

VENTURA COUNTY AIR POLLUTION CONTROL DISTRICT

**RULE 46 - AIR TOXICS "HOT SPOTS" PROGRAM FEES**

*(Adopted 4/15/97, revised 4/13/04)*

A. Applicability

This rule shall apply to any stationary source that commenced operation prior to January 1 of the fiscal year for which the fees pursuant to this rule are being assessed, and:

1. Manufactures, formulates, uses or releases any listed substance or any other substance which reacts to form any listed substance, and emits 10 tons per year (ton/yr) or greater of any criteria pollutant, or
2. Manufactures, formulates, uses or releases any listed substance or any other substance which reacts to form any listed substance and emits less than 10 ton/yr of each criteria pollutant and is included in any class listed in Appendix E to the Criteria and Guidelines Report.

B. Assessment of Fees

1. Facility Program Category Fees

Except as set forth in a) and b) below, the operator of each stationary source that is subject to the provisions of this rule shall pay an annual fee based on the facility program category and complexity that the facility falls into on September 1 of the fiscal year for which fees are being assessed. Facility Program Category Fees are listed in Table 1.

- a) The new or previously exempt facility fee is a one-time fee assessed in the fiscal year that the facility is subject to, or no longer exempt from, the program. After the facility is prioritized by the District pursuant to Health and Safety Code Section 44360(a) based on the initial report, subsequent fees are assessed in the appropriate program category.
- b) District tracking facility fees are assessed only in the fiscal year that the quadrennial update summary is due to be submitted.

A health risk assessment facility that has submitted an updated emission inventory report subsequent to approval of the health risk assessment and the District has prioritized the facility in accordance with Health and Safety Code Section 44360(a) based on the updated emissions inventory shall have the Program Category based on the updated prioritization score.

2. Risk Assessment Modification Fee

In addition to any other fees assessed pursuant to this rule, the operator of any facility for which the District modifies a health risk assessment pursuant to Health and Safety Code Section 44362(a) (Revision of a Health Risk Assessment Which Was Not Revised and Resubmitted Within 60 Days of the District's Request of the Operator To Do So), shall be assessed a fee based on the actual time expended in the modification of the health risk assessment at the hourly service rate for an Air Pollution Control Engineer as approved by the Ventura County Air Pollution Control Board. This fee shall be assessed for the fiscal year in which the facility's health risk assessment, which was modified pursuant to Health and Safety Code Section 44362(a), is approved in writing by the District.

Table 1  
 Facility Program Category Fees  
 (All fees annual except as noted)

	Complexity	Fee
New Facility, Previously Exempt Facility	simple	\$755 <sup>a</sup>
	medium	\$1668 <sup>a</sup>
	complex	\$2580 <sup>a</sup>
Industrywide Facility	All	\$50
District Tracking Facility	All	\$210 <sup>b</sup>
HRA Tracking Facility	simple	\$310
	medium	\$793
	complex	\$1042
Score >10.0 Facility - High Priority	simple	\$860
	medium	\$2585
	complex	\$4310
Risk of 10.0 to < 50.0 Per Million Facility	simple	\$1032
	medium	\$3102
	complex	\$5172
Risk of 50.0 to < 100.0 Per Million Facility	simple	\$1204
	medium	\$3619
	complex	\$6034
Risk of 100.0 Per Million or Greater Facility	simple	\$1376
	medium	\$4136
	complex	\$6896

a - One-time fee; see Subsection B.1.a.  
 b - Quadrennial fee; see Subsection B.1.b.

3. Screening Risk Assessment Fee

In addition to any other fees assessed pursuant to this rule, the operator of any facility that submits (or requests that the District perform) a screening risk assessment pursuant to the Criteria and Guidelines Report shall be assessed a fee based on the actual time expended in the review (or performance) of the health risk assessment at the hourly service rate for an Air Pollution Control Engineer as approved by the Ventura County Air Pollution Control Board. This fee shall be assessed for the fiscal year in which the facility's screening risk assessment is approved in writing by the District.

