

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

PRELIMINARY Draft Staff Report

Proposed Amended Regulation III – Fees; and Proposed Amended Rule 1480 – Ambient Monitoring and Sampling of Metal Toxic Air Contaminants

Including:

Proposed Amended Rule 301 – Permitting and Associated Fees
Proposed Amended Rule 303 – Hearing Board Fees
Proposed Amended Rule 304 – Equipment, Materials, and Ambient Air Analyses
Proposed Amended Rule 304.1 – Analyses Fees
Proposed Amended Rule 306 – Plan Fees
Proposed Amended Rule 307.1 – Alternative Fees for Air Toxics Emissions Inventory
Proposed Amended Rule 308 – On-Road Motor Vehicle Mitigation Options Fees
Proposed Amended Rule 309 – Fees for Regulation XVI and Regulation XXV
Proposed Amended Rule 311 – Air Quality Investment Program (AQIP) Fees
Proposed Amended Rule 313 – Authority to Adjust Fees and Due Dates
Proposed Amended Rule 314 – Fees for Architectural Coatings
Proposed Amended Rule 315 – Fees for Training Classes and License Renewal
Proposed Amended Rule 1480 – Ambient Monitoring and Sampling of Metal Toxic Air Contaminants

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EXECUTIVE SUMMARY

Regulation III - Fees establishes the fee rates and schedules to recover South Coast AQMD's reasonable costs of regulating and providing services, primarily to permitted sources. The Permitted Source Program is principally supported by three types of fees, namely permit processing fees for both facility permits and equipment-based permits, annual permit renewal fees, and emission-based annual operating fees, all of which are contained in Rule 301. Also included in the Permitted Source Program are Rule 222 registration fees and plan fees, since these are similar to permits for the sources to which they apply. Regulation III also establishes fees and rates for other fee programs, unrelated to the Permitted Source Program, including but not limited to Transportation Programs fees and Area Source fees (architectural coatings).

Rule 1480 – Ambient Monitoring and Sampling of Metal Toxic Air Contaminants was adopted in December 2019. That rule included fee provisions more typically found in Regulation III. With this proposal, South Coast AQMD seeks to update its fee rules with proposed rule amendments aimed at cost recovery, clarifications, and corrections. Staff is proposing the following amendments to Regulation III and Rule 1480:

- An automatic increase of most fees by 2.8% consistent with the increase in California Consumer Price Index from December 2018 to December 2019.
- Two targeted proposals for new and increased fees, both of which are necessary to provide more specific cost recovery for other regulatory actions taken by the South Coast AQMD. These proposals include:
 - 1) A new plan review fee in Rule 306 for Rule 1466 PM10 monitoring requirements, applicable to the seven types of alternative compliance measure requests that may be requested by owner/operators, requiring evaluation and review by South Coast AQMD staff; and
 - 2) An increased fee for HEPA and ULPA equipped spray booths controlling Rule 1401 Toxics;
- Four proposals for administrative changes to Regulation III, which have no fee impact, but include clarifications or corrections to existing rule language. These proposals include:
 - 1) The relocation of two fees from recently adopted Rule 1480 (December 2019) to Rules 301 and 306:
 - a. Monitoring fees are to be incorporated into Rule 301 from Rule 1480 - Table 1
 - b. The fee currently in Rule 1480 for plan evaluation and approval of Monitoring and Sampling Plans is to be moved to Rule 306(s)
 - 2) A clarification to the Rule 301(b)(20) definition of “Identical Equipment.” The amendment makes it clear that identical equipment must be of identical make and model;

- 3) A clarification to the Clean Fuel Fee whereby a reference to the late fee in Rule 301(e)(10)(B) is added to prevent confusion as to which late submittal surcharge is used; and
- 4) A correction to language in Rule 301(e)(10)(E) specifying that fee rates for underpayments would reflect the year in which emissions occurred, not the rate at the time that the underpayment is discovered.

South Coast AQMD continues to seek out cost-containment opportunities and maintain reserves in an effort to address future challenges. These challenges include but are not limited to: changes in federal grant funding levels, increased retirement costs due to actuarial and investment adjustments, variations in one-time penalties, and uncertainty associated with external factors affecting the economy.

BACKGROUND

A. LEGAL AUTHORITY, DESCRIPTION OF SOUTH COAST AQMD'S PERMITTED SOURCE PROGRAM AND OTHER FEES, AND RELATIONSHIP OF FEES TO SOUTH COAST AQMD'S BUDGET

The California Health and Safety Code (H&SC) provides South Coast AQMD with the authority to adopt various fees to recover the costs of its programs. Section 40510(b) authorizes South Coast AQMD to adopt "a fee schedule for the issuance of variances and permits to cover the reasonable cost of permitting, planning, enforcement, and monitoring related thereto." Virtually every cost related to regulating permitted sources may be recovered under this type of fee (H&SC Section 40506). Entities regulated through the Permitted Source Program receive two types of permits: facility permits and equipment-based permits. These permits apply to each permitted facility or each piece of permitted equipment. RECLAIM¹ and Title V facilities receive a facility permit, in addition to equipment-based permits; whereas other sources receive equipment-based permits.

The South Coast AQMD has adopted three basic types of Permitted Source Program fees: permit processing fees, annual renewal operating fees (equipment--based), and emissions--based operating fees. Traditionally, the South Coast AQMD has endeavored to recover its costs of permit processing from permit processing fees, its costs of inspection and enforcement from annual renewal operating fees, and its indirect costs necessary to overall Permitted Source Program regulatory activities, including related planning, monitoring, rule development and outreach programs, from emissions--based operating fees.² In recent years, some of these indirect costs have been recovered from annual operating fees rather than emissions--based fees, since emissions

¹ RECLAIM stands for REgional CLean Air Incentives Market, a cap-and-trade program that regulates the emissions of NOx and SOx in the South Coast Air Basin.

² California courts have upheld the use of emissions-based fees to cover these types of costs, holding that such an allocation method is reasonably related to an air district's costs of regulating a permit holder's air pollution. (*San Diego Gas & Electric Co. v. San Diego County APCD* (1988) 203 Cal. App. 3d 1132, 1148).

fees are a declining source of revenue, without a corresponding reduction in necessary rulemaking efforts and other permit-related activities.

The current structure for permit processing fees derives ultimately from a study of actual time spent processing permits, conducted by KPMG Peat Marwick. Permit processing fee schedules were subsequently developed and updated based on actual time spent processing various types of equipment as gathered by permit processing staff.³

The fee for equipment-based permits to construct or operate are based on the type of equipment involved, with higher fees for equipment with higher emissions and/or more complex relationships between operation and emissions, which require a higher level of staff effort to review and evaluate the associated permit applications for compliance with applicable rules and regulations. Each type of basic equipment and control equipment is assigned a fee schedule, A through H, as set forth in Rule 301, Tables IA and IB. For some equipment, a permit to construct is issued prior to issuing a permit to operate. For other equipment or application types, a permit to operate is issued directly.

The fees for renewal of permits to operate are further divided into two components: an equipment-based permit renewal fee and an emissions-based annual operating fee. The equipment-based permit renewal fee is based on the same equipment schedules used for the permit to construct/operate fee, i.e., the categories A through H, but some of the schedules are grouped together, resulting in only four fee rates for the equipment-based annual permit renewal fees. Each equipment fee schedule is assigned to one of the four annual permit renewal fee rates, based on the complexity of inspection and compliance activities and the emissions potential.

The emissions-based annual operating fee includes a flat fee paid by each facility and a tiered fee for sources emitting four or more tons per year of criteria pollutants (e.g., volatile organic compounds (VOCs), nitrogen oxides (NO_x), sulfur oxides (SO_x), and particulate matter (PM)) and lesser amounts for emissions of specified air toxics. State law authorizes the use of emissions-based fees (H&SC Section 40510(c)(1)).

RECLAIM and Title V facilities pay additional annual permit-related renewal fees to recover the additional costs associated with these types of facilities. South Coast AQMD uses schedules based on equipment type to ensure that permit to construct/operate fees and the equipment-based annual permit renewal fees reflect the costs required for permit processing and ongoing enforcement-related activities. For sources with fee schedules F, G, and H, the potential variability in time required for permit processing of large/complex sources is addressed through the use of a

³ In November 1989, the consulting firm of Peat Marwick Main and Co. "...began a comprehensive study, in concert with SCAQMD staff to assess the status of District fee programs which are outlined in Regulation III." The resulting "Recommendation Regarding Fee Assessment Study" report was presented to the SCAQMD Governing Board on March 28, 1990 (Agenda Item #10).

On August 11, 1994, the SCAQMD Governing Board authorized an independent study of the SCAQMD's fee structure and authority. A panel composed of representatives from Chevron, LA County Sanitation District, Hughes Environmental Corporation, Orange County Transportation Authority and the SCAQMD recommended the firm of KPMG to perform the study. A final "Report on the Study of the AQMD's Fee Structure and Authority" was presented to the SCAQMD Governing Board on March 10, 1995 (Agenda Item #11).

