



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

## **STAFF REPORT**

### **PROPOSED AMENDMENTS TO BAAQMD REGULATION 3: FEES**

MAY 12, 2008

**Engineering Division  
Bay Area Air Quality Management District**

## **1. EXECUTIVE SUMMARY**

District staff has prepared proposed amendments to District Regulation 3: Fees, for Fiscal Year Ending (FYE) 2009 (i.e., July 1, 2008 to June 30, 2009) that would increase revenue to enable the District to address increasing regulatory program activity costs, and continue to move toward more complete cost recovery. A recently completed 2008 Cost Recovery Study indicates that a significant cost recovery gap exists. For the most recently completed fiscal year (FYE 2007), fee revenue covered 58 percent of direct and indirect program costs, leaving a gap of \$16.5 million to be filled with county revenue derived from property taxes.

The proposed amendments would increase fee revenue in FYE 2009 by approximately \$3.4 million from projected revenue levels in the FYE 2008 budget, representing an increase of 13.9 percent. For reference, the most recent annual increase in the Consumer Price Index (CPI) for the Bay Area (i.e., from Calendar Year 2006 to 2007) was 3.2 percent.

District staff is proposing amendments to existing fee schedules that are based on the magnitude of the cost recovery gap identified in the 2008 Cost Recovery Study for each schedule. Fee schedules with the largest cost recovery gaps would be increased by 15 percent. Fee schedules with less significant cost recovery gaps would be increased by 9 percent, 6 percent, or 3 percent. Fee schedules with no cost recovery gaps would not be increased. Fees that are administrative in nature would be increased by 6 percent.

A new Greenhouse Gas (GHG) fee schedule is also proposed. The revenue from this fee schedule (\$1.1 million in FYE 2009) would help recover the costs of the District's Climate Protection Program activities related to stationary sources of air pollution. The new GHG fee would be assessed on an annual basis to permitted facilities with GHG emissions at a rate of \$0.044 per metric ton of carbon dioxide (CO<sub>2</sub>) equivalent emissions. Emissions of biogenic carbon dioxide, which are generally not associated with causing climate change, would not be subject to GHG fees.

Two new equipment registration fees are also proposed as follows: (1) a registration fee for non-halogenated dry cleaning machines that are exempt from District permit requirements, but that are required to register under District Regulation 8, Rule 17, and (2) a registration fee that would apply to those diesel engines that are exempt from District permit requirements, but that need to be registered with the District in order to comply with California Air Resources Board (CARB) regulations.

## **2. BACKGROUND**

State law authorizes the District to assess fees to generate revenue to recover the cost of District air pollution programs (i.e., the District's full direct and indirect expenditures for personnel, services and supplies, and capital outlay, related to implementing and enforcing air quality programs and regulations affecting stationary sources of air pollution). The largest portion of District fees is collected under provisions that allow the

District to impose permit fees sufficient to recover the full costs of programs related to permitted sources. The District is also authorized to assess fees for: (1) area-wide or indirect sources of emissions which are regulated, but for which permits are not issued by the District, (2) sources subject to the requirements of the State Air Toxics Hot Spots Program (Assembly Bill [AB] 2588) and, (3) activities related to the District's Hearing Board involving variances or appeals from District decisions on the issuance of permits.

The District has established, and regularly updates, a fee regulation under these authorities (District Regulation 3: Fees). Currently, about 45 percent of the District's general fund operating budget is derived from fees imposed in accordance with this regulation.

From time to time, the District has considered whether these fees result in the collection of a sufficient and appropriate amount of revenue in comparison to the costs of related program activities. In 1999, a comprehensive review of the District's fee structure and revenues was completed by the firm KPMG Peat Marwick LLP (*Bay Area Air Quality Management District Cost Recovery Study, Final Report: Phase One – Evaluation of Fee Revenues and Activity Costs; February 16, 1999*). This 1999 Cost Recovery Study indicated that fee revenue did not nearly offset the full costs of program activities associated with sources subject to fees as authorized by State law. Property tax revenue (and in some years, fund balances) had consistently been used to close this cost recovery gap.

The District Board of Directors adopted an across-the-board fee increase of 15 percent, the maximum allowed by State law, for FYE 2000 as a step toward more complete cost recovery. In each of the next five years, the District adjusted fees only to account for inflation (for FYE 2005, the District also approved further increases in Title V fees, and a new processing fee for renewals of permits to operate).

In 2004, the District Board of Directors approved funding for an updated Cost Recovery Study. The accounting firm Stonefield Josephson, Inc. completed this study in March 2005 (*Bay Area Air Quality Management District Cost Recovery Study, Final Report; March 30, 2005*). This 2005 Cost Recovery Study indicated that a significant cost recovery gap continued to exist. For the most recent year analyzed in that study, FYE 2004, fee revenue covered less than 60 percent of direct and indirect program activity costs.

In the three years following the completion of the 2005 Cost Recovery Study (i.e., FYE 2006, FYE 2007, and FYE 2008), the District adopted fee amendments that increased overall projected fee revenue by an average of about seven percent per year. In order to address fee equity issues, the various fees were not all increased in a uniform manner. Rather, individual fee schedules were amended based on the magnitude of the cost recovery gap, with the fee schedules with the more significant cost recovery gaps receiving more significant fee increases.

District staff has recently completed an updated analysis of cost recovery for FYE 2007 (*Bay Area Air Quality Management District 2008 Cost Recovery Study, March 2008*). This 2008 Cost Recovery Study indicates that the cost recovery gap was \$16.5 in FYE 2007; fee revenue covered 58 percent of program costs.

For FYE 2009, District staff has developed proposed amendments to Regulation 3 using an approach that is similar to what was used over the past three years, but that is more aggressive in terms of its impact on reducing the cost recovery gap. On an overall basis, it is estimated that the amendments would increase fee revenue by \$3.4 million in FYE 2009 from projected revenue levels in the current fiscal year budget, representing an increase of about 13.9 percent. On an inflation-adjusted basis, the increase is 10.7 percent (the increase in the annual CPI for urban wage earners for the California Bay Area from calendar year 2006 to 2007, as reported by the California Department of Industrial Relations, Division on Labor Statistics and Research was 3.2 percent). It is estimated that the increased revenue would reduce the cost recovery gap to about \$14.4 million in FYE 2009; fee revenue would cover about 65 percent of program costs.

Projected fee revenue for FYE 2009 is provided in Table 1, based on District staff's proposed amendments to Regulation 3. These figures are approximations, as actual fee revenue depends on a variety of factors, some of which are difficult to predict (e.g., year-to-year fluctuations in industrial activities).

**Table 1. Projected Fee Revenue for FYE 2009**

<b>Permit Fees</b>	
New & Modified Permit Fees, Permit to Operate Renewal Fees, Title V Fees	\$23,981,000
Greenhouse Gas Fees	\$1,116,000
<b>Other Fees</b>	
AB 2588 Fees (excluding State pass-through)	\$555,000
Asbestos, and Soil Excavation Notification Fees	\$1,928,000
Registration Fees	\$174,000
Hearing Board Fees	\$28,000
<b>Total</b>	<b>\$27,782,000</b>

### **3. PROPOSED FEE AMENDMENTS FOR FYE 2009**

#### **3.1 OVERVIEW OF PROPOSED AMENDMENTS**

The District's fee proposal for FYE 2009 includes percentage increases for most existing fees. The proposed increase for an individual fee schedule is based on the magnitude of the cost recovery gap for that schedule, as indicated in the 2008 Cost Recovery Study. In order to minimize the effects of year-to-year variations in program activities, three-year average cost recovery figures (covering the period July 1, 2004 to June 30, 2007) are used for this purpose. The proposed amendments for existing fee schedules are as follows:

1. The following fee schedules, which the 2008 Cost Recovery Study indicates have the largest revenue gaps (i.e., fee revenue representing less than 40 percent of costs), would be increased by 15 percent:

- Schedule A: Hearing Board
- Schedule D: Gasoline Transfer at Gasoline Dispensing Facilities, Bulk Plants and Terminals
- Schedule E: Solvent Evaporating Sources
- Schedule K: Solid Waste Disposal Sites
- Schedule P: Major Facility Review Fees

2. The following fee schedules, which the 2008 Cost Recovery Study indicates result in fee revenue covering 41 to 70 percent of costs would be increased by 9 percent:

- Schedule F: Miscellaneous Sources
- Schedule G-1: Miscellaneous Sources
- Schedule L: Asbestos Operations
- Schedule I: Dry Cleaners

Note that the 2008 Cost Recovery Study indicated that fee revenue from Schedule I: Dry Cleaners (which applies to facilities using halogenated solvents) is less than 40 percent of program costs, which would appear to justify a higher percentage fee increase. Staff is also proposing, however, a new registration fee for non-halogenated dry cleaners, most of which are currently exempt from permit requirements and pay no District fees. Considering that additional revenue will be derived from dry cleaners with this new registration fee, staff believes that a 9 percent fee increase is appropriate for Schedule I.

3. The following fee schedules, which the 2008 Cost Recovery Study indicates result in fee revenue covering 71 to 85 percent of costs would be increased by 6 percent:

- Schedule G-2: Miscellaneous Sources
- Schedule H: Semiconductor and Related Operations
- Schedule M: Major Stationary Source Fees

Note that the District cannot directly evaluate Schedule M (which is an emissions-based fee that applies to various types of sources) for cost recovery, but rather distributes the revenue from Schedule M into the appropriate source-specific permit fee schedules when evaluating cost recovery for those schedules. A six percent increase for Schedule M is considered appropriate because revenue from this schedule has been reduced (on an inflation-adjusted basis) due to declining emissions, without a commensurate reduction in District activity costs.

4. The following fee schedules, which the 2008 Cost Recovery Study indicates result in fee revenue covering 86 to nearly 100 percent of costs would be increased by 3 percent:

Schedule B: Combustion of Fuels  
Schedule N: Toxic Inventory Fees  
Schedule Q: Excavation of Contaminated Soil and Removal of Underground Storage Tanks  
Schedule S: Naturally Occurring Asbestos Operations

Note that the fees for Schedule S were initially adopted in FYE 2008 based on an analysis of District costs for regulatory activities for affected sources in this category. The proposed 3 percent increase in the fees for this schedule represents an appropriate inflation adjustment for FYE 2009.

5. The following fee schedules, which the 2008 Cost Recovery Study indicates have no revenue gaps, would not be increased:

Schedule C: Stationary Containers for the Storage of Organic Liquids  
Schedule G-3: Miscellaneous Sources  
Schedule G-4: Miscellaneous Sources  
Schedule G-5: Miscellaneous Sources  
Schedule R: Equipment Registration Fees

Note that District staff began specifically tracking activity data for Schedule G-5 (for refinery flares) in FYE 2008 after that schedule was initially adopted. Due to a lack of at least one year of activity data for this schedule, a cost recovery analysis could not be completed. Staff will evaluate the appropriateness of fee increases for Schedule G-5 for FYE 2010, when additional activity data are available.

The fees for Schedule R were amended on December 7, 2007, along with the adoption of Regulation 6-2: Commercial Cooking Equipment. Due to the recent effective date of these amendments, no increases in registration fees for charbroilers under Schedule R are proposed for FYE 2009.

Staff is also proposing to increase the following administrative fees (that are not associated with fee schedules) by 6 percent:

Section 3-302: New and modified source filing fee

- Section 3-309: Duplicate permit fee
- Section 3-311: Banking filing fee and withdrawal fee
- Section 3-312: Regulation 2, Rule 9 Alternative Compliance Plan fee
- Section 3-327: Permit to Operate renewal processing fee
- Section 3-329: Fee for Risk Screening (base fee for each application specified in the applicable fee schedule)

In addition to these percentage increases in existing fee schedules and administrative fees, staff is proposing: (1) two new equipment registration fees to be added to Schedule R, and (2) a new Schedule T: Greenhouse Gas Fees. Additional details regarding the proposed amendments are provided in the following section.

### **3.2 PROPOSED RULE AMENDMENTS**

The complete text of the proposed changes to District Regulation 3: Fees, has been prepared in strikethrough (deletion of existing text) and underline (new text) format, and is included in Appendix A. A detailed description of the proposed amendments follows.

- Section 3-101: Description

The term “experimental exemption” has been removed from this section because there is no longer a provision for experimental exemptions in District regulations. The term “equipment registrations” has been added to this section because provisions for assessing fees for equipment registrations have been recently established.

- Section 3-103: Exemption, Abatement Devices

Section 3-103 specifies that emissions from abatement devices, including secondary emissions, shall be included when determining fees under the emissions-based Fee Schedules M, N, and P. The new greenhouse gas emissions-based Schedule T has been added to this section. Schedule T fees will apply only to emissions from permitted sources and abatement devices controlling permitted sources.

- Section 3-107: Exemption, Sources Exempt from Permit Requirements

No changes in regulatory language are proposed for Section 3-107. The new Schedule T will not be added to this section, and Schedule T will further clarify that GHG fees will apply to permitted, rather than exempt, sources at facilities.

- Section 3-240: Biogenic Carbon Dioxide

A definition of the term “biogenic carbon dioxide” has been added. This term is used in the new Schedule T.

- Section 3-302: Fees for New and Modified Sources

The proposed amendment for Section 3-302 is a 6 percent increase in the filing fee for

permit applications (rounded to the nearest whole dollar), from \$300 to \$318. Section 3-302.5 has also been amended to clarify that minor modifications to permitted sources subject to Schedule G-5 will be assessed fees under Schedule G-2. Schedule G-5 was adopted last year and covers refinery flares that were formerly covered under Schedule G-3.

- Section 3-309: Duplicate Permit

The proposed amendment for Section 3-309 is a 6 percent increase in the fee for a duplicate Permit to Operate (rounded to the nearest whole dollar), from \$61 to \$65 per permit.

- Section 3-311: Banking

The proposed amendment for Section 3-311 is a 6 percent increase in the filing fee for banking applications (rounded to the nearest whole dollar), from \$300 to \$318.

- Section 3-312: Emission Caps and Alternative Compliance Plans

No change in regulatory language is proposed for Section 3-312.1, which requires an additional annual fee equal to 15 percent of the facility's Permit to Operate fee for facilities that elect to use an Alternative Compliance Plan (ACP) for compliance with Regulation 8, or Regulation 2, Rule 2. These ACP fees would increase along with any increase in a facility's Permit to Operate renewal fees for sources in Schedules B, D, E, F, G-1, G-2, H, K, and I.

The proposed amendment for Section 3-312.2 is a 6 percent increase in the annual fee (rounded to the nearest whole dollar) for a facility that elects to use an Alternative Compliance Plan (ACP) contained in Regulation 2, Rule 9: Interchangeable Emission Reduction Credits. The fee for each source included in the ACP would be increased from \$757 to \$802, and the maximum fee would be increased from to \$7,573 to \$8,027.

- Section 3-320: Toxic Inventory Fees

The maximum toxic inventory fee for a small business specified in Section 3-320.1 would be increased by 6 percent (rounded to the nearest whole dollar) from \$6,892 to \$7,306.

- Section 3-327: Permit to Operate, Renewal Fees

Section 3-327 has been amended to indicate that permit renewal invoices shall include any applicable GHG fees under the new Schedule T. The processing fees for a facility for renewal of Permits to Operate specified in Sections 3-327.1 through 3-327.6 have also been increased by 6 percent (rounded to the nearest whole dollar).



- Section 3-329: Fee for Risk Screening

No change in regulatory language is proposed for Section 3-329, Fee for Risk Screening. Increases in risk screening fees are instead specified in Schedules B, C, D, E, F, G-1, G-2, G-3, G-4, G-5, H, I, and K. For each applicable fee schedule, the base fee for each application that requires a Health Risk Screening Analysis would be increased by 6 percent. The portion of the risk screening fee that is based on the type of source involved would be increased by 3 percent for sources covered by Schedule B; by 6 percent for sources covered by Schedules G-2 and H; by 9 percent for sources covered by Schedules F, G-1, and I; and by 15 percent for sources covered by Schedules D, E, and K. There would be no increase (except for the increase in the base fee) for sources covered by Schedules C, G-3, G-4, and G-5.

- Section 3-333: Major Facility Review (MFR) and Synthetic Minor Application Fees

A new Section 3-333 has been added to clarify that applications submitted for various types of MFR permits, and for Synthetic Minor Operating Permits, are subject to fees specified under Schedule P. This provides consistency with the manner in which fees for applications for authorities to construct and permits to operate are specified in Section 3-302.

- Section 3-334: Greenhouse Gas Fees

A new Section 3-334 has been added to indicate that a facility with GHG emissions from permitted sources shall pay a fee under the new Schedule T.

- Fee Schedules

The fees contained in each fee schedule in Regulation 3 would be increased by either 3 percent, 6 percent, 9 percent, or 15 percent (rounded to the nearest whole dollar, in most cases) as summarized in Section 3.1 of this report, with the exception of the following fee schedules, which would have no increase in fees: Schedule C: Stationary Containers for the Storage of Organic Liquids, Schedule G3: Miscellaneous Sources, Schedule G4: Miscellaneous Sources, and Schedule G5: Miscellaneous Sources. Additional proposed changes to fee schedules are as follows.

### Schedule R: Equipment Registration Fees

Two new equipment registration fees are proposed for Schedule R. The proposed fees were based on an assessment of the District's costs of implementing and enforcing the applicable regulatory requirements for the affected sources (e.g., anticipated inspection frequency, inspection duration, preparation of reports, etc.). Facilities that have previously provided registration information to the District for the affected sources would not be subject to the initial registration fee, but would be required to pay annual renewal fees.

Registration fees have been added for non-halogenated dry cleaning machines that are

subject to District Regulation 8, Rule 17. District staff will be proposing amendments to Regulation 8, Rule 17 in early FYE 2009; including the requirement for certain non-permitted dry cleaning machines to be registered. The proposed fee is \$180 for an initial registration, and \$125 annually thereafter for renewal of the registration.

A new fee has also been added for the registration of non-permitted diesel engines. These fees would apply to those diesel engines that are exempt from District permit requirements, but that otherwise need to be registered with the District in order to comply with the requirements of a State Airborne Toxic Control Measure (ATCM) adopted by CARB. In particular, CARB ATCM amendments effective October 18, 2007 require operators of certain agricultural diesel engines to register this equipment with the local air district by March 1, 2008. The proposed fee is \$120 for an initial registration, and \$80 annually thereafter for renewal of the registration. Sources that have been registered in advance of the effective date of this fee would not be subject to the initial registration fee.

#### Schedule T: Greenhouse Gas Fees

A new Schedule T: Greenhouse Gas Fees is proposed. The purpose of the new schedule is to recover the District's costs of its Climate Protection Program activities related to stationary sources. The fees would be assessed to sources required to obtain a District Permit to Operate (and abatement devices on permitted sources) in proportion to the annual emissions of Greenhouse Gases (GHGs) expressed on a carbon dioxide equivalent (CDE) basis, excluding any emitted biogenic carbon dioxide. The GHG emissions would be determined by the District based on data reported to the District for the most recent 12 months prior to billing. The fee would be assessed at the time of a facility's Permit to Operate renewal, and added to the invoice of other applicable fees under Regulation 3. Additional background and details on the basis for the proposed Schedule T follow.

