

# **SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

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## **Preliminary Draft Staff Report**

### **Proposed Amended Regulation III – Fees; and Rule 209 – Transfer and Voiding of Permits**

#### **Including:**

Proposed Amended Rule 209 – Transfer and Voiding of Permits  
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

**March 15, 2019**

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## EXECUTIVE SUMMARY

Regulation III - Fees establishes the fee rates and schedules to recover SCAQMD'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).

In 2017, the SCAQMD Governing Board adopted a phased-in fee increase applicable to both Title V and non-Title V facilities. With respect to Title V facilities, the Governing Board approved an increase of 10.67% in each of Fiscal Years (FY) 2017-18 and 2018-19, and 10.66% in FY 2019-20. With respect to non-Title V facilities, the Governing Board approved an increase of 4% in each of FY 2017-18 and 2018-19. There is no non-Title V facility fee increase scheduled for this fiscal year. These fee increases were necessary because SCAQMD was not collecting fees sufficient to cover the reasonable costs of its regulatory programs. In addition, the increases for the Title V facilities were a necessary response to an EPA review of SCAQMD's Title V program. That review also found that SCAQMD was not recovering sufficient revenues to support the costs of that program. Deficits for the Permitted Source Program, including the Title V program, had been routinely covered through use of reserves which have been primarily funded with one-time penalty revenue.

With this proposal, SCAQMD's cost recovery efforts continue. Staff is proposing the following amendments to Regulation III:

- Pursuant to Rule 320, an automatic increase of most fees by 3.5% consistent with the increase in California Consumer Price Index from December 2017 to December 2018.
- Two targeted proposals for new fees and two proposals for increased fees, all of which are necessary to either meet the requirements of recently adopted rules and state mandates or to provide more specific cost recovery for other regulatory actions taken by the agency. These proposals include:
  - 1) A new fee to include recently adopted Rule 1118.1 in the notification fees outlined in Rule 301(x);
  - 2) A new fee Clean Air Solvent (CAS) certification renewals;
  - 3) An increase for CARB's Portable Equipment Registration Program (PERP) inspection fees, consistent with recent increases adopted by CARB; and
  - 4) A fee increase for Toxic Air Contaminants (TAC) listed in Rule 301 Table IV.
- One proposal to correct fees in Rule 309 whereby they reflect an increase that was previously authorized but not applied due to administrative error.
- Three targeted proposals for fee reduction or relief including:
  - 1) Removal of a fee for worksite deletion from a multi-site or geographic program pursuant to Rule 308(c)(2)(F)

- 2) Removal of fee for revising project end dates to an earlier date in Rule 1403, and reduce Rule 1403 notification revisions to \$25.
  - 3) Initiate a cap for change of owner/operator fees in Rule 301 Table Fee Rate C and Table VII.
- Seven proposed administrative changes to Regulation III, which have no fee impact, but include clarifications, deletions, or corrections to existing rule language.
  - One proposal to amend Rule 209 for purposes of clarifying when a change of owner/operator applies.

SCAQMD continues to be fiscally prudent by seeking out cost-containment opportunities and by maintaining reserves in an effort to address challenges expected in future years. 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 SCAQMD'S PERMITTED SOURCE PROGRAM AND OTHER FEES, AND RELATIONSHIP OF FEES TO SCAQMD'S BUDGET

The California Health and Safety Code (H&SC or Code) provides SCAQMD with the authority to adopt various fees to recover the costs of its programs. Section 40510(b) authorizes SCAQMD 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. RECLAIM<sup>1</sup> and Title V facilities receive a facility permit, in addition to equipment-based permits; whereas other sources receive equipment-based permits.

The SCAQMD 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 SCAQMD 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 related to the overall Permitted Source Program regulatory activities such as a proportional share of planning, monitoring, rule development and outreach programs, from emissions-based operating fees.<sup>2</sup> In recent years, some of these indirect costs have been recovered from annual operating fees rather than emissions-based fees, since emissions fees are a declining source of revenue, without a corresponding reduction in rulemaking efforts and activities.

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<sup>1</sup> 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.

<sup>2</sup> 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.

The current structure for permit processing fees derives ultimately from a study of actual time spent processing permits, conducted by KPMG Peat Marwick for the 1990 fee amendments. 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.<sup>3</sup> Annual renewal operating fees are based on four basic schedules [Rule 301 (d)(2)] which are based on the size and complexity of the equipment, which is proportional to the amount of work needed to inspect and enforce SCAQMD rules.

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 (VOC), nitrogen oxides (NO<sub>x</sub>), sulfur oxides (SO<sub>x</sub>), 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. SCAQMD 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

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<sup>3</sup> 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.

SCAQMD 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 SCAQMD 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 SCAQMD'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); and fees for notices and copying documents (H&SC Section 40510.7 and Rule 301(f).)<sup>4</sup>

The above-referenced fees comprise approximately 62% of SCAQMD's revenue. Other sources of revenue for SCAQMD 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 SCAQMD Governing Board and are consistent with the specific limits on the use of those funds. Periodically, funds to reimburse SCAQMD for its administrative costs in carrying out these projects are transferred by SCAQMD Governing Board action into SCAQMD'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 SCAQMD with 30% of a four-dollar fee assessed on each motor vehicle registered within SCAQMD'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 about 59%. The remainder of the AB 2766 revenues provided to SCAQMD is divided between a share that is subvented to cities and counties for mobile source emission reduction

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<sup>4</sup> 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.

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 SCAQMD Governing Board.

The legislature also has imposed certain limits on SCAQMD's fee authority. If SCAQMD 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 SCAQMD 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 SCAQMD Governing Board Resolution presented for the Public Hearing on Regulation III.

Moreover, the total amount of fees collected by SCAQMD 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). SCAQMD has consistently complied with this limit. Total fees (other than mobile source fees which staff believes 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 \$125.4 million.<sup>5</sup> Total projected fees (except mobile source fees) for FY 2018-19 are approximately \$107million,<sup>6</sup> 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. SCAQMD 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.

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

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<sup>5</sup> 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.

<sup>6</sup> Preliminary estimate as of March 2019, 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.

fair or reasonable relationship to the payor’s burdens on, or benefits received from, the governmental activity.” Cal. Const. art. XIII §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, §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*, 218 Cal. App. 4<sup>th</sup> 195, 206 (2013).

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 SCAQMD’s activities.

## **RULE 320 AUTOMATIC ADJUSTMENT BASED ON CPI FOR REGULATION III**

Rule 320 – Automatic Adjustment Based on Consumer Price Index for Regulation III-Fees, was adopted by the SCAQMD Governing Board on October 29, 2010. The rule 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 SCAQMD Governing Board. Rule 320 provides for the automatic adjustment in fees annually commensurate with the rate of inflation.

Pursuant to Rule 320, most fees as 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)” (Appendix A). Therefore, staff is planning, where applicable, to update fees in Rules 301, 303, 304, 304.1, 306, 307.1, 308, 309, 311, 313, 314, and 315 on July 1, 2019, to correspond with the increase in the Calendar Year 2018 CPI of 3.5%.

Appendix B – Summary of Proposed Amended Rules lists specific fees in Regulation III that would be adjusted based on the CPI increase. Table 1 lists the fees in Regulation III that are specifically excluded from CPI-based fee rate increase and the reason for exclusion.

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

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

<b>Fee</b>	<b>Reason for exclusion from CPI-based fee rate increase</b>
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 SCAQMD’s Budget.

## PROPOSED RULE AMENDMENTS WITH FEE IMPACTS

In addition to Rule 320 CPI-based fee rate increase, staff is proposing to amend Rule 301 to include new or increased fees for cost recovery, including but not limited to fees for toxic emissions, PERP inspection fees, and Rule 1118.1 notification fees. The next section includes administrative changes that include clarifications, deletions, or corrections to existing rule language for Rules 209, 301, 308, and 309. Finally, Regulation III includes the final phase-in of the fee increase for Title V facilities that was previously approved in 2017.

### 1. AMEND RULE 301(X) TO INCLUDE RULE 1118.1 NOTIFICATION FEE

**Description of Proposed Amendment:**

In order to recover costs incurred by SCAQMD to process required notifications, Rule 1118.1 would be subject to the notification fee described in Rule 301(x). The fee for the Rule 1118.1 notification is \$65.12 per notification, and is subject to the annual automatic CPI adjustment pursuant to Rule 320.

**Proposed Amended Rule(s):**

**Rule 301 (x) Rule 1149, Rule 1166, and Rule 1466 Notification Fees**  
**Notification Fees for Rules 1118.1, 1149, 1166, and 1466**

- (1) Any person who is required by the District to submit a written notice pursuant to Rules 1118.1, 1149, ~~Rule~~ 1166, ~~Rule~~ 1466, or for soil vapor extraction projects shall pay a notification fee of \$65.12 per notification.

**Justification/  
Necessity/  
Equity:**

Rule 1118.1 was adopted on January 4, 2019, to control emissions from non-refinery flares. This rule establishes emission limits for NO<sub>x</sub> and VOC, as well as for CO for new, replaced, or relocated flares, and establishes an industry specific capacity threshold for existing flares. Owners and operators of flares that require a SCAQMD permit at certain non-refinery facilities are required to submit several notifications to the SCAQMD to comply with Rule 1118.1 requirements. Flares that operate greater than the capacity threshold will be required to either reduce flaring below the capacity threshold or replace the flare with a unit complying with the proposed emissions limits. Each of these steps in rule compliance potentially requires one or more of the following notifications:

- Notification of Flare Inventory and Capacity
- Notification of Intent
- Notification of Annual Percent Capacity Greater than Threshold
- Notification of Flare Throughput Reduction
- Notification of Increments of Progress

The deadline to submit the Notification of Flare Inventory and Capacity occurred before the amendments to Rule 301; therefore, no fee will be required for that notification. New or replaced flares will pay for submittal of a permit application, for which a fee is already included in Rule 301. Therefore, and per Rule 1118.1(d)(10), this proposed amendment impacts only the remaining notification types under Rule 1118.1.

This new fee is necessary to recover the reasonable regulatory costs related to the notification requirements of Rule 1118.1. The fee is identical to the amount charged for Rule 1149, 1166, and 1466 notifications. Moreover, the amount to be charged is necessary to recover the costs to the District for processing the notifications. The table below provides cost estimates for processing the Rule 1118.1 notifications. Based on staff estimates, it will take an Office Assistant approximately 30 minutes to receive the notification, enter the information, and file the notification, and 20 minutes for a Staff or Air Quality Specialist to review the notification. Therefore, the recovery cost is calculated to be approximately \$69.27 based on the FY 2018-19 hourly burdened rates. This range of cost estimates is consistent with and does not exceed the CPI adjusted rate of \$65.12. The proposed Rule 1118.1 notification fee will be the same fee rate as Rules 1149, 1166, and 1466 notification fees for similar notification requirements. Thus, the proposed Rule 1118.1 notification fee does not exceed the estimated cost of processing required notifications and is apportioned equitably based on the burden imposed by each notification.

**Table 1: Cost Estimates for Processing the Rule 1118.1 Notifications**

Staff Position	Estimated Processing Time (in Hours)	×	FY 2018-19 Hourly Burdened Rate	=	Estimated Cost
Office Assistant	0.50		\$66.88		\$33.44
Staff Specialist	0.33		\$108.58		\$35.83
<b>Total Cost</b>	<b>0.83</b>				<b>\$69.27</b>

## 2. UPDATE ENFORCEMENT INSPECTION FEES FOR PERP REGULATIONS

**Description of Proposed Amendment:** In order to recover costs incurred by SCAQMD to inspect portable equipment units and Tactical Support Equipment (TSE) registered in the California Air Resources Board (CARB) Portable Equipment Registration Program (PERP), staff is proposing to amend Rule 301 (w) to increase the TSE and hourly inspection fees.

**Proposed Amended Rule(s):**

**Rule 301(w)** Enforcement Inspection Fees for Statewide Portable Equipment Registration Program (PERP)

- (1) Registered Portable Equipment Unit Inspection Fee Registered portable equipment units are those which emit PM10 in excess of that emitted by an associated engine alone. An hourly fee of ~~\$98.00~~\$115.00 shall be assessed for a triennial portable equipment unit inspection, including the subsequent investigation and resolution of violations, if any of applicable state and federal requirements, not to exceed ~~\$500.00~~\$590.00 per unit.
- (2)(A)(i)(a) A fee for the annual inspection of a single registered TSE unit shall be assessed at a unit cost of ~~\$75.00~~\$90.00.
- (2)(A)(i)(b)(1) The actual time to conduct the inspection the rate of ~~\$100.25~~\$115.00 per hour, or
- (2)(A)(i)(b)(2) A unit cost of ~~\$75.00~~\$90.00 per registered TSE unit inspected.
- (2)(A)(ii)(b)(1) The actual time to conduct the inspection the rate of ~~\$100.25~~\$115.00 per hour, or
- (2)(A)(ii)(b)(2) A unit cost of ~~\$75.00~~\$90.00 per registered TSE unit inspected.
- (3) In addition to the inspection fees stated above, any arranged inspections requested by the holder of the registration that are scheduled outside of District

normal business hours may be assessed an additional off-hour inspection fee of ~~\$40.96~~\$60.00 per hour for the time necessary to complete the inspection.

