



PUBLIC HEARING NOTICE

May 7, 2012

TO: INTERESTED PARTIES
FROM: EXECUTIVE OFFICER / APCO
SUBJECT: **PUBLIC HEARING: PROPOSED AMENDMENTS TO REGULATION 3: FEES – ALTERNATE PROPOSAL**

On Wednesday, April 18, 2012, the Board of Directors of the Bay Area Air Quality Management District initiated a public hearing to receive testimony on proposed amendments to District Regulation 3: Fees. On **Wednesday, June 6, 2012**, the Board of Directors will conduct a second public hearing to consider two alternative proposals to amend Regulation 3: Fees. The first alternative is the amendments as originally proposed at the April 18, 2012, public hearing. The second alternative is described below and was developed as a result of discussion at the Board's Budget and Finance Committee meeting on April 25, 2012. The Board will also consider the approval of the filing of a Notice of Exemption from CEQA. **District Board meetings commence at 9:45 a.m.**

The proposed amendments to the District's fee regulation would be effective on July 1, 2012, and would increase fee revenue in order to allow the District to meet budgetary needs for the upcoming fiscal year ending (FYE) 2013.

The original proposal would increase fees in Regulation 3, Schedule D: Gasoline Transfer at Gasoline Dispensing Facilities, Bulk Plants and Terminals and in Schedule P: Major Facility Review, by 9% each. The alternate proposal would increase Schedule D fees by 5% for gasoline dispensing facilities with 24 or fewer single product nozzles, or 24 or fewer (nozzles times products per nozzle) for multi-product nozzles, and increase Schedule P fees by 11%. All other elements of the fee proposal described in the prior notice are unchanged in this alternative proposal. Copies of the alternate proposal for Schedules D and P follow.

The District has determined that these amendments to Regulation 3 are exempt from provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) pursuant to State CEQA Guidelines, Sections 15061, subd. (b)(3) and 15273. The amendments increase District fees that are used to meet District operating expenses. The amendments are administrative in nature, do not affect air emissions from any sources, and can be seen with certainty to have no possibility of causing significant environmental effects. The District intends to file a Notice of Exemption pursuant to State CEQA Guidelines, Section 15062.

The proposed regulatory language is available on the District's website at <http://www.baaqmd.gov/Divisions/Planning-and-Research/Rule-Development/Current-Regulatory-Public-Hearings.aspx>. Copies are also available by calling the Compliance and Enforcement Division at (415) 749-4795. Staff will accept written comments on the proposed amendments until May 23, 2012. Please direct comments or questions to Brian Bateman, the District's Director of Compliance & Enforcement, at (415) 749-4653, or electronically at bbateman@baaqmd.gov.

PUBLIC TRANSPORTATION

MUNI -- #47 AND 49 NORTH AND SOUTH ON VAN NESS AVENUE

BART -- CIVIC CENTER STATION 8TH AND MARKET STREETS

Attendees are encouraged to ride public transit, rideshare, bicycle, walk or use other non-motorized modes to and from the District.

**SCHEDULE D
GASOLINE TRANSFER AT GASOLINE DISPENSING FACILITIES,
BULK PLANTS AND TERMINALS**

(Adopted June 18, 1980)

A. All gasoline dispensing facilities shall pay the following fees:

1. INITIAL FEE:

a. For gasoline dispensing facilities for which the result of the following formula is 25 or greater:

$$\frac{[(\text{multi-product nozzles})(\text{products per nozzle}) + \text{single product nozzles}]}{}$$

~~\$198.64~~\$216.52 per single product nozzle (spn)

~~\$198.64~~\$216.52 per product for each multi-product nozzle (mpn)

b. For gasoline dispensing facilities for which the result of the following formula is 24 or less:

$$\frac{[(\text{multi-product nozzles})(\text{products per nozzle}) + \text{single product nozzles}]}{}$$

\$208.57 per single product nozzle (spn)

\$208.57 per product for each multi-product nozzle (mpn)

2. PERMIT TO OPERATE FEE:

a. For gasoline dispensing facilities for which the result of the following formula is 25 or greater:

$$\frac{[(\text{multi-product nozzles})(\text{products per nozzle}) + \text{single product nozzles}]}{}$$

~~\$76.08~~\$82.93 per single product nozzle (spn)