#### 1. Background

On June 1, 2005, the District's Board of Directors adopted a resolution establishing a Climate Protection Program and acknowledging the link between climate protection and programs to reduce air pollution in the Bay Area. A central element of the District's Climate Protection Program is the integration of climate protection activities into existing District programs. The District is continually seeking ways to integrate climate protection into current District functions, including grant programs, CEQA commenting, regulations, inventory development, and outreach. In addition, the District's Climate Protection Program emphasizes collaboration with ongoing climate protection efforts at the local and State level, public education and outreach, and technical assistance to cities and counties. To date, the District's costs of implementing the Climate Protection Program have been covered from the District's General Fund.

In California, air districts have the primary responsibility for the control of air pollution from non-vehicular stationary sources (California Health and Safety [H&S] Code section

40000). Air districts are authorized to establish a permit system for stationary sources that emit air contaminants (H&S Code Section 42300). The term “air contaminant” (or “air pollutant”) is defined very broadly, and specifically includes discharges that are gases and/or that contain carbon (H&S Code Section 39013). Greenhouse gases clearly meet this definition. Among other things, air districts have the authority to collect information from stationary sources for the purpose of determining emissions, which is fundamental to any air quality program. Air districts have the authority to assess fees to cover the costs of their programs related to permitted stationary sources that are not otherwise funded (H&S Code Section 42311). District staff is proposing the new Schedule T in an effort to provide more complete cost recovery for its stationary source programs.

Through the Global Warming Solutions Act of 2006, AB 32, CARB has been tasked with developing regulations for GHG emissions in California. It is important to note, however, that AB 32 specifically does not limit the existing authority of any air district (H&S Code Section 38594). Although CARB has the authority to adopt a fee schedule that applies to sources of GHG emissions for the purpose of recovering costs of carrying out AB 32 (H&S Code 38597), no such fees have been proposed to date. District staff will reevaluate the fees in Schedule T if and when CARB provides a source of funding to air districts for AB 32 related activities.

## 2. Basis for Schedule T

The proposed Schedule T is an emissions-based fee schedule. The fee rate was determined based on an assessment of program activity costs and GHG emissions from permitted sources. Additional details follow.

### a. Program Activity Costs

District staff has completed a detailed accounting of Climate Protection Program activity costs that can be attributed to stationary sources of emissions and recovered under the proposed Schedule T. Figures were compiled for 2007, and projections were made for 2008. The 2008 cost figures are considered to be a reasonable estimate of District costs for FYE 2009, and were used to establish a fee rate for Schedule T.

Personnel costs were based on staff hours spent on qualifying activities in various position classifications. Direct personnel costs were determined as the product of hourly salary rate, hours spent, and a benefits factor. Indirect costs were determined as a percentage of direct personnel costs based on a cost recovery analysis previously completed for the District. Additional costs of services and supplies not included as direct or indirect personnel costs were also determined. This includes costs of contractor services, the largest component of which for FYE 2009 is for a software development project to coordinate State/District GHG emissions inventory reporting.

Some of the District’s Climate Protection Program activities are general in nature and cannot be clearly attributed only to stationary sources of emissions. Many of these

activities are related to tracking and participating in the developing AB 32 program, including the Scoping Plan, which is required to be adopted by January 1, 2009. One third of the costs of these miscellaneous activities have been attributed to Schedule T based on inventory apportionment (approximately one third of the total Bay Area GHG emissions inventory are from permitted stationary sources).

Due to the rapid development and substantial scope of this new program, Climate Protection Program activities in FYE 2009 may well expand beyond current District staff estimates. Appropriate timekeeping procedures have been established so that Climate Protection Program activities related to permitted sources can be tracked for use in considering future amendments to Schedule T.

The costs used to determine a fee rate for Schedule T are summarized in Table 2.

**Table 2: District Stationary Source Climate Protection Program Activity Costs**

<b>Program Activity</b>	<b>Annual Cost</b>
<b><i>Personnel</i></b>	
Emissions Inventory	\$193,500
Studies/Research	\$115,900
District Regulatory Measures	\$70,100
CARB Regulatory Measures	\$58,900
California Environmental Quality Act	\$68,300
Miscellaneous	\$107,900
<b>Total Direct Personnel Costs</b>	<b>\$614,600</b>
<b>Indirect Costs</b>	<b>\$239,800</b>
<b><i>Services and Supplies</i></b>	
Contracts	\$212,000
Miscellaneous	\$50,000
<b>Total for Services and Supplies</b>	<b>\$262,000</b>
<b>GRAND TOTAL</b>	<b>\$1,116,400</b>

## Emissions Inventory

An emissions inventory is a fundamental technical component of any air quality program. The District has developed an integrated emissions inventory system for permitted sources that makes use of common information needed to establish and update criteria, toxics, and GHG emissions on an ongoing basis. The emission inventory costs attributed to Schedule T represent the District's incremental costs of maintaining and updating the GHG emissions inventory for permitted sources.

Under the requirements of AB 32, CARB is establishing a mandatory annual emissions reporting system for the more significant sources of GHGs in California. It is expected that data will begin to be reported into the CARB system in 2009. The District intends on developing software that will make use of data reported by facilities into the CARB GHG emissions reporting system. This software is intended to minimize duplication of efforts and promote consistency in emissions inventory information between systems.

## Studies and Research

The District is involved in conducting studies to identify and evaluate potential GHG emission control measures for application to stationary sources in the Bay Area. A Phase I GHG technology study was completed in 2007. The study identified the industries and source categories that most significantly contribute to GHG emissions and potential mitigation options for controlling those emissions. The study qualitatively evaluated the effectiveness, costs, and impacts of each of the most promising options. The District is currently developing a follow-up Phase II GHG technology study that focuses on providing more detailed information regarding GHG emission reduction opportunities for landfills and certain combustion sources. Additional studies will be completed as needed as the Climate Protection Program continues to develop.

Another area of study that the District has been involved in is the impact that climate change will have on ozone levels in the Bay Area. Preliminary regional photochemical modeling studies have analyzed the effects of increased ambient temperatures on peak summertime ozone concentrations. Additional related technical studies are planned.

## Rule Development

The District is now addressing GHG issues in all its rule development projects. In FYE 2007, GHG issues were considered in amended standards for stationary gas turbines covered under Rule 9-9. In FYE 2008, GHG issues were addressed in amendments to Rule 9-6 for water heaters and small boilers, and in amendments to Rule 9-8 for stationary internal combustion engines. The District has recently issued draft amendments to Rule 9-7, which covers industrial, institutional, and commercial boilers, steam generators, and process heaters. The draft amendments to Rule 9-7 include new requirements for equipment inspection and tune-up, insulation, and maximum stack gas temperatures that are intended to reduce emissions of GHGs and other air pollutants.

A significant portion of the District's Climate Protection Program activities have been devoted to providing input and support to CARB in their development of the AB 32 program. The District expects that these AB 32 activities will expand in FYE 2009, as the January 1, 2010 deadline for adoption of the many discrete early action GHG emission reduction measures approaches. District staff already participates in many statewide AB 32 workgroups, and these activities will expand as additional workgroups are formed.

## CEQA

Public agencies in California are under increasing pressure to address GHG issues for proposed projects under the California Environmental Quality Act (CEQA). Air districts have traditionally provided guidance to local Lead Agencies on evaluating and addressing air pollution impacts from projects subject to CEQA. District staff, in collaboration with the California Air Pollution Control Officers Association, recently published a white paper entitled CEQA & Climate Change: Evaluating and Addressing Greenhouse Gas Emissions from Projects Subject to the California Environmental Quality Act. This document serves as a resource for public agencies as they establish procedures for reviewing GHG emissions from projects under CEQA.

Under CEQA, the District is a public agency that acts as lead agency for its own projects, such as the adoption of rules, regulations or plans. Typically, the CEQA lead agency for projects that apply for District permits is the agency with general governmental powers, such as a city or a county. For these projects, the District acts as a responsible agency under CEQA. The CEQA costs attributed to Schedule T are those that are required to address GHG issues by the District as a responsible agency.

The District occasionally acts as a lead agency for projects that file for District permits that have not previously undergone a CEQA analysis and that are not required to do so by an agency with general governmental powers. CEQA provides lead agencies the authority to recover costs, and under Section 3-315 of the District's fee regulation the District may recover from permit applicants the costs of environmental documentation prepared to meet CEQA requirements. These lead agency activities have not been attributed to Schedule T due to this existing funding mechanism. CEQA does not provide a similar funding mechanism for responsible agency activities.

### b. GHG Emissions from Permitted Sources

In 2006, the District published a Bay Area Regional GHG Emissions Inventory for the base year 2002. For permitted "point sources", the inventory was compiled using a "bottom-up" approach, based on detailed process and materials usage information provided by Bay Area facilities. The point source GHG emissions inventory has recently been updated to reflect 2005 activity data, and refinements in assumptions regarding the composition of certain fuels. This 2005 inventory has been used to determine the proposed fee rate for Schedule T.

The District is in the process of incorporating GHG emission calculations into the District's Plant Data System, which is also used to determine criteria and toxics emissions from permitted sources based on the most recently reported activity data. GHG fee invoicing for Schedule T will be based on GHG emissions calculated using the Plant Data System.

The District's initial draft GHG Fee Schedule was based on total GHG emissions from permitted sources. After considering public comments, the District has decided to exclude "biogenic carbon dioxide" emissions from GHG fees. A summary of the GHG emissions used to establish the fee rate in Schedule T is provided in Table 3.

**Table 3: 2005 Bay Area Point Source GHG Emissions**

	Metric tons per year (CDE)	Percent of Total
Total GHG Emissions	26,512,951	100
Biogenic CO <sub>2</sub> Emissions	1,102,220	4
Total Non-Biogenic GHG Emissions	25,410,731	96

Biogenic CO<sub>2</sub> is proposed to be defined in Section 3-240 as follows:

Biogenic Carbon Dioxide: Carbon dioxide emissions resulting from materials that are derived from living cells, excluding fossil fuels, limestone and other materials that have been transformed by geological processes. Biogenic carbon dioxide contains carbon (which can be released in the form of emissions) that is present in materials that include, but are not limited to, wood, paper, vegetable oils, animal fat, and food, animal and yard waste.

Approximately 90 District-permitted facilities currently have biogenic CO<sub>2</sub> emissions. Landfills and wastewater treatment plants are by far the largest source categories of biogenic CO<sub>2</sub> emissions in the point source inventory. Smaller source categories with biogenic CO<sub>2</sub> emissions include various bio-fuel combustion sources (e.g., engines using biodiesel, boilers using wood-waste), and crematories.

Biogenic CO<sub>2</sub> emissions are being excluded from fees because these emissions are the result of materials in the biological/physical carbon cycle, rather than the geological carbon cycle. It is the use of materials in the geological carbon cycle, such as fossil fuels, that is believed to be the primary cause of climate change. Further details regarding the biological/physical and geological carbon cycles and climate change follow.

## Carbon Cycles and Climate Change

Carbon moves through the land, ocean, atmosphere, and the Earth's interior in a major biogeochemical cycle. The global carbon cycle can be divided into two categories: the short-term, or biological/physical carbon cycle, which operates over periods of days to hundreds of years; and the long-term, or geological carbon cycle, which operates over periods of millions of years.

The biological/physical carbon cycle involves the absorption, conversion, and respiration of carbon by living organisms. In this short-term carbon cycle, the carbon dioxide that is absorbed from the atmosphere by plants through photosynthesis can take several paths before reentering the atmosphere as CO<sub>2</sub>. When a plant dies, it may be broken down by microorganisms that feed on the dead organic matter. As the microorganisms consume the plant matter, they release some of the plant's carbon into the atmosphere in the form of CO<sub>2</sub>, although some carbon is destined for longer-term storage in trunks and branches of trees and in the bodies of plant-eating animals or carnivorous animals that eat plant-eating animals. These animals then return more of the carbon to the atmosphere as CO<sub>2</sub> through respiration, although some carbon will be stored within their bodies until they die and decompose in the soil.

The geological carbon cycle involves the removal of carbon from the biological/physical cycle into the various layers of the Earth. Organic material may be buried under heavy layers of sediment and chemically changed under high levels of heat and pressure into components of rock, such as limestone and shale. Solid, liquid, and gaseous hydrocarbon fossil fuels such as coal, oil, and natural gas may be produced from further chemical transformations. These carbon-bearing materials may be trapped deep below the Earth's surface for hundreds of millions of years prior to being emitted back into the atmosphere as CO<sub>2</sub> as a result of natural geological events, such as volcanic eruptions.

Human beings tap into the geological carbon cycle by extracting fossil fuels, such as coal, oil and natural gas, or by mining carbon-bearing rocks, such as limestone and shale. When fossil fuels are burned, or carbon-bearing rock is subjected to high temperatures (such as in cement manufacturing), CO<sub>2</sub> gas is emitted into the atmosphere. Since the Industrial Revolution began, CO<sub>2</sub> levels in the atmosphere have increased measurably, mostly as a result of human use of fossil fuels. The use of fossil fuels has resulted in a large imbalance in the long-term carbon cycle, because fossil fuel reserves are being depleted much faster than new ones are being formed. This is generally believed to be the primary cause of climate change.

### c. Fee Rate

The fee rate for Schedule T was calculated as follows:

$$\text{Fee Rate} = \frac{\text{Total Annual Costs to be Recovered (\$ per year)}}{\text{Total Non-Biogenic GHG Emissions (Metric tons per year CDE)}}$$



$$\text{Fee Rate} = \frac{\$1,116,400 \text{ per year}}{25,410,731 \text{ Metric tons per year CDE}}$$

$$\text{Fee Rate} = \$0.044 / \text{Metric ton CDE}$$

No small-source exemption is proposed; all facilities with GHG emissions, excluding biogenic CO<sub>2</sub>, would be assessed a fee under Schedule T. The billing for Schedule T fees will be done along with the Permit to Operate renewals; a separate invoice for Schedule T fees will not be sent.

d. List of Compounds and GWP Values

The District's initial draft GHG Fee Schedule included a list of GHG compounds and Global Warming Potential (GWP) values that were taken from the Intergovernmental Panel on Climate Change (IPCC) Fourth Assessment Report, "Climate Change 2007". After considering public comments received, the District has decided to use a shorter compound list with GWP values based on the IPCC Second Assessment Report, "Climate Change 1995". The compound list includes CO<sub>2</sub>, methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), sulfur hexafluoride (SF<sub>6</sub>), various hydrofluorocarbons (HFCs), and various perfluorocarbons (PFCs). These compounds, often referred to as the "six Kyoto gases", are used in GHG inventories established under the Kyoto Protocol and under AB 32.

The use of the six Kyoto gases and 1995 IPCC GWP values will provide greater consistency with other GHG programs. Updates to the list of GHG compounds, and GWP values, may be considered in future amendments to Schedule T.

Carbon dioxide equivalent emissions will be determined by multiplying the annual emissions of each GHG listed in Schedule T (in units of metric tons per year), excluding biogenic CO<sub>2</sub>, by the applicable GWP. The fee for a facility will be based on the combined total CDE emissions for the facility. Only emissions from permitted sources, and any abatement devices on permitted sources that may generate GHG emissions, will be included in determining the facility total CDE emissions.

e. Facilities Affected by Schedule T

Over 2500 District-permitted facilities have some level of GHG emissions and would be subject to fees under Schedule T. Most of these facilities have relatively low GHG emissions levels (e.g., facilities with only an emergency backup generator), and would have annual GHG fees under \$1. About 850 facilities would have annual GHG fees of \$1 or more; about 250 facilities would have annual GHG fees in excess of \$100; 14 facilities would have annual fees in excess of \$10,000; and 7 facilities would have annual GHG fees in excess of \$50,000 (i.e., the five Bay Area petroleum refineries, and the two largest Bay Area power plants). As would be expected, the largest industrial facilities with the highest GHG emissions would have the highest GHG fees.

As a category, petroleum refineries emit just over one-half of the Bay Area point source GHG emissions, and would therefore pay about one-half of the total GHG fees under Schedule T. Various types of power plants would collectively pay about one-third of the total GHG fees, although the fee for specific power plants would vary significantly, from tens of dollars for small distributed-generation facilities, to about \$87,000 for the largest central power plant.

#### **4. PROJECTED FEE REVENUE AND COSTS OF PROGRAM ACTIVITIES**

With the proposed amendments, the District's total projected fee revenue for FYE 2009 is \$27.8 million. The 2008 Cost Recovery Study indicated that, for the last complete fiscal year analyzed (FYE 2007), the District's total regulatory program activity costs were \$39.4 million.

#### **5. STATUTORY AUTHORITY FOR PROPOSED FEE INCREASES**

State law authorizes air districts to adopt fee schedules to cover the costs of various air pollution programs. H&S Code section 42311(a) provides authority for an air district to collect permit fees to cover the costs of air district programs related to permitted stationary sources. H&S Code section 42311(f) further authorizes the District to assess additional permit fees to cover the costs of programs related to toxic air contaminants. H&S Code section 41512.7 limits the allowable percentage increase in fees for authorities to construct and permits to operate (i.e., operating/new and modified permit fees) to 15 percent per year.

H&S Code section 42311(g) authorizes air districts to adopt a schedule of fees to be assessed on area-wide or indirect sources of emissions, which are regulated but for which permits are not issued by the air district, to recover the costs of air district programs related to these sources. This section provides the authority for the District to collect asbestos fees (including fees for Naturally Occurring Asbestos operations), soil excavation reporting fees, and registration fees for various types of regulated, but non-permitted, equipment.

H&S Code section 44380(a) authorizes air districts to adopt a fee schedule, which recovers the costs to the air district and the State of the Air Toxics Hot Spots Program (AB 2588).

H&S Code section 42311(h) authorizes air districts to adopt a schedule of fees to cover the reasonable costs of the Hearing Board incurred as a result of appeals from air district decisions on the issuance of permits. Section 42364(a) provides similar authority to collect fees for the filing of applications for variances or to revoke or modify variances.

The proposed fee amendments are in accordance with all applicable authorities provided in the California Health and Safety Code. Based on the results of the 2008

Cost Recovery Study, permit fee revenue following the proposed amendments would still be far below the District's direct and indirect program activity costs associated with air quality programs covering permitted sources. Similarly, Hearing Board fee revenue will still be below the District's program activity costs associated with Hearing Board activities related to variances and permit appeals. Finally, fee revenue from non-permitted area-wide sources would not exceed the District's program activity costs for these sources.

## **6. ASSOCIATED IMPACTS AND OTHER RULE DEVELOPMENT REQUIREMENTS**

### **6.1 EMISSIONS IMPACTS**

There will be no direct increase or decrease in air emissions as a result of the proposed amendments.

### **6.2 ECONOMIC IMPACTS**

The District must, in some cases, consider the socioeconomic impacts and incremental costs of proposed rules or amendments. Section 40728.5(a) of the California H&S Code requires that socioeconomic impacts be analyzed whenever a district proposes the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations. The proposed fee amendments will not significantly affect air quality or emissions limitations, and so a socioeconomic impact analysis is not required.