Both these documents are on file and available at the SCAQMD Library, 21865 East Copley Drive, Diamond Bar, CA 91765, (909-396-2600).

minimum permit processing fee, with an option for billing hours above a specified baseline, up to a maximum total fee. For other types of equipment, permit processing fees are flat fees.

South Coast AQMD has further subdivided certain permit-related activities and imposed fees to at least partially recover their costs, such as Source Testing Review, CEQA analysis, and newspaper noticing, rather than grouping these costs into the basic permit processing or operating fees. This enables South Coast AQMD to more closely allocate the costs of specific permit-related activities to the payor responsible for the costs. While there are many sub-types of fees within the basic structure, such as special processing fees for CEQA analysis or health risk assessments (HRA), the three permit-related fees (permit processing, equipment-based annual permit renewal, and emissions-based annual operating fee) comprise the basic fee structure.

Also included in the Permitted Source Program are Rule 222 registration fees and plan fees, since these are similar to permits for the sources to which they apply (H&SC Sections 40510(b), 40522; Rules 301(u) and 306).

Additional fees also have been authorized by the legislature and are included in South Coast AQMD's existing fee regulation. These fees include: variance and other Hearing Board fees (H&SC 52510(b); Rule 303); fees for the costs of programs related to indirect sources and area-wide sources (H&SC Section 40522.5 and Rules 2202 and 314); fees to recover the costs to the air district and state agencies of implementing and administering the Air Toxics Hot Spots Program (AB 2588) (H&SC Section 44380 et seq; 17 CCR Section 90700; and Rule 307.1); fees for refinery-related community air monitoring systems (H&SC Section 42705.6); and fees for notices and copying documents (H&SC Section 40510.7 and Rule 301(f).)⁴

The above-referenced fees comprise approximately 57% of South Coast AQMD's revenue. Other sources of revenue for South Coast AQMD include revenue from mobile sources, including the Clean Fuels Fee, Carl Moyer and Proposition 1B funds. These are special revenue funds outside of the General Fund budget which pay for specific technology advancement or emission reduction projects approved by the South Coast AQMD Governing Board and are consistent with the specific limits on the use of those funds. Periodically, funds to reimburse South Coast AQMD for its administrative costs in carrying out these projects are transferred by South Coast AQMD Governing Board action into South Coast AQMD's General Fund budget. A second type of mobile source revenue is provided by AB 2766 (Motor Vehicle Subvention Program) from the 1992 legislative session, which provides South Coast AQMD with 30% of a four-dollar fee assessed on each motor vehicle registered within South Coast AQMD's jurisdiction. These funds must be used for the reduction of pollution from motor vehicles, and for related planning, monitoring, enforcement, and technical studies necessary for the implementation of the California Clean Air Act (H&SC Section 44223). Specific mobile-source related programs are funded with this revenue source, as well as a proportionate share of activities such as ambient air quality monitoring and regional modeling which are not specifically related to stationary or mobile sources individually. These motor vehicle fees are currently set at the statutory maximum. AB 2766 fees have not been increased in over 20 years. Thus, based on CPI, the real value of AB 2766 fees has declined by

⁴ The rule references are intended to provide examples of the different types of statutorily authorized fees. They are not intended to be a comprehensive listing of all applicable rule provisions.

about 61%. The remainder of the AB 2766 revenues provided to South Coast AQMD is divided between a share that is subvended to cities and counties for mobile source emission reduction programs and a share that is used to fund mobile source emission reduction projects recommended by the Mobile Source Air Pollution Reduction Review Committee (MSRC) and approved by the South Coast AQMD Governing Board.

The legislature also has imposed certain limits on South Coast AQMD's fee authority. If South Coast AQMD proposes to increase existing permit fees by more than the change in the CPI, the increase must be phased in over a period of at least two years (H&SC Section 40510.5(b)). Also, if a fee increase greater than CPI is adopted, the South Coast AQMD Governing Board must make a finding, based on relevant information in the rulemaking record, that the increase is necessary and will result in an apportionment of fees that is equitable. This finding shall include an explanation of why the fee increase meets these requirements (H&SC Sections 40510(a)(4) and 40510.5(a)). These findings will be included in the South Coast AQMD Governing Board Resolution presented for the Public Hearing on Regulation III.

Moreover, the total amount of fees collected by South Coast AQMD shall not be more than the total amount collected in the 1993-1994 fiscal year, except that this total may be adjusted by the change in the CPI from year to year (H&SC Section 40523). Also, this limitation does not apply to fees adopted pursuant to a new state or federal mandate imposed on and after January 1, 1994 (H&SC Section 40523). South Coast AQMD has consistently complied with this limit. Total fees (other than mobile source fees which are not covered by this section) collected in FY 1993-94 were approximately \$69.6 million; adjusted by CPI since that time the cap would be approximately \$129.0 million.⁵ Total projected fees (except mobile source fees) for FY 2019-20 are approximately \$110 million,⁶ which remains below the CPI adjusted cap and includes the projected revenue impacts associated with the proposed rule amendments discussed below.

B. PROPOSITION 26 COMPLIANCE

On November 2, 2010, the voters of California enacted Proposition 26, which was intended to limit certain types of fees adopted by state and local governments. Proposition 26 broadly defines a tax to mean any charge imposed by a local government that does not fall within seven enumerated exceptions for valid fees. If a charge does not fall within an enumerated fee exception, it is considered a tax, and must be adopted by vote of the people. South Coast AQMD does not have authority under state law to adopt a tax, so it may only impose a charge that is a valid fee under Proposition 26.

⁵ H&SC Section 40523 specifies that the limit for the total amount of fees collected by SCAQMD "may be adjusted annually in the 1994-95 fiscal year and subsequent fiscal years to reflect any increase in the California Consumer Price Index for the preceding calendar year, from January 1 of the prior year to January 1 of the current year, as determined by the Department of Industrial Relations." However, the California CPI is compiled bi-monthly and no data is available for the month of January. Therefore, the adjustment has been made using the December CPI's, similar to the CPI-based adjustment pursuant to Rule 320.

⁶ Preliminary estimate as of March 2020, subject to revisions in the next versions of Staff Report. Note that this estimate is inclusive of fees adopted pursuant to new state or federal mandates imposed on and after January 1, 1994. Even so, it still remains below the CPI adjusted cap.

Proposition 26 requires that the local government prove by a preponderance of the evidence that the amount of the fee “[1] is no more than necessary to cover the reasonable costs of the governmental activity, and that [2] the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor’s burdens on, or benefits received from, the governmental activity.” Cal. Const. art. XIII C §1. In this report, staff has provided a detailed explanation of the Permitted Source Program and the method of allocating program costs to the fee payors.

Proposition 26 also provides that an agency must establish by a preponderance of the evidence that the fee fits within one of the fee exceptions. (Cal. Const., art. XIII C, §1). In addition to the enumerated exceptions found in Proposition 26, courts have found that the proposition does not apply to fees adopted before its effective date. (*Brooktrails Township County. Servs. Dist. v. Bd. of Supervisors of Mendocino County* (2013), 218 Cal. App. 4th 195, 206).

All of the proposed fee increases discussed in this report fall within a recognized exception. In addition, all of the proposed increases bear a fair and reasonable relationship to a payor’s burdens on, or benefits received from South Coast AQMD’s activities.

CPI ADJUSTMENT OF FEES FOR REGULATION III

Staff is proposing to increase most fees in Regulation III by the change in the California Consumer Price Index for the preceding calendar year, as defined in Health & Safety Code Section 40500.1(a). In particular, staff is planning, where applicable, to adjust fees in Rules 301, 303, 304, 304.1, 306, 307.1, 308, 309, 311, 313, 314, and 315 on July 1, 2020, to correspond with the increase in the Calendar Year 2019 CPI of 2.8%. Table CPI-1 lists the fees in Regulation III that are specifically excluded from the proposed CPI-based fee rate increase and the reason for exclusion.

District Rule 320 – Automatic Adjustment Based on Consumer Price Index for Regulation III-Fees also provides a basis for CPI-adjusting certain fees. Pursuant to Rule 320, most fees set forth in Regulation III “[...] shall be automatically adjusted by the change in the California Consumer Price Index for the preceding calendar year, as defined in H&SC Section 40500.1(a)” This rule was adopted by the South Coast AQMD Governing Board on October 29, 2010 and establishes that in order to continue recovering agency costs, fees must keep pace at a minimum with inflation as measured using the CPI, unless otherwise directed by the South Coast AQMD Governing Board. Rule 320 provides for the automatic adjustment of most fees annually commensurate with the rate of inflation.

By design, an increase based on CPI is reasonable because it recovers the increase in South Coast AQMD’s costs as a result of inflation. In addition, the manner in which those increased costs are allocated bears a fair and reasonable relationship to the burdens on South Coast AQMD’s activities as established by the underlying fee schedule. Adjustments based on Rule 320 are not subject to Proposition 26 because Rule 320 was adopted prior to the effective date of Proposition 26. Rule 320 provides for an automatic adjustment most South Coast AQMD fees by the change in the CPI from the previous year.

