

RULE 4.9 AIR TOXICS "HOT SPOTS" FEES

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100 **GENERAL**

101 **PURPOSE:** This Rule provides for the establishment of fees to pay for the costs of implementing and administering the Air Toxics “Hot Spots” Information and Assessment Act of 1987 (AB 2588). This Rule allows the District to collect from the operators of facilities subject to the “Hot Spots” program fees for the following:

101.1 Recovery of anticipated costs to be incurred by the California Air Resources Board and the Department to implement and administer the Act as set forth by State Regulation required by Health and Safety Code Section 44380; and

101.2 Recovery of anticipated costs to be incurred by the District to implement and administer the Act, including but not limited to the cost incurred to: review emissions inventory plans, inventory data, and risk assessments; verify plans and data; and administer the Air Toxics “Hot Spots” Program.

102 **APPLICABILITY:** This rule applies to any facility which manufactures, formulates, uses, or releases any of the substances listed by the Air Resources Board pursuant to Section 44321 of the Healthy and Safety Code and contained in Appendix A of Sections 90700 through 90705, Title 17, California Code of Regulations, known as the Air Toxics “Hot Spots” Fee Regulation or any other substance which reacts to form a substance so listed, and

102.1 Releases 10 tons per year or greater of any criteria pollutant (excluding Carbon Monoxide);

102.2 Falls in any class listed in Appendix E of the Guidelines Report;

102.3 Is listed in any current toxics use or toxics air emission survey, inventory, or report released or compiled by the District and referenced in Appendix E of the Guidelines Report; or

102.4 Is reinstated under Health and Safety Code Section 44344.7

103 **EXEMPTIONS:** This rule shall not apply to facilities exempted by Health & Safety Code section 44324 or 44380.1

200 **DEFINITIONS**

201 Air Release: has the same meaning as defined in Section 44303 of the Health & Safety Code

202 Complex: a facility that has five or more Source Classification Code processes

203 Criteria Pollutant: means, for purposes of this Rule, volatile organic compounds (VOC), particulate matter (PM), nitrogen oxides (NOx), and sulfur oxides (SOx)

204 Department: means the State Department of Health Services

205 District Update Facility (Intermediate Priority): A facility with a prioritization score greater than 1 but less than or equal to 10

206 Facility: has the same meaning as defined by Section 44304 of the Health and Safety Code

- 207 Guidelines Report: The Emission Inventory Criteria and Guidelines Report published in accordance with the Air Toxics "Hot Spots" Information and Assessment Act of 1987
- 208 Health Risk Assessment (HRA): the use of the factual base to define the health effects of exposure of individuals or populations to hazardous materials and situations.
- 209 High Priority: A facility with a prioritization score of greater than 10.
- 210 High Risk (10 – 50): A facility that has had an HRA performed with a calculated cancer risk equal to or greater than 10 in a million but less than 50 in a million, or a Hazard Index equal to or greater than 1 and less than 5.
- 211 High Risk (50 – 100): A facility that has had an HRA performed with a calculated cancer risk equal to or greater than 50 in a million but less than 100 in a million, or a Hazard Index equal to or greater than 5.
- 212 High Risk (over 100): A facility that has had an HRA performed with a calculated cancer risk equal to or greater than 100 in a million, or a Hazard Index equal to or greater than 5.
- 213 Industrywide: facilities that are not required to prepare reports because the district, in coordination with the California Air Pollution Control Officers Association (CAPCOA and the Air Resources Board (ARB), prepares inventories for these source categories. As of the date of adoption of this rule, there are 3 source categories covered by Industrywide assessments: Auto body shops, Perchloroethylene drycleaners, and retail gasoline service stations. The districts determine whether industrywide inventories are appropriate for facility classes by reviewing the criteria specified in Health and Safety Code 44323.
- 214 Low Priority: A facility with a prioritization score equal to or less than 1.
- 215 Low Risk: A facility that has had an HRA performed with a calculated cancer risk of less than 1.0 in a million and a calculated Hazard Index of less than 0.1.
- 216 Medium: a facility that has more than three and less than five Source Classification Code processes.
- 217 Operator: has the same meaning as defined in Section 44307 of the Health and Safety Code.
- 218 Person: has the same meaning as defined in Section 39047 of the Health and Safety Code.
- 219 Prioritization Score: a numerical value used to rank a facility's potential risk using the *CAPCOA Air Toxics "Hot Spots" Program Facility Prioritization Guidelines* (July 1990, or any subsequent updates).
- 220 Simple: a facility that has three or fewer Source Classification Codes processes.
- 221 Source Classification Code (SCC): an 8-digit code used to categorize individual processes or unit operations that generate air emissions.