Section 40920.6 of the H&S Code specifies that an air district is required to perform an incremental cost analysis for a proposed rule, if the purpose of the rule is to meet the requirement for best available retrofit control technology or for a feasible measure. The proposed fee amendments are not considered best available retrofit control technology requirements, nor are they a feasible measure required under the California Clean Air Act. Therefore, an incremental cost analysis is not required.

The impact of the proposed fee amendments on small businesses is expected to be minimal. Many small businesses operate only one or two permitted sources, and generally pay only the minimum permit renewal fees. Table 4 provides a summary of typical annual permit renewals fees projected for FYE 2009 for various sizes of dry cleaners, auto body shops, gasoline stations, and facilities with only diesel engine backup generators (BUGs), along with the estimated increase in renewal fees relative to the current FYE 2008.

**Table 4. Projected Typical Annual Permit Renewal Fees for FYE 2009, and Increases in Renewal Fees Relative to FYE 2008**

Facility Size →	Small		Medium		Large	
	Total Fee	Increase	Total Fee	Increase	Total Fee	Increase
Dry Cleaner	\$373	\$23	\$418	\$29	\$1,171	\$111
Auto Body Shop	\$292	\$34	\$292	\$34	\$582	\$68
Gasoline Station	\$746	\$90	\$1,429	\$177	\$2,113	\$264
Diesel BUG Facility	\$305	\$8	\$380	\$13	\$1,097	\$60

Table Notes

Small Dry Cleaner: One machine, 50 gal/yr Perc  
 Medium Dry Cleaner: One machine; 150 gal/yr Perc  
 Large Dry Cleaner: Two machines; 400 gal/yr Perc  
 Small Autobody Shop: One Booth; 100 gal/yr paint; 50 gal/yr cleanup  
 Medium Autobody Shop: One Booth; 200 gal/yr paint; 75 gal/yr cleanup  
 Large Autobody Shop: Two Booths; 500 gal/yr paint; 200 gal/yr cleanup  
 Small Gasoline Station: Four triple product nozzles  
 Medium Gasoline Station: Eight triple product nozzles  
 Large Gasoline Station: Twelve triple product nozzles  
 Small Diesel BUG Facility: One 500-HP diesel engine  
 Med. Diesel BUG Facility: One 1500-HP diesel engine  
 Large Diesel BUG Facility: Two 2000-HP diesel engines

**6.3 ENVIRONMENTAL IMPACTS**

The California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq., and the CEQA Guidelines, 14 CCR 15000 et seq., require a government agency that undertakes or approves a discretionary project to prepare documentation addressing the potential impacts of that project on all environmental media. Certain types of agency actions are, however, exempt from CEQA requirements. The proposed fee amendments are exempt from the requirements of the CEQA under Section 15273 of the CEQA Guidelines, which state: "CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies...." (See also Public Resources Code Section 21080(b)(8)).

Section 40727.2 of the H&S Code imposes requirements on the adoption, amendment, or repeal of air district regulations. It requires an air district to identify existing federal and air district air pollution control requirements for the equipment or source type affected by the proposed change in air district rules. The air district must then note any

differences between these existing requirements and the requirements imposed by the proposed change. This fee proposal does not impose a new standard, make an existing standard more stringent, or impose new or more stringent administrative requirements. Therefore, section 40727.2 of the H&S Code does not apply.

#### **6.4 STATUTORY FINDINGS**

Pursuant to H&S Code section 40727, regulatory amendments must meet findings of necessity, authority, clarity, consistency, non-duplication, and reference. The proposed amendments to Regulation 3 are:

- Necessary to fund the District's efforts to attain and maintain federal and state air quality standards, and to reduce public exposure to toxic air contaminants;
- Authorized by H&S Code sections 42311, 42311.2, 41512.7, 42364, 44380 and 40 CFR Part 70.9;
- Clear, in that the amendments are written so that the meaning can be understood by the affected parties;
- Consistent with other District rules, and not in conflict with any state or federal law;
- Not duplicative of other statutes, rules or regulation; and
- Implements and references H&S Code sections 42311, 42311.2, 41512.7, 42364, 44380 and 40 CFR Part 70.9.

#### **7. RULE DEVELOPMENT PROCESS**

On January 31, 2008, the District issued a notice for a public workshop to discuss with interested parties a proposal to increase District fees. Distribution of this notice included all District-permitted facilities, asbestos contractors, agricultural facilities, and a number of other potentially interested stakeholders. Approximately 9,000 workshop notices were mailed-out, and the notice was also posted on the District website.

The public workshop was held on February 25, 2008. Approximately forty members of the public attended. On February 27, 2008, District staff provided a briefing on the proposed amendments to the District Board of Directors' Budget and Finance Committee. On March 13, 2008, a briefing on the proposed GHG Fee Schedule was provided to the Board of Directors' Climate Protection Committee. On March 17, 2008, the District issued a Public Hearing Notice. A public hearing to accept testimony on the proposed amendments has been scheduled for April 16, 2008. A second public hearing will be scheduled for May 21, 2008, to consider adoption of the proposed amendments. If adopted, the amendments would be made effective on July 1, 2008.

Under H&S Code section 41512.5, the adoption or revision of fees for non-permitted sources require two public hearings that are held at least 30 days apart from one another. This provision applies to Schedule L: Asbestos Operations, Schedule Q: Excavation of Contaminated Soil and Removal of Underground Storage Tanks, Schedule R: Equipment Registration Fees, and Schedule S: Naturally Occurring Asbestos Operations. The two public hearings previously described will fulfill the requirements of H&S Code section 41512.5.

## 8. PUBLIC COMMENTS

As of the date of this report, 21 separate sets of written comments have been received by the District on the District staff fee proposal; 18 sets of comments were specific to the proposed new GHG Fee Schedule, and 3 sets of comments were more general in nature. The current District staff fee proposal contains several changes made from the initial draft in consideration of these comments. A list of the individuals or groups that provided comments is listed in Appendix B of this report, along with a characterization of their general position (e.g., supports, opposes, provides comments on specific aspects of the proposal).

A summary of the comments received, and District staff responses to these comments, follows. Similar comments from multiple individuals/groups are grouped together.

Comment: A superintendent of a public school district requested that the proposed fee increases be delayed by two years due to the fiscal burden resulting from the statewide budget crisis.

Response: District staff recognizes the difficulties that public schools are facing, but does not believe that the proposed fee increases will result in a significant financial impact. For the top 10 public school facilities (K-12) paying annual Permit to Operate renewal fees, FYE 2009 fee increases would range from \$8 to \$44, with an average increase of \$23. As a matter of policy, District staff believes that public agencies with air pollution sources should pay a fair share of the costs that the District incurs in regulating these sources, and therefore should not be exempted or deferred from fee increases.

Comment: One comment indicated that the new GHG fee should not be imposed until the economy bottoms out or starts to show signs of recovery, or should be phased-in gradually so businesses can acclimate to it. Another comment indicated opposition to the new GHG fee because it would likely be passed on to Bay Area consumers in the form of more expensive goods and services. One comment suggested that the fee is really a “carbon tax” that should be put to the voters to decide. Another comment indicated that the GHG fee should not be adopted until the science of global warming is definitive. Finally, one comment suggested that companies be required to purchase offsets rather than paying a fee that may not actually reduce GHGs.

Response: District staff is sympathetic to businesses that are impacted by the current economic slowdown, but feel that the additional fee revenue from the adoption of Schedule T is needed at this time to fund the relevant work that is required under the District’s Climate Protection Program. Even with these fee increases, overall District fee revenue will continue to fall well short of the point of full cost recovery.

In general, District fees are expected to have a minor financial impact on businesses relative to other factors (e.g., the costs of property and labor). It should be noted that the top 20 GHG fee-paying facilities (which would pay approximately 80 percent of the

total fees), are large industrial facilities that should have the capability of paying applicable fees without significant financial impacts. District staff acknowledge that some businesses paying GHG fees may pass these costs on to consumers thereby serving to better internalize the societal costs associated with GHG emissions (albeit to a very small degree).

District staff disagrees that the proposed fee represents a general “carbon tax”. The fees are intended to recover District costs for Climate Protection Program activities related to stationary sources. These activities, including participation in AB 32 implementation, are expected to result in significant GHG emission reductions, although the connection between fees and emission reductions will take time to develop. Under State law, District fees are established by regulation adopted by the District’s Board of Directors after appropriate public process, and not by voters. District staff believes that the science regarding global warming has advanced sufficiently to justify having programs to address the issue, and to assess fees to recover the District’s costs of these program activities.

Comment: One commenter had several specific comments with regard to fees for a cement manufacturing facility in their area. The commenter indicated that the expected GHG fee for this facility would not be high enough to present an incentive for the facility to reduce GHG emissions. The commenter urged the District to require the facility to use only natural gas as a fuel, thereby reducing emissions of GHGs and other pollutants. The commenter also expressed concern that assessing fees based on emission levels would provide a disincentive for the District to require reduced emissions (another commenter also submitted a similar comment).

Response: District fees are a mechanism for cost recovery and are not intended to act as incentives for facilities to reduce emissions (although it is acknowledged that this may occur to some limited degree). District staff disagrees with the assertion that emissions-based fees in any way provide a disincentive for the District to act to reduce emissions, where such reductions are necessary and appropriate. The District has in the past increased fee rates as necessary to address declining revenue resulting from declining emissions.

Under AB 32, CARB is required to adopt rules and regulations to achieve the maximum technologically feasible and cost-effective reductions of GHG emissions from sources in California. In October 2007, CARB adopted a list of potential early action measures to reduce GHG emissions. The cement industry was added as one of the measures for consideration on the early action list. The District is currently working cooperatively with CARB in the rule development process for this control measure.

The cement manufacturing industry has been identified as a major source of CO<sub>2</sub> emissions from three sources: 1) direct emissions from fuel combustion, 2) direct emissions from limestone calcinations, and 3) indirect emissions from electricity use. Reducing CO<sub>2</sub> emissions from cement manufacturing will likely require facilities to convert to alternative fuels, improve energy efficiency practices and technologies,

and/or make use of blending cements.

Comment: Several comments indicated that the proposed GHG Fee Schedule, and the District activities that it may fund, might lead to fragmentation of GHG emission control efforts in California, with the potential to retard implementation of the statewide AB 32 program. One comment indicated that the magnitude of the climate change issue requires consistent statewide requirements rather than a patchwork of local standards of differing detail and stringency. Other comments expressed concern that the District proposal would set an unfortunate precedent that other air districts, and/or other types of regional/local agencies may follow. The comments suggest that the District's efforts to regulate GHGs may result in conflicts, duplication, and/or inconsistencies with the statewide program. Several comments expressed particular concern with conflicts that may result related to market-mechanisms that may be established by CARB. Others expressed concern regarding duplication, inconsistencies, and confusion that may result from dual CARB and District GHG emission inventory reporting, and about the accuracy of the District GHG emissions inventory and its emissions calculations relative to that of CARB. One comment indicated that the GHG Fee Schedule should not go beyond recovery of costs for working with CARB in its effort to implement AB 32.

Response: District staff believes that the concerns expressed by these comments are unfounded, exaggerated, or both. District staff is working closely with CARB to coordinate climate protection efforts, and is closely tracking the implementation of AB 32, in order to avoid or minimize any conflicts, duplication, or inconsistencies in program requirements.

It is important to stress that the District's efforts in regulating GHGs have focused on the integration of climate protection considerations into ongoing rule development efforts that are intended to reduce criteria and/or toxic air pollutant emissions. The District is required to analyze proposed regulatory requirements for conflicts, duplication, and inconsistencies as a part of its rule development process on an ongoing basis. Any potential conflicts, or areas of significant duplication or inconsistency, that may develop based on statewide regulatory requirements that CARB establishes in the future can be addressed as needed through amendments to District rules.

A conflict results when a regulated facility is incapable of simultaneously complying with more than one applicable requirement. Conflicts in regulatory requirements occur very rarely, and the comments received have identified no specific examples of conflicts that may result from the District staff's proposed GHG Fee Schedule. The comment that District regulatory measures may somehow conflict with market-based requirements that CARB may develop at a future date is speculative and highly unlikely. District staff believes that commenters may be concerned that District regulatory requirements could in some manner diminish the value of GHG emission reduction credits (ERCs) used in a market-based system, as ERCs are typically based on emission reductions that are beyond what command-and-control regulations require and/or that qualify as voluntary early actions before regulations go into effect. Certainly, the adoption of a GHG Fee Schedule, which is administrative in nature, would do nothing to diminish the value of



any ERCs.

District staff believes that the comment that dual GHG emissions inventory reporting, to the District and CARB, is duplicative, and will lead to inconsistencies and confusion, is exaggerated. The District GHG point source emissions inventory is based on detailed process and material usage data that has been submitted from permitted facilities in establishing criteria and toxics emissions inventories. With only a few limited exceptions, no additional information is needed to determine GHG emissions beyond what is already required to determine criteria and toxics emissions.

Air districts are required to provide detailed point source emissions inventory data to CARB for inclusion in the California Emission Inventory Development and Reporting System (CEIDARS). CARB then converts the data to the National Inventory Format (NIF) before submitting the information to U.S. EPA. In 2005, CARB modified the CEIDARS database to allow for reporting of the following GHGs: CO<sub>2</sub>, CH<sub>4</sub>, N<sub>2</sub>O, SF<sub>6</sub>, PFCs, and HFCs. CARB has requested that the air districts provide GHG emissions data as part of their annual CEIDARS database reporting to CARB.

There are some important differences between the District's GHG emissions inventory and the emissions inventory that will be produced under CARB's mandatory reporting regulation, both in terms of the number of facilities included and the level of detail of information. The existing District emissions inventory contains GHG emissions data for over 2500 facilities; whereas only an estimated 200 Bay Area facilities will be required to report under the CARB mandatory reporting program. The District emissions inventory data are also maintained at a more detailed level (i.e., "device level") than what is required under the CARB mandatory reporting program.

Reporting is required under CARB's regulation for mandatory reporting of GHGs beginning in 2009 (with verification to begin in 2010). District staff is working on a software development project that is intended to make use of information that facilities report to CARB under the mandatory reporting regulation in order to minimize duplication and inconsistencies in inventory figures.

District staff has no specific comment on whether other regional/local agencies may follow the District's lead in adopting fees for recovering their GHG-related program costs.

Comment: One comment was specific to near-term concerns that the District's actions could significantly complicate the issue of identifying appropriate credit under AB 32 for voluntary early actions to reduce a facility's GHG emissions. This would make it more difficult for facilities to decide on investments needed to create voluntary reductions.

Response: District staff understands that because the vast majority of the AB 32 program requirements have yet to be proposed by CARB, it may be difficult for facilities to determine what, if any, voluntary early actions that reduce GHG emissions may result in creditable ERCs. The District finds it difficult to believe, however, that the limited

actions that the District is taking in terms of regulating GHGs from stationary sources (which are focused on integration of criteria/toxics/GHG reduction efforts across programs) would render these determinations significantly more difficult to reach.

Comment: Several comments indicated concern that, although AB 32 program control measures require consideration of technological feasibility and cost-effectiveness, District-developed GHG control measures might not. The comments also indicate that the AB 32 program requires that “leakage” be considered in control measure development (leakage being where a reduction in emissions of GHGs within the state may be offset by an increase in emissions of GHGs outside the state). One commenter indicated that the District should perform an analysis to determine whether the proposed GHG fees meet the “standards for AB 32 regulations”.

Response: The District considers technological feasibility and cost-effectiveness for all its proposed regulatory requirements and will continue to do so. Although “leakage” has not been considered in the past, it will be in future measures to the extent that the issue is relevant. Factors such as technological feasibility, cost-effectiveness, and leakage are appropriate to consider in the rule development process for specific control measures, but not in establishing appropriate fees for recovering program costs.

Comment: Several comments questioned whether fee revenue should be used to conduct studies to identify and evaluate potential GHG control strategies, as this will duplicate efforts by CARB under AB 32. A specific concern was expressed with regard to a study that is being conducted in part to support amendments to Rule 9-7, which the commenter indicated is intended to control NO<sub>x</sub> emissions. One commenter indicated that this is a prime example of program fragmentation.

Response: The District’s authority for recovery of costs through assessing fees is broad and includes program activities such as the development of stationary source control strategies and rules. One of the specific elements of the District’s Climate Protection Program is the integration of climate protection considerations into District functions, such as rule development. The standards in the draft amendments to Rule 9-7 would reduce emissions of both NO<sub>x</sub> and CO<sub>2</sub>. District staff does not believe that AB 32 was intended to limit local or regional agencies in terms of integrating considerations of GHG emissions into their ongoing regulatory programs. CARB may very well consider the District’s work in this area in setting GHG standards for similar sources statewide at a future date. If CARB were to adopt the same or similar standards statewide, the District would consider whether further amendments to Rule 9-7 are needed.

Comment: Several comments indicated that the District does not have the statutory authority to adopt GHG-related programs, and therefore does not have the authority to adopt fees to recover the costs of these programs. One commenter indicated that District permit fees are specifically limited to recovering costs of programs that are “authorized or required” under Division 26 of the H&S Code. The commenter indicated that GHG programs were specifically established by AB 32 in a new Division 25.5. The commenters indicated that AB 32 provides no role for, or authority to, the air districts

and that the District should focus on its core duties and activities rather than on efforts to reduce GHGs.

Response: District staff disagrees with the assertion that existing authorities in Division 26 of the H&S Code are insufficient to allow the District to regulate GHGs, or to recover the costs of doing so. District staff also does not agree that the air districts have no role in the AB 32 program. The District is an active stakeholder in the AB 32 program and is expending an increasing amount of staff time in that capacity, most of which is the direct result of requests from CARB.

Comment: One comment indicated that the District should recover its costs for administering its role under CEQA from permit applicants and local agencies requesting the District's engagement.

Response: The District intends to recover the costs from permit applicants of preparation of CEQA documentation in the District's role as a lead agency under the provisions of Section 3-315. A similar cost recovery mechanism does not exist, however, for recovery of costs related to the District's more common role as a responsible agency. Responsible agencies provide technical and regulatory support to lead agencies in the early stages of the CEQA process, and develop and submit comments on CEQA documents for a wide variety of projects.

Comment: Several comments indicated that the proposed District GHG Fee Schedule might overlap with fees that CARB may require under AB 32, and should, therefore, not be adopted. One commenter requested that the District review its fees on a regular basis and make appropriate adjustments to minimize the possibility of duplication and overlap in fee programs.

Response: The proposed GHG Fee Schedule is intended to recover costs of Climate Protection Program activities related to stationary sources. To date, funding for these activities has been derived from the District's General Fund. In the future, if CARB provides a specific source of funding to the air districts for the purpose of recovering costs of activities related to AB 32 implementation, District staff will reexamine the fee rate in Schedule T to avoid over-collection of fee revenue.