**Justification/  
Necessity/  
Equity:**

CARB has established the Statewide Portable Equipment Registration Program (PERP) to facilitate the operation of portable equipment throughout California without having to obtain individual permits from local air districts. Under PERP, the District conducts inspections of that equipment and is authorized to charge fees consistent with amounts determined by CARB. On November 30, 2018, CARB amended the PERP Regulation to increase the uniform fee schedule for all districts enforcing PERP through inspections of registered portable equipment and TSE equipment. PERP Regulation Section 2461 (g) allows districts to collect fees that do not exceed the fees listed in Section 2461.1 of the PERP Regulation.

The fees set forth in PAR 301(w) are consistent with the recently increased fees allowed by CARB. Table 2 provides the cost estimates for a PERP equipment inspection. Based on staff estimates it takes a Staff Assistant approximately 20-25 minutes to receive an inspection request, enter the information, assign to an inspector, receive the billing from the inspector, create an invoice and mail to the facility. Based on staff estimates it takes an inspector approximately 60-65 minutes to arrange the inspection, inspect the equipment, submit a PERP field inspection survey, fill out a billing form, and submit the forms to a Staff Assistant. These activities result in cost to the District of approximately \$124.32 - \$131.87 per hour at the FY 2018-19 hourly burdened rates. Although this cost estimate slightly exceeds the maximum hourly inspection fee of \$115.00 fee authorized by CARB in Section 2461.1, the proposed fee increase will facilitate and improve cost recovery for the District and will be equitably apportioned because it will be paid by the owners of the equipment subject to inspection.

**Table 2: Cost Estimates for a PERP Inspection**

Staff Position	Range of Processing time (in Hours)		x	FY 2017-19 Hourly Burdened Rate	=	Range of Cost	
Staff Assistant	0.33	0.42		\$73.62		\$30.85	\$30.92
AQ Inspector II	1.0	1.08		\$93.47		\$93.47	\$100.95
<b>Total Cost</b>						<b>124.32</b>	<b>\$131.87</b>

### **3. REMOVE FEE IN RULE 308 FOR ADDING/DELETING SITE FROM A MULTI-SITE OR GEOGRAPHIC PROGRAM**

**Description of Proposed Amendment:** Staff is proposing to eliminate the fee for employers who are amending their Rule 2202 Employee Commute Reduction Program strategies by adding or deleting a worksite from their program. Rule 308(c)(2)(F) requires that regulated entities be charged a fee of \$176.63 each time a worksite is added to or deleted from a multi-site or geographic program.

**Proposed Amended Rule(s):**

***Rule 308 – (c) (2) (F) Program Strategy Amendments***

A person submitting an amendment to program strategies consisting of the deletion or the replacement of any existing program strategies shall pay a fee of \$176.63 for each submittal per worksite. This fee shall not apply when the amendment consists solely of additional or enhanced strategies to the program or when the strategy amendment is submitted at the same time as part of the Annual Program submittal. ~~Furthermore, any employer adding or deleting a worksite to a multi-site or geographic program shall pay a fee of \$176.63 per worksite being added or deleted, unless the worksite being deleted is no longer subject to Rule 2202.~~

**Justification/ Necessity/ Equity:**

Under Rule 2202, employers with more than 250 employees are required to annually register with the District and implement an emissions reduction program, including but not limited to Employee Commute Reduction Programs (ECRP). Rule 308 sets forth the registration fees and the specific ECRP fees. Covered facilities with multiple sites pay various submittal and amendment fees. On occasion, facilities seek to amend their program strategies with either substantive amendments to the strategies or through the addition or deletion of a work-site from a multi-site or geographic program. The addition or deletion of a site from a multi-site or geographic program does not result in any significant additional work that would not sufficiently be covered by the initial registration fees. The fee would remain for any substantive amendment of strategies. Furthermore, charging a separate fee for adding or deleting a worksite from a multi-site program has the potential to discourage regulated entities from accurately reporting real-time worksite population levels and inaccurate records increase the compliance costs for the District. Removing the fee would promote good-faith reporting to ensure accurate records are being kept for all regulated entities under the Rule 2202 program. This will additionally simplify the tracking of these sites for staff.



#### **4. UPDATE TABLE VI IN RULE 301 APPLYING TO RULE 1403 (ASBESTOS EMISSIONS FROM DEMOLITION/RENOVATION ACTIVITIES)**

**Description of Proposed Amendment:** Rule 1403 specifies work practice requirements to limit asbestos emissions from building demolition and renovation activities. Table VI in Rule 301 sets forth the applicable demolition, asbestos, and lead notification fees as well as additional service charge fees. Staff proposes the following clarifications and amendments to Table VI:

- a) Remove “and Lead” from the title of the table;
- b) Under “Additional Service Charge Fees,” change Footnote 2 to clarify that the proposed \$25 fee applies to notifications changing the End Date to a later date only;
- c) Under “Additional Service Charge Fees,” eliminate fees for revisions for earlier End Date only, and change the Revision to Notification fee (\$62.92) to match that of the Returned Check Fee (currently \$25, which is not subject to CPI increase), and only to change when the Returned Check Fee changes. Also clarify that the Revision to Notification fee applies, save for the exception outlined in Footnote 2, to Revision to Notification for Start Date, Quantity, and/or End Date; and,
- d) Under “Additional Service Charge Fees,” change “postmarked” to “received” in Footnotes 2 and 3.

**Proposed  
Amended  
Rule(s):**

***Rule 301***

TABLE VI  
DEMOLITION, ASBESTOS ~~AND LEAD~~ NOTIFICATION FEES

Demolition and Renovation by Project Size (square feet) <sup>1</sup>					
up to 1,000	> 1,000 to 5,000	5,000 to 10,000	> 10,000 to 50,000	> 50,000 to 100,000	> 100,000
\$62.92	\$192.40	\$450.38	\$706.21	\$1,023.47	\$1,705.79

Additional Service Charge Fees
--------------------------------

Revision to Notification for <u>Start Date, Quantity, and/or End Date</u> <sup>2</sup>	Special Handling Fee <sup>23</sup>	Planned Renovation	Procedure 4 or 5 Plan Evaluation	Expedited Procedure 4 or 5 Fee <sup>34</sup>
<del>\$62.92</del> <u>\$25.00</u>	\$62.92	\$706.21	\$706.21	\$353.10

<sup>1</sup> For demolition, the fee is based on the building size.  
For refinery or chemical unit demolition, the fee is based on the structure's footprint surface area.

For renovation, the fee is based on the amount of asbestos/~~lead~~ removed.

<sup>2</sup> For revisions to notifications to change the End Date to a later date only.

<sup>23</sup> For all notifications ~~postmarked~~ received less than 14 calendar days prior to project start date.

<sup>34</sup> For all expedited Procedure 4 or 5 plan evaluation requests ~~postmarked~~ received less than 14 calendar days prior to project start date.

For each subsequent notification for pre-approved Procedure 5 plan submitted per Rule 1403(d)(1)(D)(i)(V)(2).

**Justification/  
Necessity/  
Equity:**

These amendments are necessary to clarify and reduce certain fees in circumstances where District costs have been reduced by certain automated processes. More specifically:

- a) Staff is proposing to amend the title of Table VI (Demolition, Asbestos and Lead Notifications) because there is no lead removal rule requiring notifications (i.e., SCAQMD does not regulate lead paint removal because although at one time a lead paint removal rule was considered this is now under the jurisdiction of the various health departments).
- b) Staff is proposing to remove the fee to revise End Dates in circumstances where the end dates is being advanced. Doing so removes a disincentive for facilities to update notifications for completed asbestos removal and demolition projects, and reduces the costs triggered when an inspector unnecessarily travels to a job that has already been completed. The expected loss of revenue will be outweighed by reducing the potential loss of inspection resources spent following up on notification revisions for earlier End Dates, resulting in unnecessary time spent by District staff on asbestos removal and demolition projects that have already been completed. This unnecessary time would consist of travel to and from a completed job where there is nothing left to inspect, as well as searching for substitute work that can be performed by the inspector in lieu of the planed inspection.

- c) Staff is proposing to reduce the fee for revising notifications regarding start dates, quantity and end dates. Originally this fee of \$62.92 was determined based on the amount of time SCAQMD office staff required to update paper notifications in the CLASS database. Presently, the information is entered by the notifier directly via the Rule 1403 Web App rather than SCAQMD office staff. Staff proposes that the fee be reduced to \$25, but not eliminated, so as to still account for Compliance staff time reviewing inspection plans affected by revisions to notifications, particularly for project dates. The revised column header simply specifies the typical instances (start date, quantity, and/or end date) where a Revision to Notification Fee would be charged.
- d) Staff is proposing to change language in Footnotes 2 and 3. Previously, Rule 1403 notifications were typically submitted via standard mail. With the implementation of the Rule 1403 Web App, the notifications are now received electronically and there is no postmark.

## **5. CHANGE OF OWNER/OPERATOR FEE CAP**

**Description of Proposed Amendment:** Currently, there is no fee cap for change of owner/operator fees for RECLAIM facilities listed in Table FEE RATE-C, although there are existing fee caps for Title V-only and non-RECLAIM/non-Title V facilities. This proposal will provide fee relief for larger RECLAIM facilities that apply for a change of owner/operator by adding a new fee cap.

Change of owner/operator is an administrative process that requires no engineering evaluation, but creates a new facility ID and new application numbers for every permit transferred to the new owner/operator. For RECLAIM facilities, the current fees associated with this administrative change can be as high as \$300,000 due to the absence of a fee cap. Recent improvements to internal procedures and automation/simplification of processing have made cost recovery possible with lower fees. The proposal is to add a cap of \$50,000 for RECLAIM (or RECLAIM/TV) facilities (which is equivalent to the per-permit fee for ~65 permits). There are currently 23 RECLAIM (or RECLAIM/TV) facilities anticipated to benefit from this proposed fee cap.

In addition, all references to “change of operator” will be replaced with “change of owner/operator” to clarify the applicability of this administrative change to both changes of owner and changes of operator permit applications. Currently, Rule 301 consistently refers to owner/operator in all instances except when referring to change of operator. These edits will add consistency and clarity and reflects current practice.

**Proposed  
Amended  
Rule(s):**

***Rule 301***

- (c) Fees for Permit Processing
  - (1) Permit Processing Fee
    - (A) Permit Processing Fee Applicability
    - ...
    - (iv) In the event a Permit to Construct expires under the provisions of Rule 205, and the applicable rules, regulations, and BACT for that particular piece of equipment have not been amended since the original evaluation was performed, the permit processing fee for a subsequent application for a similar equipment shall be the fee established in the Summary Permit Fee Rates - Change of Owner/Operator table according to the applicable schedule under the Change of Owner/Operator category, provided the subsequent application is submitted within one (1) year from the date of expiration of either the Permit to Construct, or an approved extension of the Permit to Construct.
    - ...
    - (G) Fees for Permit Processing for Certified Equipment Permits and Registration Permits
      - (i) ...
      - (ii) A permit processing fee equal to 50% of Schedule A Permit Processing Fee of Table FEE RATE-A shall be assessed to a person applying for a Change of Owner/Operator for a Certified Equipment Permit.
- (c) Fees for Permit Processing
  - (2) Fee for Change of Owner/Operator or Additional Operator
 

Under Rule 209 (Transfer and Voiding of Permits), a permit granted by the District is not transferable. Every applicant who files an application for a change of owner/operator or additional operator with the same operating conditions of a Permit to Operate shall be subject to a permit processing fee as follows:

    - (A) The permit processing fee shall be as established in Table FEE RATE-C for equipment at one location so long as the new owner/operator files an application for a Permit to Operate within one (1) year from the last renewal of a valid Permit to Operate and does not change the operation of the affected equipment. All fees billed from the date of application submittal that are associated with the facility for

equipment for which a Change of Owner/Operator or Additional Operator application is filed, and all facility-specific fees (such as “Hot Spots” fees), must be paid before the Change of Owner/Operator or Additional Operator application is accepted. If after an application is received and SCAQMD determines that fees are due, the new owner/operator shall pay such fees within 30 days of notification. If the fees are paid timely, the owner/operator will not be billed for any additional fees billed to the previous owner/operator.

