

**MONTEREY BAY AIR RESOURCES DISTRICT  
REGULATION III  
FEES**

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RULE 308. TITLE V: FEDERAL OPERATING PERMIT FEES

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**PART 1 GENERAL**

**1.1 Purpose**

The purpose of this Rule is to provide funding for the issuance and enforcement of Federal Operating Permits (FOPs) which meet the requirements of Title V of the Federal Clean Air Act and amendments (the Act). The fees required pursuant to this Rule shall be in addition to fees for District permits to operate and other fees required by other District rules.

**1.2 Applicability**

The provisions of this Rule shall apply to any facility that is required to apply for and maintain a Federal Operating Permit pursuant to Rule 218 (Title V: Federal Operating Permits).

**1.3 Exemptions**

Reserved.

**1.4 Effective Dates**

This Rule, as most recently revised, is effective on July 1, 2018.

**1.5 References**

The requirements of this Rule arise from the provisions of the Federal Clean Air Act and its amendments (42 U.S.C Section 7401 *et seq.*); and USEPA regulations setting forth the requirements for an Operating Permit Program (Final Rule, 40 CFR Part 70). Referenced or related District Rules include: 218 (Title V: Federal Operating Permits); and 300 (District Fees).

**PART 2 DEFINITIONS**

**2.1 Air Pollution Control Officer (APCO)**

The Air Pollution Control Officer for the Monterey Bay Unified Air Pollution Control District.

**2.2 District**

The Monterey Bay Unified Air Pollution Control District (MBUAPCD) doing business as Monterey Bay Air Resources District.

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2.3 Federal Clean Air Act (the Act)

Federal Clean Air Act and its amendments (42 U.S.C Section 7401 *et seq.*)

2.4 Federal Operating Permit (FOP)

A Federal Operating Permit issued under the provisions of Rule 218.

2.5 Federally Enforceable Conditions

Those conditions on a permit which require compliance with a federally enforceable requirement, as defined in District Rule 218.

2.6 National Ambient Air Quality Standards (NAAQS)

Air quality standards set by the Administrator of the United States Environmental Protection Agency to protect public health and welfare and, in general, consisting of primary and secondary standards. Primary standards are to protect the public health, while secondary standards are intended to protect the public welfare, e.g., plants, crops, and materials.

2.7 Permit

In this Rule, permit means a Federal Operating Permit unless otherwise noted.

2.8 State Implementation Plan (SIP)

The plan which is required by the Act to be submitted by each State, and approved by the USEPA, to achieve and maintain federal ambient air quality standards (NAAQS).

2.9 Title V

Title V (Federal Operating Permits Program) of the Clean Air Act.

2.10 United States Environmental Protection Agency (USEPA)

The Administrator or appropriate delegate of the United States Environmental Protection Agency.

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**PART 3 REQUIREMENTS**

**3.1 Application Fees**

3.1.1 Every applicant for an initial FOP, or the renewal or modification of an existing FOP, shall pay a filing fee as set forth in Rule 301 Table 1 Title V Fees.

3.1.2 Every applicant for a change of ownership where a FOP has been issued under Rule 218 shall pay a filing fee as set forth in Rule 301 Table 1 Title V Fees, plus a fee based on the District's actual cost to complete the permit process in accordance with the District hourly staff rate.

**3.2 Federal Operating Permit Fee**

Initially, the FOP Fee is due on an annual basis commencing upon the first annual renewal date of the facility's District Permit(s) to Operate. Upon issuance of the FOP, the annual renewal date will become the date of issuance of the FOP and the Annual Federal Operating Permit Fee (AFOPF) will be due one year after the date of permit issuance and annually thereafter. The AFOPF shall be calculated as set forth in Section 4.1 of this Rule. This AFOPF shall be due and payable 30 days after a statement is issued by the District. In the event all or part of the fee prescribed in the statement is not paid in accordance with these provisions within this 30-day period, the penalties prescribed by Section 4.2 of this Rule shall apply.

**3.3 Evaluation Fees**

Every applicant who files a FOP application with the APCO pursuant to Section 3.1 of Rule 218 shall, in addition to the filing fee prescribed herein, pay an evaluation fee as set forth in Rule 301 Table 1 Title V Fees for every District staff hour necessary to complete the FOP evaluation pursuant to Rule 218. This evaluation fee shall be due and payable 30 days after a statement is issued by the District. The FOP shall be issued upon receipt of the applicant's payment of this fee. In the event all or part of the fee prescribed in the statement is not paid in accordance with these provisions within this 30-day period, the penalties prescribed by Section 4.2 of this Rule shall apply.