Comment: A local chapter of a national environmental organization provided comments in support of the proposed GHG Fee Schedule and associated Climate Protection Program. The commenter also indicated that adoption of the GHG Fee Schedule would help the District meet its fiduciary responsibilities to Bay Area residents by recouping program costs from GHG emitting facilities rather than property tax payers. Another individual commented that the proposed GHG fee was an important step in internalizing the costs of manufactured products.

Response: District staff appreciates the supporting comments, and agrees that the District should continue to move towards more complete cost recovery for its regulatory programs. This will allow the District to use a greater portion of its county property tax

revenue toward projects that benefit air quality, but that do not have a dedicated funding source.

Comment: Several comments indicated that the expansive list of GHGs and associated GWPs in the initial draft Schedule T is inconsistent with AB 32 and other climate change frameworks.

Response: District staff has changed the list of GHGs in Schedule T to incorporate the shorter list provided in the IPCC Second Assessment Report, which is used by both CARB and the U.S. EPA. District staff will consider updating this list in future amendments to Regulation 3.

Comment: Several comments indicated that the regulatory language should clarify that Schedule T fees apply only to GHG emissions from stationary sources and not mobile sources. One commenter recommended that the term “stationary source” be defined. Other comments indicated that Schedule T fees should not apply to sources that are exempt from District permit requirements.

Response: The regulatory language in Schedule T has been modified from the initial draft to clarify that GHG fees apply only to District permitted sources (sources that require a District Permit to Operate). Secondary emissions from abatement devices controlling emissions from permitted sources will also be included. Requirements for sources that require a District Permit to Operate are specified in District Rule 2-1, and a definition of the term “stationary source” is therefore deemed to be unnecessary. Mobile sources (e.g., trucks, ships, locomotives, and mobile equipment) do not require a District’s Permit to Operate and will not be subject to fees under Schedule T.

Comment: Several comments indicated that creating a duplicate GHG regulation system at the District would make Bay Area businesses less competitive because companies outside of the region will not face similar costs.

Response: District staff has no plans to create a duplicate GHG regulation system. The District will be assisting CARB with the implementation of the AB 32 program, and integrating climate protection considerations into regulatory efforts that are intended to reduce criteria and/or toxic air pollutant emissions. Costs of any potential District regulatory measures on businesses will be considered.

Comment: One comment from an owner/operator of a number of Bay Area power plants indicated that since GHGs are a global issue there is an unfair cost burden to its facilities since most of the Climate Protection Program activities that the District might fund are well established and require little research for the power sector since the CEC and CPUC are diligently working on these issues.

Response: Fees are set not only in consideration of the burden that a facility may impose on a regulatory agency in terms of program activity costs. Fees are also set in consideration of the benefits that may be derived from regulation, which, in the case of

the District, is typically measured in terms of a facility's emissions. The courts in a number of cases have affirmed the equity of emissions-based fees, and the District believes that the proposed GHG fees are fair.

Comment: Comments made on behalf of many Bay Area wastewater treatment plants indicated that biogenic GHG emissions should not be subject to fees. Comments made on behalf of many Bay Area landfills indicated that biogenic CO<sub>2</sub> emissions should not be subject to fees.

Response: District staff agrees that biogenic CO<sub>2</sub> emissions should not be subject to fees and has changed the GHG fee proposal accordingly. District staff believes that facilities should pay fees for non-CO<sub>2</sub> GHG emissions, such as methane from anaerobic decomposition (which many facilities collect and combust to create CO<sub>2</sub>, a much less potent GHG than methane) and nitrous oxide from combustion of landfill gas and sewage digester gas.

Comment: Additional comments made on behalf of Bay Area landfill owner/operators are: (1) landfill operators should be allowed to submit site specific factors for landfill gas collection efficiencies and methane oxidation in cap and cover materials, (2) GHG fees should be reduced for sources that recover energy from landfill gas and other biogenic energy sources, and (3) GHG fees should be reduced for landfills based on a landfill's sequestration of carbon.

Response: District staff has no objection to any facility submitting information for the purpose of refining a facility's emissions inventory on a site-specific basis. The District reserves the right to establish a facility's emissions based on the Air Pollution Control Officer's judgment of what is the best available information.

District staff does not agree that GHG fees should be reduced for engines or other sources that recover energy from landfill gas or other biogenic energy sources, nor for a landfill's ability to sequester carbon that might otherwise be emitted into the atmosphere. The exemption of biogenic CO<sub>2</sub> emissions (the primary GHG resulting from the combustion of biogenic materials) will significantly reduce the fees from these facilities. The remaining fees are not sufficiently high to discourage, in any significant way, projects that convert biogas into energy. Such resource recovery projects are already encouraged by provisions in State law that allow qualifying facilities to avoid the costs of obtaining emission offsets. Landfills are also a source category that the District has spent considerable time evaluating for potential GHG emission reductions, and are a listed early action category under AB 32 for which the District is a workgroup member.

Comment: One comment indicated that Hearing Board fees for public appeals of permit actions should be eliminated for the sake of environmental justice.

Response: District staff disagrees that fees for public appeals should be eliminated. Cost recovery analyses indicate that existing Hearing Board fees cover only a small fraction of the program costs. In addition, the fee for a Third Party appeal in Schedule A

is already significantly reduced (i.e., 50 percent less) relative to the fee that is applicable to company appeals (for non-small businesses). Finally, these fees may be excused entirely by the Hearing Board based on a finding of unreasonable hardship.

Comment: One comment indicated that Hearing Board Excess Emission Fees (applicable to variances) are set ridiculously low. The commenter also suggested that the fees for excess emissions of toxic air contaminants should be correlated to toxicity.

Response: District staff agrees that Hearing Board fees are too low, and has proposed to increase these fees by 15 percent. Hearing Board fees have also been increased by 15 percent in each of the last three years. Excess Emission Fees are not intended to represent a penalty for excess emissions that occur during a variance. Rather, the fees are a mechanism to recover costs of Hearing Board activities. The District will consider further changes to the Excess Emission Fees, including having different fees based on the relative toxicity of pollutants, in subsequent amendments to Regulation 3.



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

## **STAFF REPORT**

### **PROPOSED AMENDMENTS TO BAAQMD REGULATION 3: FEES**

MAY 12, 2008

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## REGULATION 3 FEES

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## REGULATION 3 FEES

(Adopted June 18, 1980)

### 3-100 GENERAL

**3-101 Description:** This regulation establishes fees to be charged for Hearing Board filings, for permits, banking, ~~experimental exemptions,~~ renewal of permits, costs of environmental documentation, asbestos operations, air toxics inventories, equipment registrations, and soil excavation and underground tank removals.

*(Amended 7/6/83; 11/2/83; 2/21/90; 12/16/92; 8/2/95; 12/2/98; 5/21/03)*

**3-102 Deleted July 12, 1989**

**3-103 Exemption, Abatement Devices:** Installation, modification, or replacement of abatement devices on existing sources are subject to fees pursuant to Section 3-302.3. All abatement devices are exempt from annual permit renewal fees. However, emissions from abatement devices, including any secondary emissions, shall be included in facility-wide emissions calculations when determining the applicability of and the fees associated with Schedules M, N, ~~and P,~~ and T.

*(Amended 6/4/86; 7/1/98; 6/7/00)*

**3-104 Deleted August 2, 1995**

**3-105 Exemption, Excavation of Contaminated Soil and Removal of Underground Storage Tank Operation Fees:** Fees shall not be required, pursuant to Section 3-322, for operations associated with the excavation of contaminated soil and the removal of underground storage tanks if one of the following is met:

105.1 The tank removal operation is being conducted within a jurisdiction where the APCO has determined that a public authority has a program equivalent to the District program and persons conducting the operations have met all the requirements of the public authority.

105.2 Persons submitting a written notification for a given site have obtained an Authority to Construct or Permit to Operate in accordance with Regulation 2, Rule 1, Section 301 or 302. Evidence of the Authority to Construct or the Permit to Operate must be provided with any notification required by Regulation 8, Rule 40.

*(Adopted 1/5/94; Amended 5/21/03)*

**3-106 Deleted December 2, 1998**

**3-107 Exemption, Sources Exempt from Permit Requirements:** Any source that is exempt from permit requirements pursuant to Regulation 2, Rule 1, Sections 103 through 128 is exempt from permit fees. However, emissions from exempt sources shall be included in facility-wide emissions calculations when determining the applicability of and the fees associated with Schedules M, N, and P.

*(Adopted June 7, 2000)*

### 3-200 DEFINITIONS

**3-201 Cancelled Application:** Any application which has been withdrawn by the applicant or cancelled by the APCO for failure to pay fees or to provide the information requested to make an application complete.

*(Amended 6/4/86; 4/6/88)*

**3-202 Gasoline Dispensing Facility:** Any stationary facility which dispenses gasoline directly into the fuel tanks of vehicles, such as motor vehicles, aircraft or boats. The facility shall be treated as a single source which includes all necessary equipment for the exclusive use of the facility, such as nozzles, dispensers, pumps, vapor return lines, plumbing and storage tanks.

*(Amended February 20, 1985)*

**3-203 Filing Fee:** A fixed fee for each source in an authority to construct.

*(Amended June 4, 1986)*

**3-204 Initial Fee:** The fee required for each new or modified source based on the type and size of the source. The fee is applicable to new and modified sources seeking to

obtain an authority to construct. Operation of a new or modified source is not allowed until the permit to operate fee is paid.

*(Amended June 4, 1986)*

**3-205 Authority to Construct:** Written authorization from the APCO, pursuant to Section 2-1-301, for a source to be constructed or modified or for a source whose emissions will be reduced by the construction or modification of an abatement device.

*(Amended June 4, 1986)*

**3-206 Modification:** See Section 1-217 of Regulation 1.

**3-207 Permit to Operate Fee:** The fee required for the annual renewal of a permit to operate or for the first year of operation (or prorated portion thereof) of a new or modified source which received an authority to construct.

*(Amended 6/4/86; 7/15/87; 12/2/98; 6/7/00)*

**3-208 Deleted June 4, 1986**

**3-209 Small Business:** A business with no more than 10 employees and gross annual income of no more than \$600,000 that is not an affiliate of a non-small business.

*(Amended 6/4/86; 6/6/90; 6/7/00; 6/15/05)*

**3-210 Solvent Evaporating Source:** Any source utilizing organic solvent, as part of a process in which evaporation of the solvent is a necessary step. Such processes include, but are not limited to, solvent cleaning operations, painting and surface coating, rotogravure coating and printing, flexographic printing, adhesive laminating, etc. Manufacture or mixing of solvents or surface coatings is not included.

*(Amended July 3, 1991)*

**3-211 Source:** See Section 1-227 of Regulation 1.

**3-212 Deleted August 2, 1995**

**3-213 Major Stationary Source:** For the purpose of Schedule M, a major stationary source shall be any District permitted plant, building, structure, stationary facility or group of facilities under the same ownership, leasehold, or operator which, in the base calendar year, emitted to the atmosphere organic compounds, oxides of nitrogen (expressed as nitrogen dioxide), oxides of sulfur (expressed as sulfur dioxide), or PM<sub>10</sub> in an amount calculated by the APCO equal to or exceeding 50 tons per year.

*(Adopted 11/2/83; Amended 2/21/90; 6/6/90; 8/2/95; 6/7/00)*

**3-214 Deleted effective March 1, 2000** *(Amended 10/20/99)*

**3-215 Deleted effective March 1, 2000** *(Amended 10/20/99)*

**3-216 Deleted effective March 1, 2000** *(Amended 10/20/99)*

**3-217 Deleted effective March 1, 2000** *(Amended 10/20/99)*

**3-218 Deleted effective March 1, 2000** *(Amended 10/20/99)*

**3-219 Deleted effective March 1, 2000** *(Amended 10/20/99)*

**3-220 Deleted effective March 1, 2000** *(Amended 10/20/99)*

**3-221 Deleted effective March 1, 2000** *(Amended 10/20/99)*

**3-222 Deleted effective March 1, 2000** *(Amended 10/20/99)*

**3-223 Start-up Date:** Date when new or modified equipment under an authority to construct begins operating. The holder of an authority to construct is required to notify the APCO of this date at least 3 days in advance. For new sources, or modified sources whose authorities to construct have expired, operating fees are charged from the startup date.

*(Adopted 6/4/86; Amended 6/6/90)*

**3-224 Permit to Operate:** Written authorization from the APCO pursuant to Section 2-1-302.

*(Adopted 6/4/86; Amended 6/7/00)*

**3-225 Minor Modification:** Any physical change or alteration to a source listed on Schedules G-3 or G-4 that will not increase emissions of any air contaminant. Such modifications may include alterations to improve energy and operational efficiency and those that reduce emissions. Alterations to increase actual or maximum production capacity shall not be considered minor modifications. Final determination of the applicability of this section shall be made by the APCO.

*(Adopted June 6, 1990)*

**3-226 Air Toxics "Hot Spots" Information and Assessment Act of 1987:** The Air Toxics "Hot Spots" Information and Assessment Act of 1987 directs the California Air Resources Board and the Air Quality Management Districts to collect information

from industry on emissions of potentially toxic air contaminants and to inform the public about such emissions and their impact on public health. It also directs the Air Quality Management District to collect fees sufficient to cover the necessary state and District costs of implementing the program.

*(Adopted 10/21/92; Amended 6/15/05)*

**3-227 Toxic Air Contaminant, or TAC:** An air pollutant that may cause or contribute to an increase in mortality or in serious illness or that may pose a present or potential hazard to human health. For the purposes of this rule, TACs consist of the substances listed in Table 2-5-1 of Regulation 2, Rule 5.

*(Adopted 10/21/92; Amended 6/15/05)*

**3-228 Deleted December 2, 1998**

**3-229 Deleted December 2, 1998**

**3-230 Deleted December 2, 1998**

**3-231 Deleted December 2, 1998**

**3-232 Deleted December 2, 1998**

**3-233 Deleted December 2, 1998**

**3-234 Deleted December 2, 1998**

**3-235 Deleted December 2, 1998**

**3-236 Deleted December 2, 1998**

**3-237 PM<sub>10</sub>:** See Section 2-1-229 of Regulation 2, Rule 1.

*(Adopted June 7, 2000)*

**3-238 Risk Screening Fee:** Fee for a new or modified source of toxic air contaminants for which a health risk screening analysis (HRSA) is required under Regulation 2-5-401, or for an HRSA prepared for other purposes (e.g., for determination of permit exemption in accordance with Regulations 2-1-316, 2-5-301 and 2-5-302; or for determination of exemption from emission control requirements pursuant to Regulation 8-47-113 and 8-47-402).

*(Adopted June 15, 2005)*

**3-239 Toxic Surcharge:** Fee paid in addition to the permit to operate fee for a source that emits one or more toxic air contaminants at a rate which exceeds a chronic trigger level listed in Table 2-5-1.

*(Adopted June 15, 2005)*

**3-240 Biogenic Carbon Dioxide:** Carbon dioxide emissions resulting from materials that are derived from living cells, excluding fossil fuels, limestone and other materials that have been transformed by geological processes. Biogenic carbon dioxide originates from carbon (released in the form of emissions) that is present in materials that include, but are not limited to, wood, paper, vegetable oils, animal fat, and food, animal and yard waste.

### **3-300 STANDARDS**

**3-301 Hearing Board Fees:** Applicants for variances or appeals or those seeking to revoke or modify variances or abatement orders or to rehear a Hearing Board decision shall pay the applicable fees, including excess emission fees, set forth in Schedule A.

*(Amended June 7, 2000)*

**3-302 Fees for New and Modified Sources:** Applicants for authorities to construct and permits to operate new sources shall pay for each new source: a filing fee of ~~\$300~~\$318, the initial fee, the risk screening fee, the permit to operate fee, and toxic surcharge (given in Schedules B, C, D, E, F, H, I or K). Applicants for authorities to construct and permits to operate modified sources shall pay for each modified source, a filing fee of ~~\$300~~\$318, the initial fee, the risk screening fee, and any incremental increase in permit to operate and toxic surcharge fees. Where more than one of the schedules is applicable to a source, the fee paid shall be the highest of the applicable schedules. Except for gasoline dispensing facilities (Schedule D) and semiconductor facilities (Schedule H), the size to be used for a source when applying the schedules shall be the maximum size the source will have after the construction or modification. Where applicable, fees for new or modified sources shall be based on maximum permitted usage levels or maximum potential to emit including any secondary emissions from abatement equipment.

302.1 **Small Business Discount:** If an applicant qualifies as a small business and the source falls under schedules B, C, D (excluding gasoline dispensing facilities), E, F, H, I or K, the filing fee, initial fee, and risk screening fee shall be reduced by 50%. All other applicable fees shall be paid in full.

302.2 Deleted July 3, 1991

302.3 **Fees for Abatement Devices:** Applicants for an authority to construct and permit to operate abatement devices where there is no other modification to the source shall pay a ~~\$300~~\$318 filing fee and initial and risk screening fees that are equivalent to 50% of the initial and risk screening fees for the source being abated. For abatement devices abating more than one source, the initial fee shall be 50% of the initial fee for the source having the highest initial fee.

302.4 **Fees for Reactivated Sources:** Applicants for a Permit to Operate reactivated, previously permitted equipment shall pay the full filing, initial, risk screening, permit, and toxic surcharge fees.

302.5 **Schedule G Fees:** Applicants for minor modifications to permitted sources subject to Schedules G-3, ~~or G-4, or G-5~~ shall pay filing, initial, risk screening, permit to operate, and toxic surcharge fees specified under Schedule G-2. Permit renewal fees will continue to be charged under Schedules G-3, ~~and G-4, and G-5.~~

*(Amended 5/19/82; 7/6/83; 6/4/86; 7/15/87; 6/6/90; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99; 6/7/00; 6/6/01, 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*

**3-303 Back Fees:** An applicant required to obtain a permit to operate existing equipment in accordance with District regulations shall pay back fees equal to the permit to operate fees and toxic surcharges given in the appropriate Schedule (B, C, D, E, F, H, I or K) prorated from the effective date of permit requirements. Where more than one of these schedules is applicable to a source, the fee paid shall be the highest of the applicable schedules. The applicant shall also pay back fees equal to toxic inventory fees pursuant to Section 3-320 and Schedule N. The maximum back fee shall not exceed a total of five years' permit, toxic surcharge, and toxic inventory fees.

*(Amended 5/19/82; 7/6/83; 6/4/86; 7/15/87; 6/6/90; 7/3/91; 10/8/97; 6/15/05)*

**3-304 Alteration:** An applicant to alter an existing permitted source shall pay only the filing fee, provided that the alteration does not result in an increase in emissions of any regulated air pollutant.

*(Amended 6/4/86; 11/15/00; 6/2/04)*

**3-305 Cancellation or Withdrawal:** There will be no refund of initial, risk screening, and filing fees if an application is cancelled or withdrawn. However, if an application for identical equipment is submitted within six months of the date of cancellation or withdrawal, the initial fee will be credited in full against the fee for the new application.

*(Amended 7/6/83; 4/6/88; 10/8/97; 6/15/05)*

**3-306 Change in Conditions:** If an applicant applies to change the conditions on an existing authority to construct or permit to operate, the applicant will pay the following fees. There will be no change in anniversary date.

