §§ 44300 et seq) shall be assessed a fee of \$489.00 for the District’s evaluation of the Health Risk Assessment and Risk Reduction Audit Plans. [moved from (F)(2) to create ascending alphabetical order]

(2) California Business & Professions Code Division 10 Compliance Plan (B&P Div. 10 Compliance Plan)

(a) Any operation regulated under Division 10 of the California Business & Professions Code shall file a B&P Div. 10 Compliance Plan no later than 10 days prior to the commencement of operations, within 10 days of any substantive change in the information provided in the B&P Div. 10 Compliance Plan and annually prior to the expiration date of the B&P Div. 10 Compliance Plan.

(i) Such B&P Div. 10 Compliance Plan shall include information that is reasonably designed to ensure the ability to enforce provisions of Division 26 of the California Health & Safety Code and applicable District Rules and Regulations as specified on the most recent official B&P Div. 10 Compliance Plan form issued by the APCO.

(b) Any person filing a B&P Div. 10 Compliance Plan shall be assessed an annual Plan fee based on facility square footage, (less the square footage designated for common use area and processing area containing permitted equipment). The fee shall be \$0.16 cents per square foot.

(i) If any of the square footage submitted on the Plan is constructed in a vertical configuration, the fee shall be determined based on the square footage multiplied by the number of layers/tiers in the configuration.

1. Fees shall be submitted in conjunction with the submission of the Plan.

2. Annual renewal fee shall be invoiced at least 30 days before the expiration date. [moved from (F)(3)(b) to create ascending alphabetical order]

(13) Construction and Dust Control Plan Fees

(a) Any person who is required to submit a Dust Control Plan (DCP) pursuant to the provisions of District Rule 403: ~~shall be assessed a Plan filing and evaluation fee of \$661.00.~~

~~(i) Shall be assessed a Plan filing and evaluation fee of \$661.00, and~~

~~(ii) Shall be assessed a Construction Excavation fee based on actual acreage (as specified by the land use agency) of the project as follows:~~

Construction (acres)

<u>(a) 5 or greater but less than 10</u>	<u>\$1,690.00</u>
<u>(b) 10 or greater but less than 20</u>	<u>\$3,381.00</u>
<u>(c) 20 or greater but less than 50</u>	<u>\$6,762.00</u>
<u>(d) 50 or greater but less than 100</u>	<u>\$8,443.00</u>
<u>(e) 100 or greater but less than 200</u>	<u>\$10,638.00</u>
<u>(f) 200 or greater but less than 300</u>	<u>\$12,833.00</u>
<u>(g) 300 or greater but less than 400</u>	<u>\$15,072.00</u>
<u>(h) 400 or greater but less than 500</u>	<u>\$17,221.00</u>
<u>(i) 500 or greater but less than 1,000</u>	<u>\$19,682.00</u>
<u>(j) 1,000 or greater but less than 2,000</u>	<u>\$21,878.00</u>
<u>(k) 2,000 or greater but less than 3,000</u>	<u>\$26,565.00</u>
<u>(l) 3,000 or greater but less than 4,000</u>	<u>\$33,810.00</u>
<u>(m) 4,000 or greater but less than 5,000</u>	<u>\$43,470.00</u>
<u>(n) 5,000 or greater</u>	<u>\$55,545.00</u>

~~(i) The Dust Control Plan filing and evaluation fee of \$661.00 shall be submitted in conjunction with the submission of the Dust Control Plan and the Construction Excavation fee.~~

~~(iii) Upon termination of construction activities, if a site stability evaluation is performed pursuant to District Rule 403, the person holding the DCP may be assessed an inspection fee of \$287.00.~~

(b) Any Active Operation requiring a DCP shall resubmit the DCP annually pursuant to the provisions of District Rule 403(D)(1)(j) as dust generating activities do not cease upon termination of construction activities. Such resubmission shall be assessed a Plan filing and evaluation fee of \$661.00.

(i) If a site inspection is performed for compliance with the provisions of Rule 403 or the applicable DCP ~~is performed~~, the person holding the DCP may be assessed an inspection fee of \$287.00.