~~\$76.08~~\$82.93 per product for each multi-product nozzle (mpn)

b. For gasoline dispensing facilities for which the result of the following formula is 24 or less:

$$\frac{[(\text{multi-product nozzles})(\text{products per nozzle}) + \text{single product nozzles}]}{}$$

\$79.88 per single product nozzle (spn)

\$79.88 per product for each multi-product nozzle (mpn)

3. Initial fees and permit to operate fees for hardware modifications at a currently permitted gasoline dispensing facility shall be consolidated into a single fee calculated according to the following formulas:

a. For gasoline dispensing facilities for which the result of the following formula is 25 or greater:

$$\frac{[(mpn_{\text{proposed}})(\text{products per nozzle}) + spn_{\text{proposed}}]}{}$$

$$\frac{\$274.72\text{--}\$299.44 \times \{[(mpn_{\text{proposed}})(\text{products per nozzle}) + spn_{\text{proposed}}] - [(mpn_{\text{existing}})(\text{products per nozzle}) + spn_{\text{existing}}]\}}{}$$

mpn = multi-product nozzles

spn = single product nozzles

proposed = total at facility after proposed modifications are complete

existing = total at facility before proposed modifications are complete

b. For gasoline dispensing facilities for which the result of the following formula is 24 or less:

$$\frac{[(mpn_{\text{proposed}})(\text{products per nozzle}) + spn_{\text{proposed}}]}{}$$

$$\frac{\$274.72\text{--}\$288.46 \times \{[(mpn_{\text{proposed}})(\text{products per nozzle}) + spn_{\text{proposed}}] - [(mpn_{\text{existing}})(\text{products per nozzle}) + spn_{\text{existing}}]\}}{}$$

mpn = multi-product nozzles

spn = single product nozzles

proposed = total at facility after proposed modifications are complete

existing = total at facility before proposed modifications are complete

The above formulas includes a toxic surcharge.

If the above formulas yields zero or negative results, no initial fees or permit to operate fees

shall be charged.

For the purposes of calculating the above fees, a fuel blended from two or more different grades shall be considered a separate product.

Other modifications to facilities' equipment, including but not limited to tank addition/replacement/conversion, vapor recovery piping replacement, moving or extending pump islands, will not be subject to initial fees or permit to operate fees.

4. RISK SCREENING FEE (RSF) of ~~\$389~~\$416 per application is only applicable to projects for which a health risk screening analysis is required under Regulation 2-5-401 [including increases in permitted throughput for which a health risk screening analysis is required.]
 5. Nozzles used exclusively for the delivery of diesel fuel or other fuels exempt from permits shall pay no fee. Multi-product nozzles used to deliver both exempt and non-exempt fuels shall pay fees for the non-exempt products only.
- B. All bulk plants, terminals or other facilities using loading racks to transfer gasoline or gasohol into trucks, railcars or ships shall pay the following fees:
1. INITIAL FEE: ~~\$2,600~~\$2,844 per single product loading arm
~~\$2,600~~\$2,844 per product for multi-product arms
 2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
 - a. RSF for first TAC source in application: ~~\$2,098~~\$3,268
 - b. RSF for each additional TAC source: ~~\$2,600~~\$2,844 *

* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
 3. PERMIT TO OPERATE FEE: ~~\$727~~\$792 per single product loading arm
~~\$727~~\$792 per product for multi-product arms
 4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.
- C. Fees in (A) above are in lieu of tank fees. Fees in (B) above are in addition to tank fees.
- D. Fees for each source will be rounded to the nearest dollar. The fee for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.

(Amended 2/20/85; 6/5/85; 6/4/86; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99; 6/7/00; 6/6/01; 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09; 6/16/10; 5/4/11)

SCHEDULE P
MAJOR FACILITY REVIEW FEES
 (Adopted November 3, 1993)

1. MFR / SYNTHETIC MINOR ANNUAL FEES

Each facility, which is required to undergo major facility review in accordance with the requirements of Regulation 2, Rule 6, shall pay annual fees (1a and 1b below) for each source holding a District Permit to Operate. These fees shall be in addition to and shall be paid in conjunction with the annual renewal fees paid by the facility. However, these MFR permit fees shall not be included in the basis to calculate Alternative Emission Control Plan (bubble) or toxic air contaminant surcharges. If a major facility applies for and obtains a synthetic minor operating permit, the requirement to pay the fees in 1a and 1b shall terminate as of the date the APCO issues the synthetic minor operating permit.