306.1 **Administrative Condition Changes:** An applicant applying for an

administrative change in permit conditions shall pay a fee equal to the filing fee for a single source, provided the following criteria are met:

- 1.1 The condition change applies to a single source or a group of sources with shared permit conditions.
  - 1.2 The condition change does not subject the source(s) to any District Regulations or requirements that were not previously applicable.
  - 1.3 The condition change does not result in any increase in emissions of POC, NPOC, NO<sub>x</sub>, CO, SO<sub>2</sub>, or PM<sub>10</sub> at any source or the emission of a toxic air contaminant above the trigger levels identified in Table 2-5-1
  - 1.4 The condition change does not require a public notice.
- 306.2 Other Condition Changes: Applicant shall pay the filing, initial, and risk screening fees required for new and modified equipment under Section 3-302. If the condition change will result in higher permit to operate fees, the applicant shall also pay any incremental increases in permit to operate fees and toxic surcharges.

*(Amended 7/6/83; 6/4/86; 6/6/90; 10/8/97; 6/7/00; 6/15/05)*

**3-307 Transfers:** The owner/operator of record is the person to whom a permit is issued or, if no permit has yet been issued to a facility, the person who applied for a permit. Permits are valid only for the owner/operator of record. Permits are re-issued to the new owner/operator of record with no change in expiration dates.

*(Amended 2/20/85; 6/4/86; 11/5/86; 4/6/88; 10/8/97; 5/1/02; 5/21/03; 6/02/04)*

**3-308 Change of Location:** An applicant who wishes to move an existing source, which has a permit to operate, shall pay no fee if the move is on the same facility. If the move is not on the same facility, the source shall be considered a new source and subject to Section 3-302. This section does not apply to portable permits meeting the requirements of Regulation 2-1-220 and 413.

*(Amended 7/6/83; 6/4/86; 6/15/05)*

**3-309 Duplicate Permit:** An applicant for a duplicate permit to operate shall pay a fee of ~~\$64~~\$65 per permit.

*(Amended 5/19/99, 5/1/02; 5/21/03; 6/02/04; 6/15/05; 6/7/06; 5/2/07)*

**3-310 Fee for Constructing Without a Permit:** An applicant for an authority to construct and a permit to operate a source, which has been constructed or modified without an authority to construct, shall pay the following fees:

- 310.1 Sources subject to permit requirements on the date of initial operation shall pay fees for new construction pursuant to Section 3-302, any back fees pursuant to Section 3-303, a late fee equal to 100% of the initial fee, plus the risk screening fee. A modified gasoline dispensing facility subject to Schedule D that is not required to pay an initial fee shall pay back fees, a late fee equal to 100% of the filing fee, plus the risk screening fee.
- 310.2 Sources previously exempt from permit requirements that lose their exemption due to changes in District, state, or federal regulations shall pay a permit to operate fee and toxic surcharge for the coming year and any back fees pursuant to Section 3-303.
- 310.3 Sources previously exempt from permit requirements that lose their exemption due to a change in the manner or mode of operation, such as an increased throughput, shall pay fees for new construction pursuant to Section 3-302. In addition, sources applying for permits after commencing operation in a non-exempt mode shall also pay a late fee equal to 100% of the initial fee plus the risk screening fee and any back fees pursuant to Section 3-303.
- 310.4 Sources modified without a required authority to construct shall pay fees for modification pursuant to Section 3-302 and a late fee equal to 100% of the initial fee.

*(Amended 7/6/83; 4/18/84; 6/4/86; 6/6/90; 7/3/91; 8/2/95; 10/8/97; 6/02/04; 6/15/05)*

**3-311 Banking:** Any applicant who wishes to bank emissions for future use, or convert an ERC into an IERC, shall pay a filing fee of ~~\$300~~\$318 per source plus the initial fee given in Schedules B, C, D, E, F, H, I or K. Where more than one of these schedules is applicable to a source, the fee paid shall be the highest of the applicable schedules. Any applicant for the withdrawal of banked emissions shall pay a fee of ~~\$300~~\$318.

(Amended 7/6/83; 6/4/86; 7/15/87; 7/3/91; 6/15/94; 7/1/98; 5/19/99; 6/7/00; 6/6/01, 5/1/02; 5/21/03; 6/02/04; 6/15/05; 6/7/06; 5/2/07)

**3-312 Emission Caps and Alternative Compliance Plans:** Any facility which elects to use an alternative compliance plan contained in:

312.1 Regulation 8 ("bubble") to comply with a District emission limitation or to use an annual or monthly emission limit to acquire a permit in accordance with the provisions of Regulation 2, Rule 2, shall pay an additional annual fee equal to fifteen percent of the total plant permit to operate fee.

312.2 Regulation 2, Rule 9 shall pay an annual fee of ~~\$757~~\$802 for each source included in the alternative compliance plan, not to exceed ~~\$7,573~~\$8,027.

(Adopted 5/19/82; Amended 6/4/86; 5/19/99; 6/7/00; 6/6/01; 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)

**3-313 Deleted May 19, 1999**

**3-314 Deleted August 2, 1995**

**3-315 Costs of Environmental Documentation:** An applicant for an Authority to Construct a project which is subject to review under the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.) shall pay, in addition to the fees required under Section 3-302 and in any applicable schedule, the District's costs of performing all environmental evaluation required pursuant to the California Environmental Quality Act, the District's costs in preparing any environmental study or Environmental Impact Report (including the costs of any outside consulting assistance which the District may employ in connection with the preparation of any such study or report), as well as the District's reasonable internal costs (including overhead) of processing and reviewing the required environmental documentation.

(Adopted 12/18/85; Amended 5/1/02)

**3-316 Deleted June 6, 1990**

**3-317 Asbestos Operation Fees:** After July 1, 1988, persons submitting a written plan, as required by Regulation 11, Rule 2, Section 401, to conduct an asbestos operation shall pay the fee given in Schedule L.

(Adopted 7/6/88; Renumbered 9/7/88; Amended 8/2/95)

**3-318 Public Notice Fee, Schools:** Pursuant to Section 42301.6(b) of the Health and Safety Code, an applicant for an authority to construct or permit to operate subject to the public notice requirements of Regulation 2-1-412 shall pay, in addition to the fees required under Section 3-302 and in any applicable schedule, a fee to cover the expense of preparing and distributing the public notices to the affected persons specified in Regulation 2-1-412 as follows:

318.1 A fee of \$2000 per application, and

318.2 The District's cost exceeding \$2000 of preparing and distributing the public notice.

318.3 The District shall refund to the applicant the portion of any fee paid under this Section that exceeds the District's cost of preparing and distributing the public notice.

(Adopted 11/1/89; Amended 10/8/97; 7/1/98; 5/19/99; 6/7/00; 5/21/03; 6/2/04)

**3-319 Major Stationary Source Fees:** Any major stationary source emitting 50 tons per year of organic compounds, sulfur oxides, nitrogen oxides, or PM<sub>10</sub> shall pay a fee based on Schedule M. This fee is in addition to permit and other fees otherwise authorized to be collected from such facilities and shall be included as part of the annual permit renewal fees.

(Adopted 6/6/90; Amended 8/2/95; 6/7/00)

**3-320 Toxic Inventory Fees:** Any facility that emits one or more toxic air contaminants in quantities above a minimum threshold level shall pay an annual fee based on Schedule N. This fee will be in addition to permit to operate, toxic surcharge, and other fees otherwise authorized to be collected from such facilities.

320.1 An applicant who qualifies as a small business under Regulation 3-209 shall pay a Toxic Inventory Fee as set out in Schedule N up to a maximum fee of ~~\$6,892~~\$7,306 per year.

(Adopted 10/21/92; Amended 5/19/99; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)

**3-321 Deleted December 2, 1998**

**3-322 Excavation of Contaminated Soil and Removal of Underground Storage Tank Operation Fees:** Persons submitting a written notification for a given site to conduct either excavation of contaminated soil or removal of underground storage tanks as



required by Regulation 8, Rule 40, Section 401, 402, 403 or 405 shall pay a fee based on Schedule Q.

*(Adopted 1/5/94; Amended 8/2/95; 5/21/03)*

- 3-323 Pre-Certification Fees:** An applicant seeking to pre-certify a source, in accordance with Regulation 2, Rule 1, Section 415, shall pay the filing fee, initial fee and permit to operate fee given in the appropriate schedule.

*(Adopted June 7, 1995)*

**3-324 Deleted June 7, 2000**

**3-325 Deleted December 2, 1998**

**3-326 Deleted December 2, 1998**

- 3-327 Permit to Operate, Renewal Fees:** After the expiration of the initial permit to operate, the permit to operate shall be renewed on an annual basis or other time period as approved by the APCO. The fee required for the renewal of a permit to operate is the permit to operate fee and toxic surcharge listed in Schedules B, C, D, E, F, H, I, and K, prorated for the period of coverage. When more than one of the schedules is applicable to a source, the fee paid shall be the highest of the applicable schedules. This renewal fee is applicable to all sources required to obtain permits to operate in accordance with District regulations. The permit renewal invoice shall also specify any applicable major stationary source fees based on Schedule M, toxic inventory fees based on Schedule N, ~~and~~ major facility review fees based on Schedule P, and greenhouse gas fees based on Schedule T. Where applicable, renewal fees shall be based on actual usage or emission levels that have been reported to or calculated by the District. In addition to these renewal fees for the sources at a facility, the facility shall also pay a processing fee at the time of renewal as follows:

327.1 ~~\$59~~\$63 for facilities with one permitted source, including gasoline dispensing facilities,

327.2 ~~\$116~~\$123 for facilities with 2 to 5 permitted sources,

327.3 ~~\$232~~\$246 for facilities with 6 to 10 permitted sources,

327.4 ~~\$348~~\$369 for facilities with 11 to 15 permitted sources,

327.5 ~~\$463~~\$491 for facilities with 16 to 20 permitted sources,

327.6 ~~\$579~~\$614 for facilities with more than 20 permitted sources.

*(Adopted 6/7/00; Amended 6/2/04; 6/16/04; 6/15/05; 6/7/06; 5/2/07)*

- 3-328 Fee for OEHHA Risk Assessment Reviews:** Any facility that submits a health risk assessment to the District in accordance with Section 44361 of the California Health and Safety Code shall pay any fee requested by the State Office of Environmental Health Hazard Assessment (OEHHA) for reimbursement of that agency's costs incurred in reviewing the risk assessment.

*(Adopted June 7, 2000)*

- 3-329 Fee for Risk Screening:** A health risk screening analysis (HRSA) required pursuant to Regulation 2, Rule 5 shall be subject to an appropriate Risk Screening Fee pursuant to Regulation 3-302 and Schedules B, C, D, E, F, H, I or K. In addition, any person that requests that the District prepare or review an HRSA (e.g., for determination of permit exemption in accordance with Regulations 2-1-316, 2-5-301 and 2-5-302; or for determination of exemption from emission control requirements pursuant to Regulation 8-47-113 and 8-47-402) shall pay a Risk Screening Fee.

*(Adopted June 15, 2005)*

- 3-330 Fee for Renewing an Authority to Construct:** An applicant seeking to renew an authority to construct in accordance with Regulation 2-1-407 shall pay a fee of 50% of the initial fee in effect at the time of the renewal. If the District determines that an authority to construct cannot be renewed, any fees paid under this section shall be credited in full against the fee for a new authority to construct for functionally equivalent equipment submitted within six months of the date the original authority to construct expires.

*(Adopted June 15, 2005)*

- 3-331 Registration Fees:** Any person who is required to register equipment under District rules shall submit a registration fee, and any annual fee thereafter, as set out in Schedule R.

*(Adopted June 6, 2007)*

- 3-332 Naturally Occurring Asbestos Fees:** After July 1, 2007, any person required to Bay Area Air Quality Management District

December 5, 2007

submit an Asbestos Dust Mitigation Plan (ADMP) pursuant to Title 17 of the California Code of Regulations, Section 93105, Asbestos Air Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations shall pay the fee(s) set out in Schedule S.

(Adopted June 6, 2007)

**3-333** **Major Facility Review (MFR) and Synthetic Minor Application Fees:** Any facility that applies for, or is required to undergo, an initial MFR permit, an amendment to an MFR permit, a minor or significant revision to an MFR permit, a reopening of an MFR permit, a renewal of an MFR permit, an initial synthetic minor operating permit, or a revision to a synthetic minor operating permit, shall pay the applicable fees set forth in Schedule P.

**3-334** **Greenhouse Gas Fees:** Any permitted facility with greenhouse gas emissions shall pay a fee based on Schedule T. This fee is in addition to permit and other fees otherwise authorized to be collected from such facilities, and shall be included as part of the annual permit renewal fees.

**3-400 ADMINISTRATIVE REQUIREMENTS**

**3-401** **Permits:** Definitions, standards, and conditions contained in Regulation 2, Permits, are applicable to this regulation.

**3-402** **Single Anniversary Date:** The APCO may assign a single anniversary date to a facility on which all its renewable permits to operate expire and will require renewal. Fees will be prorated to compensate for different time periods resulting from change in anniversary date.

**3-403** **Change in Operating Parameters:** See Section 2-1-404 of Regulation 2, Rule 1.

**3-404** **Deleted June 7, 2000**

**3-405** **Fees Not Paid:** If an applicant or owner/operator fails to pay the fees specified on the invoice by the due date, the following procedure(s) shall apply:

405.1 Authority to Construct: The application will be cancelled, but can be reactivated upon payment of fees.

405.2 New Permit to Operate: The Permit to Operate shall not be issued, and the facility will be notified that operation, including startup, is not authorized.

2.1 Fees received during the first 30 days following the due date must include an additional late fee equal to 10 percent of all fees specified on the invoice.

2.2 Fees received more than 30 days after the due date must include an additional late fee equal to 50 percent of all fees specified on the invoice.

405.3 Renewal of Permit to Operate: The facility will be notified that the permit has lapsed and that further operation is no longer authorized. Reinstatement of lapsed Permits to Operate will require the payment of reinstatement fees in addition to all fees specified on the invoice. Fees shall be calculated using fee schedules in effect at either the time of reinstatement or at the time additional fees are assessed under subsection 3-405.2.

3.1 Fees received during the first 30 days following the due date must include all fees specified on the invoice plus a reinstatement fee equal to 10 percent of all fees specified on the invoice.

3.2 Fees received more than 30 days after the due date, but less than one year after the due date, must include all fees specified on the invoice plus a reinstatement fee equal to 50 percent of all fees specified on the invoice.

405.4 Other Fees: Persons who have not paid the fee by the invoice due date, shall pay a late fee in addition to the original invoiced fee. Fees shall be calculated using fee schedules in effect at the time of the fees' original determination.

4.1 Fees received more than 30 days after the invoice due date must include a late fee of 10 percent of the original invoiced fee.

*(Amended 7/6/83; 6/4/86; 11/5/86; 2/15/89; 6/6/90; 7/3/91; 8/2/95; 12/2/98; 6/15/05; 6/7/06)*

**3-406 Deleted June 4, 1986**

**3-407 Deleted August 2, 1995**

**3-408 Permit to Operate Valid for 12 Months:** A Permit to Operate is valid for 12 months from the date of issuance or other time period as approved by the APCO.

*(Amended 6/4/86; Amended 6/7/00)*

**3-409 Deleted June 7, 2000**

**3-410 Deleted August 2, 1995**

**3-411 Advance Deposit of Funds:** The APCO may require that at the time of the filing of an application for an Authority to Construct for a project for which the District is a lead agency under the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), the applicant shall make an advance deposit of funds, in an amount to be specified by the APCO, to cover the costs which the District estimates to incur in connection with the District's performance of its environmental evaluation and the preparation of any required environmental documentation. In the event the APCO requires such an estimated advance payment to be made, the applicant will be provided with a full accounting of the costs actually incurred by the District in connection with the District's performance of its environmental evaluation and the preparation of any required environmental documentation.

*(Adopted 12/18/85; Amended 8/2/95)*

**3-412 Deleted December 2, 1998**

**3-413 Toxic "Hot Spots" Information and Assessment Act Revenues:** No later than 120 days after the adoption of this regulation, the APCO shall transmit to the California Air Resources Board, for deposit into the Air Toxics "Hot Spots" Information and Assessment Fund, the revenues determined by the ARB to be the District's share of statewide Air Toxics "Hot Spot" Information and Assessment Act expenses.

*(Adopted October 21, 1992)*

**3-414 Deleted December 2, 1998**

**3-415 Failure to Pay - Further Actions:** When an applicant or owner/operator fails to pay the fees specified on the invoice by the due date, the APCO may take the following actions against the applicant or owner/operator:

415.1 Issuance of a Notice to Comply.

415.2 Issuance of a Notice of Violation.

415.3 Revocation of an existing Permit to Operate. The APCO shall initiate proceedings to revoke permits to operate for any person who is delinquent for more than one month. The revocation process shall continue until payment in full is made or until permits are revoked.

415.4 The withholding of any other District services as deemed appropriate until payment in full is made.

*(Adopted 8/2/95; Amended 12/2/98; 6/15/05)*

**3-416 Adjustment of Fees:** The APCO or designees may, upon finding administrative error by District staff in the calculation, imposition, noticing, invoicing, and/or collection of any fee set forth in this rule, rescind, reduce, increase, or modify the fee. A request for such relief from an administrative error, accompanied by a statement of why such relief should be granted, must be received within two years from the date of payment.