- (B) If an application for change of owner/operator of a permit is not filed within one (1) year from the last annual renewal of the permit under the previous owner/operator, the new owner/operator shall submit an application for a new Permit to Operate, along with the permit processing fee as prescribed in subparagraph (c)(1)(A). A higher fee, as described in subparagraph (c)(1)(C), shall apply.

(c) Annual Operating Permit Renewal Fee

(7) Annual Renewal Date for Change of Owner/Operator

The same annual renewal date shall apply from one change of owner/operator to another.

(e) Annual Operating Emissions Fee

(1) Annual Operating Emission Fee Applicability

In addition to the annual operating permit renewal fee, the owner/operator of all equipment operating under permit shall pay an annual emissions fee based on the total weight of emissions of each of the contaminants specified in Table III from all equipment used by the owner/operator at all locations, including total weight of emissions of each of the contaminants specified in Table III resulting from all products which continue to passively emit air contaminants after they are manufactured, or processed by such equipment, with the exception of such product that is shipped or sold out of the District so long as the manufacturer submits records which will allow for the determination of emissions within the District from such products.

(f) Certified Permit Copies and Reissued Permits

A request for a certified permit copy shall be made in writing by the permittee after the destruction, loss, or defacement of a permit. A request for a permit to be reissued shall be made in writing by the permittee where there is a name or address change without a change of owner/operator or

location. The permittee shall, at the time a written request is submitted, pay the fees to cover the cost of the certified permit copy or reissued permit as follows:

- (j) Special Permit Processing Fees - California Environmental Quality Act (CEQA) Assistance, Air Quality Analysis, Health Risk Assessment, and Public Notice for Projects

...

- (5) Payment for Review of Continuous Emissions Monitoring System (CEMS), Fuel Sulfur Monitoring System (FSMS), and Alternative Continuous Emissions Monitoring System (ACEMS)

- (E) CEMS, FSMS, or ACEMS Change of Owner/Operator

Every applicant who files an application for a change of owner/operator of a RECLAIM or non-RECLAIM facility permit shall also file an application for a change of owner/operator of a CEMS, FSMS, or ACEMS, if applicable, and be subject to a processing fee equal to \$273.61 for the first CEMS, FSMS, or ACEMS, plus \$54.57 for each additional CEMS, FSMS, or ACEMS.

- (l) RECLAIM Facilities

- (1) For RECLAIM facilities, this subdivision specifies additional conditions and procedures for assessing the following fees:

- (A) Facility Permit;
- (B) Facility Permit Amendment;
- (C) Change of Operating Condition;
- (D) Change of Owner/Operator;

...

- (6) Fee for Change of Owner/Operator

The Permit Processing Fee for a Change of Owner/Operator of a RECLAIM facility permit shall be determined from Table FEE RATE-C. In addition, a Facility Permit Amendment fee as specified in paragraph (l)(4) shall be assessed. All fees, billed within the past 3 years from the date of application submittal that are, associated with the facility for equipment for which a Change of Owner/Operator or Additional Operator application is filed, and all facility-specific fees (such as “Hot Spots” fees), must be paid before a Change of Owner/Operator or Additional Operator application is accepted. If after an application is received and SCAQMD

determines that fees are due, the new owner/operator shall pay such fees within 30 days of notification. If the fees are paid timely the new owner/operator will not be billed for any additional fees billed to the previous owner/operator.

*(removed per other proposal)*

(11) *Reissued Permits*

*A request for a reissued Facility Permit shall be made in writing by the permittee where there is a name or address change without a change of owner/operator or location. The permittee shall, at the time the written request is submitted, pay a fee for the first page as follows:*

(n) All Facility Permit Holders

(5) Fee for Change of Owner/Operator

The Permit Processing Fee for a Change of Owner/Operator of a facility permit shall be determined from Table FEE RATE-C. In addition, an administrative permit revision fee, as specified in Table VII, shall be assessed. All fees billed within the past 3 years from the date of application submittal that are associated with the facility for equipment for which a Change of Owner/Operator or Additional Operator application is filed, and all facility specific fees (such as “Hot Spots” fees), must be paid before the Change of Owner/Operator or Additional Operator application is accepted. If, after an application is received, ~~and the~~ SCAQMD determines that additional fees are due, the new owner/operator shall pay such fees within 30 days of notification. If the fees are paid timely, the new owner/operator will not be billed for any additional fees billed to the previous owner/operator.

*(removed per other proposal)(8)Reissued Permits*

*A request for a reissued Facility Permit shall be made in writing by the permittee where there is a name or address change without a change of owner/operator or location. The permittee shall, at the time a written request is submitted, pay \$216.14 for the first page plus \$1.97 for each additional page in the Facility Permit.*

(t) All Facility Registration Holders

(5) Reissued Facility Registrations

A request for a reissued Facility Registration shall be made in writing by the permittee where there is a name or address change without a change of owner/operator or location, or for an administrative change in permit description or a change in permit conditions to reflect actual operating conditions, which do not require any engineering evaluation, and do not cause a change in emissions. The permittee shall, at the time a written request is submitted, pay \$216.14 for the first equipment listed in the Facility Registration plus \$1.97 for each additional equipment listed in the Facility Registration.

(u) Fees for Non-permitted Emission Sources Subject to Rule 222

(2) Change of Owner/Operator or Location

If the owner/operator or the location of an emission source subject to Rule 222 changes, the current owner/operator must file a new application for Rule 222 and pay to the District an initial non-refundable non-transferable filing and processing fee of \$209.98 for each emission source.

(ab) Defense of Permit

Within 10 days of receiving a complaint or other legal process initiating a challenge to the SCAQMD's issuance of a permit, the SCAQMD shall notify the applicant or permit holder in writing. The applicant or permit holder may, within 30 days of posting of the notice, request revocation of the permit or cancellation of the application. An applicant or permit holder not requesting revocation or cancellation within 30 days of receipt of notice from the District shall be responsible for reimbursement to the District for all reasonable and necessary costs to defend the issuance of a permit or permit provisions against a legal challenge, including attorney's fees and legal costs. The Executive Officer will invoice the applicant or permit holder for fees and legal costs at the conclusion of the legal challenge. The SCAQMD and the applicant or permit holder will negotiate an indemnity agreement within 30 days of the notice by SCAQMD to the ~~facility operator~~ applicant or permit holder. The agreement will include, among other things, attorneys' fees and legal costs. The Executive Officer or designee may execute an indemnity agreement only after receiving authorization from the Administrative Committee. The Executive Officer may in his discretion, waive all or any part of such costs upon a determination that payment for such costs would impose an unreasonable hardship upon the applicant or permit holder.



TABLE FEE RATE-C. SUMMARY OF PERMIT FEE RATES  
CHANGE OF OWNER/OPERATOR<sup>a</sup>

Facility Type	Non-Title V	Title V
Small Business	\$248.03	\$280.86 for FY 2018-19 and \$310.79 for FY 2019-20 and thereafter
Non-Small Business	\$681.14	\$771.30 for FY 2018-19 and \$853.53 for FY 2019-20 and thereafter

<sup>a</sup> Fees are for each permit unit application and apply to all facilities, including RECLAIM facilities. The change of owner/operator fee for Non-RECLAIM Title V facilities shall not exceed \$9,593.22 for FY 2018-19 and \$10,615.86 for FY 2019-20 and thereafter per facility and for all other Non-RECLAIM facilities shall not exceed \$16,943.43 per facility. The change of owner/operator fee ~~There is no limit to the change of operator fees~~ for RECLAIM facilities shall not exceed \$50,000.

(Note: changes to Table VII from other proposals not shown here)

TABLE VII  
FACILITY PERMIT FEES FOR FACILITIES THAT ARE  
RECLAIM ONLY, TITLE V ONLY, AND BOTH RECLAIM &  
TITLE V

Description	Rule section	FY 2018-19	FY 2019-20 and thereafter
Facility Permit Amendment/Revision Fee <ul style="list-style-type: none"> <li>RECLAIM Only</li> <li>Title V Only*</li> <li>RECLAIM &amp; Title V*</li> </ul> <p>* Includes administrative, minor, de minimis significant, or significant amendment/revision</p>	(l)(4) (m)(4)	\$1,170.63 \$1,325.61 \$2,496.24	\$1,170.63 \$1,466.92 \$2,637.55
Facility Permit Change of <u>Owner/Operator</u> <ul style="list-style-type: none"> <li>Facility Permit Amendment Fee</li> </ul> <p>Plus</p>	(c)(2), (l)(6), (m)(4), (n)(5)	<p><i>Facility Permit Amendment/Revision Fee (See Above) Plus</i></p>	

• Application Processing Fee for Each Application		<i>Processing Fees (See Table FEE RATE-C))</i>	
Title V Facility Permit Renewal Fee (Due at Filing)	(m)(5), (m)(9)	\$3,010.95	\$3,331.91
Plus		Plus	Plus
Hourly Rate for Calculation of Final Fee for Evaluation Time in Excess of 8 hours (Due upon Notification)		\$210.67 per hour	\$233.13 per hour

**Justification/  
Necessity/  
Equity:**

Recent implementation of streamlined procedures for processing change of owner/operator applications has made cost recovery possible at lower fees for RECLAIM facilities. This proposal will prevent the charging of excessive fees for changes of owner/operator at large facilities. The edits to replace “change of operator” with “change of owner/operator” will add consistency and clarity to the rule. There are currently 52 instances in Rule 301 of the term “owner/operator”, and consistently using the term per the proposed changes will not change the way these actions have been historically treated. Implementing a cap of \$50,000 for a RECLAIM facility’s change of owner/operator fee will avoid undue burden on large facilities while still allowing cost recovery.

## **6. ALIGNING INSPECTION FEE RATES IN RULE 306 AND 309**

**Description of Proposed Amendment:** This amendment corrects fee amounts Rule 309. The 3% fee increase authorized in 2014 was inadvertently not applied and that failure created a confusing discrepancy with Rule 306. The fees in Rule 306 and 309 have typically been aligned because the services provided are similar.

**Proposed Amended Rule(s):**

***Rule 309***

(c) Fee Assessments

(1) Rule 1610 Scrapping Plans shall be assessed a filing and evaluation fee of \$1,936.38. The fee shall be paid at the time of plan submittal.

(2) Regulation XVI and Regulation XXV Plans as defined in paragraph (b)(2), except Scrapping Plans, shall be assessed a filing fee of ~~\$146.86~~\$155.80 and an evaluation fee of ~~489.61~~\$545.27 at the time of submittal.

(d) Inspection Fee

The inspection fee for Rule 1610 Scrapping Plan verification shall be an amount equal to the total actual and reasonable time incurred by the District for inspection and verification of the plan, assessed at the hourly rate of ~~\$117.42~~\$124.58 per inspection staff or prorated portion thereof. For

inspections conducted outside of regular District working hours, the fee shall be assessed at a rate of 150% of the above hourly rate.

**Justification/  
Necessity/  
Equity:**

In 2006, the filing fees (then \$104.43) and inspection (\$83.50 per staff-hour) in Rule 309(c)(2) and (d) were aligned with the filing and inspection fees in Rule 306. This alignment of fees recognized the equivalent amount of resource expenditure for these services whether conducted pursuant to Rule 306 or Rule 309. The filing and inspection fees remained the same for both rules until June 6, 2014. For FY 2014-15 most Regulation III fees including Rule 309 were increased by the Consumer Price Index (CPI) rate of 1.6%. In addition, permit and plan fees were increased by a further 3% resulting in a cumulative 4.64% increase. Even though the fee assessments and inspection fees in Rule 309 reference Regulation XVI and XXV Plans and Rule 1610 Scrapping Plans, respectively, these fees were inadvertently only increased by the 1.6% increase in the CPI and were not given the additional 3% fee increase for plan fees.

The actual amount of resources expended for Rule 1610 implementation is equivalent to similar types of fees already in Rule 306. Although the majority of the Reg. XVI and XXV rules are either credit or investment based, they do require plans and, as such, should have also received the additional 3% increase. This increase, is in line with the 3% increase in Rule 306 fees and correctly recovers the cost associated with Rule 1610 plan filings, evaluations and inspections.