Additionally, a facility that submits (or requests that the District perform) a screening risk assessment pursuant to the Criteria and Guidelines Report shall be assessed a fee to reimburse OEHHA for review of screening risk assessments submitted to the State.

4. State Costs

In addition to any other fees assessed pursuant to this rule, each facility shall pay a fee to cover the reasonable anticipated cost that will be incurred by the State board and the Office to implement and administer the Air Toxics "Hot Spots" Act as specified in the California Air Resources Board Air Toxics "Hot Spots" Fee Regulation for the fiscal year for which fees are being assessed.

5. OEHHA Risk Assessment Review Fee

In addition to any other fees assessed pursuant to this rule, each facility for which OEHHA reviews a health risk assessment, pursuant to Health and Safety Code Section 44361(a), shall pay a reimbursement fee in accordance with Health and Safety Code Section 44361(c). The fee is calculated in accordance with the California Air Resources Board Air Toxics "Hot Spots" Fee Regulation. If review of the health risk assessment is not required pursuant to Health and Safety Code Section 44361(a), but the facility operator requests that the risk assessment be reviewed by OEHHA so that the results can be used to determine the Facility Program Category, the facility operator shall also pay this fee.

6. Small Business Fee Cap

A small business, as defined in Section F.21 of this Rule, shall pay fees as follows:

- a. Total fees levied pursuant to Subsections B.1 and B.4 of this rule shall not exceed \$300.

- b. Total fees levied pursuant to Subsections B.2, B.3, and B.5 of this rule shall be paid in addition to the fee in Subsection B.6.a.

To qualify as a small business, information demonstrating small business status must be submitted to the District within two weeks of the date of the fee invoice.

C. Billing

The District shall notify the operator of each stationary source subject to this rule in writing of the total fee due. The operator shall remit the fee to the District within 60 days after receipt of the fee assessment notice.

D. Late Fees

Fees not paid within 60 days after the receipt of fee assessment notice will be considered past due. If a payment is received during the first 10 calendar days after the receipt of the certified notice that the payment is past due, the facility operator shall pay only the originally assessed fee. If payment is not received during the first 10 days after the receipt of the certified notice that the payment is past due, the facility operator shall pay the assessed fee plus a late fee in the amount of thirty percent (30%) of the original fee.

Beginning 31 days after the due date an additional late fee in the amount of ten percent (10%) of the original fee shall be imposed for each additional 30 day period, or portion thereof, between the due date and receipt of the payment.

The amount of the late fee shall not exceed 100% of the assessed fee or \$500.00, whichever is less.

If an operator fails to pay the fee within 120 days after receipt of the fee assessment notice, the District may initiate permit revocation proceedings. If any permit is revoked, it shall be reinstated only upon full payment of the overdue fee plus any late fee, and a reinstatement fee of \$60.00 to cover administrative costs of reinstating the permit.

E. Conditional Exemptions

The following facilities shall be exempt from this rule, unless at least one of the following changes occurs:

- The facility begins emitting a listed substance not included in the previous inventory.
- Emissions of a listed substance increase by 100 percent or more.
- The potency factor for an emitted substance has increased.
- A receptor has been established or constructed within 500 meters of the facility.

The District may continue to exempt the facility if the changes were subject to the District's permit program pursuant to Section 42300, and if the District conducts an assessment of the potential emissions or the associated risks, whichever the District determines to be appropriate, attributable to the modified facility. If the District finds that the emissions will not result in a significant risk and the District issues a permit authorizing construction or operation of the facility, the exemption may continue. If a facility is determined to no longer be exempt from this rule prior to September 1 of the fiscal year for which fees are being assessed, it is subject to this rule for that fiscal year and subsequent years, until or unless they again qualify for an exemption as specified herein.

1. Prioritization Score equal to or  $<1.0$

A facility that has been prioritized by the District pursuant to Health and Safety Code Section 44360(a) prior to September 1 of the fiscal year for which fees are being assessed and has a prioritization score that is less than or equal to 1.0 for both cancer health effects and noncancer health effects.