*(Adopted October 8, 1997)*

**SCHEDULE A  
HEARING BOARD FEES<sup>1</sup>**

Established by the Board of Directors December 7, 1977 Resolution No. 1046  
(Code section references are to the California Health & Safety Code, unless otherwise indicated)

		Large Companies	Small Business	Third Party
1.	For each application for variance exceeding 90 days, in accordance with §42350, including applications on behalf of a class of applicants, which meet the requirements of the Hearing Board Rules for a valid and proper class action for variance ..... Plus, for each hearing in addition to the first hearing necessary to dispose of said variance application in accordance with §42350, the additional sum of .....	<u>\$1733</u> <u>\$1993</u>  <u>\$867</u> <u>\$997</u>	<u>\$259</u> <u>\$298</u>  <u>\$87</u> <u>\$100</u>	
2.	For each application for variance not exceeding 90 days, in accordance with §42350, including applications on behalf of a class of applicants, which meet the requirements of the Hearing Board Rules for a valid and proper class action for variance ..... Plus, for each hearing in addition to the first hearing necessary to dispose of said variance application, in accordance with §42350, the additional sum of .....	<u>\$1041</u> <u>\$1197</u>  <u>\$519</u> <u>\$597</u>	<u>\$259</u> <u>\$298</u>  <u>\$87</u> <u>\$100</u>	
3.	For each application to modify a variance in accordance with §42356 ... Plus, for each hearing in addition to the first hearing on said application to modify a variance, in accordance with §42345, necessary to dispose of the application, the additional sum of.....	<u>\$694</u> <u>\$795</u>  <u>\$519</u> <u>\$597</u>	<u>\$87</u> <u>\$100</u>  <u>\$87</u> <u>\$100</u>	
4.	For each application to extend a variance, in accordance with §42357 .. Plus, for each hearing in addition to the first hearing on an application to extend a variance, in accordance with §42357, necessary to dispose of the application, the additional sum of.....	<u>\$694</u> <u>\$795</u>  <u>\$519</u> <u>\$597</u>	<u>\$87</u> <u>\$100</u>  <u>\$87</u> <u>\$100</u>	
5.	For each application to revoke a variance .....	<u>\$1041</u> <u>\$1197</u>	<u>\$87</u> <u>\$100</u>	
6.	For each application for approval of a Schedule of Increments of Progress in accordance with §41703.....	<u>\$694</u> <u>\$795</u>	<u>\$87</u> <u>\$100</u>	
7.	For each application for variance in accordance with §41703, which exceeds 90 days ..... Plus, for each hearing in addition to the first hearing on said application for variance in accordance with §41703, the additional sum of .....	<u>\$1733</u> <u>\$1993</u>  <u>\$867</u> <u>\$997</u>	<u>\$259</u> <u>\$298</u>  <u>\$87</u> <u>\$100</u>	
8.	For each application for variance in accordance with §41703, not to exceed 90 days ..... Plus, for each hearing in addition to the hearing on said application for a variance in accordance with §41703, the additional sum of .....	<u>\$1041</u> <u>\$1197</u>  <u>\$519</u> <u>\$597</u>	<u>\$259</u> <u>\$298</u>  <u>\$87</u> <u>\$100</u>	

		Large Companies	Small Business	Third Party
9.	For each Appeal (Permit, Banking, Title V).....	<del>\$1733</del> <u>\$1993</u> per hearing day	<del>\$867</del> <u>\$997</u> per hearing day	<del>\$867</del> <u>\$997</u> for entire appeal period
10.	For each application for intervention in accordance with Hearing Board Rules §§2.3, 3.6 & 4.6.....	<del>\$867</del> <u>\$997</u>	<del>\$174</del> <u>\$200</u>	
11.	For each application to Modify or Terminate an abatement order .....	<del>\$1733</del> <u>\$1993</u> per hearing day	<del>\$867</del> <u>\$997</u> per hearing day	
12.	For each application for an interim variance in accordance with §42351	<del>\$867</del> <u>\$997</u>	<del>\$174</del> <u>\$200</u>	
13.	For each application for an emergency variance in accordance with §42359.5.....	<del>\$432</del> <u>\$497</u>	<del>\$87</del> <u>\$100</u>	
14.	For each application to rehear a Hearing Board decision in accordance with §40861 .....	100% of previous fee charged	100% of previous fee charged	
15.	Excess emission fees.....	See Attachment I	See Attachment I	
16.	Miscellaneous filing fee for any hearing not covered above	<del>\$867</del> <u>\$997</u>	<del>\$259</del> <u>\$298</u>	<del>\$259</del> <u>\$298</u>
17.	For each published Notice of Public Hearing.....	Cost of Publication	\$0	\$0
18.	Court Reporter Fee (to be paid only if Court Reporter required for hearing) .....	<del>\$174</del> <u>\$200</u> or cost per day if hearing solely dedicated to one Docket	\$0	<del>\$174</del> <u>\$200</u> or cost per day if hearing solely dedicated to one Docket

NOTE 1 Any person who certifies under penalty of perjury that payment of the foregoing fees will cause an unreasonable hardship, may be excused from the payment of fees by order of the Hearing Board on that account.  
*(Amended 10/8/97; 5/19/99; 6/7/00; 6/6/01, 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*

**SCHEDULE A  
ATTACHMENT I  
EXCESS EMISSION FEE**

**A. General**

- (1) Each applicant or petitioner for a variance from these Rules and Regulations shall pay to the Clerk or Deputy Clerk of the Hearing Board, in addition to the other filing fees required in Schedule A, an emission fee based on the total weight of emissions discharged, per source or product, other than those described in division (B) below, during the variance period in excess of that allowed by these rules in accordance with the schedule set forth in Table I.
- (2) Where the total weight of emission discharged cannot be easily calculated, the petitioner shall work in concert with District staff to establish the amount of excess emissions to be paid.
- (3) 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 subdivision, opacity rules and particulate mass emissions shall not be considered rules limiting the discharge of the same contaminant.

**B. Excess Visible Emission Fee**

Each applicant or petitioner for a variance from Regulation 6 or Health and Safety Code Section 41701 shall pay to the Clerk or Deputy Clerk of the Hearing Board, in addition to the filing fees required in Schedule A and the excess emission fees required in (A) above (if any), an emission fee based on the difference between the percent opacity allowed by Regulation 6 and the percent opacity of the emissions allowed from the source or sources operating under the variance, in accordance with the schedule set forth in Table II.

In the event that an applicant or petitioner is exempt from the provisions of Regulation 6, the applicant or petitioner shall pay a fee calculated as described herein above, but such fee shall be calculated based upon the difference between the opacity allowed under the variance and the opacity allowed under the provisions of Health and Safety Code Section 41701, in accordance with the schedule set forth in Table II.

**C. Applicability**

The provisions of subdivision (A) shall apply to all variances that generate excess emissions.

**D. Fee Determination**

- (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 subdivisions (A) and (B) above. The calculations and proposed fees shall be set forth in the petition.
- (2) The Hearing Board may adjust the excess emission fee required by subdivisions (A) and (B) of this rule based on evidence regarding emissions presented at the time of the hearing.

**E. Small Businesses**

- (1) A small business shall be assessed twenty percent (20%) of the fees required by subdivisions (A) and (B), whichever is applicable. "Small business" is defined in the Fee Regulation.
- (2) Request for exception as a small business shall be made by the petitioner under penalty of perjury on a declaration form provided by the Executive Officer which shall be submitted to the Clerk or Deputy Clerk of the Hearing Board at the time of filing a petition for variance.

**F. Group, Class and Product Variance Fees**

Each petitioner included in a petition for a group, class or product variance shall pay the filing fee specified in Schedule A, and the excess emission fees specified in subdivisions (A) and (B), whichever is applicable.

**G. Adjustment of Fees**

If after the term of a variance for which emission fees have been paid, petitioner can establish, to the satisfaction of the Executive Officer/APCO, that emissions were actually less than those upon which the fee was based, a pro rata refund shall be made.

**H. Fee Payment/Variance Invalidation**

- (1) Excess emission fees required by subdivisions (A) and (B), based on an estimate provided during the variance Hearing, are due and payable within fifteen (15) days of the granting of the variance. The petitioner shall be notified in writing of any adjustment to the amount of excess emission fees due, following District staff's verification of the estimated emissions. Fee payments to be made as a result of an adjustment are due and payable within fifteen (15) days of notification of the amount due.
- (2) Failure to pay the excess emission fees required by subdivisions (A) and (B) within fifteen (15) days of notification that a fee is due shall automatically invalidate the variance. Such notification may be given by personal service or by deposit, postpaid, in the United States mail and shall be due fifteen (15) days from the date of personal service or mailing. For the purpose of this rule, the fee payment shall be considered to be received by the District if it is postmarked by the United States Postal Service on or before the expiration date stated on the billing notice. If the expiration date falls on a Saturday, Sunday, or a state holiday, the fee payment may be postmarked on the next business day following the Saturday, Sunday, or the state holiday with the same effect as if it had been postmarked on the expiration date.

**TABLE I  
SCHEDULE OF EXCESS EMISSIONS FEES**

Air Contaminants	All at <del>\$4.66</del> <u>\$1.91</u> Per Pound
Organic gases, except methane and those containing sulfur	
Carbon Monoxide	
Oxides of nitrogen (expressed as nitrogen dioxide)	
Gaseous sulfur compounds (expressed as sulfur dioxide)	
Particulate matter	
Toxic Air Contaminants	All at <del>\$8.26</del> <u>\$9.50</u> Per Pound
Asbestos	
Benzene	
Cadmium	
Carbon tetrachloride	
Chlorinated dioxins and dibenzofurans (15 species)	
Ethylene dibromide	
Ethylene dichloride	
Ethylene oxide	
Formaldehyde	
Hexavalent chromium	
Methylene chloride	
Nickel	
Perchloroethylene	
1,3-Butadiene	
Inorganic arsenic	
Beryllium	
Polynuclear aromatic hydrocarbons (PAH)	
Vinyl chloride	
Lead	
1,4-Dioxane	
Trichloroethylene	

**TABLE II  
SCHEDULE OF EXCESS VISIBLE EMISSION FEE**

For each source with opacity emissions in excess of twenty percent (20%), but less than forty percent (40%) (where the source is in violation of Regulation 6, the fee is calculated as follows:

$$\text{Fee} = (\text{Opacity}^* \text{ equivalent} - 20) \times \text{number of days allowed in variance} \times \text{\$} ~~1.85~~ 2.13$$

For each source with opacity emissions in excess of forty percent (40%) (where the source is in violation of Regulation 6 and California Health and Safety Code Section 41701), the fee is calculated as follows:

$$\text{Fee} = (\text{Opacity}^* \text{ equivalent} - 40) \times \text{number of days allowed by variance} \times \text{\$} ~~1.85~~ 2.13$$

\* Where "Opacity" equals maximum opacity of emissions in percent (not decimal equivalent) allowed by the variance. Where the emissions are darker than the degree of darkness equivalent to the allowed Ringelmann number, the percentage equivalent of the excess degree of darkness shall be used as "opacity."

*(Adopted 6/7/00; Amended 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*



**SCHEDULE B  
COMBUSTION OF FUEL**

(Adopted June 18, 1980)

For each source that burns fuel, which is not a flare and not exempted by Regulation 2, Rule 1, the fee shall be computed based on the maximum gross combustion capacity (expressed as higher heating value, HHV) of the source.

1. INITIAL FEE: ~~\$38.79~~\$39.95 per MM BTU/HOUR
  - a. The minimum fee per source is: ~~\$207~~\$213
  - b. The maximum fee per source is: ~~\$72,374~~\$74,545
  
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$300~~\$318 plus ~~\$38.79~~\$39.95 per MM BTU/hr
  - b. Minimum RSF for first TAC source: ~~\$507~~\$531
  - c. RSF for each additional TAC source: ~~\$38.79~~\$39.95 per MM BTU/Hr \*
  - d. Minimum RSF per additional TAC source: ~~\$207~~\$213 \*
  - e. Maximum RSF per source is: ~~\$72,374~~\$74,545
    - \* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
  
3. PERMIT TO OPERATE FEE: ~~\$19.39~~\$19.97 per MM BTU/HOUR
  - a. The minimum fee per source is: ~~\$148~~\$152
  - b. The maximum fee per source is: ~~\$36,186~~\$37,272
  
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.
  
5. ROUNDING: Fees for each source will be rounded to the nearest dollar. The fee for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.
  
6. Applicants for an authority to construct and permit to operate a project, which burns municipal waste or refuse-derived fuel, shall pay in addition to all required fees, an additional fee to cover the costs incurred by the State Department of Health Services, and/or a qualified contractor designated by the State Department of Health Services, in reviewing a risk assessment as required under H&S Code Section 42315. The fee shall be transmitted by the District to the Department of Health Services and/or the qualified contractor upon completion of the review and submission of comments in writing to the District.
  
7. A surcharge equal to 100% of all required initial and permit to operate fees shall be charged for sources permitted to burn one or more of the following fuels: coke, coal, wood, tires, black liquor, and municipal solid waste.

NOTE: MM BTU is million BTU of higher heat value  
One MM BTU/HR = 1.06 gigajoules/HR

*(Amended 6/5/85; 6/4/86; 3/4/87; 6/6/90; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 7/1/98; 5/19/99; 6/7/00; 6/6/01, 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*

**SCHEDULE C**  
**STATIONARY CONTAINERS FOR THE STORAGE OF ORGANIC LIQUIDS**  
(Adopted June 18, 1980)

For each stationary container of organic liquids which is not exempted from permits by Regulation 2 and which is not part of a gasoline dispensing facility, the fee shall be computed based on the container volume, as follows:

1. INITIAL FEE: 0.165 cents per gallon
  - a. The minimum fee per source is: \$182
  - b. The maximum fee per source is: \$24,806
  
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$300~~\$318 plus 0.165 cents per gallon
  - b. Minimum RSF for first TAC source: \$482
  - c. RSF for each additional TAC source: 0.165 cents per gallon \*
  - d. Minimum RSF per additional TAC source: \$182 \*
  - e. Maximum RSF per source is: \$24,806

\* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
  
3. PERMIT TO OPERATE FEE: 0.083 cents per gallon
  - a. The minimum fee per source is: \$130
  - b. The maximum fee per source is: \$12,403
  
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.
  
5. ROUNDING: Fees for each source will be rounded to the nearest dollar. The fee for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.

*(Amended 2/20/85; 6/5/85; 6/4/86; 7/3/91; 6/15/94; 7/1/98; 5/19/99;  
6/7/00; 6/6/01, 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*

**SCHEDULE D**  
**GASOLINE TRANSFER AT GASOLINE DISPENSING FACILITIES,**  
**BULK PLANTS AND TERMINALS**  
 (Adopted June 18, 1980)

A.. All gasoline dispensing facilities shall pay the following fees:

1. INITIAL FEE: ~~\$125.48~~\$144.30 per single product nozzle (spn)  
~~\$125.48~~\$144.30 per product for each multi-product nozzle (mpn)
2. PERMIT TO OPERATE FEE: ~~\$48.06~~\$55.27 per single product nozzle (spn)  
~~\$48.06~~\$55.27 per product for each multi-product nozzle (mpn)

3. Initial fees and permit to operate fees for hardware modifications at a currently permitted gasoline dispensing facility shall be consolidated into a single fee calculated according to the following formula:

$$\frac{\$173.54}{\$199.57} \times \left\{ \left[ \left( \frac{mpn_{proposed}}{mpn_{existing}} \right) (\text{products per nozzle}) + spn_{proposed} \right] - \left[ \left( \frac{mpn_{existing}}{mpn_{existing}} \right) (\text{products per nozzle}) + spn_{existing} \right] \right\}$$

*mpn* = multi-product nozzles  
*spn* = single product nozzles

The above formula includes a toxic surcharge.

If the above formula yields zero or negative results, no initial fees or permit to operate fees shall be charged.

For the purposes of calculating the above fees, a fuel blended from two or more different grades shall be considered a separate product.

Other modifications to facilities' equipment, including but not limited to tank addition/replacement/conversion, vapor recovery piping replacement, moving or extending pump islands, will not be subject to initial fees or permit to operate fees.

4. RISK SCREENING FEE (RSF) of ~~\$300~~\$318 per application is only applicable to projects for which a health risk screening analysis is required under Regulation 2-5-401 [including increases in permitted throughput for which a health risk screening analysis is required.]
  5. Nozzles used exclusively for the delivery of diesel fuel or other fuels exempt from permits shall pay no fee. Multi-product nozzles used to deliver both exempt and non-exempt fuels shall pay fees for the non-exempt products only.
- B. All bulk plants, terminals or other facilities using loading racks to transfer gasoline or gasohol into trucks, railcars or ships shall pay the following fees:

1. INITIAL FEE: ~~\$1,649~~\$1,896 per single product loading arm  
~~\$1,649~~\$1,896 per product for multi-product arms

2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.

- a. RSF for first TAC source in application: ~~\$1,949~~\$2,214
- b. RSF for each additional TAC source: ~~\$1,649~~\$1,896 \*

\* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1

3. PERMIT TO OPERATE FEE: ~~\$460~~\$529 per single product loading arm  
~~\$460~~\$529 per product for multi-product arms

4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.
- C. Fees in (A) above are in lieu of tank fees. Fees in (B) above are in addition to tank fees.
- D. Fees for each source will be rounded to the nearest dollar. The fee for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.

*(Amended 2/20/85; 6/5/85; 6/4/86; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99;  
6/7/00; 6/6/01, 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*

**SCHEDULE E**  
**SOLVENT EVAPORATING SOURCES**  
 (Adopted June 18, 1980)

For each solvent evaporating source, as defined in Section 3-210 except for dry cleaners, the fee shall be computed based on the net amount of organic solvent processed through the sources on an annual basis (or anticipated to be processed, for new sources) including solvent used for the cleaning of the sources.

1. INITIAL FEE:
  - a. The minimum fee per source is: ~~\$276~~\$317
  - b. If usage is not more than 1,000 gallons/year: ~~\$276~~\$317
  - c. If usage is more than 1,000 gallons/year: ~~\$555~~\$638 per 1,000 gallons
  - d. The maximum fee per source is: ~~\$22,069~~\$25,379
  
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$300~~\$318 plus initial fee
  - b. Minimum RSF for first TAC source: ~~\$576~~\$635
  - c. RSF for each additional TAC source: equal to initial fee \*
  - d. Minimum RSF per additional TAC source: ~~\$276~~\$317 \*
  - e. Maximum RSF per source is: ~~\$22,069~~\$25,379

\* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
  
3. PERMIT TO OPERATE FEE:
  - a. The minimum fee per source is: ~~\$199~~\$229
  - b. If usage is not more than 1,000 gallons/year: ~~\$199~~\$229
  - c. If usage is more than 1,000 gallons/year: ~~\$276~~\$317 per 1,000 gallons
  - d. The maximum fee per source is: ~~\$11,033~~\$12,688
  
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.
  
5. Fees for each source will be rounded to the nearest dollar. The fee for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.

*(Amended 5/19/82; 10/17/84; 6/5/85; 6/4/86; 10/8/87; 7/3/91; 6/15/94; 7/1/98; 5/19/99; 6/7/00; 6/6/01, 5/1/02, 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*

**SCHEDULE F**  
**MISCELLANEOUS SOURCES**  
(Adopted June 18, 1980)

For each source not governed by Schedules B, C, D, E, H or I, (except for those sources in the special classification lists, G-1 - G-5) the fees are:

1. INITIAL FEE: ~~\$276~~\$301
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$576~~\$619
  - b. RSF for each additional TAC source: ~~\$276~~\$301 \*
    - \* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
3. PERMIT TO OPERATE FEE: ~~\$199~~\$217
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1. List of special classifications requiring graduated fees is shown in Schedules G-1, G-2, G-3, G-4, and G-5.