The proposed filing, evaluation, and inspections fees for plans submitted for Reg. XVI and XXV are necessary to recover the cost of staff resources expended in implementation of these plans, which require similar time, personnel, and materials associated with other plans typically assessed per Rule 306. Reg. XVI and XXV plans are subject to similar plan verification procedures as other plans assessed per Rule 306, and therefore, it is equitable for Reg. XVI and XXV plan holders to pay the proposed fees. Furthermore, these fees are equitable since they are paid by the entities to which the service is provided.

## **7. CLEAN AIR SOLVENT CERTIFICATION FEES**

**Description  
of Proposed  
Amendment:**

The Clean Air Solvents (CAS) and Clean Air Choices Cleaners (CACC) Certifications are voluntary programs that issue certificates to clean air solvents and cleaners. Manufacturers can apply for CAS certification, which is valid for five years and can be renewed upon approval by the SCAQMD. Similarly, manufacturers can apply for CACC certification, which is valid for three years and can be renewed upon approval by the SCAQMD. Current Rule 301 (r) and (s) provide a flat fee covering the laboratory analysis of

product samples submitted for testing for certification, but these sections do not provide a fee for certificate renewal.

**Proposed  
Amended  
Rule(s):**

***Rule 301***

(r) Fees for Certification of Clean Air Solvents

At the time of filing for a Clean Air Solvent certificate, the applicant shall submit a fee of \$1,503.77 for each product to be tested. Additional fees will be assessed at the rate of \$135.77 per hour for time spent on the analysis/certification process in excess of 12 hours. Adjustments, including refunds or additional billings, shall be made to the submitted fee as necessary. A Clean Air Solvent Certificate shall be valid for five (5) years from the date of issuance and shall be renewed upon the determination of the Executive Officer that the product(s) containing a Clean Air Solvent continue(s) to meet Clean Air Solvent criteria, and has not been reformulated. The renewal fee shall be \$135.77 per certificate.

(s) Fees for Certification of Consumer Cleaning Products Used at Institutional and Commercial Facilities

At the time of filing for certification of any Consumer Cleaning Products Used at Institutional and Commercial Facilities, the applicant shall submit a fee of \$1,503.77 for each product to be tested, plus an additional fee of \$300 for quantification of total nitrogen, total phosphorous, and trace metals by a contracting laboratory. Additional fees will be assessed at the rate of \$135.77 per hour for time spent on the analysis/certification process in excess of 12 hours. Adjustments, including refunds or additional billings, shall be made to the submitted fee as necessary. A Consumer Cleaning Products Used at Institutional and Commercial Facilities Certificate shall be valid for three (3) years from the date of issuance and shall be renewed upon the determination of the Executive Officer that the product(s) certified as a Consumer Cleaning Products Used at Institutional and Commercial Facilities continue(s) to meet Consumer Cleaning Products Used at Institutional and Commercial Facilities criteria, and has not been reformulated. The renewal fee shall be \$135.77 per certificate.

**Justification/  
Necessity/**

This amendment is necessary in order to specify costs associated with CAS and CACC certificate renewal. The protocol for issuing a CAS or CACC certification includes laboratory analysis of submitted products for testing,

**Equity:** and if the product is approved as a CAS or CACC, an issuance of the certificate.

The current fee for the certifications is \$1,503.77 per sample, plus an additional fee of \$300 for additional analysis required for CACC certification, with time spent on the analysis/certification process in excess of 12 hours assessed at the current CPI-adjusted hourly rate of \$135.77 per hour. The flat fee covers costs for the laboratory staff's analysis and review of the submitted sample, but it does not include cost of the certificate. Certificate renewal involves approximately an hour to review the product and subsequently issue a renewed certificate. In keeping with the current fee mechanism laid out for these certifications, the \$135.77 per hour rate would address the cost for time spent to issue a renewed certificate.

This proposed fee is for voluntary certification programs and is not being imposed on any payor. Participation in these programs is not a result of any SCAQMD rule requirements. The fee is not part of SCAQMD's Permitted Source Program. The VOC content of the product is performed by the SCAQMD laboratory pursuant to SCAQMD Method 313.

The proposed fee for a CAS/CACC certificate renewal is necessary because it covers the reasonable cost of services provided, and it is a customary fee charged for the time and material to issue a certificate renewal. The proposed fee is equitable because it is paid by the person requesting services to certify a product for a voluntary certification program.

**8. UPDATE AIR TOXIC CONTAMINANT (TAC) FEES TO RECOVER TAC-RELATED REPORTING, AUDITING, MONITORING AND INVESTIGATION COSTS ASSOCIATED WITH CURRENT AND UPCOMING DISTRICT TOXICS WORK, INCLUDING RECENTLY ADOPTED AB 617, AND CLARIFY OUTDATED AND REDUNDANT RULE LANGUAGE**

**Description  
of Proposed  
Amendment:**

Staff is proposing to update both the fee structure and the fee level for toxic emissions fees paid for by permitted facilities. The current requirements in Rule 301(e)(7) and fee rates in Table IV would be replaced as follows:

- Any facility that emits Toxic Air Contaminants (TACs) above reporting thresholds in Table IV would pay a new Base Toxics Fee of \$78.03 per facility.
- A new Flat Rate Device Fee of \$341.89 for each piece of permitted and unpermitted equipment that emits any toxic air contaminant above reporting thresholds in Table IV.
- A new Cancer Potency-Weighted Fee of \$10 for each cancer-potency weighted pound of emissions

Three pollutants currently listed in Table IV would not be subject to the above fees, including ammonia and the ozone depleters, chlorfluorocarbons, and 1,1,1 trichloroethane. The fees for the pollutants would not change (other than regular CPI adjustments), and their fee rates would be moved to Table III. Finally, Diesel Particulate Matter (DPM) would be added as a pollutant that must be reported and for which fees would be paid. Speciated toxics emissions (e.g., benzene) from diesel-fueled internal combustion engines would still be reported along with DPM, but fees would not be paid for those speciated emissions.

In addition, some language within Rule 301(e) is unclear, outdated, or redundant. Rule language is proposed to be clarified to remove outdated and redundant language, and to ensure that existing rule provisions are consistent with the proposed new toxics fees.

**Proposed  
Amended  
Rule(s):**

***Rule 301***

**(e) Annual Operating Emissions Fees**

**(1) Annual Operating Emission Fee Applicability**

In addition to the annual operating permit renewal fee, the owner/operator of all equipment operating under permit shall pay ~~an annual emissions fees based on~~ if any of the criteria in subparagraphs (e)(1)(A) through (e)(1)(C) are met.

(A) The owner/operator of a facility operates equipment under at least one permit.

(B) The total weight of emissions at a facility are greater than or equal to the thresholds for ~~of~~ each of the contaminants specified in Table III paragraph (e)(5) from all equipment used by the owner/operator at all locations, including ~~The total weight of emissions of each of the contaminants specified in Table III paragraph (e)(5) includes:~~

(i) Emissions from permitted equipment

(ii) Emissions resulting from all products which continue to passively emit air contaminants after they are manufactured, or processed by such equipment, with the exception of such product that

is shipped or sold out of the District so long as the manufacturer submits records which will allow for the determination of emissions within the District from such products.

(iii) Emissions from equipment or processes not requiring a written permit pursuant to Regulation II.

(A)(C) The owner/operator of a facility is required to report emissions pursuant to CARB's Criteria and Toxics Reporting Regulation (17 California Code of Regulations section 93400 et seq.) or pursuant to CARB's AB 2588 Air Toxics "Hot Spots" Emission Inventory Criteria and Guidelines Regulation (17 California Code of Regulations section 93300.5).

(2) Emissions Reporting and Fee Calculation

~~For the reporting period July 1, 2000 to June 30, 2001, and all preceding reporting periods, emissions from equipment not requiring a written permit pursuant to Regulation II shall be reported but not incur a fee for emissions so long as the owner/operator keeps separate records which allow the determination of emissions from such non-permitted equipment. Notwithstanding the above paragraph, for the purposes of Rule 317 Clean Air Act Non-Attainment Fees, all~~ All major stationary sources of NOx and VOC, as defined in Rule 317, shall annually report and pay the appropriate clean air act non-attainment fees for all actual source emissions including but not limited to permitted, unpermitted, unregulated and fugitive emissions. ~~Beginning with the reporting period of July 1, 2001 to June 30, 2002, and for subsequent reporting periods, e~~ Each facility subject to subparagraph (e)(1)(B) with total emissions including emissions from equipment or processes not requiring a written permit pursuant to Regulation II greater than or equal to the threshold amount of contaminants listed in paragraph (e)(5)

shall annually report all emissions and incur an emissions fee as prescribed in Table III.

Non-permitted emissions which are not regulated by the District shall not be reported and shall be excluded from emission fees if the facility provides a demonstration that the emissions are not regulated and maintains sufficient records to allow the accurate demonstration of such non-regulated emissions.

(3) Exception for the Use of Clean Air Solvents

An owner/operator shall not pay a fee for emissions from the use of Clean Air Solvents issued a valid Certificate from the District so long as the facility submits separate records which allow the determination of annual emissions, usage, and identification of such products. A copy of the Clean Air Solvent certificate issued to the manufacturer or distributor shall be submitted with the separate records.

(4) Flat Annual Operating Emission Fee

The owner/operator of all equipment subject to paragraph (e)(1)(A) operating under at least one permit (not including certifications, registrations or plans) shall each year be assessed a flat annual emissions fee of ~~\$131.79~~136.40.

(5) Emission Fee Thresholds

~~Each facility with emissions greater than or equal to the threshold amount of the contaminant listed below shall be assessed a fee as prescribed in Table III.~~

Air Contaminant(s)	Annual Emissions Threshold ( <del>TPY</del> )
Gaseous sulfur compounds (expressed as sulfur dioxide)	≥4 TPY
Total organic gases (excluding methane, exempt compounds as specified in paragraph (e)(13), and specific	≥4 TPY



organic gases as specified in paragraph (b)(28))	
Specific organic gases	≥4 TPY
Oxides of nitrogen (expressed as nitrogen oxide)	≥4 TPY
Total particulate matter	≥4 TPY
Carbon monoxide	≥100 TPY
<u>Ammonia</u>	<u>0.1 TPY</u>
<u>Chlorfluorocarbons</u>	<u>1 lb per year</u>
<u>1,1,1 Trichloroethane</u>	<u>1 lb per year</u>

(6) Clean Fuels Fee Thresholds

Each facility emitting 250 tons or more per year ( $\geq 250$  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).

(7) Fees for Toxic Air Contaminants or Ozone Depleters

Each facility subject to subparagraph (e)(1)(B) or (C) emitting a toxic air contaminant ~~or ozone depleter~~ greater than or equal to the annual thresholds listed in Table IV shall be assessed ~~an~~ annual emissions fees as indicated in subparagraphs (e)(7)(A), therein. The annual emissions fees for toxic air contaminants ~~and ozone depleters~~ shall be based on the total weight of emissions of these contaminants associated with all equipment and processes including, but not limited to, material usage, handling, processing, loading/unloading; combustion byproducts, and fugitives (equipment/component leaks).

- (A) Any facility that emits any toxic air contaminant greater than the thresholds listed in Table IV shall pay the following fees:
- (i) A Base Toxics Fee of \$78.03;
  - (ii) A Flat Rate Toxics Fee of \$341.89 for each piece of permitted and unpermitted equipment and every other reportable toxic air contaminant activity with emissions of any pollutant above the annual thresholds listed in Table IV;
  - (iii) A Cancer-Potency Weighted Fee of \$10 per cancer-potency weighted pound of facility-wide emissions for each pollutant listed in Table IV. The cancer-potency weighted emissions of each toxic air contaminant listed in Table IV shall be calculated as follows:

$$\text{CPWE} = \text{TAC} \times \text{CPF} \times \text{MPF}$$

Where:

CPWE = Cancer Potency Weighted Emissions

TAC = Emissions (pounds) of a Table IV toxic air contaminant

CPF = Cancer Potency Factor for the reported toxic air contaminant

MPF = Multi-Pathway Factor for the reported toxic air contaminant

The CPF and MPF shall be equal to those specified in the Rule 1401 Risk Assessment Procedures that were current at the time that the emissions were required to be reported.

- (B) The following facilities are exempt from paying specified toxics emissions fees:
- (i) Any dry cleaning facility that emits less than two (2) tons per year of

perchloroethylene, and qualifies as a small business as defined in the general definition of Rule 102 shall be exempt from paying any fees listed in subparagraph (e)(7)(A).~~shall be exempt from fees listed in Table IV. This provision shall be retroactive to include the July 10, 1992, rule amendment which included perchloroethylene in Table IV.~~

(ii) Any facility that emits less than two (2) tons per year, of formaldehyde, perchloroethylene, or methylene chloride, may petition the Executive Officer, at least thirty (30) days prior to the official submittal date of the annual emissions report as specified in paragraph (e)(10), for exemption from fees for formaldehyde, perchloroethylene, or methylene chloride fees as- required in subparagraph (e)(7)(A)~~listed in Table IV.~~ Exemption from emissions fees shall be granted if the facility demonstrates that no alternatives to the use of these substances exist, no control technologies exist, and that the facility qualifies as a small business as defined in the general definition of Rule 102.