TABLE CPI-1: FEES EXCLUDED FROM CPI-BASED FEE RATE ADJUSTMENT

Fee	Reason for exclusion from CPI-based fee rate increase
Returned check service fee in various rules	Currently set by state law at \$25 (California Civil Code § 1719(a)(1))
Rule 301(w) – Enforcement Inspection Fees for Statewide Portable Equipment Registration Program (PERP) fees	Fee rates set by the state (California Code of Regulations title 13, §2450 et. seq.)
Rule 307.1(d)(2)(D) – Maximum fee for a small business as defined in Rule 307.1	Currently set by state law at \$300 (California Code of Regulations title 17, §90704(h)(2))
Rule 307.1 Table I – Facility Fees By Program Category; “State Fee” column figures only	Fee rates set by the state (H&SC Section 44380 et. seq.)
Rule 311(c) Air Quality Investment Program Fees	These fees pay for programs to reduce emissions under Rule 2202 – On Road Vehicle Mitigation Options and do not support South Coast AQMD’s Budget.
Rule 301(aa)(2) – Refinery Related Community Air Monitoring System Annual Operating and Maintenance Fees	This work program associated with these annual fees is still being phased in, therefore no CPI increase will be made this year.

PROPOSED RULE AMENDMENTS WITH FEE IMPACTS

In addition to CPI-based fee rate increase, staff has two proposals to amend Rule 301 and 306 to include new and increased fees. The first proposal adds fees for Rule 1466 Alternative Compliance Plans. The second proposal increases the fee applicable to HEPA and ULPA equipped spray booths controlling Rule 1401 Toxics. These fees, which are discussed in more detail below, are necessary to recover the reasonable costs of South Coast AQMD’s regulatory activities.

1. NEW FEES FOR EVALUATION OF RULE 1466 ALTERNATIVE COMPLIANCE PLAN REQUESTS

Description of Proposed Amendment:

The purpose of Rule 1466 is to minimize off-site fugitive dust emissions containing toxic air contaminants by reducing particulate emissions in the ambient air as a result of earth-moving activities on sites that meet the rule’s applicability requirements. As written, Rule 1466 allows for an owner/operator to request plans with alternative requirements or provisions to allow for operational flexibility. Currently, Regulation III does not specify a fee for these alternative plans

even though the requests generate costs for the South Coast AQMD. In order to recover these costs, staff is proposing to add a new fee for the work undertaken in evaluating alternative compliance plans as defined under Rule 1466. There are several alternative compliance plans that facilities can potentially submit under the rule, including:

- Request for an alternative PM10 limit pursuant to Rule 1466(d)(2)(A)
- Request for use of an alternative PM10 monitoring method pursuant to Rule 1466(d)(3)(A)
- Request for an alternative methodology to calculate PM10 concentration pursuant to Rule 1466(d)(4)(D)
- Request for use of alternative dust control measures pursuant to Rule 1466(e)(12)
- Request for use of alternative signage pursuant to Rule 1466(g)(2)
- Request for an alternative to loading soil with applicable toxic air contaminants directly into a truck or bin for transport pursuant to Rule 1466(k)(3) and (4).

The proposed alternative compliance plan fees would be assessed on a time and material (T&M) basis at the hourly rate of \$145.49. The total fee charged for submission of an alternative compliance plan will vary with the nature of the request. However, depending on the alternative provision requested, a typical review is expected to take approximately 2.5 to 6 hours for staff to complete. Therefore, the expected cost per evaluation is estimated to range between \$400 and \$900, depending on the actual review time required.

Proposed Amended Rule(s):

Rule 306(t) Rule 1466 Alternative Compliance Plan Evaluation Fees

Any owner/operator or authorized third-party that submits an optional alternative compliance plan listed in Rule 1466(j)(1) shall be required to pay an Alternative Compliance Plan Evaluation Fee. The Alternative Compliance Plan Evaluation Fee shall be an amount equal to the total actual and reasonable time incurred by District staff for evaluation of an alternative compliance plan, assessed at the hourly rate of \$72.75 effective July 1, 2020, and \$145.49 effective July 1, 2021.

Necessity:

The proposed amendment is necessary to recover costs incurred by South Coast AQMD for reviewing and evaluating alternative compliance plans acceptable under Rule 1466. Rule 1466 was originally adopted in 2017. Based on the information available at the time, staff believed that both the number of alternative provision requests as well as the amount of time that would be required to review and evaluate them would be minimal. Since the rule's adoption in July 2017, staff has received nine requests for alternative compliance plans. Although these plans have varied greatly in complexity, it has become apparent that the considerable amount of staff time dedicated to evaluation and approval of the plans must be recouped.

These alternative compliance plans allow a facility to propose alternative provisions for the PM10 limit, PM10 monitoring method, PM10 calculation, signage, dust control measures, and/or direct load exemptions in order to comply with Rule 1466. In total there are seven provisions within Rule 1466 that allow facilities to submit an alternative compliance plan to comply with Rule 1466.

Currently, there is no cost recovery for any of the seven alternative compliance plan provisions in the rule. The cost incurred by South Coast AQMD staff resulting from the evaluation and approval of each alternative plan is calculated below.

Request for an alternative PM10 limit pursuant to Rule 1466(d)(2)(A)

Rule 1466 sets a two-hour PM10 concentration limit of 25 micrograms per cubic meter. Rule 1466(d)(2)(A) states that an owner or operator may request an alternative PM10 limit from the Executive Officer provided the exposure to toxic air contaminants from fugitive dust from earth-moving activities at the proposed PM10 concentration level is health protective to the public. The request must be determined to be health protective which requires an analysis by the AB2588 staff, including modeling. The time required for analysis and modeling will vary by request.

The proposed fees are based on actual evaluation hours expected to be worked by an Air Quality Engineer II, the employee performing the majority of the work. Hours of work will be billed after project completion. The hourly rate charged for the time of the Air Quality Engineer II will take into account the time of other staff members spend performing additional necessary work on the evaluation. Here, it is estimated that each request will take a minimum of five hours of engineer time. For each hour of engineer evaluation time, it is estimated that at least 15 percent is Supervising Air Quality Inspector review, eight percent is Senior Engineer time, and two percent is Program Supervisor time spent supervising, editing and reviewing the evaluation. Additionally, for each hour of engineer evaluation time, it is estimated that at least 15 percent will be Senior Enforcement Manager's time spent on review and approval, and five percent will be Senior Office Assistant time spent mailing communication of approval/disapproval. Staff anticipates that some requests may require additional evaluation time. To account for these additional unbilled hours, a cost of \$158.46 is derived per hour of evaluation by Air Quality Engineer II, based on the FY 2019-20 hourly burdened rates and as shown in Table 1.

Table 1: Per hour cost estimates attributable to request for an alternative PM10 limit pursuant to Rule 1466(d)(2)(A)

Staff Position	FY 2019-20 Hourly Burdened Rate		Staff Time Per Hour of Evaluation by Air Quality Engineer II		Staff Cost Per Hour of Evaluation by Air Quality Engineer II
Air Quality Engineer II	\$107.02	×	100%	=	\$107.02
Supervising Air Quality (AQ) Inspector	\$104.97	×	15%	=	\$15.75
Senior AQ Engineer	\$114.64	×	8%	=	\$9.17
Program Supervisor	\$123.01	×	2%	=	\$2.46
Sr. Enforcement Manager	\$137.45	×	15%	=	\$20.62
Sr. Office Assistant	\$68.95	×	5%	=	\$3.45
Total Staff Cost Per Hour of Evaluation By Air Quality Engineer II					\$158.46

Request for use of an alternative PM10 monitoring method pursuant to Rule 1466(d)(3)(A)

Rule 1466(d)(3)(A) requires a facility to use a PM₁₀ monitor approved by the Executive Officer as required in Appendix 1 of Rule 1466. Pre-approved monitors are listed on the South Coast AQMD website for owners and operators to use for Rule 1466 operations. Requests for evaluation of alternative PM₁₀ methods not specified in Appendix 1 must be evaluated by Special Monitoring.

The proposed fees are based on actual evaluation hours expected to be worked by a Monitoring Operations Manager, the employee performing the majority of the work. Hours of work will be billed after project completion. The hourly rate charged for the time of the Monitoring Operations Manager will take into account the time of other staff members spend performing additional necessary work on the evaluation. Here, it is estimated that each request will take a minimum of 2.5 hours of Monitoring Operations Manager time. However, for each hour of Monitoring Operations Manager evaluation time, it is estimated that at least 30 percent is Supervising Air Quality Inspector time spent supervising, editing and reviewing the evaluation. Additionally, for each hour of Monitoring Operations evaluation time, it is estimated that at least 30 percent is Staff Specialist time spent updating the South Coast AQMD website with a description of the approved monitoring methodology. Staff anticipates that these hourly estimates will be higher for some

requests. To account for these additional unbilled hours, a cost of \$172.06 is derived per hour of evaluation by Monitoring Operations Manager, based on the FY 2019-20 hourly burdened rates and as shown in Table 2.