G-1. FEES FOR SCHEDULE G-1, For each source in a G-1 classification, fees are:

1. INITIAL FEE: ~~\$1,654~~\$1,803
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$1,954~~\$2,121
  - b. RSF for each additional TAC source: ~~\$1,654~~\$1,803 \*
    - \* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
3. PERMIT TO OPERATE FEE: ~~\$826~~\$900
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

G-2. FEES FOR SCHEDULE G-2, For each source in a G-2 classification, fees are:

1. INITIAL FEE: ~~\$2,470~~\$2,618
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$2,770~~\$2,936
  - b. RSF for each additional TAC source: ~~\$2,470~~\$2,618 \*
    - \* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
3. PERMIT TO OPERATE FEE: ~~\$1,234~~\$1,308
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

G-3. FEES FOR SCHEDULE G-3, For each source in a G-3 classification, fees are:

1. INITIAL FEE: \$16,565
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$16,865~~ \$16,883
  - b. RSF for each additional TAC source: \$16,565 \*

\* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
3. PERMIT TO OPERATE FEE: \$8,282
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

G-4. FEES FOR SCHEDULE G-4, For each source in a G-4 classification, fees are:

1. INITIAL FEE: \$47,335
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$47,635~~ \$47,653
  - b. RSF for each additional TAC source: \$47,335 \*

\* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
3. PERMIT TO OPERATE FEE: \$23,667
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

G-5. FEES FOR SCHEDULE G-5, For each source in a G-5 classification, fees are:

1. INITIAL FEE: \$24,848
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$25,148~~ \$25,166
  - b. RSF for each additional TAC source: \$24,848 \*

\* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
3. PERMIT TO OPERATE FEE: \$12,423
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

*(Amended 5/19/82; 6/5/85; 6/4/86; 6/6/90; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99; 6/7/00; 6/6/01, 5/1/02, 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*

**SCHEDULE G-1**  
(Adopted June 18, 1980)

<b>Equipment or Process Description</b>	<b>Materials Processed or Produced</b>
Asphalt Roofing Manufacturing – Asphalt Dipping	Asphalt Roofing or Related Materials
Calcining Kilns, excluding those processing cement, lime, or coke (see G-4 for cement, lime, or coke Calcining Kilns)	Any Materials except cement, lime, or coke
Chemical Manufacturing, Inorganic – Processing Units with a Capacity of 1000 Gallons/Hour or more	Any Inorganic Materials
Chemical Manufacturing, Inorganic – Processing Units with a Capacity of 5 Tons/Hour or more	Any Inorganic Materials
Chemical Manufacturing, Inorganic – Reactors with a Capacity of 1000 Gallons or more	Any Inorganic Materials
Chemical Manufacturing, Organic - Latex Dipping	Any latex materials
Chemical Manufacturing, Organic – Processing Units with a Capacity of 1000 Gallons/Hour or more	Any Organic Materials
Chemical Manufacturing, Organic – Processing Units with a Capacity of 5 Tons/Hour or more	Any Organic Materials
Chemical Manufacturing, Organic – Reactors with a Capacity of 1000 Gallons or more	Any Organic Materials
Compost Operations – Windrows, Static Piles, Aerated Static Piles, In-Vessel, or similar methods	Any waste materials such as yard waste, food waste, agricultural waste, mixed green waste, bio-solids, animal manures, etc.
Crushers	Any minerals or mineral products such as rock, aggregate, cement, concrete, or glass; waste products such as building or road construction debris; and any wood, wood waste, green waste; or similar materials
Electroplating Equipment	Hexavalent Decorative Chrome with permitted capacity greater than 500,000 amp-hours per year or Hard Chrome
Foil Manufacturing – Any Converting or Rolling Lines	Any Metal or Alloy Foils
Galvanizing Equipment	Any



<b>Equipment or Process Description</b>	<b>Materials Processed or Produced</b>
Glass Manufacturing – Batching Processes including storage and weigh hoppers or bins, conveyors, and elevators	Any Dry Materials
Glass Manufacturing – Mixers	Any Dry Materials
Glass Manufacturing – Molten Glass Holding Tanks	Any molten glass
Grinders	Any minerals or mineral products such as rock, aggregate, cement, concrete, or glass; waste products such as building or road construction debris; and any wood, wood waste, green waste; or similar materials
Incinerators – Crematory	Human and/or animal remains
Incinerators – Flares	Any waste gases
Incinerators – Other (see G-2 for hazardous or municipal solid waste incinerators, see G-3 for medical or infectious waste incinerators)	Any Materials except hazardous wastes, municipal solid waste, medical or infectious waste
Incinerators – Pathological Waste (see G-3 for medical or infectious waste incinerators)	Pathological waste only
Loading and/or Unloading Operations – Bulk Plants and Bulk Terminals, excluding those loading gasoline or gasohol (see Schedule D for Bulk Plants and Terminals loading gasoline or gasohol)	Any Organic Materials except gasoline or gasohol
Petroleum Refining – Alkylation Units	Any Hydrocarbons
Petroleum Refining – Asphalt Oxidizers	Any Hydrocarbons
Petroleum Refining – Benzene Saturation Units/Plants	Any Hydrocarbons
Petroleum Refining – Catalytic Reforming Units	Any Hydrocarbons
Petroleum Refining – Chemical Treating Units including alkane, naphthenic acid, and naptha merox treating, or similar processes	Any Hydrocarbons
Petroleum Refining – Converting Units including Dimersol Plants, Hydrocarbon Splitters, or similar processes	Any Hydrocarbons
Petroleum Refining – Distillation Units, excluding crude oil units with capacity > 1000 barrels/hour (see G-3 for > 1000 barrels/hour crude distillation units)	Any Hydrocarbons
Petroleum Refining – Hydrogen Manufacturing	Hydrogen or Any Hydrocarbons

<b>Equipment or Process Description</b>	<b>Materials Processed or Produced</b>
Petroleum Refining – Hydrotreating or Hydrofining	Any Hydrocarbons
Petroleum Refining – Isomerization	Any Hydrocarbons
Petroleum Refining – MTBE Process Units/Plants	Any Hydrocarbons
Petroleum Refining – Sludge Converter	Any Petroleum Waste Materials
Petroleum Refining – Solvent Extraction	Any Hydrocarbons
Petroleum Refining – Sour Water Stripping	Any Petroleum Process or Waste Water
Petroleum Refining – Storage (enclosed)	Petroleum Coke or Coke Products
Petroleum Refining – Waste Gas Flares (not subject to Regulation 12, Rule 11)	Any Petroleum Refining Gases
Petroleum Refining – Miscellaneous Other Process Units	Any Hydrocarbons
Remediation Operations, Groundwater – Strippers	Contaminated Groundwater
Remediation Operations, Soil - Any Equipment	Contaminated Soil
Spray Dryers	Any Materials
Sterilization Equipment	Ethylene Oxide
Wastewater Treatment, Industrial – Oil-Water Separators, excluding oil-water separators at petroleum refineries (see G-2 for Petroleum Refining - Oil-Water Separators)	Wastewater from any industrial facilities except petroleum refineries
Wastewater Treatment, Industrial – Strippers including air strippers, nitrogen strippers, dissolved air flotation units, or similar equipment and excluding strippers at petroleum refineries (see G-2 for Petroleum Refining – Strippers)	Wastewater from any industrial facilities except petroleum refineries
Wastewater Treatment, Industrial - Storage Ponds, excluding storage ponds at petroleum refineries (see G-2 for Petroleum Refining – Storage Ponds)	Wastewater from any industrial facilities except petroleum refineries
Wastewater Treatment, Municipal – Preliminary Treatment	Municipal Wastewater
Wastewater Treatment, Municipal – Primary Treatment	Municipal Wastewater
Wastewater Treatment, Municipal – Digesters	Municipal Wastewater
Wastewater Treatment, Municipal – Sludge Handling Processes, excluding sludge incinerators (see G-2 for sludge incinerators)	Sewage Sludge

*(Amended 6/4/86; 6/6/90; 5/19/99; 6/7/00; 6/2/04; 6/15/05)*

**SCHEDULE G-2**  
(Adopted June 6, 1990)

<b>Equipment or Process Description</b>	<b>Materials Processed or Produced</b>
Asphalt Roofing Manufacturing – Asphalt Blowing	Asphalt Roofing or Related Materials
Asphaltic Concrete Manufacturing – Aggregate Dryers	Any Dry Materials
Asphaltic Concrete Manufacturing – Batch Mixers	Any Asphaltic Concrete Products
Asphaltic Concrete Manufacturing – Drum Mixers	Any Asphaltic Concrete Products
Asphaltic Concrete Manufacturing – Other Mixers and/or Dryers	Any Dry Materials or Asphaltic Concrete Products
Concrete or Cement Batching Operations – Mixers	Any cement, concrete, or stone products or similar materials
Furnaces – Electric	Any Mineral or Mineral Product
Furnaces – Electric Induction	Any Mineral or Mineral Product
Furnaces – Glass Manufacturing	Soda Lime only
Furnaces – Reverberatory	Any Ores, Minerals, Metals, Alloys, or Related Materials
Incinerators – Hazardous Waste including any unit required to have a RCRA permit	Any Liquid or Solid Hazardous Wastes
Incinerators – Solid Waste, excluding units burning human/animal remains or pathological waste exclusively (see G-1 for Crematory and Pathological Waste Incinerators)	Any Solid Waste including Sewage Sludge (except human/animal remains or pathological waste)
Metal Rolling Lines, excluding foil rolling lines (see G-1 for Foil Rolling Lines)	Any Metals or Alloys
Petroleum Refining – Stockpiles (open)	Petroleum Coke or coke products only
Petroleum Refining, Wastewater Treatment – Oil-Water Separators	Wastewater from petroleum refineries only
Petroleum Refining, Wastewater Treatment – Strippers including air strippers, nitrogen strippers, dissolved air flotation units, or similar equipment	Wastewater from petroleum refineries only
Petroleum Refining, Wastewater Treatment – Storage Ponds	Wastewater from petroleum refineries only
Pickling Lines or Tanks	Any Metals or Alloys
Sulfate Pulping Operations – All Units	Any
Sulfite Pulping Operations – All Units	Any

*(Amended June 7, 2000)*

**SCHEDULE G-3**  
(Adopted June 18, 1980)

<b>Equipment or Process Description</b>	<b>Materials Processed or Produced</b>
Furnaces – Electric Arc	Any Metals or Alloys
Furnaces – Electric Induction	Any Metals or Alloys
Incinerators – Medical Waste, excluding units burning pathological waste exclusively (see G-1 for Pathological Waste Incinerators)	Any Medical or Infectious Wastes
Loading and/or Unloading Operations – Marine Berths	Any Organic Materials
Petroleum Refining – Cracking Units including hydrocrackers and excluding thermal or fluid catalytic crackers (see G-4 for Thermal Crackers and Catalytic Crackers)	Any Hydrocarbons
Petroleum Refining – Distillation Units (crude oils) including any unit with a capacity greater than 1000 barrels/hour (see G-1 for other distillation units)	Any Petroleum Crude Oils
Phosphoric Acid Manufacturing – All Units (by any process)	Phosphoric Acid

*(Amended 5/19/82; Amended and renumbered 6/6/90; Amended 6/7/00; 6/15/05; 5/2/07)*

**SCHEDULE G-4**  
(Adopted June 6, 1990)

<b>Equipment or Process Description</b>	<b>Materials Processed or Produced</b>
Acid Regeneration Units	Sulfuric or Hydrochloric Acid only
Annealing Lines (continuous only)	Metals and Alloys
Calcining Kilns (see G-1 for Calcining Kilns processing other materials)	Cement, Lime, or Coke only
Fluidized Bed Combustors	Solid Fuels only
Nitric Acid Manufacturing – Any Ammonia Oxidation Processes	Ammonia or Ammonia Compounds
Petroleum Refining - Coking Units including fluid cokers, delayed cokers, flexicokers, and coke kilns	Petroleum Coke and Coke Products
Petroleum Refining - Cracking Units including fluid catalytic crackers and thermal crackers and excluding hydrocrackers (see G-3 for Hydrocracking Units)	Any Hydrocarbons
Petroleum Refining - Sulfur Removal including any Claus process or any other process requiring caustic reactants	Any Petroleum Refining Gas
Sulfuric Acid Manufacturing – Any Chamber or Contact Process	Any Solid, Liquid or Gaseous Fuels Containing Sulfur

*(Amended June 7, 2000)*

SCHEDULE G-5

Equipment or Process Description	Materials Processed or Produced
Petroleum Refinery Flares (subject to Regulation 12, Rule 11)	Any Petroleum Vent Gas (as defined in section 12-11-210 and section 12-12-213)

*(Adopted May 2, 2007)*

**SCHEDULE H**  
**SEMICONDUCTOR AND RELATED OPERATIONS**  
(Adopted May 19, 1982)

All of the equipment within a semiconductor fabrication area will be grouped together and considered one source. The fee shall be as indicated:

1. INITIAL FEE:
  - a. The minimum fee per source is: ~~\$276~~\$293
  - b. The maximum fee per source is: ~~\$22,070~~\$23,394  
The initial fee shall include the fees for each type of operation listed below, which is performed at the fabrication area:
  - c. SOLVENT CLEANING OPERATIONS, such as usage of:  
Solvent Sinks (as defined in Regulation 8-30-214);  
Solvent Spray Stations (as defined in Regulation 8-30-221);  
Solvent Vapor Stations (as defined in Regulation 8-30-222); and  
Wipe Cleaning Operation (as defined in Regulation 8-30-225).  
The fee is based on the gross throughput of organic solvent processed through the solvent cleaning operations on an annual basis (or anticipated to be processed, for new sources):
    - i. If gross throughput is not more than 3,000 gal/yr: ~~\$276~~\$293
    - ii. If gross throughput is more than 3,000 gallons/year: ~~\$186~~\$197 per 1,000 gallon
  - d. COATING OPERATIONS, such as application of:  
Photoresist (as defined in Regulation 8-30-215); other wafer coating;  
Solvent-Based Photoresist Developer (as defined in Regulation 8-30-219);  
and other miscellaneous solvent usage.  
The fee is based on the gross throughput of organic solvent processed through the coating operations on an annual basis (or anticipated to be processed, for new sources):
    - i. If gross throughput is not more than 1,000 gal/yr: ~~\$276~~\$293
    - ii. If gross throughput is more than 1,000 gallons/year: ~~\$555~~\$588 per 1,000 gallon
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$300~~\$318 plus initial fee
  - b. Minimum RSF for first TAC source: ~~\$576~~\$611
  - c. RSF for each additional TAC source: equal to initial fee \*
  - d. Minimum RSF per additional TAC source: ~~\$276~~\$293 \*
  - e. Maximum RSF per source is: ~~\$22,070~~\$23,394

\* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
3. PERMIT TO OPERATE FEE:
  - a. The minimum fee per source is: ~~\$199~~\$211
  - b. The maximum fee per source is: ~~\$11,033~~\$11,695  
The permit to operate fee shall include the fees for each type of operation listed below, which is performed at the fabrication area:
  - c. SOLVENT CLEANING OPERATIONS, such as usage of:  
Solvent Sinks (as defined in Regulation 8-30-214);  
Solvent Spray Stations (as defined in Regulation 8-30-221);  
Solvent Vapor Stations (as defined in Regulation 8-30-222); and

Wipe Cleaning Operation (as defined in Regulation 8-30-225).

The fee is based on the gross throughput of organic solvent processed through the solvent cleaning operations on an annual basis (or anticipated to be processed, for new sources):

- i. If gross throughput is not more than 3,000 gal/yr: ~~\$199~~\$211
- ii. If gross throughput is more than 3,000 gallons/year: ~~\$93~~\$99 per 1,000 gallon

d. COATING OPERATIONS, such as application of:

Photoresist (as defined in Regulation 8-30-215); other wafer coating; Solvent-Based Photoresist Developer (as defined in Regulation 8-30-219); and other miscellaneous solvent usage.

The fee is based on the gross throughput of organic solvent processed through the coating operations on an annual basis (or anticipated to be processed, for new sources):

- i. If gross throughput is not more than 1,000 gal/yr: ~~\$199~~\$211
- ii. If gross throughput is more than 1,000 gallons/year: ~~\$276~~\$293 per 1,000 gallon

- 4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.
- 5. The fee for each source will be rounded to the whole dollar. Fees for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.

*(Amended 1/9/85; 6/5/85; 6/4/86; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99; 10/20/99; 6/7/00; 6/6/01, 5/1/02, 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*



**SCHEDULE I  
DRY CLEANERS**  
(Adopted July 6, 1983)

For dry cleaners, the fee shall be computed based on each cleaning machine, except that machines with more than one drum shall be charged based on each drum, regardless of the type or quantity of solvent, as follows:

1. INITIAL FEE FOR A DRY CLEANING MACHINE (per drum):
  - a. If the washing or drying capacity is no more than 100 pounds: ~~\$276~~\$301
  - b. If the washing or drying capacity exceeds 100 pounds: ~~\$276~~\$301 plus  
For that portion of the capacity exceeding 100 pounds: ~~\$8.23~~\$8.97 per pound
  
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$300~~\$301 plus initial fee
  - b. Minimum RSF for first TAC source: ~~\$576~~\$619
  - c. RSF for each additional TAC source: equal to initial fee \*
  - d. Minimum RSF per additional TAC source: ~~\$276~~\$301 \*

\* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
  
3. PERMIT TO OPERATE FEE FOR A DRY CLEANING MACHINE (per drum):
  - a. If the washing or drying capacity is no more than 100 pounds: ~~\$199~~\$217
  - b. If the washing or drying capacity exceeds 100 pounds: ~~\$199~~\$217 plus  
For that portion of the capacity exceeding 100 pounds: ~~\$4.13~~\$4.50 per pound
  
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.
  
5. Fees for each source will be rounded to the nearest dollar. The fee for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.

*(Amended 10/17/84; 6/5/85; 6/4/86; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99; 6/7/00; 6/6/01, 5/1/02, 5/21/03; 6/02/04; 6/15/05; 6/7/06; 5/2/07)*

**SCHEDULE K  
SOLID WASTE DISPOSAL SITES**  
(Adopted July 15, 1987)

1. INITIAL FEE:
  - a. Inactive or Closed Solid Waste Disposal Sites ~~\$1,654~~\$1,902
  - b. Active Solid Waste Disposal Sites ~~\$3,307~~\$3,803
  
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$300~~\$318 plus initial fee
  - b. RSF for each additional TAC source: equal to initial fee \*

\* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
  
23. PERMIT TO OPERATE FEE:
  - a. Inactive or Closed Solid Waste Disposal Sites ~~\$826~~\$950
  - b. Active Solid Waste Disposal Sites ~~\$1,654~~\$1,902
  
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.
  
5. Evaluation of Reports and Questionnaires:
  - a. Evaluation of Solid Waste Air Assessment Test Report as required by Health & Safety Code Section 41805.5(g) ~~\$994~~\$1,143
  - b. Inactive Site Questionnaire evaluation as required by Health & Safety Code Section 41805.5(b) ~~\$498~~\$573
  - c. Evaluation of Solid Waste Air Assessment Test report in conjunction with evaluation of Inactive Site Questionnaire as required by Health & Safety Code Section 41805.5(b) ~~\$498~~\$573
  - d. Evaluation of Initial or Amended Design Capacity Reports as required by Regulation 8, Rule 34, Section 405 ~~\$366~~\$421
  - e. Evaluation of Initial or Periodic NMOC Emission Rate Reports as required by Regulation 8, Rule 34, Sections 406 or 407 ~~\$1,048~~\$1,205
  - f. Evaluation of Closure Report as required by Regulation 8, Rule 34, Section 409 ~~\$366~~\$421
  - g. Evaluation of Annual Report as required by Regulation 8, Rule 34, Section 411 ~~\$917~~\$1,055
  
6. Fees for each source will be rounded off to the nearest dollar. The fee for sources will be rounded up or down to the nearest dollar.
  
7. For the purposes of this fee schedule, a solid waste disposal site shall be considered active, if it has accepted solid waste for disposal at any time during the previous 12 months or has plans to accept solid waste for disposal during the next 12 months.