~~(ii)~~(iii) Any facility that is located more than one mile from a residential or other sensitive receptor shall be exempt from paying fees in clauses (e)(7)(A)(ii) and (iii).

(8) Reporting of Total Emissions from Preceding Reporting Period and Unreported or Under-reported Emissions from Prior Reporting Periods

(A) The owner/operator of equipment subject to paragraph ~~(e)(1), (e)(2), (e)(5), (e)(6), and (e)(7)~~ shall report to

the Executive Officer the total emissions for the immediate preceding reporting period of each of the air contaminants ~~concerned~~ listed in Table III and Table IV from all equipment. The report shall be made at the time and in the manner prescribed by the Executive Officer. The permit holder shall report the total emissions for the twelve (12) month period reporting for each air contaminant concerned from all equipment or processes, regardless of the quantities emitted.

- (B) The Executive Officer will determine default emission factors applicable to each piece of permitted equipment or group of permitted equipment, and make them available to the owner/operator in a manner specified by the Executive Officer and provide them to the owner/operator upon request. In determining emission factors, the Executive Officer will use the best available data. A facility owner/operator can provide alternative emission factors that more accurately represent actual facility operations subject to the approval of the Executive Officer.
  - (C) A facility owner/operator shall report to the Executive Officer, in the same manner, and quantify any emissions of air contaminants in previous reporting periods which had not been reported correctly and should have been reported under the requirements in effect in the reporting period in which the emissions occurred.
- (9) Request to Amend Emissions Report and Refund of Emission Fees
- (A) A facility owner/operator shall submit a written request (referred to as an “Amendment Request”) for any proposed revisions to previously submitted annual emissions reports. Amendment requests with no fee impact, submitted after one (1) year and seventy five (75) days from the official due date of the subject annual emissions report shall include a non-refundable

standard evaluation fee of ~~\$343.96~~\$355.99 for each subject facility and reporting period. Evaluation time beyond two hours shall be assessed at the rate of ~~\$172.04~~\$178.03 per hour and shall not exceed ten (10) hours. Amendment requests received within one year (1) and seventy five (75) days from the official due date of a previously submitted annual emissions report shall not incur any such evaluation fees. The Amendment Request shall include all supporting documentation and copies of revised applicable forms.

- (B) A facility owner/operator shall submit a written request (referred to as a “Refund Request”) to correct the previously submitted annual emissions reports and request a refund of overpaid emission fees. Refund Requests must be submitted within one (1) year and seventy five (75) days from the official due date of the subject annual emissions report to be considered valid. The Refund Request shall include all supporting documentation and copies of revised applicable forms. If the Refund Request is submitted within one (1) year and seventy five (75) days from the official due date of the subject annual emissions report, and results in no fee impact, then the facility owner/operator shall be billed for the evaluation fee pursuant to subparagraph (e)(9)(A).

(10) Notice to Pay and Late Filing Surcharge

- (A) ~~A~~The facility owner/operator shall submit an annual emissions report if a notice to report emissions and pay the any associated emission fees will be sent by mail, mailed—electronic mail, or other electronic means, annually to the owners/operators of all equipment (as shown in District records) ~~to~~for which this subdivision applies. A notice to pay the semi-annual fee specified in paragraph (e)(11) will also be ~~mailed—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)(11)(A). Emissions reports and fee ~~payments~~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 emissions report are not received by the seventy-fifth (75<sup>th</sup>) day following July 1 (for semi-annual reports), or January 1 (for annual reports), they shall be considered late, and surcharges for late payment shall be imposed as set forth in subparagraph (e)(10)(B). For the purpose of 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 (75<sup>th</sup>) day following the official due date. If the seventy-fifth (75<sup>th</sup>) 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 (75<sup>th</sup>) 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:

Less than 30 days	5% of reported amount
30 to 90 days	15% of reported amount
91 days to 1 year	25% of reported amount

More than 1 year	(See subparagraph (e)(10)(D))
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- (C) If an emission fee is timely paid, and if, within one year after the seventy-fifth (75<sup>th</sup>) day from the official due date 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, fee rates and surcharges will be assessed based on subparagraph (e)(10)(D).
- (D) The fees due and payable for the emissions reported or reportable pursuant to subparagraph (e)(8)(C) shall be assessed according to the fee rate for that contaminant specified in Tables III, IV, and V, and further increased by fifty percent (50%). The fee rate to be applied shall be the fee rate in effect for the year in which the emissions are actually reported, and not the fee rate in effect for the year the emissions actually occurred.
- (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. If the underpayment is paid within one year

after the seventy-fifth (75<sup>th</sup>) 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 (75<sup>th</sup>) 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.

~~(E)~~(F) If one hundred twenty (120) days have elapsed since January 1st, July 1st, or as applicable, and all emission fees including any surcharge have not been paid in full, the Executive Officer may take action to revoke all Permits to Operate for equipment on the premises, as authorized in Health and Safety Code Section 42307.

(11) Semi-Annual Emissions Fee Payment

(A) For facilities emitting the threshold amount of any contaminant listed below, the Executive Officer will estimate one half (1/2) of the previous annual emission fees and request that the permit holder pay such an amount as the first installment on annual emission fees for the current reporting period.

Air contaminant(s)	Annual emissions threshold (TPY)
Gaseous sulfur compounds (expressed as sulfur dioxide)	≥10 TPY
Total organic gases (excluding methane <u>and</u> exempt compounds as <u>specified</u> <del>defined</del> in <del>paragraph (e)(13)</del> <u>Rule 102</u> , and specific organic gases as specified in <del>paragraph subdivision (b)(28)</del> )	≥10 TPY



Specific organic gases <u>as</u> <u>specified in subdivision (b)</u>	≥10 TPY
Oxides of nitrogen (expressed as nitrogen dioxide)	≥10 TPY
Total particulate matter	≥10 TPY
	≥100 TPY

- (B) In lieu of payment of one half the estimated annual emission fees, the owner/operator may choose to report and pay on actual emissions for the first six months (January 1 through June 30). By January 1 of the year following the reporting period, the permit holder shall submit a final Annual Emission Report together with the payment of the balance; the annual emission fees less the installment previously paid. The report shall contain an itemization of emissions for the preceding twelve (12) months of the reporting period (January 1 through December 31).
- (C) An installment fee payment ~~is~~ shall be considered late ~~and is subject to a surcharge~~ if not received by the District, or postmarked, on or before the within seventy five (75) days seventy-fifth (75<sup>th</sup>) day following July 1 of the current reporting period of the due date and shall be subject to a surcharge pursuant to subparagraph (e)(10)(B).

(12) Fee Payment Subject to Validation

Acceptance of a fee payment does not constitute validation of the emission data.

(13) Exempt Compounds

Emissions of acetone, ethane, methyl acetate, parachlorobenzotrifluoride (PCBTF), and volatile methylated siloxanes (VMS), shall not be subject to the requirements of Rule 301(e).

(14) Reporting Emissions and Paying Fees

For the reporting period of January 1 through December 31, emission fees shall be determined in accordance with fee rates specified in Tables III, ~~IV~~ and V, and paragraphs (e)(2) and (e)(7). Installment fees that have been paid for Semi-Annual Emission Fees shall not be subject to this provision.

(15) Deadline for Filing Annual Emissions Report and Fee Payment

Notwithstanding any other applicable Rule 301(e) provisions regarding the annual emissions report and emission fees, for the reporting period January 1 through December 31, the fee payment and the completed annual emissions report shall ~~be received by the District, or delivered,~~ postmarked, or electronically paid on or before the seventy-fifth (75<sup>th</sup>) day following January 1 of the subsequent year to avoid any late payment surcharges specified in subparagraph (e)(10)(B).

(16) Reporting GHG Emissions and Paying Fees

A facility that is subject to the California Air Resources Board (CARB)'s mandatory reporting of Greenhouse Gas (GHG) emissions may request District staff to review and verify the facility's GHG emissions. The fee for review and verification for each GHG emissions report shall consist of an initial submittal fee of ~~\$135.77~~145.43 in addition to a verification fee assessed at ~~\$140.52~~145.43 per hour or prorated portion thereof.

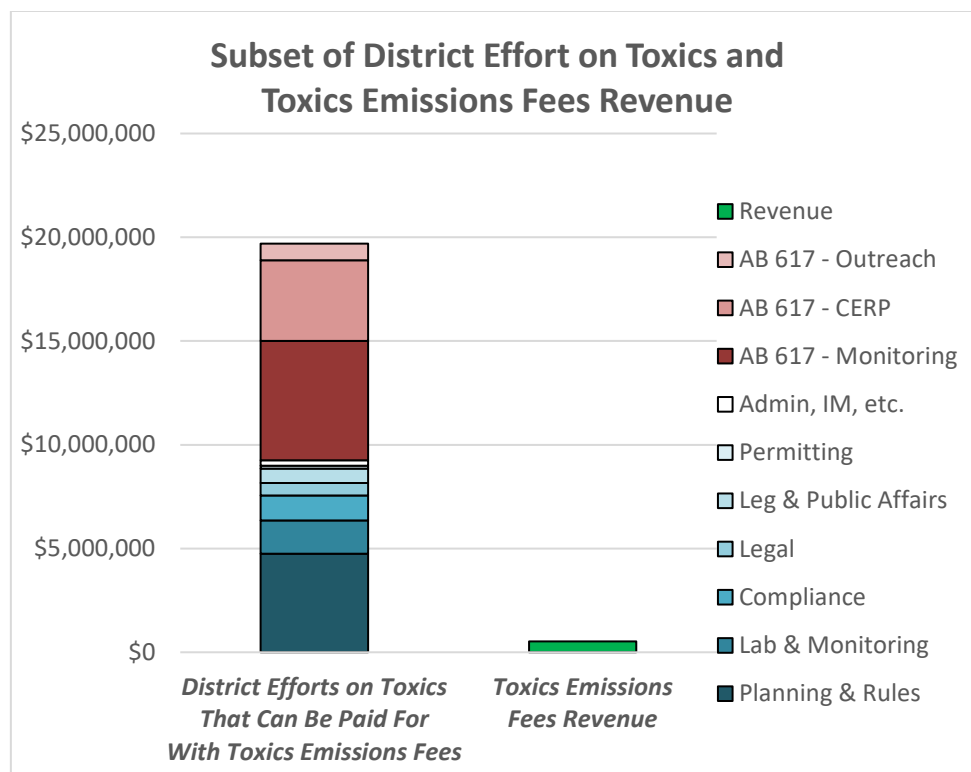
**Justification/  
Necessity/  
Equity:**

Toxic emissions fees are one component of total emissions fees that are paid annually by facilities subject to Rule 301(e). Consistent with Health and Safety Code 40522, emissions fees are used to pay for planning, monitoring, and enforcement functions of the District. In 2018, the District budgeted approximately \$19.5 million in emissions fee revenue, of which about \$0.5 million was collected specifically for emissions of toxic air contaminants.

In recent years, SCAQMD's efforts have substantially increased on monitoring, rulemaking, and enforcement of rules for toxic air contaminants. Some notable examples include: the Community Air Toxics Initiative and hexavalent chromium monitoring in the cities of Paramount and Compton, the work on fugitive toxic metal emissions from other facilities such as Exide and others in the metal-working industry, fugitive hydrocarbon emissions from oil production and refining facilities, and significant new work just getting under way with the implementation of AB 617<sup>7</sup>. Much of this work has come about due to the emerging science and understanding of fugitive emissions, as well as recent updates to state risk assessment guidance that has found a nearly three-fold increase of cancer risk compared to previous estimates. As a result of these efforts, the amount of time staff spends monitoring, inspecting, and auditing facilities' TAC emission inventories has substantially increased. Because of this recent increased workload and its expected continuation into the future, staff estimated the amount of work the District is currently conducting for which toxics emissions can be used (see chart below). There is additional work that the District conducts on toxic air contaminants that is not reflected in this analysis (e.g., AB 2588 Toxic Hot Spots, mobile source toxics, etc.).

