

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

RULE 302. SOURCE TESTING AND ANALYSES: FEES AND REQUIREMENTS

(Adopted 8-24-83; Revised 12-13-84, 12-19-90, 6-26-91, 6-9-93, 6-21-95, 6-18-97; 6-17-98; 6-16-99; 6-21-00; 6-20-01; 6-19-02; 6-18-03; 6-16-04; 6-15-05; 6-21-06; 6-20-07; 6-18-08; 6-30-10; 6-15-11; 6-18-14; 6-17-15; and 6-15-16.)

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PART 1 GENERAL

1.1 Purpose

This Rule specifies the requirements and schedule of fees for source sampling, testing, or inspecting as authorized by Sections 41511 and 41512 of the Health and Safety Code.

1.2 Applicability

The provisions of this Rule shall apply, notwithstanding the provisions of Rule 201 (Sources Not Requiring Permits), to the owner or operator of any article, machine, equipment or other contrivance which may cause the issuance of any air contaminant.

1.3 Exemptions

1.3.1 Right to Petition

The owner or operator of a source may petition the Air Pollution Control Officer, no later than 30 days after receipt of the subject analyses and testing fee statement, to be excused from payment of such fees, or a portion of such fees, on the grounds that payment of such fees would cause a demonstrable financial hardship.

1.3.2 APCO Exemption of Fees

Based on evidence provided, the Air Pollution Control Officer may exempt the owner or operator of the subject source from payment of all or a portion of the fees otherwise required by this Rule.

1.4 Effective Date

This Rule, as mostly recently revised, is effective on July 1, 2016.

1.5 References

The following are related or referenced District Rules and Regulations: Rule 200 (Permits Required); 201 (Permits Not Required); 301 (Permit Fee Schedules); and 412 (Sulfur Content of Fuels).

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PART 2 DEFINITIONS

2.1 Financial Hardship

For the purposes of this Rule, a demonstrable financial hardship shall consist of adequate evidence as is capable of demonstrating that full payment will prevent the respective owner or operator from meeting other financial obligations as they come due, or will cause the taking of property or the practical closing and eliminating of a lawful business without a corresponding benefit in air pollution reduction.

PART 3 REQUIREMENTS

3.1 Authority to Require Information

- 3.1.1 When the Air Pollution Control Officer finds that any inspection, test, sampling, or analysis, including any source testing of emissions is necessary to determine the nature, extent, or amount of pollutants being discharged into the atmosphere, or to determine compliance with permit conditions or with any federal, State, or local law, order, rule or regulation relating to air pollution, including potential emissions which may endanger the health, comfort or repose of the public, or which may have a tendency to cause injury or damage to business or property, the Air Pollution Control Officer may order the inspection of a source or its records, performance testing, collection of emission samples, or the analysis or evaluation of such samples, by either qualified personnel of the District, an independent contractor selected by the Air Pollution Control Officer, or by the source itself or its contractor.
- 3.1.2 Whenever the Air Pollution Control Officer orders any inspection, test, collection, or analysis of emissions pursuant to this Rule, which are undertaken to determine compliance with permit conditions or any federal, State, or local law, order, rule or regulation relating to air pollution, the owner or operator of the subject premises shall pay the full costs of such activities, for which the said sum is not to exceed the actual estimated cost of the sample collection, analysis or testing thereof, unless exempted by the APCO for good cause.
- 3.1.3 Such payment shall be made in full by the owner or operator of the premises within 30 days of notification thereof by either the District or the independent contractor conducting the activities.

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3.2 Authority to Require Determination of Emissions

3.2.1 Whenever the Air Pollution Control Officer finds that certain information is necessary to determine the amount or character of emissions from any air pollution emission source, he/she may require the owner or operator of any such source to take any action which he determines is reasonable for the determination of the amount or character of such emissions from such source.

3.2.2 No person shall fail or refuse to comply fully with the terms of any order issued by the Air Pollution Control Officer under authority of this Rule.

PART 4 SCHEDULE OF ANALYSES AND TESTING FEES

4.1 Fee Schedule

The fee schedule for visible emission evaluation test or observation of sources as set forth in Rule 301, Table 1 Source Testing and Analysis.

4.1.1 If the Air Pollution Control Officer determines that no schedules provided by this Rule fairly represent the District's costs incurred in conducting such sampling, analyses or tests, the Air Pollution Control Officer may assess a fee different from the schedule which fairly reflects the District's costs incurred.

4.2 Multiple Testing

Nothing in this Rule shall be construed to prevent the Air Pollution Control Officer from assessing fees for multiple testing, or for multiple samples and analyses, where the same is necessary to determine compliance with any federal, State or local law, order, rule or regulation relating to air pollution including potential emissions which may endanger the health, comfort or repose of the public.

4.3 Sources of Questionable Compliance

If any of the sampling, analyses or tests conducted pursuant to this Rule indicate that the subject source is not in compliance, or raise reasonable doubt of the source's complying with all federal, State and local regulations, the Air Pollution Control Officer may require additional sampling, analyses and/or testing as he determines necessary, and may also require use of an independent tester for such additional tests. In such event, the owner or operator shall pay for each additional test in accordance with the schedule of fees set forth in this Rule.

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PART 5 CREDIT FOR OTHER FEES PAID

5.1 Emission Sources

Where the owner or operator of a source has paid initial permit fees pursuant to Rule 301 (Permit Fee Schedules), sampling, analyses and testing fees authorized by this Rule, which have been incurred as part of the permit evaluation process, shall only be due and payable to the extent of the actual cost to the District for such activity, as determined by the Air Pollution Control Officer, which exceeds the difference between the estimated cost of all permit services performed by the District and the sum total of those initial permit fees paid by the owner or operator pursuant to Rule 301 for the subject source.

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