Table 2: Per hour cost estimates attributable to request for use of an alternative PM10 monitoring method pursuant to Rule 1466(d)(3)(A)

Staff Position	FY 2019-20 Hourly Burdened Rate		Staff Time Per Hour of Evaluation by Monitoring Operations Manager		Staff Cost Per Hour of Evaluation by Monitoring Operations Manager
Monitoring Operations Manager	\$118.96	×	100%	=	\$118.96
Supervising Air Quality (AQ) Inspector	\$104.97	×	20%	=	\$20.99
Staff Specialist	\$107.02	×	30%	=	\$32.11
Total Staff Cost Per Hour of Evaluation By Monitoring Operations Manager					\$172.06

Request an alternative methodology to calculate PM10 concentration pursuant to Rule 1466(d)(4)(D)

Rule 1466(d)(4)(D) allows for an owner or operator to request alternative calculation methodology to calculate PM₁₀ concentration if the owner, operator, or designating agency provides information to substantiate that some or all of the PM₁₀ concentration is the result of another source. Alternative calculation methodologies must be submitted for review and approval by Compliance and Enforcement and AB2588 staff.

The proposed fees are based on actual evaluation hours expected to be worked by an Air Quality Engineer II, the employee performing the majority of the work. Hours of work will be billed after project completion. The hourly rate charged for the time of the Air Quality Engineer II will take into account the time of other staff members spend performing additional necessary work on the evaluation. Here, it is estimated that each request will take a minimum of five hours of engineer time. However, for each hour of engineer evaluation time, it is estimated that at least five percent is Supervising Air Quality Inspector time, eight percent is Senior Engineer time, and two percent is Program Supervisor time spent supervising, editing and reviewing the evaluation. Additionally, for each hour of engineer evaluation time, it is estimated that at least 15 percent is Senior Enforcement Manager time spent on review and approval, and five percent is Senior Office Assistant time spent mailing communication of approval/disapproval. Staff anticipates that these hourly estimates may be higher for some requests. To account for these additional unbilled hours,

a cost of \$147.96 is derived per hour of evaluation by Air Quality Engineer II, based on the FY 2019-20 hourly burdened rates and as shown in Table 3.

Table 3: Per hour cost estimates attributable to request an alternative methodology to calculate PM10 concentration pursuant to Rule 1466(d)(4)(D)

Staff Position	FY 2019-20 Hourly Burdened Rate		Staff Time Per Hour of Evaluation by Air Quality Engineer II		Staff Cost Per Hour of Evaluation by Air Quality Engineer II
Air Quality Engineer II	\$107.02	×	100%	=	\$107.02
Supervising Air Quality (AQ) Inspector	\$104.97	×	5%	=	\$5.25
Senior AQ Engineer	\$114.64	×	8%	=	\$9.17
Program Supervisor	\$123.01	×	2%	=	\$2.46
Sr. Enforcement Manager	\$137.45	×	15%	=	\$20.62
Sr. Office Assistant	\$68.95	×	5%	=	\$3.45
Total Staff Cost Per Hour of Evaluation By Air Quality Engineer II					\$147.96

Request for use of alternative dust control measures pursuant to Rule 1466(e)(12)

Rule 1466(e)(12) allows, with the exception of paragraphs (e)(7) and (e)(11), the owner, operator, or designating agency to use alternative dust control measure that meet the objective and effectiveness of the dust control measure it is replacing, where the objective and effectiveness of each category of dust control measures is stated in Appendix 2 of the rule. Alternative measures must be submitted for review and approval by South Coast AQMD staff. This review is conducted by Compliance and Enforcement staff and is expected to vary with the request and site conditions.

The proposed fees are based on actual evaluation hours expected to be worked by an Air Quality Inspector II, the employee performing the majority of the work. Hours of work will be billed after project completion. The hourly rate charged for the time of the Air Quality Inspector II will take into account the time of other staff members spend performing additional necessary work on the evaluation. Here, it is estimated that each request will take a minimum of six hours of inspector time. However, for each hour of inspector evaluation time, it is estimated that at least 21 percent

is Supervising Air Quality Inspector time, eight percent is Air Quality Analysis and Compliance Supervisor time spent supervising, editing and reviewing the evaluation. Additionally, for each hour of engineer evaluation time, it is estimated that at least 13 percent is Senior Enforcement Manager time spent on review and approval, and five percent is Senior Office Assistant time spent mailing communication of approval/disapproval. Staff anticipates that these hourly estimates may be higher for some requests. To account for these additional unbilled hours, a cost of \$151.96 is derived per hour of evaluation by Air Quality Inspector II, based on the FY 2019-20 hourly burdened rates and as shown in Table 4.

Table 4: Per hour cost estimates attributable to a request for use of alternative dust control measures pursuant to Rule 1466(e)(12)

Staff Position	FY 2019-20 Hourly Burdened Rate		Staff Time Per Hour of Evaluation by Air Quality Inspector II		Staff Cost Per Hour of Evaluation by Air Quality Inspector II
Air Quality Inspector II	\$91.81	×	100%	=	\$91.81
Supervising Air Quality (AQ) Inspector	\$104.97	×	25%	=	\$26.24
Air Quality Analysis and Compliance Supervisor	\$123.01	×	8%	=	\$9.84
Sr. Enforcement Manager	\$137.45	×	15%	=	\$20.62
Sr. Office Assistant	\$68.95	×	5%	=	\$3.45
Total Staff Cost Per Hour of Evaluation By Air Quality Inspector II					\$151.96

Request for use of alternative signage pursuant to Rule 1466(g)(2)

Rule 1466(g)(2) allows the owner or operator to request the use of alternative signage. The alternative signage must be submitted for review and approval by South Coast AQMD Compliance and Enforcement staff, and the work involved is expected to vary based on the specifics of the request and site conditions.

The proposed fees are based on actual evaluation hours expected to be worked by an Air Quality Inspector II, the employee performing the majority of the work. Hours of work will be billed after project completion. The hourly rate charged for the time of the Air Quality Inspector II will take into account the time of other staff members spend performing additional necessary work on the evaluation. Here, it is estimated that each request will take a minimum of six hours of inspector

time. However, for each hour of inspector evaluation time, it is estimated that at least 10 percent is Supervising Air Quality Inspector time, five percent is Air Quality Analysis and Compliance Supervisor time spent supervising, editing and reviewing the evaluation. Additionally, for each hour of engineer evaluation time, it is estimated that at least 15 percent is Senior Enforcement Manager time will be spent on review and approval, and five percent is Senior Office Assistant time spent mailing communication of approval/disapproval. Staff anticipates that these hourly estimates may be higher for some requests. To account for these additional unbilled hours, a cost of \$132.52 is derived per hour of evaluation by Air Quality Inspector II, based on the FY 2019-20 hourly burdened rates and as shown in Table 5.

Table 5: Per hour cost estimates attributable to a request for alternative signage pursuant to Rule 1466(g)(2)

Staff Position	FY 2019-20 Hourly Burdened Rate		Staff Time Per Hour of Evaluation by Air Quality Inspector II		Staff Cost Per Hour of Evaluation by Air Quality Inspector II
Air Quality Inspector II	\$91.81	×	100%	=	\$91.81
Supervising Air Quality (AQ) Inspector	\$104.97	×	10%	=	\$10.50
Air Quality Analysis and Compliance Supervisor	\$123.01	×	5%	=	\$6.15
Sr. Enforcement Manager	\$137.45	×	15%	=	\$20.62
Sr. Office Assistant	\$68.95	×	5%	=	\$3.45
Total Staff Cost Per Hour of Evaluation By Air Quality Inspector II					\$132.52

Request for an alternative to loading soil with applicable toxic air contaminants directly into a truck or bin for transport pursuant to Rule 1466(k)(3) and (4).

Rule 1466(k)(3) allows an owner or operator to use an alternative to loading soil with applicable toxic air contaminants from linear trenching from natural gas, power, sewer, and water projects directly into a truck or bin for transport. Rule 1466(k)(4) allows an owner or operator to use an alternative to loading soil with applicable toxic air contaminants of less than 500 cubic yards directly into a truck or bin for transport. The owner, operator, or designating agency may use an alternative to loading directly into a truck or bin for transport that meets the objective and effectiveness of directly loading soil, where the objective and effectiveness is stated in Appendix

2 of the rule. The use of an alternative measure must be submitted for review and approval by South Coast AQMD staff. The work involved will likely vary based on the specifics of the request, as well as relevant site conditions.