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<sup>7</sup> AB 617 work includes monitoring, enforcement, development of Community Emission Reduction Plans (CERPs), and rulemaking on stationary sources of toxics emissions. ([www.aqmd.gov/ab617](http://www.aqmd.gov/ab617))



The District utilizes some one-time revenues to fund some of these efforts, including revenues from penalties, grants, or allocations from the legislature. In particular, the District has received two one-time allocations totaling about \$31 million to implement AB 617. While the District will continue to pursue these revenue streams, there is no guarantee that the legislature will continue to provide this level of funding.<sup>8</sup>

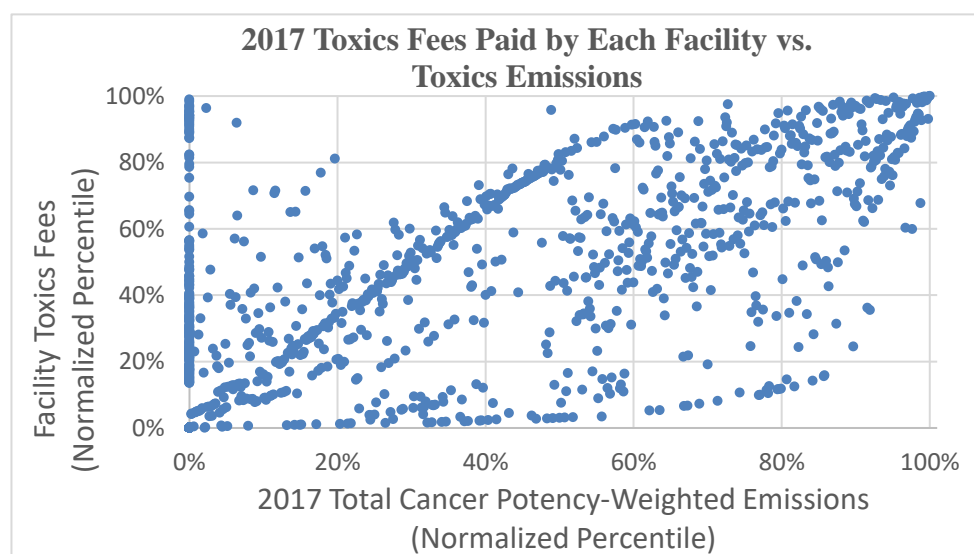
There are two key drivers when considering how District resources are spent to conduct work on toxics emissions. First, facilities with high toxicity-weighted emissions require greater effort due to the potential public health impacts<sup>9</sup>. While high toxicity-weighted emissions do not equate to high health risk due to factors such as how pollutants disperse from a facility and the distance to nearby receptors, overall more resources are spent to monitor, enforce, and conduct planning work such as inventorying, auditing, and rulemaking on facilities with higher toxicity-weighted emissions. Further,

<sup>8</sup> Note that Section 9 of the authorizing bill for AB 617 states: “No reimbursement is required by this act ... because a local agency ... has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act...”

<sup>9</sup> Due to health risk assessment methodologies, cancer-causing pollutants are the most common risk driver and a much higher focus of District efforts compared to non-cancer causing toxic pollutants.

because of DPM's high cancer potency, its prevalence throughout the basin as indicated in District's MATES studies<sup>10</sup>, and the subsequent amount of District resources spent on this pollutant, staff is proposing to add DPM as a toxic air contaminant that must be reported and for which fees must be paid.

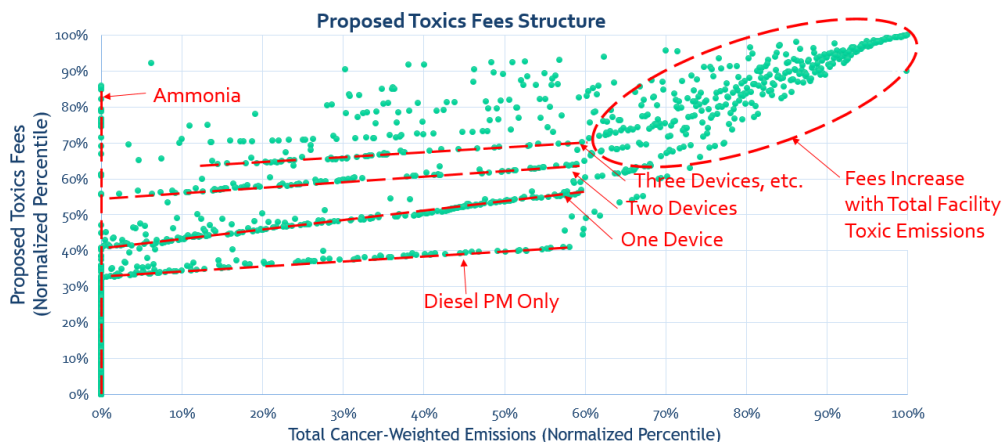
Second, overall staff spends more time working on facilities with more emissions sources (e.g., permitted devices) with toxics emissions than facilities with the same level of toxic emissions but less emissions sources. Despite these two drivers between District workload and toxic emissions, the current fee schedule in Table IV does not result in higher fees collected from facilities with higher toxicity of emissions or with more emission sources (see chart below).



In order to address this disparity, staff is proposing to change the structure of how facilities pay air toxics fees as indicated the previous section. The result of this change in structure provides toxics fee revenues that are more closely connected to current District workload.

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<sup>10</sup> Multiple Air Toxics Exposure Studies  
<http://www.aqmd.gov/home/air-quality/air-quality-studies/health-studies>



In order to address the work that the District has recently been engaging in, and anticipates to continue in the future, the following fee levels are proposed.

- A new Base Toxics Fee of \$78.03 to cover the basic annual software needs (\$50,000 annually) and minimal staffing needed (0.1 FTE) to ensure that facilities can readily report emissions to the District. This fee would apply to any permitted facility that reports any toxic air contaminant above existing reporting thresholds<sup>11</sup> in Table IV.
- A new Flat Rate Device Fee of \$341.89 per emission source at a permitted facility that emits a toxic air contaminant above reporting thresholds in Table IV. These fees would be equal to the District resources needed to run the entire toxics inventory program, including inventorying, auditing, and coordination with CARB and EPA for whom the data must be reported to. This includes approximately 5.5 FTE.
- A new Cancer-Potency Weighted Fee of \$10 per cancer-potency weighted pound of emissions above reporting thresholds in Table IV. This additional fee would address the additional monitoring, enforcement, and rulemaking conducted at permitted facilities to address stationary source toxics work described above. Monitoring supports enforcement work by helping to investigate and identify emissions sources in communities. Similarly, District rulemaking

<sup>11</sup> New thresholds are added for DPM and the carcinogenic species of dioxins, furans, and PAH's. The threshold for DPM is derived from AB2588 Quadrennial Reporting Guidance, which is consistent with all other Table IV pollutants. The species for dioxins, furans, and PAH's were added to reduce the fee burden if facilities have more specific information that indicates that their total cancer-potency weighted emissions are lower than if emissions were reported at the unspecialized level.

includes significant work inspecting and auditing facilities emissions to understand how public health can be impacted, which in turn also supports and informs the District's enforcement efforts.

These newly proposed fees are expected to have the following effect.

Fee	New Revenue
Base Toxics Fee	\$0.1 million
Flat Rate Device Fee	\$1.4 million
Cancer-Potency Weighted Fee	\$3.4 million
Total Toxics Fees	\$4.9 million

This fee increase represents approximately a 22% increase in anticipated emissions fees. Staff is proposing to begin the new fee structure and rates beginning January 1, 2021, and it would be phased in over a two year period (50% each year). Because of the fluctuating nature of toxics work every year, staff anticipates revisiting this fee and District workload in future years and will propose rebalancing this fee up or down as necessary.

A sample equation below shows how the fee would be calculated for a facility with one pound of hexavalent chromium emissions split equally between two permitted devices. A table with cancer potency factors, multi-pathway factors, and reporting thresholds is included at the end.

- Base Toxics Fee = \$78.03 because 1 lb. Cr VI is >0.00001 threshold
- Flat Rate Device Fee = \$683.78 = \$341.89 x 2 devices (each with Cr VI emissions above threshold)
- Cancer-Potency Weighted Fee  
 = CPF x MPF x Emissions (pounds) x \$10  
 = 510 x 1.6 x 1 x \$10 = \$8,160.00
- Total toxics Fees = \$8,921.81 = \$78.03 + \$683.78 + \$8,160.00

Chemical Abstract #	TOXIC COMPOUNDS	Annual Emission Thresholds (lbs)	CPF	MPF
1332214	Asbestos	0.0001	220	1
71432	Benzene	2	0.1	1
7440439	Cadmium	0.01	15	1

56235	Carbon tetrachloride	1	0.15	1
106934	Ethylene dibromide	0.5	0.25	1
107062	Ethylene dichloride	2	0.072	1
75218	Ethylene oxide	0.5	0.31	1
50000	Formaldehyde	5	0.021	1
18540299	Hexavalent chromium	0.0001	510	1.6
75092	Methylene chloride	50	0.0035	1
7440020	Nickel	0.1	0.91	1
127184	Perchloroethylene	5	0.021	1
106990	1,3-Butadiene	0.1	0.6	1
7440382	Inorganic arsenic	0.01	12	9.7
7440417	Beryllium	0.001	8.4	1
75014	Vinyl chloride	0.5	0.27	1
7439921	Lead	0.5	0.042	11.4
123911	1,4-Dioxane	5	0.027	1
79016	Trichloroethylene	20	0.007	1
1080	DiBenFurans(Cl), without individual isomers reported	0.000001	130000	18.2
1086	Chlorinated dioxins, without individual isomers reported	0.000001	130000	25.7
1746016	2,3,7,8-TCDD	0.000001	130000	25.7
3268879	1-8OctaCDD	0.000001	39	25.7
19408743	1-3,7-9HxCDD	0.000001	13000	25.7
35822469	1-4,6-8HpCDD	0.000001	1300	25.7
39227286	1-4,7,8HxCDD	0.000001	13000	25.7
40321764	1-3,7,8PeCDD	0.000001	130000	25.7
57653857	1-3,6-8HxCDD	0.000001	13000	25.7
39001020	1-8OctaCDF	0.000001	39	18.2
51207319	2,3,7,8-TCDF	0.000001	13000	18.2
55673897	1-4,7-9HpCDF	0.000001	1300	18.2
57117314	2-4,7,8PeCDF	0.000001	39000	18.2
57117416	1-3,7,8PeCDF	0.000001	3900	18.2
57117449	1-3,6-8HxCDF	0.000001	13000	18.2
60851345	2-4,6-8HxCDF	0.000001	13000	18.2
67562394	1-4,6-8HpCDF	0.000001	1300	18.2
70648269	1-4,7,8HxCDF	0.000001	13000	18.2
72918219	1-3,7-9HxCDF	0.000001	13000	18.2
1151	Polynuclear aromatic hydrocarbons, PAHs (without individual isomers reported)	0.2	3.9	23.1
50328	Benzo[a]pyrene [PAH, POM]	0.2	3.9	23.1
53703	Dibenz[a,h]anthracene [PAH, POM]	0.2	4.1	8.0
56553	Benz[a]anthracene [PAH, POM]	0.2	0.39	23.1



91203	Naphthalene [PAH, POM]	0.2	0.12	1
189559	Dibenzo[a,i]pyrene [PAH, POM]	0.2	39	23.1
189640	Dibenzo[a,h]pyrene [PAH, POM]	0.2	39	23.1
191300	Dibenzo[a,l]pyrene [PAH, POM]	0.2	39	23.1
192654	Dibenzo[a,e]pyrene [PAH, POM]	0.2	3.9	23.1
193395	Indeno[1,2,3-cd]pyrene [PAH, POM]	0.2	0.39	23.1
205823	Benzo[j]fluoranthene [PAH, POM]	0.2	0.39	23.1
205992	Benzo[b]fluoranthene [PAH, POM]	0.2	0.39	23.1
207089	Benzo[k]fluoranthene [PAH, POM]	0.2	0.39	23.1
218019	Chrysene [PAH, POM]	0.2	0.039	23.1
9901	Diesel Particulate Matter	0.1	1.1	1

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

The proposed rule amendments in this section do not result in increased fees. Rather, these amendments generally include administrative changes such as clarifications, deletions, re-numbering, and corrections to existing rule language.

