

MONTEREY BAY UNIFIED AIR POLLUTION CONTROL DISTRICT

**RULE 402 -- NUISANCES**

*(Adopted 9-1-1968) (Revised 3-22-2000 and 8-21-2002)*

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PART 1 GENERAL

1.1 Purpose

The purpose of this Rule is to provide an explicit prohibition against sources creating public nuisances while operating within the Monterey Bay Unified Air Pollution Control District (Air District).

1.2 Applicability

The provisions of this Rule shall apply to all sources of air pollutant emissions within the Air District unless exempted pursuant to Section 1.3 below.

1.3 Exemptions

# MONTEREY BAY UNIFIED AIR POLLUTION CONTROL DISTRICT

The provisions of this Rule shall not apply to odors emanating from:

1.3.1 agricultural operations necessary for the growing of crops or raising of fowl or animals. {California Health and Safety Code (HSC) Section 41705}

1.3.2 any agricultural processing activity, operation, facility, or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, due to any changed condition in or about the locality after it has been in continuous operation for more than three years if it was not a nuisance at the time it began; unless the facility substantially increases its activities or operations after which time a new three year clock begins during which time this exemption is not valid. {California Civil Code Section 3482.6}

## 1.4 Effective Dates

This Rule, as most recently revised, is effective on August 21, 2002.

## 1.5 References

The requirements of this Rule arise from the provisions of California Health and Safety Code (HSC) Sections 41509, 41700 and 41705.

## PART 2 DEFINITIONS

### 2.1 Agricultural Processing Activity, Operation, Facility, or Appurtenances Thereof

Includes, but is not limited to rendering plants licensed pursuant to Section 19300 of the Food and Agricultural Code and collection centers licensed pursuant to Section 19300.5 of the Food and Agricultural Code, the canning or freezing of agricultural products, the processing of dairy products, the production and bottling of beer and wine, the processing of meat and egg products, the drying of fruits and grains, the packing and cooling of fruits and vegetables, and the storage or warehousing or retail markets of agricultural products.

### 2.2 Continuous Operation

Means at least 30 days of agricultural processing operations per year.

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2.3 Proper and Accepted Customs and Standards

Means the compliance with all applicable state and federal statutes and regulations governing the operation of the agricultural processing activity, operation, facility, or appurtenances thereof with respect to the condition or effect alleged to be a nuisance.

PART 3 REQUIREMENTS AND STANDARDS

No person shall discharge from any source whatsoever such quantities of air contaminants or other materials which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public; or which endanger the comfort, repose, health, or safety of any such persons or the public; or which cause, or have a natural tendency to cause, injury or damage to business or property. {HSC Section 41700}

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