The proposed fees are based on actual evaluation hours expected to be worked by an Air Quality Inspector II, the employee performing the majority of the work. Hours of work will be billed after project completion. The hourly rate charged for the time of the Air Quality Inspector II will take into account the time of other staff members spend performing additional necessary work on the evaluation. Here, it is estimated that each request will take a minimum of six hours of inspector time. However, for each hour of inspector evaluation time, it is estimated that at least 21 percent is Supervising Air Quality Inspector time, eight percent is Air Quality Analysis and Compliance Supervisor time spent supervising, editing and reviewing the evaluation. Additionally, for each hour of engineer evaluation time, it is estimated that at least 13 percent is Senior Enforcement Manager time spent on review and approval, and four percent is Senior Office Assistant time spent mailing communication of approval/disapproval. Staff anticipates that these hourly estimates may be higher for some requests. To account for these additional unbilled hours, a cost of \$144.32 is derived per hour of evaluation by Air Quality Inspector II, based on the FY 2019-20 hourly burdened rates and as shown in Table 6.

Table 6: Per hour cost estimates attributable to a request for an alternative to loading soil with applicable toxic air contaminants directly into a truck or bin for transport pursuant to Rule 1466(k)(3) and (4).

Staff Position	FY 2019-20 Hourly Burdened Rate		Staff Time Per Hour of Evaluation by Air Quality Inspector II		Staff Cost Per Hour of Evaluation by Air Quality Inspector II
Air Quality Inspector II	\$91.81	×	100%	=	\$91.81
Supervising Air Quality (AQ) Inspector	\$104.97	×	21%	=	\$22.04
Air Quality Analysis and Compliance Supervisor	\$123.01	×	8%	=	\$9.84
Sr. Enforcement Manager	\$137.45	×	13%	=	\$17.87
Sr. Office Assistant	\$68.95	×	4%	=	\$2.76
Total Staff Cost Per Hour of Evaluation By Air Quality Inspector II					\$144.32

For ease of administration, staff proposes to install a single hourly fee for review and evaluation of all 1466 alternative compliance plans. Table 7 below shows a breakdown of the number of alternative compliance plan submissions received by the South Coast AQMD since Rule 1466 was adopted in July 2017. Taking a weighted average of all estimated hourly costs results in an hourly rate of \$145.49.

The proposed new fee will not exceed the reasonable costs to the South Coast AQMD of conducting alternative compliance plan evaluations and the fees are apportioned equitably as they would be paid only by facilities that submit optional requests for alternative compliance plans. In addition, the manner in which costs are allocated bear a fair and reasonable relationship to the payor's burdens on, or benefits received from the evaluations, because the cost to each payor is based on actual evaluation hours.

Table 7: Estimated hourly costs incurred and number of historical submissions for each Rule 1466 Alternative Compliance Plan provision

Provision(s)	Description	Estimated hourly rate	# of historical submissions
Rule 1466(d)(2)(A)	Alternative PM10 limit	\$158.46	3
Rule 1466(d)(3)(A)	Alternative PM10 monitoring method	\$172.06	0
Rule 1466(d)(4)(D)	Alternative methodology to calculate PM10 concentration	\$147.96	0
Rule 1466(e)(12)	Alternative dust control measures	\$151.96	4
Rule 1466(g)(2)	Alternative signage	\$132.52	5
Rule 1466(k)(3),(4)	Alternative to loading soil for transport	\$144.32	0

2. NEW CATEGORY FOR HEPA AND ULPA EQUIPPED SPRAY BOOTHS CONTROLLING RULE 1401 TOXICS

Description of Proposed Amendment:

HEPA and ULPA equipped spray booths are currently billed at a Schedule B rate because they are generically categorized as a "Spray Booth/Enclosure, Other" in Rule 301, Table IA - PERMIT FEE RATE SCHEDULES FOR CONTROL EQUIPMENT. Staff is proposing to add a new category to Table 1A in order to separate High Efficiency Particulate Arrestors (HEPA) or Ultra Low Particulate Arrestors (ULPA). This new category will be billed at a Schedule C rate. The creation of this new category will result in a fee increase from \$2,945.75 for non-Title V and \$3,691.30 for Title V (the Schedule B rate) to \$4,659.33 for non-Title V and \$5,838.57 for Title V (the Schedule C rate). This new category, and higher fee, is necessary to adequately recover costs incurred by South Coast AQMD.

Proposed Amended Rule(s):

RULE 301 TABLE IA - PERMIT FEE RATE SCHEDULES FOR CONTROL EQUIPMENT

Spray Booth/Enclosure, Other	B
Spray Booth/Enclosure, Powder Coating System with single or multiple APC for particulates	B
<u>Spray Booth, HEPA/ULPA Controlling Rule 1401 Carcinogenic Compounds¹²</u>	<u>C</u>
Spray Booth, Metallizing	C
Spray Booth with Carbon Adsorber (non-regenerative)	C
Spray Booths (multiple) with Carbon Adsorber (non-regenerative)	D
Spray Booth(s) with Carbon Adsorber (regenerative)	E
Spray Booth(s) (1 to 5) with Afterburner/Oxidizer (Regenerative/Recuperative)	D
Spray Booths (>5) with Afterburner/Oxidizer (Regenerative/Recuperative)	E
Spray Booth, Automotive, with Multiple VOC Control Equipment	C
Spray Booth with Multiple VOC Control	D
Spray Booths (multiple) with Multiple VOC Control Equipment	E

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¹²Effective July 1, 2021

Necessity:

Rule 1401 requires additional analysis on all applications for new, relocated or modified permit units emitting air toxics to demonstrate compliance with the rule and to quantify the risk from the equipment. Additionally, since the adoption of Rule 1401, the methodology for risk determination has changed significantly. In a regular spray booth that falls under fee Schedule B, toxic emissions are mostly in vapor phase and not controlled by the spray booth filters. Therefore, emission calculations, health risk assessments, and permit conditions associated with these applications are often more straightforward and the engineering time required for their permit processing is in line with fee Schedule B. However, in the case of coatings that include toxic metals, the spray booth filters are controlling the toxic metal particulate matter emissions. These toxic metals, especially hexavalent chromium, have very high cancer potencies and slight increases in their emissions as low as milligrams could result in health risks exceeding Rule 1401 thresholds. Therefore, an applicant’s requested usage of chromium-containing coatings in spray booths frequently does not comply with Rule 1401. This requires the use of control equipment (HEPA/ULPA filters) and the creation of specialized permit conditions to ensure that operation is in compliance with Rule 1401. Consequently, emission calculations are more complicated and require careful consideration of the coating chemistry, transfer efficiency, and filter control efficiency. As a result, the processing of these applications requires more engineering time than those not requiring HEPA/ULPA filters for carcinogenic particulate matter control.

Rule 301 specifies the fees for each Fee Schedule and the hourly rate for Time & Material (T&M) for evaluation of permit applications. There are two different hourly rates, one for non-Title V facilities and a separate rate for Title V facilities. Fee categories for spray booths currently include higher fee schedules for spray booths with VOC control equipment (Schedule C, D or E, depending on the type and number of controls). In addition, separately permitted PM control equipment with

HEPA/ULPA filters (dust collectors, mist eliminators) are also assigned a higher fee Schedule (Schedule C), and the level of effort required to process permits is equivalent to the proposed new category. Engineering staff has estimated that a standard spray booth (Schedule B) requires 16-20 hours of Engineer II processing time, while a spray booth with HEPA/ULPA filters requires 25-30 hours of Engineer II processing time.

The fees set forth in this section are not required fees. Rather, they are fees for alternative plans designed to provide regulatory flexibility. To the extent a facility voluntarily chooses one of these alternatives, these fees allow for the South Coast AQMD to recover costs from the additional engineering time required for permit processing of spray booths with HEPA/ULPA filters, it is proposed that a new fee category be created with fee Schedule C, which is consistent with the time required for these applications. The proposed fee for the new category of control equipment does not exceed the estimated cost of processing permit applications and is apportioned equitably based on the burden imposed by each application.

PROPOSED RULE AMENDMENTS WITH NO FEE IMPACTS AND/OR ADMINISTRATIVE CHANGES

The proposed rule amendments in this section do not have fee impacts. Rather, the following proposed amendments generally include administrative changes, including clarifications, deletions, re-numbering, and corrections to existing rule language.

In addition to the proposed amendments to specific rule language as discussed below, any additional amendments that represent renumbering of rule sections/tables, amendments that are due solely to any proposed addition and/or deletion of preceding rule sections/tables, are not separately listed below. Finally, all of the amended fee rates shown below reflect the proposed CPI-based fee increase and do not include any additional increase beyond the CPI-based adjustment.

1. TRANSFER TWO FEES FROM RULE 1480 TO RULES 301 AND 306

Description of Proposed Amendment:

Rule 1480 currently specifies the fees for the preparation of the Alternative Monitoring and Sampling Plan and the monthly Monitoring Fees in Appendix 1. The inclusion of Alternative Monitoring and Sampling Plans and the monthly Monitoring Fees in Rule 1480 was intended to be temporary until Regulation III could be amended to include these fees. This amendment proposes to transfer the monthly Monitoring and Sampling fees found in Rule 1480 Table 1 to Rule 301(ad) and the Alternative Monitoring and Sampling Plan fees found in Rule 1480 Appendix 1 to Rule 306(s). Upon inclusion into Regulation III, the fees specified in Rule 1480 will be removed. The Alternative Monitoring and Sampling Plan and the monthly Monitoring Fees are not being increased and there are no new fees being introduced as a result of this amendment.