- 222 Title 17: California Code of Regulations, Sections 90700 through 90705 for the applicable fiscal year (Air Toxics "Hot Spots" Fee Regulation).
- 223 Tracking Facility (Intermediate Risk): A facility that has had an HRA performed with a calculated cancer risk greater than 1.0 but less than 10, or Hazard Index greater than or equal to 0.1 but less than or equal to 1.0.
- 224 Unprioritized: A facility subject to the Hot Spots program for which a Priority Score has not been determined.

300 STANDARDS

301 FEES: The following fees (District and State) shall be charged annually to affected sources:

CATEGORY		DISTRICT FEE	STATE FEE*
Industrywide		\$125	Title 17 ((\$35))
Unprioritized	Simple	\$379	Title 17 ((\$402))
	Medium	\$569	Title 17 ((\$603))
	Complex	\$760	Title 17 ((\$804))
Low Priority		\$0	\$0
District Update Facility (Intermediate Priority)		\$125 (every 4 years)	\$0
High Priority	Simple	\$1120	Title 17 ((\$1,674))
	Medium	\$1345	Title 17 ((\$2,009))
	Complex	\$1568	Title 17 ((\$2,344))
Low Risk		\$0	\$0
Tracking Facility (Intermediate Risk)	Simple	\$560	Title 17 ((\$67))
	Medium	\$672	Title 17 ((\$100))
	Complex	\$784	Title 17 ((\$134))
High Risk (10 – 50)	Simple	\$2015	Title 17 ((\$3,014))
	Medium	\$2240	Title 17 ((\$3,349))
	Complex	\$2463	Title 17 ((\$3,684))
High Risk (50 – 100)	Simple	\$2911	Title 17 ((\$4,353))
	Medium	\$3135	Title 17 ((\$4,688))
	Complex	\$3358	Title 17 ((\$5,023))
High Risk (over 100)	Simple	\$3807	Title 17 ((\$5,693))
	Medium	\$4031	Title 17 ((\$6,028))
	Complex	\$4256	Title 17 ((\$6,363))

* The District is required to collect the State Fee from sources in our District and pass the money

to the ARB. The State Fees listed here are the dollar amounts as of the date of adoption and are included for reference.

302 Time and Materials Labor Rate: The rate for time and materials shall be **\$131** per hour.

400 **ADMINISTRATIVE REQUIREMENTS**

401 NOTIFICATION: The District shall notify and assess the operator of each facility subject to this Rule in writing of the fee due. The operator shall remit the fee to the District within 45 days after receipt of the fee assessment notice, or the fee will be considered past due. If an operator fails to pay the fee within 45 days of this notice, the District shall assess a penalty of not more than 100 percent of the assessed fee, but in an amount sufficient, in the District's determination, to pay the District's additional expenses incurred by the operator's non-compliance. If an operator fails to pay the fee within 90 days of the receipt of this notice, the District permit will be canceled. If any permit is canceled for non-payment of fees it shall be reinstated upon full payment of the overdue fee plus any late penalty and a reinstatement fee to cover the administrative costs of reinstating the permit.

402 CONSUMER PRICE INDEXING OF FEES: Beginning on July 1, 2016, the Air Pollution Control Officer may adjust the District Fee portion prescribed by this rule on an annual basis (rounded to the nearest whole dollar) following approval of the budget by the District Board of Directors. The rate change shall be determined considering the California Consumer Price Index (CPI) for the preceding fiscal year as provided in California Health and Safety Code Section 42311(a). The rate change shall be noticed pursuant to California Health and Safety Code Section 40131 and presented to the District's Board of Directors at the annual budget hearing. Any CPI adjustments authorized by this section shall not apply to the Industrywide Fee or the District Update Facility fee.

403 HRA FEES: If an HRA is required, in lieu of the facility submitting the HRA, a facility may petition the District to perform the HRA for the facility. If the District has resources available, the APCO may approve the request and have the District staff perform the HRA. In this case, the facility will be charged for all time spent performing the HRA, using the time and materials labor rate from section 302.