*(Amended 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99; 10/6/99; 6/7/00; 6/6/01, 5/1/02, 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*

**SCHEDULE L**  
**ASBESTOS OPERATIONS**  
(Adopted July 6, 1988)

1. Asbestos Operations conducted at single family dwellings are subject to the following fees:
  - a. OPERATION FEE: ~~\$93~~\$101 for amounts 100 to 500 square feet or linear feet.  
~~\$343~~\$374 for amounts 501 square feet or linear feet to 1000 square feet or linear feet.  
~~\$499~~\$544 for amounts 1001 square feet or liner feet to 2000 square feet or linear feet.  
~~\$686~~\$748 for amounts greater than 2000 square feet or linear feet.
  - b. Cancellation: ~~\$45~~\$49 of above amounts non-refundable, for notification processing.
  
2. Asbestos Operations, other than those conducted at single family dwellings, are subject to the following fees:
  - a. OPERATION FEE: ~~\$264~~\$288 for amounts 100 to 159 square feet or 100 to 259 linear feet or 35 cubic feet  
~~\$382~~\$416 for amounts 160 square feet or 260 linear feet to 500 square or linear feet or greater than 35 cubic feet.  
~~\$555~~\$605 for amounts 501 square feet or linear feet to 1000 square feet or linear feet.  
~~\$818~~\$892 for amounts 1001 square feet or liner feet to 2500 square feet or linear feet.  
~~\$1,167~~\$1,272 for amounts 2501 square feet or linear feet to 5000 square feet or linear feet.  
~~\$1,602~~\$1,746 for amounts 5001 square feet or linear feet to 10000 square feet or linear feet.  
~~\$2,038~~\$2,221 for amounts greater than 10000 square feet or linear feet.
  - b. Cancellation: ~~\$126~~\$137 of above amounts non-refundable for notification processing.
  
3. Demolitions (including zero asbestos demolitions) conducted at a single-family dwelling are subject to the following fee:
  - a. OPERATION FEE: ~~\$45~~\$49
  - b. Cancellation: ~~\$45~~\$49 (100% of fee) non-refundable, for notification processing.
  
4. Demolitions (including zero asbestos demolitions) other than those conducted at a single family dwelling are subject to the following fee:
  - a. OPERATION FEE: ~~\$188~~\$205
  - b. Cancellation: ~~\$126~~\$137 of above amount non-refundable for notification processing.
  
5. Asbestos operations with less than 10 days prior notice (excluding emergencies) are subject to the following additional fee:
  - a. OPERATION FEE: ~~\$342~~\$340
  
6. Asbestos demolition operations for the purpose of fire training are exempt from fees.
  
7. Floor mastic removal using mechanical buffers and solvent is subject to the following fee:
  - a. OPERATION FEE: ~~\$188~~\$205
  - b. Cancellation: ~~\$126~~\$137 of above amount non-refundable for notification processing.

*(Amended 9/5/90; 1/5/94; 8/20/97; 10/7/98; 7/19/00; 8/1/01, 6/5/02, 7/2/03; 6/2/04; 6/6/07)*

**SCHEDULE M**  
**MAJOR STATIONARY SOURCE FEES**  
(Adopted June 6, 1990)

For each major stationary source emitting 50 tons per year or more of Organic Compounds, Sulfur Oxides, Nitrogen Oxides, and/or PM<sub>10</sub>, the fee shall be based on the following:

- |    |                   |   |
|----|-------------------|---|
| 1. | Organic Compounds | <del>\$82.67</del> <u>\$87.63</u> per ton |
| 2. | Sulfur Oxides     | <del>\$82.67</del> <u>\$87.63</u> per ton |
| 3. | Nitrogen Oxides   | <del>\$82.67</del> <u>\$87.63</u> per ton |
| 4. | PM <sub>10</sub>  | <del>\$82.67</del> <u>\$87.63</u> per ton |

Emissions calculated by the APCO shall be based on the data reported for the most recent 12-month period prior to billing. In calculating the fee amount, emissions of Organic Compounds, Sulfur Oxides, Nitrogen Oxides, or PM<sub>10</sub>, if occurring in an amount less than 50 tons per year, shall not be counted.

*(Amended 7/3/91; 6/15/94; 7/1/98; 5/9/99; 6/7/00; 6/6/01, 5/1/02, 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*

**SCHEDULE N**  
**TOXIC INVENTORY FEES**  
 (Adopted October 21, 1992)

For each stationary source emitting substances covered by California Health and Safety Code Section 44300 *et seq.*, the Air Toxics "Hot Spots" Information and Assessment Act of 1987, which have trigger levels listed in Table 2-5-1, a fee based on the weighted emissions of the facility shall be assessed based on the following formulas:

1. A fee of \$5 for each gasoline product dispensing nozzle in the facility, if the facility is a Gasoline Dispensing Facility; or
2. A fee of \$75 if the facility has emissions in the current Toxic Emissions Inventory which are greater than or equal to 50 weighted pounds per year and less than 1000 weighted pounds per year; or
3. A fee of \$75 +  $S_L \times (w_i - 1000)$  if the facility has emissions in the current Toxic Emissions Inventory which are greater than or equal to 1000 weighted pounds per year;

where the following relationships hold:

$w_i$  = facility weighted emissions for facility  $j$ ; where the weighted emission for the facility shall be calculated as a sum of the individual emissions of the facility multiplied by either the Unit Risk Factor (URF) for the substance times one hundred thousand (in cubic meters/microgram) if the emission is a carcinogen, or by the reciprocal of the chronic reference exposure level  $REL_C$ ) for the substance (in cubic meters/microgram) if the emission is not a carcinogen [use URF and  $REL_C$  as listed in Table 2-5-1]:

$w_j$  = Facility Weighted Emission =  $\sum_{i=1}^n E_i * Q_i$  where

$n$  = number of toxic substances emitted by facility

$E_i$  = amount of substance  $i$  emitted by facility in lbs/year

$Q_i$  =  $URF * 10^5$ , if  $i$  is a carcinogen; or

$Q_i$  =  $[REL_C]^{-1}$ , if  $i$  is not a carcinogen

$F_T$  = Total amount of fees to be collected by the District to cover District and State of California AB 2588 costs as most recently adopted by the Board of Directors of the California Environmental Protection Agency, Air Resources Board, and set out in the most recently published "Amendments to the Air Toxics "Hot Spots" Fee Regulation," published by that agency.

$N_L$  = Number of facilities with emissions in current District Toxic Emissions Inventory greater than 1000 weighted pounds per year.

$N_S$  = Number of facilities with emissions in current District Toxic Emissions Inventory greater than 50 weighted pounds per year and less than 1000 weighted pounds per year.

$N_{NOZ}$  = Number of gasoline-product-dispensing nozzles in currently permitted Gasoline Dispensing Facilities.

$S_L$  = Surcharge per pound of weighted emissions for each pound in excess of 1000 weighted pounds per year, where  $S_L$  is given by the following formula:

$$S_L = \frac{F_T - (75 \times N_S) - (75 \times N_L) - (5 \times N_{NOZ})}{\sum_{j=1}^{N_L} (w_j - 1000)}$$

(Amended 12/15/93; 6/15/05; 5/2/07)

**SCHEDULE P**  
**MAJOR FACILITY REVIEW FEES**  
 (Adopted November 3, 1993)

1. MFR / SYNTHETIC MINOR ANNUAL FEES

Each facility, which is required to undergo major facility review in accordance with the requirements of Regulation 2, Rule 6, shall pay annual fees (1a and 1b below) for each source holding a District Permit to Operate. These fees shall be in addition to and shall be paid in conjunction with the annual renewal fees paid by the facility. However, these MFR permit fees shall not be included in the basis to calculate Alternative Emission Control Plan (bubble) or toxic air contaminant surcharges. If a major facility applies for and obtains a synthetic minor operating permit, the requirement to pay the fees in 1a and 1b shall terminate as of the date the APCO issues the synthetic minor operating permit.

a. MFR SOURCE FEE ..... ~~\$283~~\$325 per source

b. MFR EMISSIONS FEE .....~~\$11.13~~\$12.80 per ton of regulated air pollutants emitted

Each MFR facility and each synthetic minor facility shall pay an annual monitoring fee (1c below) for each pollutant measured by a District-approved continuous emission monitor or a District-approved parametric emission monitoring system.

c. MFR/SYNTHETIC MINOR MONITORING FEES~~\$2,827~~\$3,251 per monitor per pollutant

2. SYNTHETIC MINOR APPLICATION FEES

Each facility that applies for a synthetic minor operating permit or a revision to a synthetic minor operating permit shall pay application fees according to 2a and either 2b (for each source holding a District Permit to Operate) or 2c (for each source affected by the revision). If a major facility applies for a synthetic minor operating permit prior to the date on which it would become subject to the annual major facility review fee described above, the facility shall pay, in addition to the application fee, the equivalent of one year of annual fees for each source holding a District Permit to Operate.

a. SYNTHETIC MINOR FILING FEE .....~~\$394~~\$453 per application

b. SYNTHETIC MINOR INITIAL PERMIT FEE ..... ~~\$276~~\$317 per source

c. SYNTHETIC MINOR REVISION FEE .....~~\$276~~\$317 per source modified

3. MFR APPLICATION FEES

Each facility that applies for or is required to undergo: an initial MFR permit, an amendment to an MFR permit, a minor or significant revision to an MFR permit, a reopening of an MFR permit or a renewal of an MFR permit shall pay, with the application and in addition to any other fees required by this regulation, the applicable fees according to 3a-h below. The fees in 3b and 3g apply to each source in the initial or renewal permit, while the fees in 3d-f apply to each source affected by the revision or reopening.

a. MFR FILING FEE .....~~\$394~~\$453 per application

b. MFR INITIAL PERMIT FEE ..... ~~\$381~~\$438 per source

c. MFR ADMINISTRATIVE AMENDMENT FEE .....~~\$112~~\$129 per application

d. MFR MINOR REVISION FEE .....~~\$559~~\$643 per source modified

e. MFR SIGNIFICANT REVISION FEE .....~~\$1,043~~\$1,199 per source modified

f. MFR REOPENING FEE .....~~\$342~~\$393 per source modified

g. MFR RENEWAL FEE ..... ~~\$166~~\$191 per source

Each facility that requests a permit shield or a revision to a permit shield under the provisions of Regulation 2, Rule 6 shall pay the following fee for each source (or group of sources, if the requirements for these sources are grouped together in a single table in the MFR permit) that is covered by the requested shield. This fee shall be paid in addition to any other applicable fees.

- h. MFR PERMIT SHIELD FEE .....~~\$588~~\$676 per shielded source or group of sources
- 4. MFR PUBLIC NOTICE FEES  
Each facility that is required to undergo a public notice related to any permit action pursuant to Regulation 2-6 shall pay the following fee upon receipt of a District invoice.  
MFR PUBLIC NOTICE FEE ..... Cost of Publication
- 5. MFR PUBLIC HEARING FEES  
If a public hearing is required for any MFR permit action, the facility shall pay the following fees upon receipt of a District invoice.
  - a. MFR PUBLIC HEARING FEE .....Cost of Public Hearing not to exceed ~~\$7,605~~\$8,746
  - b. NOTICE OF PUBLIC HEARING FEE .....Cost of distributing Notice of Public Hearing
- 6. POTENTIAL TO EMIT DEMONSTRATION FEE  
Each facility that makes a potential to emit demonstration under Regulation 2-6-312 in order to avoid the requirement for an MFR permit shall pay the following fee:
  - a. PTE DEMONSTRATION FEE ..... ~~\$675~~\$77 per source, not to exceed ~~\$6,613~~\$7,605

*(Amended 6/15/94; 10/8/97; 7/1/98; 5/19/99; 6/7/00; 6/6/01, 5/1/02, 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*



**SCHEDULE Q  
EXCAVATION OF CONTAMINATED SOIL AND  
REMOVAL OF UNDERGROUND STORAGE TANKS**  
(Adopted January 5, 1994)

1. Persons excavating contaminated soil or removing underground storage tanks subject to the provisions of Regulation 8, Rule 40, Section 401, 402, 403 or 405 are subject to the following fee:
  - a. OPERATION FEE:       ~~\$126~~\$130

*(Amended 7/19/00; 8/1/01, 6/5/02, 7/2/03; 6/2/04; 6/6/07)*

**SCHEDULE R  
EQUIPMENT REGISTRATION FEES**

1. Persons operating commercial cooking equipment that are required to register equipment as required by District rules are subject to the following fees:
  - a. Conveyorized Charbroiler REGISTRATION FEE: \$360
  - b. Conveyorized Charbroiler ANNUAL RENEWAL FEE: \$100
  - c. Under-fired Charbroiler REGISTRATION FEE: \$360
  - d. Under-fired Charbroiler ANNUAL RENEWAL FEE: \$100

*(Adopted 7/6/07; Amended 12/5/07)*
  
2. Persons operating non-halogenated dry cleaning equipment that are required to register equipment as required by District rules are subject to the following fees:
  - a. Dry Cleaning Machine REGISTRATION FEE: \$180
  - b. Dry Cleaning Machine ANNUAL RENEWAL FEE: \$125
  
3. Persons operating diesel engines that are required to register equipment as required by District or State rules are subject to the following fees:
  - a. Diesel Engine REGISTRATION FEE: \$120
  - b. Diesel Engine ANNUAL RENEWAL FEE: \$80

**SCHEDULE S  
NATURALLY OCCURRING ASBESTOS OPERATIONS**

1. ASBESTOS DUST MITIGATION PLAN PROCESSING FEE:

Any person submitting an Asbestos Dust Mitigation Plan (ADMP) for review of an Naturally Occurring Asbestos (NOA) project shall pay the following fee (including NOA Discovery Notifications which would trigger an ADMP review): ~~\$225~~\$232

2. AIR MONITORING PROCESSING FEE:

NOA projects requiring an Air Monitoring component as part of the ADMP approval are subject to the following fee in addition to the ADMP fee: ~~\$2,000~~\$2,060

*(Adopted June 6, 2007)*

**SCHEDULE T**  
**GREENHOUSE GAS FEES**

For each permitted facility emitting greenhouse gases, the fee shall be based on the following:

1. Carbon Dioxide Equivalent (CDE) Emissions \$0.044 per metric ton

Emissions calculated by the APCO shall be based on the data reported for the most recent 12-month period prior to billing. The annual emissions of each greenhouse gas (GHG) listed below shall be determined by the APCO for each permitted (i.e., non-exempt) source. For each emitted GHG, the CDE emissions shall be determined by multiplying the annual GHG emissions by the applicable Global Warming Potential (GWP) value. The GHG fee for each facility shall be based on the sum of the CDE emissions for all GHGs emitted by the facility, except that no fee shall be assessed for emissions of biogenic carbon dioxide.

**Direct Global Warming Potential Relative to Carbon Dioxide\***

<b>GHG</b>	<b>GWP**</b>
Carbon Dioxide	1
Methane	21
Nitrous Oxide	310
HCFC-22	1,500
HCFC-123	90
HCFC-124	470
HCFC-142b	1,800
HFC-23	11,700
HFC-32	650
HFC-125	2,800
HFC-134a	1,300
HFC-143a	3,800
HFC-152a	140
HFC-227ea	2,900
HFC-236fa	6,300
HFC-43-1-mee	1,300
PFC-14	6,500
PFC-116	9,200
PFC-218	7,000
PFC-318	8,700
PFC-3-1-10	7,000
PFC-5-1-14	7,400
Sulfur Hexafluoride	23,900

\* Source: Intergovernmental Panel on Climate Change (Second Assessment Report: Climate Change 1995).

\*\* GWPs compare the integrated radiative forcing over a specified period (i.e., 100 years) from a unit mass pulse emission to compare the potential climate change associated with emissions of different GHGs.



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

## **STAFF REPORT**

### **PROPOSED AMENDMENTS TO BAAQMD REGULATION 3: FEES**

MAY 12, 2008

### **APPENDIX B LIST OF PUBLIC COMMENTS RECEIVED**

Commenter	Position Summary
William J, Quinn, Vice President, California Council for Environmental and Economic Balance	Opposes GHG Fee Schedule
David R. Farabee, Pillsbury Winthrop Shaw Pittman LLC, on behalf of the Western States Petroleum Association	Opposes GHG Fee Schedule
Tim Pohle, Managing Director, U.S. Environmental Affairs & Assistant General Counsel, Air Transport Association	Opposes GHG Fee Schedule
Dorothy Rothrock, Co-Chair AB 32 Implementation Group, Vice President California Manufacturers & Technology Association  Amisha Patel, Co-Chair AB 32 Implementation Group, Policy Advocate, California Chamber of Commerce	Opposes GHG Fee Schedule
Robert Webster, Chairman of the Board, San Mateo County Economic Development Association  Daniel S. Cruey, President & CEO, San Mateo County Economic Development Association	Opposes GHG Fee Schedule
Rob Neenan, Director of Regulatory Affairs, California League of Food Processors	Opposes GHG Fee Schedule
Barbara McBride, Directors, Environmental, Health and Safety, Calpine Corporation	Opposes GHG Fee Schedule
Richard Dowling Dowling Associates, Inc.	Opposes GHG Fee Schedule
Bill Medley	Opposes GHG Fee Schedule
Alex C. Smith	Opposes GHG Fee Schedule
Irvin Dawid, Member, Global Warming & Energy Committee, Loma Prieta Chapter, Sierra Club	Supports GHG Fee Schedule
Randy Schmidt Chair, Air Issues and Regulations Committee, Bay Area Clean Water Agencies	Provides comments on specific aspects of GHG Fee Schedule

Commenter	Position Summary
Joyce M. Eden and Karen Del-Compare, for West Valley Citizens Air Watch	Provides comments on specific aspects of the fee proposal
Peter Light, Product Manager, Bloomenergy	Provides comments on specific aspects of the GHG Fee Schedule
Terry Steinert, Environmental Compliance Manager, Koch Carbon, LLC	Provides comments on specific aspects of the GHG Fee Schedule
<p>Anthony M Pelletier, PE West Region - Regional Engineer Allied Waste Industries</p> <p>Kevin H. Kondru, P.E. Manager, Environmental Services County of Orange IWMD</p> <p>Rachel Oster Legislative and Regulatory Specialist Norcal Waste Systems, Inc.</p> <p>Bill Held Director, Landfill Gas Systems Environmental Engineering and Compliance Republic Services</p> <p>Tom Reilly Regional Engineering Manager Waste Connections, Western Region</p> <p>Charles A. White, P.E. Director of Regulatory Affairs/West Waste Management</p>	Provides comments on specific aspects of the GHG Fee Schedule

Commenter	Position Summary
Robert Chesnut	Supports GHG Fee Schedule
William L. Wong, Ed.D., Superintendent, Albany Unified School District	Requests two year deferral from all fee increases
Tonie Hansen	Provides comments on specific aspects of GHG Fee Schedule
Rob Simpson	Provides comments on specific aspects of GHG Fee Schedule
Jeff Cook	Opposes GHG Fee Schedule