Proposed Amended Rule(s):

Rule 301(ac) Monitoring and Sampling Fees Related to Metal TAC Monitoring Facilities

- (1) The owner or operator of a Metal TAC Monitoring Facility, as defined in Rule 1480 subdivision (c), that elects to have the Executive Officer conduct Monitoring and Sampling pursuant to Rule 1480(g)(1) shall pay the operating and maintenance fees based on the sampling frequency, number of monitors, location of monitors, and type of monitors as specified in the most recently approved Alternative or Reduced Alternative Monitoring and Sampling Plan.
- (2) The monthly Monitoring and Sampling fee per facility required by paragraph (ac)(1) shall be as follows:

Alternative or Reduced Alternative Monitoring and Sampling Plan Monthly Monitoring Fees

	<u>Number and Type of Monitor</u>	<u>Sampling Frequency</u>			
		<u>1 in 3 Days</u>		<u>1 in 6 Days</u>	
		<u>2 Staff</u>	<u>1 Staff</u>	<u>2 Staff</u>	<u>1 Staff</u>
<u>Base</u>	<u>1 - Metal TAC Monitor - Hexavalent Chromium</u>	<u>\$10,000</u>	<u>\$6,500</u>	<u>\$5,000</u>	<u>\$3,500</u>
	<u>1 - Metal TAC Monitor – Non-Hexavalent Chromium</u>	<u>\$5,500</u>	<u>\$3,500</u>	<u>\$3,000</u>	<u>\$2,000</u>
	<u>1 - Metal TAC Monitor –Hexavalent Chromium & 1 - Metal TAC Monitor – Non-Hexavalent Chromium</u>	<u>\$13,000</u>	<u>\$8,500</u>	<u>\$6,500</u>	<u>\$4,500</u>
<u>Additional</u>	<u>1- Metal TAC Monitor - Hexavalent Chromium</u>	<u>\$4,000</u>	<u>\$3,500</u>	<u>\$2,500</u>	<u>\$2,000</u>
	<u>1- Metal TAC Monitor – Non-Hexavalent Chromium</u>	<u>\$2,500</u>	<u>\$2,000</u>	<u>\$1,500</u>	<u>\$1,000</u>
<u>Other</u>	<u>1 – Wind Monitor</u>	<u>\$500</u>	<u>\$500</u>	<u>\$500</u>	<u>\$500</u>

- (3) The fees for a wind monitor are \$500 per month, if the owner or operator of a Metal TAC Monitoring Facility elects to have the South Coast AQMD collect wind speed and direction data to meet the requirements of Rule 1480(f)(8).
- (4) If the Executive Officer contracts Monitoring and Sampling, as defined in Rule 1480 subdivision (c), with a third-party contractor, the fees would be specified by the third-party contractor.
- (5) The number, type, and location of the monitors is specified in the initial Rule 1480 Alternative Monitoring and Sampling Plan and maintained in the most recently approved Rule 1480 Alternative or Reduced Alternative Monitoring and Sampling Plan.
- (6) The operating and maintenance fees shall be billed on a monthly basis with payments due on or before the end of the month for which Monitoring and Sampling is required under Rule 1480 and include any other unpaid operating and maintenance fees. If the operating and maintenance fee is not paid in full within 60 calendar days of its due date, a 10 percent surcharge shall be imposed.
- (7) If Monitoring and Sampling pursuant to Rule 1480 is no longer required by the Executive Officer or if the sampling frequency is modified in the middle of a month, an owner or operator shall pay fees at a prorated amount.
- (8) If the number and/or type of monitors is modified in the middle of a month, an owner or operator shall pay fees at a prorated amount.

(æad) Severability

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Rule 306(a) Summary

California Health and Safety Code Section 40522 provides authority for the South Coast Air Quality Management District to adopt a fee schedule for the approval of plans to cover the costs of review, planning, inspection, and monitoring related to activities conducted pursuant to the plans. An annual fee may also be charged to cover the costs of annual review, inspection, and monitoring related thereto. This rule establishes such a fee schedule, and requires that fees be paid for:

- (1) Filing of plans;
- (2) Evaluation of the above plans;

- (3) Inspections to verify compliance with the plans;
- (4) Duplicate plans;
- (5) Change of condition; ~~and~~
- (6) Annual review/renewal of plans, ~~if applicable;~~
- (7) Preparation of a Rule 1480 Alternative Monitoring and Sampling Plan, if applicable.

Rule 306(s) Preparation of a Rule 1480 Alternative Monitoring and Sampling Plan

The fee for preparing an Alternative Monitoring and Sampling Plan to meet the requirements of Rule 1480(e)(1)(E)(i) and Rule 1480(e)(1)(F) through (e)(1)(I) shall be \$6,000.

Rule 1480(c) Definitions

- (2) BENCHMARK CONCENTRATION is the Metal TAC concentration at a monitor that represents the Reduced Risk Level at a Sensitive Receptor that is calculated using the methodology in Appendix ~~2~~1 and is specified in the notification from the Executive Officer that the facility has been designated as a Metal TAC Monitoring Facility pursuant to paragraph (d)(8).

Rule 1480(e) Monitoring and Sampling Plan

- (10) The preparation of an Alternative Monitoring and Sampling Plan to meet the requirements of clause (e)(1)(E)(i) and subparagraphs (e)(1)(F) through (e)(1)(I) shall be subject to the fees: pursuant to Rule 306.
 - ~~(A) Pursuant to Rule 306; or~~
 - ~~(B) Pursuant to Appendix 1 of this rule, if Rule 306 does not list the fees for preparing an Alternative Monitoring and Sampling Plan.~~

Rule 1480(g) Alternative Monitoring and Sampling

- (1) An owner or operator of a Metal TAC Monitoring Facility that elects to have the Executive Officer conduct Monitoring and Sampling in lieu of meeting the requirements of subparagraph (d)(9)(B) or pursuant to clause (e)(4)(B)(ii) shall:

- (A) No later than 30 days after receiving a notice from the Executive Officer, submit a draft Alternative Monitoring and Sampling Plan pursuant to paragraph (e)(2) unless a Basic Monitoring and Sampling Plan was submitted pursuant to subparagraph (d)(9)(A);
- (B) Provide access to the facility for the Executive Officer or its third-party contractor to conduct Monitoring and Sampling; and
- (C) No later than the date specified in the approval letter, the owner or operator of a Metal TAC Monitoring Facility that elects to have the Executive Officer conduct Monitoring and Sampling pursuant to paragraph (g)(1) shall pay the operating and maintenance fees to the South Coast AQMD for the Executive Officer to conduct Monitoring and Sampling pursuant to the approved Alternative Monitoring and Sampling Plan: pursuant to Rule 301 – Permitting and Associated Fees.
 - (i) ~~Pursuant to Rule 301 – Permitting and Associated Fees; or~~
 - (ii) ~~Pursuant to Appendix 1 of this rule, if Regulation III does not list the fees for Monitoring and Sampling.~~

Rule 1480 Appendix 1: South Coast AQMD Monitoring and Sampling Fees

1. Principle

~~This fee is applicable to all facilities that elect to have the South Coast AQMD conduct Monitoring and Sampling. The fees in this Appendix shall no longer be in effect when Regulation III includes these fees. The fees include monitoring equipment, material, labor, sample retrieval, sample analysis, construction and other associated fees. An owner or operator shall be responsible for the fees for Monitoring and Sampling from the date specified in the Alternative or Reduced Alternative Monitoring and Sampling Plan. South Coast AQMD typically deploys two field staff members to perform field work due to potential hazards encountered in the field. During the review of an Alternative Monitoring and Sampling or Reduced Alternative Monitoring and Sampling Plan, the Executive Officer will evaluate and determine if it is appropriate to have only one field staff member to conduct Monitoring and Sampling at the Metal TAC Monitoring Facility. A Metal TAC Monitoring Facility would be notified of the Executive Officer's decision at the time of approval of the Alternative or Reduced~~

~~Alternative Monitoring and Sampling Plan. The Executive Officer's decision on the number of field staff members needed will be based on the following factors:~~

- ~~1. Height of the monitor~~
- ~~2. Use of a ladder~~
- ~~3. Sampling schedule~~
- ~~4. Access to the facility~~
- ~~5. Safety concerns~~

~~2. Preparation of an Alternative Monitoring and Sampling Plan~~

~~An owner or operator shall be responsible for \$6,000, which are the fees associated with the preparation of an Alternative Monitoring and Sampling Plan to meet the requirements of clause (e)(1)(E)(i) and subparagraphs (e)(1)(F) through (e)(1)(I).~~

~~3. Monitoring and Sampling Fee~~

~~A. The monthly fees listed in Table 1—Alternative or Reduced Alternative Monitoring and Sampling Plan Monthly Monitoring Fees list the fees for a specific monitor and each additional monitor required by the Executive Officer to conduct Monitoring and Sampling.~~