In addition to the proposed amendments to specific rule language as discussed below, and additional amendments that represent renumbering of rule sections/tables, 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. CERTIFIED COPY FEES FOR TITLE V FACILITIES IN RULE 301

**Description  
of Proposed  
Amendment:**

This is a clarification and simplification of existing fees currently referenced in multiple (overlapping) sections. Currently, the fees to obtain a certified copy of a permit and the fees to obtain a reissued permit are mentioned in three locations. In Section (f)(1)-(2), flat fees are listed for non-Title V and Title V permits. In (l)(10)-(11), nearly identical fees are listed for RECLAIM facilities (both RECLAIM-only and RECLAIM/TV), but additional per-page fees apply for each page after the first page. In (n)(7)-(8), a single fee is listed for non-RECLAIM facility permits (notably lower than the other fees from sections (f) and (l)), with an additional fee (also lower than in section (l)), for each page after the first page. All Title V permits are facility permits, as are all RECLAIM and RECLAIM/TV permits. This makes the rates in (n)(7)-(8) appear to be in conflict with those in sections (f) and (l).

When the higher fees for Title V facilities were implemented in 2017, the mention of certified permit fees in (n)(7) were apparently not identified as Title V fees and thus were not increased as Title V fees should have been (as they were in (f)(1) and (l)(10)). This led to a discrepancy in the certified copy fees for Title V-only facilities in (n)(7), which currently have a flat fee & per-page fee that is less than the current RECLAIM-only or TV/RECLAIM flat fee in (l)(10).

By consolidating all certified copy and permit reissue fees in a single section, the discrepancy between sections would be eliminated, and future discrepancies would be avoided. The currently implemented procedure for printing certified copies or reissued permits has been streamlined and makes the per-page fee no longer necessary. Although this may result in a decrease in revenue for facility permits, the current annual number of requests for facility permit copies and reissued facility permits is negligible, so there is no anticipated impact on revenue. Also, in most cases, facility permits are not reissued, but instead required to submit an administrative amendment fee to reflect the types of changes that result in a reissuance.

**Proposed  
Amended  
Rule(s):**

*(note that sections (f), (f)(1), and (f)(2) are unchanged, but are provided here for clarity)*

**Rule 301**

(f) Certified Permit Copies and Reissued Permits

A request for a certified permit copy shall be made in writing by the permittee after the destruction, loss, or defacement of a permit. A request for a permit to be reissued shall be made in writing by the permittee where there is a name or address change without a change of operator or location. The permittee shall, at the time a written request is submitted, pay the fees to cover the cost of the certified permit copy or reissued permit as follows:

(1) Certified Permit Copy

Facility Type	Non-Title V	Title V
FY 2018-19	\$30.19	\$34.19
FY 2019-20 and thereafter	\$30.19	\$37.84

(2) Reissued Permit

Facility Type	Non-Title V	Title V
FY 2018-19	\$233.77	\$264.71
FY 2019-20 and thereafter	\$233.77	\$292.93

~~(I) RECLAIM Facilities~~~~(10) Certified Permits Copies~~

~~A request for a certified copy of a Facility Permit shall be made in writing by the permittee. The permittee shall, at the time the written request is submitted, pay a fee for the first page as follows:~~

Facility Type	Non Title V	Title V
FY 2018-19	\$30.19	\$34.19
FY 2019-20 and thereafter	\$30.19	\$37.84

~~and the applicable fee per page for each additional page in the Facility Permit as shown below:~~

Facility Type	Non Title V	Title V
FY 2018-19	\$2.13/page	\$2.42/page
FY 2019-20 and thereafter	\$2.13/page	\$2.68/page

~~(11) Reissued Permits~~

~~A request for a reissued Facility Permit shall be made in writing by the permittee when there is a name or address change without a change of operator or location. The permittee shall, at the time the written request is submitted, pay a fee for the first page as follows:~~

Facility Type	Non Title V	Title V
FY 2018-19	\$233.78	\$264.71
FY 2019-20 and thereafter	\$233.78	\$292.93

~~and the applicable fee per page for each additional page in the facility permit as shown below:~~

Facility Type	Non Title V	Title V
FY 2018-19	\$2.13/page	\$2.42/page
FY 2019-20 and thereafter	\$2.13/page	\$2.68/page

## (n) All Facility Permit Holders

## (1) Applicability

The requirements of this subdivision apply to all non-RECLAIM holders of a Facility Permit.

~~(7) — Certified Permit Copies~~

~~A request for a certified copy of a Facility Permit shall be made in writing by the permittee. The permittee shall, at the time a written request is submitted, pay \$27.92 for the first page and \$1.97 for each additional page in the facility permit.~~

~~(8) — Reissued Permits~~

~~A request for a reissued Facility Permit shall be made in writing by the permittee where there is a name or address change without a change of operator or location. The permittee shall, at the time a written request is submitted, pay \$216.14 for the first page plus \$1.97 for each additional page in the Facility Permit.~~

**Justification/ Necessity/ Equity:** The discrepancy between certified copy and permit reissuance fees was introduced as an error during rule amendment in 2017. The intent to recover increased costs from the Title V program is not met by assessing a lower fee for Title V-only Facility Permits, and the current configuration of multiple conflicting references is confusing and unclear.

By removing references to certified copy and reissuance fees in sections (l)(10)-(11) and (n)(7)-(8), the correct fees are more clearly identified in sections (f)(1)-(2), and the reduction in fees due to eliminating the per-page fee is not expected to impact revenue, since these requests are so rare.

The adjustment is warranted to correct a mistake from an earlier rule revision. The adjustment will align and consolidate the fees for certified copies and reissuance of permits (and facility permits). In addition, for Title V-only facilities, the fee adjustment will continue to recover costs required to implement the Title V program, which is required by the Clean Air Act.

## **2. CREATION OF “NON-RECLAIM/NON-TITLE V” FACILITY CATEGORY IN TABLE VII OF RULE 301**

**Description of Proposed Amendment:** Table VII of Rule 301 specifies fees applicable to holders of facility permits. In particular, Table VII identifies three separate categories of facility permits: Title V, RECLAIM, and Title V/RECLAIM. Currently, there are about 130 facilities in the “RECLAIM” category. As the RECLAIM program ends, and these non-Title V facilities exit the RECLAIM program, they will continue to hold their facility-wide permits unless they voluntarily apply to convert their facility-wide permit to individual equipment-based permits. The sunseting of the RECLAIM program results in a re-naming of the category pertaining to these facilities. They will no longer be known as “RECLAIM” facilities. Instead, they will be known as “non-RECLAIM/non-Title V” facilities. This category name change requires an updating/clarification of Table VII to

capture their new name/status/category. These facilities will continue to possess their same facility-wide permit and the fee they were paying for that facility permit will be unchanged.

**Proposed  
Amended  
Rule(s):**

**Rule 301**

(n) All Facility Permit Holders

(3) Facility Permit Revision

Except as provided in paragraphs (m)(4) and (m)(5), the permit processing fee for an addition, alteration or revision to a Facility Permit that requires engineering evaluation or causes a change in emissions shall be the sum of applicable fees assessed for each affected equipment as specified in subdivisions (c) and (j). For a non-Title V facility, the facility permit revision fee shall be the applicable facility permit fee in Table VII.

TABLE VII

**FACILITY PERMIT FEES FOR FACILITIES THAT ARE RECLAIM ONLY, TITLE V ONLY, AND BOTH RECLAIM & TITLE V**

Description	Rule section	FY 2018-19	FY 2019-20 and thereafter
Facility Permit Amendment/Revision Fee			
• RECLAIM Only or <u>non-RECLAIM/non-Title V</u>	(l)(4) (m)(4) (n)(3)	\$1,170.63	\$1,170.63
• Title V Only*		\$1,325.61	\$1,466.92
• RECLAIM & Title V*		\$2,496.24	\$2,637.55
* Includes administrative, minor, de minimis significant, or significant amendment/revision			
Facility Permit Change of Operator	(c)(2) (l)(6)		
• Facility Permit Amendment Fee	(m)(4)		<i>Facility Permit Amendment/Revision Fee</i>

	(n)(5)	(See Above)	
Plus		Plus	
• Application Processing Fee for Each Application		Processing Fees (See Table FEE RATE-C))	
Title V Facility Permit Renewal Fee (Due at Filing)	(m)(5) (m)(9)	\$3,010.95	\$3,331.91
Plus		Plus	Plus
Hourly Rate for Calculation of Final Fee for Evaluation Time in Excess of 8 hours (Due upon Notification)		\$210.67 per hour	\$233.13 per hour

**Justification/  
Necessity/  
Equity:**

Facility permits have additional administrative costs due to their comprehensive nature. The creation of a new category in Table VII is necessary to ensure the continued recovery of administrative costs associated with the processing of facility permits. The proposed revision makes clear that facility permit fees continue to apply to non-Title V facilities that exit the RECLAIM program.

**3. AMEND RULE 301 PARAGRAPH (AA) TO REMOVE DELEK U.S. HOLDINGS, INC. (PARAMOUNT), AS IT IS NO LONGER SUBJECT TO RULE 1180 REQUIREMENTS (301(AA))**

**Description of Proposed Amendment:** This amendment is necessary will remove Delek U.S. Holdings Inc. (Paramount) from the list of affected facilities responsible for paying the annual O&M fees listed in paragraph (aa) of Rule 301 as it is no longer subject to the Rule 1180 requirements.

**Proposed Amended Rule(s):**

***Rule 301***

(aa) Refinery Related Community Air Monitoring System Annual Operating and Maintenance Fees

(1) The owner or operator of a petroleum refinery subject to Rule 1180 shall pay an annual operating and maintenance fee for a refinery-related community air monitoring system designed, developed, installed, operated, and maintained by SCAQMD in accordance with California Health and Safety

Code Section 42705.6.

- (2) The annual operating and maintenance fee per facility required by paragraph (aa)(1) shall be as follows:

Facility Name* and Location	Annual Operating and Maintenance Fee
Andeavor Corporation (Carson)	\$871,086.00
Andeavor Corporation (Wilmington)	\$435,543.00
Chevron U.S.A, Inc. (El Segundo)	\$871,086.00
<del>Delek U.S. Holdings, Inc. (Paramount)</del>	<del>\$217,771.50</del>
Phillips 66 Company (Carson)	\$435,543.00
Phillips 66 Company (Wilmington)	\$435,543.00
PBF Energy, Torrance Refining Company (Torrance)	\$871,086.00
Valero Energy (Wilmington)	\$435,543.00

\*Based on the current facility names. Any subsequent owner(s) or operator(s) of the above listed facilities shall be subject to this rule.

**Justification/ Necessity/ Equity:** Rule 1180 – Refinery Fenceline And Community Air Monitoring (*approved in December 2017*), which implements Health and Safety Code §42705.6, requires affected facilities to pay an annual operating and maintenance (O&M) fee for refinery-related community air monitoring system(s) in communities near these refineries, pursuant to paragraph (aa) of Rule 301, when applicable. Petroleum refineries that have a maximum capacity to process less than 40,000 barrels per day are exempt from Rule 1180. One facility, Delek U.S. Holdings Inc. (Paramount) now known as AltAir Fuels was originally subject to the rule requirements, including the capital cost to establish a refinery-related community monitoring system and applicable annual O&M fees specified in paragraph (aa) of Rule 301. Since the latest amendment of Rule 301 in May 2018, Paramount has voluntarily accepted a permit condition limiting the operator’s throughput of crude oil to no more than 39,500 barrels per day, thus qualifying for the exemption under Rule 1180 requirements. In turn, Paramount is alleviated from paying the cost for a community monitoring system and the corresponding annual O&M fees set-forth in paragraph (aa) of Rule 301. This is an equitable approach as only those facilities with a community monitoring system should be responsible for annual O&M fees.

#### 4. UPDATE RULE 2002 REFERENCE FOR PERMIT REISSUANCE FEE

**Description of Proposed Amendment:** This proposed amendment to Rule 301(l)(16) changes the reference from “Rule 2002(f)(7)” to “Rule 2002(f)(8)” to reflect renumbering that occurred as a result of the Rule 2002 amendment process in 2018.

**Proposed Amended Rule(s):** *Rule 301*  
(16) Facility Permit Reissuance Fee for Facilities Exiting RECLAIM

A facility exiting the NO<sub>x</sub> RECLAIM program pursuant to Rule 2002(f)(78) shall be assessed a Facility Permit Reissuance Fee for the conversion of its RECLAIM Facility Permit to a Command-and-Control Facility Permit. The conversion consists of removal of non-applicable RECLAIM provisions and addition of requirements for applicable command-and-control rules. The Facility Permit Reissuance Fee includes an initial flat fee, plus an additional time and materials (T&M) charge where applicable. Both the initial flat fee and T&M charge are tiered based on the number of permitted RECLAIM NO<sub>x</sub> sources at the facility. Both the initial flat fee and T&M charge are also differentiated based on a facility’s Title V status.