- a. MFR SOURCE FEE ~~\$456~~\$506 per source
- b. MFR EMISSIONS FEE..... ~~\$17.98~~\$19.96 per ton of regulated air pollutants emitted

Each MFR facility and each synthetic minor facility shall pay an annual monitoring fee (1c below) for each pollutant measured by a District-approved continuous emission monitor or a District-approved parametric emission monitoring system.

- c. MFR/SYNTHETIC MINOR MONITORING FEES ~~\$4,566~~\$5,068 per monitor per pollutant

2. SYNTHETIC MINOR APPLICATION FEES

Each facility that applies for a synthetic minor operating permit or a revision to a synthetic minor operating permit shall pay application fees according to 2a and either 2b (for each source holding a District Permit to Operate) or 2c (for each source affected by the revision). If a major facility applies for a synthetic minor operating permit prior to the date on which it would become subject to the annual major facility review fee described above, the facility shall pay, in addition to the application fee, the equivalent of one year of annual fees for each source holding a District Permit to Operate.

- a. SYNTHETIC MINOR FILING FEE ~~\$636~~\$706 per application
- b. SYNTHETIC MINOR INITIAL PERMIT FEE ~~\$446~~\$495 per source
- c. SYNTHETIC MINOR REVISION FEE..... ~~\$446~~\$495 per source modified

3. MFR APPLICATION FEES

Each facility that applies for or is required to undergo: an initial MFR permit, an amendment to an MFR permit, a minor or significant revision to an MFR permit, a reopening of an MFR permit or a renewal of an MFR permit shall pay, with the application and in addition to any other fees required by this regulation, the applicable fees according to 3a-h below. The fees in 3b and 3g apply to each source in the initial or renewal permit, while the fees in 3d-f apply to each source affected by the revision or reopening.

- a. MFR FILING FEE ~~\$636~~\$706 per application
- b. MFR INITIAL PERMIT FEE ~~\$616~~\$684 per source
- c. MFR ADMINISTRATIVE AMENDMENT FEE ~~\$180~~\$200 per application
- d. MFR MINOR REVISION FEE ~~\$903~~\$1,002 per source modified
- e. MFR SIGNIFICANT REVISION FEE ~~\$1,684~~\$1,869 per source modified
- f. MFR REOPENING FEE ~~\$552~~\$613 per source modified
- g. MFR RENEWAL FEE ~~\$268~~\$297 per source

Each facility that requests a permit shield or a revision to a permit shield under the provisions of

Regulation 2, Rule 6 shall pay the following fee for each source (or group of sources, if the requirements for these sources are grouped together in a single table in the MFR permit) that is covered by the requested shield. This fee shall be paid in addition to any other applicable fees.

- h. MFR PERMIT SHIELD FEE ~~\$950~~\$1,055 per shielded source or group of sources

- 4. MFR PUBLIC NOTICE FEES
Each facility that is required to undergo a public notice related to any permit action pursuant to Regulation 2-6 shall pay the following fee upon receipt of a District invoice.
MFR PUBLIC NOTICE FEE Cost of Publication

- 5. MFR PUBLIC HEARING FEES
If a public hearing is required for any MFR permit action, the facility shall pay the following fees upon receipt of a District invoice.
 - a. MFR PUBLIC HEARING FEE Cost of Public Hearing not to exceed \$10,968
 - b. NOTICE OF PUBLIC HEARING FEE Cost of distributing Notice of Public Hearing

- 6. POTENTIAL TO EMIT DEMONSTRATION FEE
Each facility that makes a potential to emit demonstration under Regulation 2-6-312 in order to avoid the requirement for an MFR permit shall pay the following fee:
 - a. PTE DEMONSTRATION FEE ... ~~\$108~~\$120 per source, not to exceed ~~\$10,682~~\$11,857
(Amended 6/15/94; 10/8/97; 7/1/98; 5/19/99; 6/7/00; 6/6/01, 5/1/02, 5/21/03;
6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09; 6/16/10; 5/4/11)