**PART 4 ADMINISTRATIVE REQUIREMENTS**

**4.1 Annual Federal Operating Permit Fees (AFOPF)**

All sources subject to this Rule shall complete the Annual Renewal Information Request provided by the District within the time period specified in the Request. Failure to timely complete and submit the Request may result in suspension of the FOP.

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- 4.1.1 The District will determine the permittee's AFOPF based upon the permittee's Billable Emissions, as defined by Section 2.4 of Rule 300 (Permit Fees), multiplied by the dollar amount per ton shown in Section 4.1.2 of this Rule. The minimum AFOPF per year is set forth in Rule 301 Table 1 Title V Fees.

For facilities with annual Billable Emissions greater than or equal to 300 tons per year as of June 18, 1997, the Billable Emissions will be based on the four-year rolling emission average for calendar years 1998 through 2001. In the event equipment is permanently shut down which were included in a source's Billable Emissions, the District will subtract these emissions when assessing the AFOPF. For any facility newly determined to be a major source after June 18, 1997, or which the emission average for calendar years 1998 through 2001 is not representative of the equipment in place for that source, AFOPF will be determined from the expected emissions for that source.

- 4.1.2 The AFOPF dollar amount per ton of billable emissions is assessed at five percent greater than the current federal fiscal year Part 70 Presumptive Minimum fee published by EPA in September of each year.

4.1.2.1 The AFOPF for landfill gas emissions from municipal solid waste landfills per ton of landfill gas emissions is set forth in Rule 301 Table 1 Title V fees.

4.2 Federal Operating Permit Fee Penalties

If any fee payment required pursuant to Part 3 of this Rule is not submitted within 60 days of the issuance date of the District's billing statement, it shall be considered delinquent, and penalties for the delinquency shall be imposed as set forth below.

- 4.2.1 For purposes of this Part any fee payment shall be considered to be timely if it is postmarked on or before the 60th day following the statement issuance date. If the 30th day falls on a Saturday, Sunday, or holiday, the fee payment may be postmarked on the next business day with the same effect as if it had been postmarked on the 60th day.
- 4.2.2 If no fee payment is submitted within the time prescribed by Section 4.2.1, a delinquency penalty of 25 percent of the amount of the billed fee, to a maximum of \$5,000, shall be added to the amount of the fee due.
- 4.2.3 If a fee payment is timely paid, but the tendered amount is less than the amount due, the payment shall not be accepted, and the time for proper payment continues to run.

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4.2.4 If a fee payment is delinquent and the fee plus the delinquency penalty is not received within 90 days of the issuance date of the District's billing statement, the delinquency penalty shall be increased to 50 percent of the original amount due, to a maximum of \$7,500.

4.2.5 If, in the case of a failure to pay evaluation fees required pursuant to Part 3, the delinquent fee plus penalties assessed pursuant to Section 4.2.4 are not submitted within 120 days of the issuance date of the District's billing statement, the permittee shall be considered to be in default of its evaluation fee obligation and in violation of this Rule. In such case the APCO shall immediately notify the applicant that its FOP is denied and that further operation of the subject equipment without a valid permit is prohibited. Such denial shall not preclude the applicant from submitting another permit application and beginning the process anew, although the delinquent fee and penalty shall become an obligation owing to the District, which may be recovered along with any permit fee from such new application.

4.2.6 If, in the case of a failure to pay AFOPF required pursuant to Part 3, the delinquent AFOPF plus penalties assessed pursuant to Section 4.2.4 are not submitted within 120 days of the issuance date of the District's billing statement, the FOP shall automatically expire for failure to renew. In such case, the District shall immediately notify the permittee that its FOP has expired and that further operation of the subject equipment without a valid permit is prohibited. Such expiration shall not preclude the permittee from submitting an application for a replacement permit, although the delinquent fee and penalty shall become an obligation owing to the District, which may be recovered along with any permit fee from such new application.

4.3 Extension of Payment Period by the APCO

The payment period for fee payment required pursuant to Part 3 of this Rule may be extended for extraordinary circumstances at the discretion of the Air Pollution Control Officer (APCO). The adequacy of cause to extend the period shall be decided on a case-by-case basis by the APCO.

4.4 Waiver of Penalty by the APCO

The penalty for fee delinquency may be waived for extraordinary circumstances at the discretion of the APCO, provided that there have been no prior delinquencies. The adequacy of cause to waive the penalty shall be decided on a case-by-case basis by the APCO.

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