~~(2) Air Toxics Plans~~

~~(a) — Any person filing a Health Risk Assessment or a Risk Reduction Audit Plan pursuant to the Air Toxic “Hot Spots” Information and Assessment Act as amended (California Health & Safety Code §§ 44300 et seq) shall be assessed a fee of \$489.00 for the District’s evaluation of the Health Risk Assessment and Risk Reduction Audit Plans.~~

~~(34) Other Plan Fees-Source Test and Protocol and Report Evaluation Fees~~

~~(a) — Source Test Protocol and Report Evaluation Fees *[moved for clarity]*~~

~~(ia) Any person filing a Source Test Protocol with the District shall be assessed a fee of \$489.00 for the evaluation of the Protocol. There will be no additional fee charged for the evaluation of testing results.~~

~~(b) — California Business & Professions Code Division 10 Compliance Plan (B&P Div. 10 Compliance Plan)~~

~~(i) — Any operation regulated under Division 10 of the California Business & Professions Code shall file a B&P Div. 10 Compliance Plan no later than 10 days prior to the commencement of operations, within 10 days of any substantive change in the information provided in the B&P Div. 10 Compliance Plan and annually prior to the expiration date of the B&P Div. 10 Compliance Plan.~~

~~a. — Such B&P Div. 10 Compliance Plan shall include information that is reasonably designed to ensure the ability to enforce provisions of Division 26 of the California Health & Safety Code and applicable District Rules and Regulations as specified on the most recent official B&P Div. 10 Compliance Plan form issued by the APCO.~~

~~(ii) — Any person filing a B&P Div. 10 Compliance Plan shall be assessed an annual Plan fee based on facility square footage, (less the square footage designated for common use area and processing area containing permitted equipment). The fee shall be \$0.16 cents per square foot.~~

~~(1) If any of the square footage submitted on the Plan is constructed in a vertical configuration, the fee shall be determined based on the square footage multiplied by the number of layers/tiers in the configuration.~~

~~1. Fees shall be submitted in conjunction with the submission of the Plan.~~

~~2. Annual renewal fee shall be invoiced at least 30 days before the expiration date. *[moved to (F)(2) above to create alphabetical order]*~~

(G) Publication Fees

- (1) Any person receiving a publication for which a fee is charged shall be assessed the designated fee.
 - (a) The Air Pollution Control Officer (APCO) shall designate those publications, including information circulars, reports of technical work, or other reports, prepared by the District for which a fee shall be charged.
 - (b) Such fee shall be established by the APCO in a sum not to exceed the cost of preparation and distribution of such documents. Such fees shall be deposited in the general funds of the District.
 - (c) Cities and counties shall be entitled to receive one copy of any District publication without charge.
- (2) Nothing in this Rule shall be construed to limit the rights of any person, or of the District, pursuant to the California Public Records Act, Chapter 3.5, Division 7 of Title 1 (commencing with Section 6250) of the Government Code.

(H) State Mandated Fees

- (1) Air Toxics “Hot Spots” Information and Assessment Fees.
 - (a) Any person subject to the provisions of the Air Toxics "Hot Spots" Information and Assessment Act as amended (California Health and Safety Code (H&SC) §§44300 et seq. and the regulations promulgated thereunder shall be assessed an annual fee for the various state level components required by the Act. The fee schedule is set by the California Air Resources Board (CARB) and authorizes collection of the fee by the District pursuant to the provisions of the adopting regulation.
- (2) Other State Mandated Fees
 - (a) Any person subject to the provisions of a State adopted regulation or rule that assesses a fee to cover District costs for implementing such regulation and authorizes the collection of the fee by the District shall be assessed such fee pursuant to the provisions of the adopting regulation.

APPENDIX "B"
PUBLIC NOTICE DOCUMENTS

1. Draft Notice of Public Hearing – Antelope Valley Press 06/17/2022

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NOTICE OF HEARING

NOTICE IS HEARBY GIVEN that the Governing Board of the Antelope Valley Air Quality Management District (AVAQMD) will conduct a public hearing on July 19, 2022 at 10:00 A.M. to consider the proposed amendment to Rule 301 – *Permit Fees* and Rule 302 – *Other Fees*.