2. Risk Assessment  $<1.0$  in a Million

A facility that has had its health risk assessment approved by the District pursuant to Health and Safety Code Section 44362 prior to September 1 of the fiscal year for which fees are being assessed, and the risk assessment results show both a total potential lifetime cancer risk summed across all pathways of exposure and all compounds of less than one case per one million persons and a total hazard index for each toxicological endpoint of less than 0.1.

3. Screening Risk Assessment  $<1.0$  in a Million

A facility that was not required to conduct a risk assessment under Health and Safety Code Section 44360(b) may conduct a voluntary, worst-case, health conservative risk assessment using screening air dispersion modeling, as described in the Criteria and Guidelines Report. An exemption shall apply if the screening level risk assessment is approved by the District pursuant to the Criteria and Guidelines Report on or before September 1 of the fiscal year for which fees are being assessed, and the risk assessment results show both a total potential lifetime cancer risk at the point of maximum impact summed across all pathways of exposure and all compounds of less than one case per one million persons and a total hazard index for each toxicological endpoint of less than 0.1.

4. Toxics New Source Review

A new facility that was subject to the District's permit program pursuant to Section 42300, and for which the District conducts an assessment of the potential emissions or their associated risks, whichever the District determines to be

appropriate, attributable to the new facility and finds that the emissions will not result in a significant risk and for which the District issues a permit authorizing construction or operation of the facility.

5. De Minimis

A facility that has been prioritized by the District pursuant to Health and Safety Code Section 44360(a) prior to September 1 of the fiscal year for which fees are being assessed, and that meets one of the following criteria:

- a. The facility primarily performs printing as described by SIC Codes 2711 through 2771 or 2782, and the facility uses an annualized average of two gallons per day or less (or 17 pounds per day or less) of all graphic arts materials (deducting the amount of any water or acetone).
- b. The facility is a wastewater treatment plant as described by SIC Code 4952, the facility does not have a sludge incinerator and the maximum throughput at that facility does not exceed 10,000,000 gallons per day.
- c. The facility is a crematorium for humans, animals, or pets as described by SIC Code 7261 or any SIC code that describes a facility using an incinerator to burn biomedical waste (animals), the facility uses propane or natural gas as fuel, and the facility annually cremates no more than 300 cases (human) or 43,200 pounds (human or animal). Facilities using incinerators that burn biomedical waste other than cremating animals do not qualify for this exemption.
- d. The facility is primarily a boat building and repair facility or primarily a ship building and repair facility as described by SIC Codes 3731 or 3732, and the facility uses 20 gallons per year or less of coatings or is a coating operation using hand held nonrefillable aerosol cans only.
- e. The facility is a hospital or veterinary clinic building that is in compliance with the control requirement specified in the Ethylene Oxide Control Measure for Sterilizers and Aerators, Section 93108 of Title 17 of the California Code of Regulations (APCD Rule 62.6), and has an annual usage of ethylene oxide of less than 100 pounds per year if it is housed in a single story building, or has an annual usage of ethylene oxide of less than 600 pounds per year if it is housed in a multistory building.

An exemption shall not apply if the District required a health risk assessment and the results show that the facility does not qualify for exemption under Subsection E.2 of this rule.