The initial flat fee to transition from NO<sub>x</sub> RECLAIM Facility Permit to Command-and-Control Facility Permit per Rule 2002(f)(78) shall be paid at the time of filing and assessed according to the following fee schedule.

**Justification/ Necessity/ Equity:** The proposed amendment would simply revise Rule 301 to reflect updated rule language by properly referencing Rule 2002(f)(8) instead of 2002(f)(7). No new fee or revision to existing fees would occur because of this amendment.

#### 5. LATE SURCHARGE CLARIFICATION

**Description of Proposed Amendment:** This amendment would clarify rule references with respect to late surcharges. Rule 301(e)(11)(C) currently refers to Rule 301(e)(10) in regards to the surcharge if an installment fee payment is considered late. Since Rule 301(e)(10) has several subsections that apply to different conditions, some clarification/amendment to the rule language seem to be necessary to prevent confusion. The proposed amendment to Rule 301(e)(11)(C) would more



specifically identify the subsections which is applicable, i.e. Rule 301(e)(10)(B). Subparagraph (e)(10)(B) would also be amended to include an appropriate cross-reference to subparagraph (e)(11)(C).

**Proposed  
Amended  
Rule(s):**

***Rule 301***

(e)(10)(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:

Less than 30 days	5% of reported amount
30 to 90 days	15% of reported amount
91 days to 1 year	25% of reported amount
More than 1 year	(See subparagraph (e)(10)(D))

(e)(11)(C) An installment fee payment shall be ~~is~~ considered late ~~and is subject to a surcharge~~ if not received by the District, or postmarked, on or before the ~~within seventy-five (75) days~~ seventy-fifth (75<sup>th</sup>) day following July 1 of the current reporting period of the due date and shall be subject to a surcharge pursuant to subparagraph (e)(10)(B).

**Justification/  
Necessity/  
Equity:**

The proposal would clarify which subparagraph should be used to estimate the surcharge in Rule 301(e)(10) to prevent confusion.

**6. EXEMPTION FROM SURCHARGE FOR EMISSIONS DEVELOPED FROM SOURCE TESTS**

**Description  
of Proposed  
Amendment:**

The revision provides relief from fee surcharges/penalties to owner/operators that had in good faith submitted source tests for review to the SCAQMD Source Test Unit prior to or at the time the AER was due, but had to base AER emissions on these source tests before they were approved.

**Proposed  
Amended  
Rule(s):**

***Rule 301***

(e)(10)(E) Effective [Date of Amendment], 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. If the underpayment is paid within one year after the seventy-fifth (75<sup>th</sup>) 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 (75<sup>th</sup>) 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.

(EF) If one hundred twenty (120) days have elapsed since January 1st, July 1st, or as applicable, and all emission fees including any surcharge have not been paid in full, the Executive Officer may take action to revoke all Permits to Operate for equipment on the premises, as authorized in Health and Safety Code Section 42307.

**Justification/  
Necessity/  
Equity:**

According to Rule 301 (e)(10)(C), if emission fees are paid timely, and if, within one year after the 75<sup>th</sup> day from the official due date is determined to be less than 90 percent of the full amount that should have been paid, a 15 percent surcharge should be added, and is calculated based on the difference between the amount actually paid and the amount that should have been paid. According to Rule 301 (e)(10)(D), one year and 75 days after the official due date of the AER, any fees due and payable for emissions reported or reportable pursuant to subparagraph Rule 301 (e)(8)(C) are assessed fees according to Rule 301 Tables III, IV, and V; and further increased by a penalty of 50 percent.

This amendment would eliminate the surcharge/penalty for emissions developed from source tests, where the source tests were submitted for approval to the SCAQMD Source Test Unit prior to or at the time the AER was due, but the source tests were not approved before the date surcharges/penalties would be currently assessed. Fees would still be required for any emissions that were underreported related to these source tests pursuant to fee rates discussed in Rule 301 (e)(10)(C) and (D). This amendment is necessary because of delays that sometimes occur in SCAQMD approval of source tests. SCAQMD staff believes surcharges/penalties are not appropriate in circumstance where emissions are reported based on source tests that were promptly submitted to the District, but were not approved by the District until a later date.

**7. OWNER/OPERATOR CLARIFICATION IN RULE 209**

**Description of Proposed Amendment:** Staff is proposing to amend Rule 209 with language that clarifies when a change of owner/operator occurs.

**Proposed Amended Rule(s):** *Rule 209*

A permit shall not be transferable, whether by operation of law or otherwise, either from one location to another, from one piece of equipment to another, or from one person to another.

When equipment which has been granted a permit is altered, changes location, or no longer will be operated by the permittee, the permit shall become void. For the purposes of this rule, ~~mergers~~, name changes, or incorporations by an individual owner or partnership composed of individuals shall not constitute a transfer. Other transactions shall be deemed a transfer for purposes of this rule and shall require a change of operator or change of ownership as specified in the Change of Owner/Operator Guidelines adopted by the Executive Officer and in effect as of [date of adoption] or as subsequently modified. The Executive Officer may update those Guidelines as appropriate in accordance with principles of California corporate law, and shall publish such updated Guidelines on the District's website.

**Justification/ Necessity/ Equity:** District Rule 209 currently states that a merger does not result in a transfer of owner/operator at a facility. This position is inconsistent with the principles of California corporate law. The rule is being amended to remove that inconsistency. In addition, the rule is being updated to include a reference to District issued Change of Operator/Owner Guidelines prepared by the District.

## IMPACT ASSESSMENT

### A. FISCAL IMPACT FOR SCAQMD

Staff will provide an overall fiscal impact assessment for SCAQMD as a result of implementing the proposed CPI-based fee increase and other proposed rule amendments with fee impacts.

### B. FISCAL IMPACT FOR SCAQMD

Staff will provide an overall fiscal impact assessment for SCAQMD as a result of implementing the proposed CPI-based fee increase and other proposed rule amendments with fee impacts.

### C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The proposed project is comprised of amendments to Regulation III – Fees, and Rule 209 – Transfer and Voiding of Permits. Proposed Amended Regulation III – Fees, consists of: 1) an increase in fees for consistency with the increase in the California Consumer Price Index (pursuant to Rule 320); 2) new and increased fees to meet the requirements of recently adopted rules and state mandates; 3) new or increased fees for cost recovery; and 4) administrative changes that include clarifications, deletions, or corrections to existing rule language for multiple rules that comprise Regulation III (Rules 301, 303, 304, 304.1, 306, 307.1, 308, 309, 311, 313, 314, and 315). Proposed Amended Rule 209 consists of a clarification on how permit transfers are considered when there is a change of owner/operator. Pursuant to the California Environmental Quality Act (CEQA) and SCAQMD Rule 110, the SCAQMD, as lead agency for the proposed project, has reviewed the proposed amendments to Regulation III and Rule 209 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. With respect to the proposed new and increased fees, and the administrative changes in Proposed Amended Regulation III and Proposed Amended Rule 209 that are strictly administrative in nature, 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 project is considered to be exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) – Activities Covered by General Rule. Additionally, the entirety of Proposed Amended Regulation III is statutorily exempt from CEQA requirements pursuant to CEQA Guidelines Section 15273 – Rates, Tolls, Fares, and Charges, because the proposed new and increased fees, and 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. Also, the proposed amendments to Rule 209 are categorically exempt because they are designed to further protect or enhance the environment pursuant to CEQA Guidelines Section 15308 – Action by Regulatory Agencies for Protection of the Environment. Further, SCAQMD staff has determined that there is no substantial evidence indicating that any of the exceptions to the categorical exemptions apply to the proposed amendments to Rule 209 pursuant to CEQA Guidelines Section 15300.2 – Exceptions. Therefore, the proposed project is exempt from CEQA. A Notice of Exemption will be prepared pursuant to CEQA Guidelines

Section 15062 – Notice of Exemption. 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.

#### **D. SOCIOECONOMIC IMPACT ASSESSMENT**

A draft socioeconomic impact assessment for the automatic CPI increase has been prepared as a separate report and was posted online on March 15, 2019 (available on SCAQMD’s website at: [http://www.aqmd.gov/docs/default-source/finance-budgets/fy-2019-20/draft-socioeconomic-assessment-for-automatic-cpi-increase\\_2019.pdf](http://www.aqmd.gov/docs/default-source/finance-budgets/fy-2019-20/draft-socioeconomic-assessment-for-automatic-cpi-increase_2019.pdf).) 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 SCAQMD Governing Board Hearing on Proposed Amended Regulation III and Fiscal Year 2018-19 Proposed Draft Budget and Work Program, which is anticipated to be heard on May 4, 2019.

### **DRAFT FINDINGS UNDER CALIFORNIA HEALTH AND SAFETY CODE**

Before adopting, amending or repealing a rule, the SCAQMD 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 SCAQMD Governing Board has determined that a need exists in order to recover reasonable and actual costs incurred by SCAQMD in implementing necessary clean air programs and to add rule clarity, to amend Regulation III – Fees, including Rules 301, 303, 304, 304.1, 306, 307.1, 308, 309, 311, 313, 314 and 315 to fund the Fiscal Year 2018-19 Budget. It is also necessary to amend Rule 209 to clarify when a change of owner/operator occurs.

#### **B. EQUITY**

H&SC Section 40510.5(a) requires the SCAQMD 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, 308, and Rule 309 are found to be equitably apportioned.

#### **C. AUTHORITY**

The SCAQMD 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 SCAQMD 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 209, 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 SCAQMD 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 209 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 SCAQMD 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 209, 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 SCAQMD.

**G. REFERENCE**

The SCAQMD Governing Board, in amending these rules, references the following statutes which the SCAQMD 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)].

**APPENDIX A – RULE 320**

(Adopted October 29, 2010)

**RULE 320. AUTOMATIC ADJUSTMENT BASED ON CONSUMER PRICE INDEX FOR REGULATION III FEES****(a) Purpose**

The purpose of this rule is to automatically adjust most fees established in Regulation III by the California Consumer Price Index each year, unless a rule adopted for a specific year provides otherwise for some or all of those fees.

**(b) Applicability**

Effective July 1 of each calendar year after October 29, 2010, each fee set forth in Regulation III as of October 29, 2010 shall be automatically adjusted by the change in the California Consumer Price Index for the preceding calendar year, as defined in Health and Safety Code §40500.1(a).

**(c) Exceptions**

- (1) The provisions of subdivision (b) shall not apply for any fiscal year for which a rule is adopted for a specific fee or fees or for all fees that provides for a different adjustment or no adjustment. In such a case, subdivision (b) shall again apply for the subsequent years.
- (2) The provisions of subdivision (b) shall not apply to any fee which is charged for a dishonored check, which shall be as set forth by statute, nor to Rule 317, which shall instead be automatically adjusted as stated in Rule 317(d)(2).

- (d) This rule shall become inoperative if the voters do not enact Proposition 26 on the November 2, 2010 ballot.

**APPENDIX B – SUMMARY OF PROPOSED AMENDED RULES**

Rule	Referencing	CPI	Fee Impacts	No Fee Impacts and/or Administrative Changes
301(x)	Include Rule 1118.1 in rules subject to fees in Rule 301 (x)	✓	✓	
301(w)	Enforcement Inspection Fees for PERP Regulations	✓	✓	
308(c)(2)	Remove Fee in Rule 308 for Adding/Deleting Site from a Multi-Site or Geographic Program	✓	✓	
301(v) & Table VI	Update Rule 301 Fee and update Table VI applying to Rule 1403	✓	✓	
301(f)(1), 301(l)(10), 301(n)(7)	Certified Copy Fees for Title V Facilities in Rule 301	✓		✓
301(n)(3)	Creation of “former RECLAIM/non-Title V” facility category in Table VII of Rule 301	✓		✓
301(aa)	Amend Rule 301 Paragraph (aa) to remove Delek U.S. Holdings, Inc. (Paramount)	✓		✓
301(l)(16)	Change Reference to Rule 2002 (f)(7) to Rule 2002 (f)(8)	✓		✓
301(e)(11)(C), 301(e)(10)(B)	Clarification to Rule 301(e)(11)(C) and (e)(10)(B)	✓		✓
301 (e)(10)(E)	New subparagraph Rule 301 (e)(10)(E), existing subparagraph Rule 301 (e)(10)(E) would be renumbered Rule 301 (e)(10)(F)	✓		✓
309(c)(2), 309(c)	Aligning Inspection Fee Rates in Rule 306 and 309	✓	✓	
301(r)	Clean Air Solvent Certification Fees	✓	✓	
301(e) & Table IV	TAC Fee Increases for AER, AB 2588, and Special Monitoring Cost Recovery	✓	✓	