Overall increases in operating expenses require adjustments in permit fees. The AVAQMD is proposing a 10% fee increase to most fees in Rule 301 – *Permit Fees* to recover the rising costs of issuing air quality permits, performing inspections, investigations, and enforcing District rules and regulations. In addition, Rule 301 also includes a 15% increase for (E) fee classifications D-F as the costs for this type of equipment is not commensurate with the fee revenue received. The proposed amendment to Rule 302 – *Other Fees* is necessary to mitigate the increased inspection time spent due to expanded residential, industrial and solar construction expenditures.

To allow time to implement the proposed fee change for Rule 301 – *Permit Fees* in the computerized billing system, this amendment is proposed to be effective on January 1, 2023. The proposed changes to Rule 302 – *Other Fees* will be effective immediately.

SAID HEARING is being held in accordance with the guidelines set forth in the Governor's Executive Order N-29-20 issued on March 17, 2020 that modifies the Brown Act to allow attendance, conduct of the meeting, and public participation by teleconference, videoconference, in person or any of the above.

Copies of the proposed amendment to Rule 301 – *Permit Fees* and Rule 302 – *Other Fees*, as well as the Staff Report are posted on the AVAQMD website at www.avaqmd.ca.gov and are also available at the AVAQMD Office at 2551 W Avenue H, Lancaster, CA 93536. Written comments may be submitted to Bret Banks, Executive Director, at the above office address, and should be received no later than July 18, 2022 to be considered. If you have any questions you may contact Barbara Lods at (661) 723-8070 x23 or via E-mail at blods@avaqmd.ca.gov for further information. Traducción esta disponible por solicitud.

Pursuant to the California Environmental Quality Act (CEQA) the AVAQMD has determined that a Categorical Exemption (Class 8 – 14 Cal. Code Reg §15308) applies and has prepared a *Notice of Exemption* for this action.

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APPENDIX "C"
PUBLIC COMMENTS AND RESPONSES

1. N/A

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APPENDIX "D"
CALIFORNIA ENVIRONMENTAL QUALITY ACT
DOCUMENTATION

1. Notice of Exemption (Draft) – Los Angeles County

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NOTICE OF EXEMPTION

TO: Los Angeles County Clerk
12400 E. Imperial Hwy, #1001
Norwalk, CA 90650

FROM: Antelope Valley Air Quality Management District
2551 W Avenue H
Lancaster, CA 93536

PROJECT TITLE: Amendment of AVAQMD Regulation III – *Fees*

PROJECT LOCATION – SPECIFIC: Los Angeles County portion of the Mojave Desert Air Basin.

PROJECT LOCATION – COUNTY: Los Angeles County

DESCRIPTION OF PROJECT: Overall increases in operating expenses require adjustments in permit fees. The AVAQMD is proposing a 10% fee increase to most fees in Rule 301 – *Permit Fees* to recover the rising costs of issuing air quality permits, performing inspections, investigations, and enforcing District rules and regulations. The proposed amendment to Rule 302 – *Other Fees* is necessary to mitigate the increased inspection time spent due to expanded residential, industrial and solar construction expenditures related to implementing and enforcing compliance with District Rules and Regulations.

NAME OF PUBLIC AGENCY APPROVING PROJECT: Antelope Valley AQMD

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Antelope Valley AQMD

EXEMPT STATUS (CHECK ONE)

Ministerial (Pub. Res. Code §21080(b)(1); 14 Cal Code Reg. §15268)

Emergency Project (Pub. Res. Code §21080(b)(4); 14 Cal Code Reg. §15269(b))

Categorical Exemption – Class 8 (14 Cal Code Reg. §15308)

REASONS WHY PROJECT IS EXEMPT: The proposed amendments to Regulation III – *Fees* are exempt from CEQA review because they merely adjust fees and fee methodologies and there is not potential that the amendments might cause the release of additional air contaminants or create any adverse environmental impacts, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies.

LEAD AGENCY CONTACT PERSON: Bret Banks _____ **PHONE:** (661) 723-8070

SIGNATURE: _____
TITLE: Executive Director **DATE:** July 19, 2022

DATE RECEIVED FOR FILING:

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APPENDIX "E" BIBLIOGRAPHY

The following documents were consulted in the preparation of this staff report and the proposed amendments to Rule 301 – *Permit Fees* and Rule 302 – *Other Fees*:

1. AVAQMD Proposed Budget for Fiscal Year 2022-2023

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