F. Definitions

1. "Complex": a facility that has more than five processes as determined by six-digit Source Classification Codes (SCC).
2. "Complexity": designation of facilities as complex, medium, or simple as determined by six-digit Source Classification Codes (SCC), as specified in Subsections F.1, F.12, or F.20 of this rule. The number of six-digit SCC is based on the most recent approved emission inventory report. For facilities that do not yet have an approved emission inventory report, but hold an APCD Permit to Operate, the complexity will be based on permitted equipment and processes. For facilities that do not yet have an approved emission inventory report, and do not hold an APCD Permit to Operate, the complexity will be assumed to meet the definition in Subsection F.20.
3. "Criteria Pollutant": total organic gases, particulate matter, nitrogen oxides, or sulfur oxides.
4. "Criteria and Guidelines Report": the report incorporated by reference under Section 93300.5 of Title 17 of the California Code of Regulations that contains regulatory requirements for the Air Toxics "Hot Spots" Emission Inventory Program.
5. "District Tracking Facility": a facility that has been prioritized by the District in accordance with Health and Safety code Section 44360(a) and the greater of the facility's prioritization scores for cancer and noncancer effects is less than or equal to 10.0.
6. "Facility Program Category": a grouping of facilities meeting the definitions in Subsections F.5, F.9, F.10, F.13, F.14, F.16, F.17, F.18 and F.19 of this rule.
7. "Fiscal Year": Any period of 12 consecutive calendar months starting on July 1 and ending on June 30.
8. "Health Risk Assessment Facility": A facility that has had its health risk assessment approved by the District in accordance with Health and Safety Code Section 44362.
9. "HRA Tracking Facility": 1) a facility that has been prioritized by the District in accordance with Health and Safety Code Section 44360(a) and the greater of the facility's prioritization scores for cancer and noncancer effects is greater than 10 and that has been deemed intermediate priority by the District. OR 2) a health risk assessment facility whose risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, of less than 10.0 cases per million persons and a total hazard index for each toxicological endpoint of less than or equal to 1.0.

10. "Industrywide Facility": a facility that meets the criteria of Subsection A.2 that has been notified in writing that the District will perform an Industrywide inventory that includes such facility. A facility is not included in the Industrywide Facility category if the District has determined through an Industrywide inventory and assessment that the facility either has a prioritization score of less than 10.0 or a risk of less than 10.0 and a total hazard index of less than or equal to 1.0.
11. "Listed Substance": Any substance listed by the State Air Resources Board pursuant to Health and Safety Code Section 44321 and contained in Appendix A-1, A-II or A-III to the Criteria and Guidelines Report.
12. "Medium": a facility that has three to five processes as determined by six-digit Source Classification Codes (SCC).
13. "New Facility": a facility that has never been prioritized by the District in accordance with Health and Safety Code Section 44360(a).
14. "Previously Exempt Facility": A facility that was exempted from all program requirements pursuant to the Criteria and Guidelines Report that has been determined by the District to once again be subject to the Air Toxics "Hot Spots" Program.
15. "Prioritization Score": A numerical score calculated by the District pursuant to Health and Safety Code Section 44360(a) and based on a facility's emissions, the potency or toxicity of compounds emitted, and the facility's receptor proximity.
16. "Risk of 10.0 to Less Than 50.0 Per Million Facility": a health risk assessment facility whose risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, of greater than or equal to 10.0, but less than 50.0 cases per million persons or a total hazard index for each toxicological endpoint of greater than 1.0.
17. "Risk of 50.0 to Less Than 100.0 Per Million Facility": a health risk assessment facility whose risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, of greater than or equal to 50.0, but less than 100.0 cases per million persons.
18. "Risk of 100.0 Per Million or Greater Facility": a health risk assessment facility whose risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, of greater than or equal to 100.0 cases per million persons.
19. "Score >10.0 Facility": a facility that has been prioritized by the District in accordance with Health and Safety Code Section 44360(a) and the greater of the

facility's prioritization scores for cancer and noncancer effects is greater than 10.0 and does not have an approved health risk assessment and has been deemed high priority by the District.

20. "Simple": a facility that has one or two processes as determined by six-digit Source Classification Codes (SCC).
21. "Small Business": A facility which is independently owned and operated and has met the following criteria in the preceding year: 1) the facility has 10 or fewer employees; 2) the facility's total annual gross receipts are less than \$1,000,000; and 3) the total annual gross receipts of the California operations of the business the facility is part of are less than \$5,000,000.
22. "Source Classification Code (SCC)": a number code created by the United States Environments Protection Agency used to identify processes associated with point sources that contribute emissions to the atmosphere.
23. "Standard Industrial Classification (SIC) Code": a number code which classifies establishments by the type of business activity in which they are engaged, as defined by the Standard Industrial Classification Manual, 1987, published by the Executive Office of the President, Office of Management and Budget.
24. "Total Organic Gases (TOG)": All gases containing carbon, except carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.