**Table 1—Alternative or Reduced Alternative Monitoring and Sampling Plan
Monthly Monitoring Fees**

	Number and Type of Monitor	Sampling Frequency			
		1 in 3 Days		1 in 6 Days	
		2 Staff	1 Staff	2 Staff	1 Staff
Base	1 Metal TAC Monitor— Hexavalent Chromium	\$10,000	\$6,500	\$5,000	\$3,500
	1 Metal TAC Monitor Non- Hexavalent Chromium	\$5,500	\$3,500	\$3,000	\$2,000
	1 Metal TAC Monitor— Hexavalent Chromium & 1 Metal TAC Monitor Non- Hexavalent Chromium	\$13,000	\$8,500	\$6,500	\$4,500
Additional	1 Metal TAC Monitor— Hexavalent Chromium	\$4,000	\$3,500	\$2,500	\$2,000
	1 Metal TAC Monitor Non- Hexavalent Chromium	\$2,500	\$2,000	\$1,500	\$1,000

- ~~B. The fees for a wind monitor are \$500 per month, if the owner or operator of a Metal TAC Monitoring Facility elects to have the South Coast AQMD collect wind speed and direction data to meet the requirements of paragraph (f)(8).~~
- ~~C. If the Executive Officer contracts Monitoring and Sampling with a third-party contractor, the fees would be specified by the third-party contractor.~~
- ~~D. The number, type, and location of the monitors is initially specified in subparagraph (d)(8)(E) and stated in the Alternative or Reduced Alternative Monitoring and Sampling Plan.~~
- ~~E. Pursuant to paragraph (e)(8), the Executive Officer may require the owner or operator to submit a draft Alternative or Reduced Alternative Monitoring and Sampling Plan~~

~~to modify the number, type, and/or location of the monitors needed to conduct Monitoring and Sampling based on new information from the date the facility was designated a Metal TAC Monitoring Facility.~~

~~4. Payment Deadline~~

~~The operating and maintenance fees shall be billed on a monthly basis with payments due on or before the end of the month for which Monitoring and Sampling is required and include any other unpaid operating and maintenance fees. If the operating and maintenance fee is not paid in full within 60 calendar days of its due date, a 10 percent surcharge shall be imposed.~~

~~5. Pro-rated Payments~~

~~A. If Monitoring and Sampling will no longer be required to be conducted by the Executive Officer or if the sampling frequency is modified in the middle of a month, an owner or operator shall pay fees at a prorated amount.~~

~~B. If the number and/or type of monitors is modified in the middle of a month, an owner or operator shall pay fees at a prorated amount.~~

Rule 1480 Appendix 21: Methodology for Calculating Benchmark Concentration

Necessity:

Rule 1480 (adopted in December 2019) requires a facility designated as a Metal TAC Monitoring Facility to conduct Monitoring and Sampling either by using a third-party contractor or by electing to have South Coast AQMD conduct Monitoring and Sampling. A Metal TAC Monitoring Facility electing to have South Coast AQMD conduct Monitoring and Sampling is required to pay a plan preparation fee for portions of the Alternative Monitoring and Sampling Plan that would be prepared by South Coast AQMD and a monthly operating and maintenance (O&M) fee for Monitoring and Sampling at the facility (Monitoring Fees). These fees are currently set forth in Rule 1480. The placement of fees in Rule 1480 rather than Regulation III-Fees is inconsistent with how the District typically specifies the fees which it charges. This amendment will transfer the specified fee provisions from Rule 1480 to Rules 301 and 306. The transfer of the fees into Rule 301 and 306 does not result in any new or increased fees. Only those facilities currently subject to Rule 1480 that are designated as Metal TAC Monitoring Facilities would be subject to a monthly Monitoring Fee and the Alternative Monitoring and Sampling Plan preparation fee.

2. CLARIFICATION TO ‘IDENTICAL EQUIPMENT DEFINITION IN RULE 301

Description of Proposed Amendment:

This amendment clarifies the definition of “Identical Equipment” found in Rule 301(b)(20) by restoring information inadvertently omitted during a prior rule amendment. In particular, staff is proposing to amend the definition of “Identical Equipment” by adding language requiring that the make and model of the equipment must be identical.

Proposed Amended Rule(s):

Rule 301(b) Definitions

(20) IDENTICAL EQUIPMENT means any equipment which is of the same make and model, and is to be operated by the same operator, and have the same equipment address, and have the same operating conditions and processing material to the extent that a single permit evaluation would be required for the set of equipment. Portable equipment, while not operating at the same location, may qualify as identical equipment.

Necessity:

Prior to 1996, the definition of “Identical Equipment” in Rule 301(b)(20) specified that the make and model of the equipment must be identical. In 1996 amendment, the term “Identical Equipment” was removed in its entirety and was replaced with a new term titled “Similar Equipment”. The “Similar Equipment” definition did not require identical make and model.⁷ Subsequently, in 1998, the terminology changed again. The “Similar Equipment” definition was removed in its entirety and was replaced with an “Identical Equipment” definition. The 1998 staff report indicates that the intent of the amendment was to restore the original definition of “Identical Equipment”. However, the language pertaining to the requirement for identical make and model was inadvertently omitted. The proposed change is to restore the original requirement for identical make and model to the definition of “Identical Equipment”. This amendment is a clarification of existing rule language. This change reflects current practice and will clarify the definition of “Identical Equipment” and avoid confusion on the part of permit applicants.

This amendment is necessary because Rule 301(c)(1)(E) states that when permit applications are submitted concurrently for multiple pieces of “identical equipment”, full fees are charged for the first application, and fifty percent (50%) of the applicable processing fee are assessed for each additional application. Requiring equipment to be of the same make and model, in addition to the other requirements already specified in the rule, is essential to ensuring equitable cost recovery. A streamlined evaluation performed for a reduced fee would not be possible if the equipment was not identical in make and model.

⁷ Regulation III – Fees, Staff Report (1996), pg. ES-4. Document on file and available at the SCAQMD Library, 21865 East Copley Drive, Diamond Bar, CA 91765, (909-396-2600)

3. CLARIFY SUBMITTAL DEADLINE AND LATE SUBMITTAL SURCHARGES FOR CLEAN FUEL FEES IN RULE 301

Description of Proposed Amendment:

The current version of Rule 301 does not clearly define the deadline nor explain the methods to calculate the late submittal surcharges for Clean Fuels Fees. The submittal deadline and late payment surcharges are indirectly mentioned under (e)(10)(A) and (e)(10)(D) for underreporting of emissions.

This amendment proposes to clarify the deadline and existing surcharges associated with late submittal or underpayment of Clean Fuels Fees in subdivision (e) of Rule 301. Similar clarifying revisions were made to the Semi-Annual Emissions Fee Payment in 301(e)(11) in 2019. This proposed amendment is for clarification purposes only and does not introduce any new or increased fees.

Proposed Amended Rule(s):

***Rule 301(e)* Annual Operating Emissions Fees**

(6) Clean Fuels Fee ~~Thresholds~~

Each facility emitting 250 tons or more per year (≥ 250 TPY) of Volatile Organic Compounds, Nitrogen Oxides, Sulfur Oxides and Particulate Matter shall pay an annual clean fuels fee as prescribed in Table V (California Health and Safety Code Section 40512).

.....

(10) Notice to Pay and Late Filing Surcharge

.....

(A) The facility owner/operator shall submit an annual emissions report and pay any associated emissions fees if a notice to report emissions is sent by mail, electronic mail, or other electronic means, annually to the owners/operators of all equipment (as shown in District records) for which this subdivision applies. A notice to pay the clean fuels fee specified in paragraph (e)(6) or semi-annual fee specified in paragraph (e)(11) will also be sent by mail, electronic mail, or other electronic means, to facilities which in the preceding reporting year emitted any air contaminant equal to or greater than the emission thresholds specified in subparagraph (e)(6) or (e)(11)(A). Emissions reports and fee payment submittals are the responsibility of the owner/operator regardless of whether the owner/operator was notified.

If both the fee payment and the completed annual emissions report are not received by the seventy-fifth (75th) day following ~~July 1 (for semi-annual reports), or January 1 (for annual reports)~~ or the fee payment not received by the seventy-fifth (75th) day following July 1 (for semi-annual and clean fuels fees), they shall be considered late, and surcharges for late payment shall be imposed as set forth in subparagraph (e)(10)(B). For this subparagraph, the emissions fee payment and the emissions report shall be considered to be timely received by the District if it is delivered, postmarked, or electronically paid on or before the seventy-fifth (75th) day following the official due date. If the seventy-fifth (75th) day falls on a Saturday, Sunday, or a state holiday, the fee payment and emissions report may be delivered, postmarked, or electronically paid on the next business day following the Saturday, Sunday, or the state holiday with the same effect as if they had been delivered, postmarked, or electronically paid on the seventy-fifth (75th) day.

(B) If fee payment and emissions report are not received within the time prescribed by subparagraph (e)(10)(A) or (e)(11)(C), a surcharge shall be assessed and added to the original amount of the emission fee due according to the following schedule:

.....

(C) If ~~an annual~~ emission fee or clean fuels fee is timely paid, and if, within one year after the seventy-fifth (75th) day from the official due date of annual emission report is determined to be less than ninety percent (90%) of the full amount that should have been paid, a fifteen percent (15%) surcharge shall be added, and is calculated based on the difference between the amount actually paid and the amount that should have been paid, to be referred to as underpayment. If payment was ninety percent (90%) or more of the correct amount due, the difference or underpayment shall be paid but with no surcharges added. The fee rate to be applied shall be the fee rate in effect for the year in which the emissions actually occurred. If the underpayment is discovered after one (1) year and seventy five (75) days from the official fee due date of annual emission report, fee rates and surcharges will be assessed based on subparagraph (e)(10)(D).

Necessity:

The proposed revisions are needed to clearly provide the deadline to submit the Clean Fuels Fee Payment and clarify which subparagraph in Rule 301(e) should be followed to estimate the surcharges associated to late payments or under payments of this fee and prevent confusion. The

proposed revision does not have any fee impacts and only clarifies the existing payment submittal requirements and method to calculate surcharges that are currently being enforced by the South Coast AQMD.

4. CLARIFICATION TO UNDERPAYMENT OF ANNUAL EMISSION REPORTING FEES IN RULE 301

Description of Proposed Amendment:

As part of the 2019 Regulation III amendments, Rule 301 subparagraphs (e)(10)(C) and (e)(10)(D) were amended to state that the fee rate that needs to be used to calculate Annual Emissions Report (AER) underpayments shall be the fee rate in effect for the year in which the emissions actually occurred. Inadvertently, this correction was not applied to subparagraph (e)(10)(E). Subparagraph (e)(10)(E) currently specifies the fee rate to be applied shall be the fee rate in effect for the year in which the emissions are actually reported/ revised. This amendment proposes to update Rule 301(e)(10)(E) to reflect the appropriate fee rate to be applied to AER underpayments. This amendment is solely for clarification and does not serve to introduce new or increased fees.

Proposed Amended Rule(s):

***Rule 301(e)* Annual Operating Emissions Fees**

(10) Notice to Pay and Late Filing Surcharge

.....

(E) Effective July 1, 2019, if the underpayment is a result of emissions related to a source test that was submitted to the Source Test unit for approval prior to or at the time the official AER submittal due date of the subject annual emission report, the difference or underpayment shall be paid, but with no surcharges added. The fee rate to be applied shall be the fee rate in effect for the year in which the emissions actually occurred. ~~If the underpayment is paid within one year after the seventy fifth (75th) day from the official due date, the fee rate to be applied shall be the fee rate in effect for the year in which the emissions actually occurred. If the underpayment is paid after one year after the seventy fifth (75th) day from the official due date, the fee rate to be applied shall be the fee rate in effect for the year in which the emissions are actually reported.~~

Necessity:

This revision does not introduce any new or increased fees. The proposed amendment is solely for clarification and addresses a revision that was intended to be made as part of other related amendments adopted as part of the 2019 Regulation III amendments.

IMPACT ASSESSMENT

A. FISCAL IMPACT FOR SOUTH COAST AQMD

The fiscal impacts of the proposed amendments including those impacted only by the CPI increase have been taken into consideration by the FY 2020-21 budget and the related five year projections.

B. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Pursuant to the California Environmental Quality Act (CEQA), the South Coast AQMD, as lead agency, will prepare a Notice of Exemption pursuant to CEQA Guidelines Section 15062 – Notice of Exemption for the proposed project. Proposed Amended Regulation III and Proposed Amended Rule 1480 have been reviewed pursuant to: 1) CEQA Guidelines Section 15002(k) – General Concepts, the three-step process for deciding which document to prepare for a project subject to CEQA; and 2) CEQA Guidelines Section 15061 – Review for Exemption, procedures for determining if a project is exempt from CEQA. The entirety of Proposed Amended Regulation III is statutorily exempt from CEQA pursuant to CEQA Guidelines Section 15273 – Rates, Tolls, Fares, and Charges, because the proposed new and increased fees in the proposed amendments to Rules 301, 303, 304, 304.1, 306, 307.1, 308, 309, 311, 313, 314, and 315 involve charges by public agencies for the purpose of meeting operating expenses and financial reserve needs and requirements. The changes in Proposed Amended Regulation III and Proposed Amended Rule 1480 that have no fee impact are strictly administrative in nature and it can be seen with certainty that there is no possibility that the proposed project may have a significant adverse effect on the environment. Thus, the proposed project is also exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) – Common Sense Exemption. Therefore, the proposed project is exempt from CEQA. If the project is approved, the Notice of Exemption will be filed with the county clerks of Los Angeles, Orange, Riverside, and San Bernardino counties.

C. SOCIOECONOMIC IMPACT ASSESSMENT

A draft socioeconomic impact assessment for the automatic CPI increase is being prepared as a separate report and was posted online in March 2020 (available on South Coast AQMD’s website at: [<link forthcoming>](#)) A socioeconomic impact assessment of other proposed rule amendments with fee impacts will be conducted and released for public review and comment at least 30 days prior to the South Coast AQMD Governing Board Hearing on Proposed Amended Regulation III and Fiscal Year 2020-21 Proposed Draft Budget and Work Program, which is anticipated to be heard in May 1, 2020.

DRAFT FINDINGS UNDER CALIFORNIA HEALTH AND SAFETY CODE

Before adopting, amending or repealing a rule, the South Coast AQMD Governing Board shall make findings of necessity, authority, clarity, consistency, non-duplication, and reference, as defined in H&SC Section 40727, as well as findings of equity under H&SC Section 40510.5(a). The draft findings are as follows:

A. NECESSITY

Based on the analysis provided in Sections II, III, and IV of this report, the South Coast AQMD Governing Board has determined that a need exists to add or increase certain fees in Rules 301 and 306 in order to recover reasonable and actual costs incurred by South Coast AQMD in implementing necessary clean air programs. These fees include new fees for Rule 301 for HEPA-equipped spray booths controlling toxics emissions, and for Rule 1466 alternative compliance plan review. Finally, the amendments set forth in the no fee impact/administrative change section of this report are necessary to add rule clarity or make necessary administrative changes to Rule 301. CPI updates to Regulation III – Fees, including Rules 301, 303, 304, 304.1, 306, 307.1, 308, 309, 311, 313, 314 and 315 are necessary to recover South Coast AQMD’s costs as a result of inflation. All fees are necessary to fund the Fiscal Year 2020-21 Budget.

B. EQUITY

H&SC Section 40510.5(a) requires the South Coast AQMD Governing Board to find that an increased fee will result in an equitable apportionment of fees when increasing fees beyond the CPI. Based on the analysis provided in Section III of this report, the proposed new fees or increases in fee rates in Proposed Amended Rules 301, 306, and Rule 1480 are found to be equitably apportioned.

C. AUTHORITY

The South Coast AQMD Governing Board obtains its authority to adopt, amend, or repeal rules and regulations from H&SC Sections 40000, 40001, 40440, 40500, 40501.1, 40502, 40506, 40510, 40510.5, 40512, 40522, 40522.5, 40523, 40702, and 44380, and Clean Air Act section 502(b)(3) [42 U.S.C. §7661(b)(3)] .

D. CLARITY

The South Coast AQMD Governing Board has determined that Regulation III – Fees, including Rules 301, 303, 304, 304.1, 306, 307.1, 308, 309, 311, 313, 314, 315 and Rule 1480 – Ambient Monitoring and Sampling of Metal Toxic Air Contaminants, as proposed to be amended, are written or displayed so that their meaning can be easily understood by the persons directly affected by them.

E. CONSISTENCY

The South Coast AQMD Governing Board has determined that Regulation III – Fees, including Rules 301, 303, 304, 304.1, 306, 307.1, 308, 309, 311, 313, 314, 315, and Rule 1480 – Ambient Monitoring and Sampling of Metal Toxic Air Contaminants as proposed to be amended, are in

harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations.

F. NON-DUPLICATION

The South Coast AQMD Governing Board has determined that Regulation III – Fees, including Rules 301, 303, 304, 304.1, 306, 307.1, 308, 309, 311, 313, 314, 315, and Rule 1480 – Ambient Monitoring and Sampling of Metal Toxic Air Contaminants, as proposed to be amended, do not impose the same requirements as any existing state or federal regulation and are necessary and proper to execute the power and duties granted to, and imposed upon, the South Coast AQMD.

G. REFERENCE

The South Coast AQMD Governing Board, in amending these rules, references the following statutes which the South Coast AQMD hereby implements, interprets, or makes specific: H&SC Sections 40500, 40500.1, 40510, 40510.5, 40512, 40522, 40522.5 40523, 41512, and 44380, and Clean Air Act section 502(b)(3) [42 U.S.C.S. 7661 (b)(3)].