**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

**RESOLUTION No. 2025 – 07**

**A Resolution of the Board of Directors of the Bay Area Air Quality Management District Amending Regulation 3 (Fees)**

WHEREAS, Sections 40702, 42311, 41512.5, 41512.7, 42364 and 40726 of the California Health & Safety Code authorize the Bay Area Air Quality Management District ("Air District") to impose fees to recover the reasonable regulatory costs of the Air District's programs;

WHEREAS, the Air District's Cost Recovery and Containment Policy, adopted by the Board of Directors most recently in December 2022, establishes a goal of 100 percent cost recovery for the Air District's direct and indirect costs of its fee-based programs;

WHEREAS, historically the Air District has not achieved this goal of 100 percent cost recovery for its fee-based programs, with insufficient fee revenues to cover the full direct and indirect costs of these programs;

WHEREAS, in 2025 Air District staff prepared a Cost Recovery Report that indicates that an $8.7 million cost-recovery gap continues to exist within the Air District's fee-based programs, with fee revenues for Fiscal Year Ending ("FYE") 2022 to FYE 2024 covering only 88.7 percent of the direct and indirect program costs;

WHEREAS, the Board of Directors has determined for FYE 2026 that there is a need to increase fees to adjust the fees for inflation and to reduce the misalignment between fee revenues and the costs of associated Air District regulatory programs;

WHEREAS, to address this need, Air District staff has prepared proposed amendments to the Air District's fee regulation, Regulation 3 (Fees);

WHEREAS, Air District staff has prepared a detailed staff report discussing the proposed amendments to Regulation 3, which is incorporated herein by reference;

WHEREAS, to ensure compliance with applicable statutory requirements for the adoption of the proposed amendments, Air District staff proposed that the Board of Directors consider and adopt the proposed amendments to Regulation 3 in two steps, with the first step consisting of proposed amendments impacting fee schedules A, B, D, E, F, G-1 through G-5, H, K, P and W, along with other related changes, and the second step consisting of proposed amendments impacting fee schedules S and V;

WHEREAS, on June 4, 2025, the Board of Directors adopted the first set of proposed amendments to Regulation 3, which became effective on July 1, 2025;

WHEREAS, as discussed in detail in the staff report, the second set of proposed amendments to Regulation 3, which are attached hereto as Attachment A ("Proposed Amendments") would increase fee schedules S and V, which are currently well below full cost recovery, by 15 percent;

WHEREAS, Air District staff has determined that a socioeconomic analysis of the Proposed Amendments pursuant to Health & Safety Code section 40728.5 is not required because the Proposed Amendments will not significantly affect air quality or emissions limitations within the meaning of that section;

WHEREAS, Air District staff has determined that an incremental cost-effectiveness analysis of the Proposed Amendments pursuant to Health & Safety Code section 40920.6 is not required because the Proposed Amendments do not impose best available retrofit control requirements;

WHEREAS, Air District staff discussed the Proposed Amendments at public workshops on February 14 and April 10, 2025;

WHEREAS, the Finance and Administration Committee of the Board of Directors held a regularly scheduled public meeting on March 19, 2025, at which the Proposed Amendments were discussed, and at which oral or written presentations could be made on the subject of the Proposed Amendments;

WHEREAS, the Board of Directors held a public hearing on May 7, 2025, to consider and discuss the Proposed Amendments, and to hear comments and testimony from members of the public, in accordance with all provisions of law;

WHEREAS, on May 1 and May 2, 2025, as required by Health and Safety Code section 40725, Air District staff published notice in newspapers that the Board of Directors would hold public hearings on both sets of proposed amendments to Regulation 3, including (i) the public hearing on June 4, 2025, at which the Board of Directors adopted the first set of proposed amendments, and (ii) another public hearing on July 2, 2025, to consider the second set of proposed amendments (referred to herein as the "Proposed Amendments"), and in this notice invited written public comment on all of the proposed amendments;

WHEREAS, Air District staff also distributed and published this notice on the Air District's website and provided it to the California Air Resources Board;

WHEREAS, Air District staff now recommends adoption of the second set of proposed amendments to Regulation 3 as set forth in Attachment A hereto, consisting of changes to schedules S and V;

WHEREAS, this Board of Directors concurs with Air District staff's recommendations and desires to adopt the Proposed Amendments.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Bay Area Air Quality Management District does hereby adopt, pursuant to the authority granted by law, the proposed amendments to Regulation 3 (Fees) as set forth in Attachment A hereto and discussed in the staff report, with instructions to staff to correct any typographical or formatting errors before final publication of the text of the proposed amended rule as adopted.

BE IT FURTHER RESOLVED that the Board of Directors of the Bay Area Air Quality Management District makes the following findings of necessity, authority, consistency, nonduplication, and reference, pursuant to Health & Safety Code Section 40727:

1. A need exists for the proposed amendments to Regulation 3 attached hereto as Attachment A in order to ensure that the Air District recovers the reasonable regulatory costs of implementing its fee-based programs and to move the Air District closer to the Cost Recovery and Containment Policy goal of 100 percent cost recovery;
2. The Air District has authority to adopt the proposed amendments to Regulation 3 attached hereto as Attachment A as provided for in sections 40702, 41512.5, and 40726 of the Health & Safety Code;
3. The proposed amendments to Regulation 3 attached hereto as Attachment A are written or displayed so that their meaning can be understood by the persons directly affected by the regulation;
4. The proposed amendments to Regulation 3 attached hereto as Attachment A are in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations;
5. The proposed amendments to Regulation 3 attached hereto as Attachment A do not impose the same requirements as any existing state or federal regulation, and they are necessary and proper to execute the power and duties granted to and imposed upon the Air District by providing revenues to the Air District to cover a portion of the costs of administering the Air District's fee-based programs;
6. The proposed amendments to Regulation 3 attached hereto as Attachment A implement, interpret, and make specific the provisions of Health & Safety Code section 41512.5 (fees applicable to emission sources not included within permit system);

The foregoing resolution was duly and regularly introduced, passed and adopted at a regular meeting of the Board of Directors of the Bay Area Air Quality Management District on the Motion of DIRECTOR SALINAS, seconded by DIRECTOR BROWN, on the 2nd day of JULY, 2025 by the following vote of the Board:

AYES: DIONNE ADAMS, MONICA BROWN, KEN CARLSON, BRIAN COLBERT, NOELIA CORZO, JOELLE GALLAGHER, JOHN GIOIA, JUAN GONZÁLEZ III, DAVID HAUBERT, TYRONE JUE, BILAL MAHMOOD, RICO E. MEDINA, RAY MUELLER, GABE QUINTO, MARK SALINAS, LENA TAM, VICKI VEENKER, SHAMANN WALTON, STEVE YOUNG.

NOES: NONE.

ABSTAIN: NONE.

ABSENT: MARGARET ABE-KOGA, BRIAN BARNACLE, LYNDA HOPKINS, OTTO LEE, SERGIO LOPEZ.

Vicki Veenker
Vice Chair of the Board of Directors
(On behalf of Chair Lynda Hopkins)

ATTEST:

Marcy Hiratzka
Clerk of the Boards

# ATTACHMENT A

# [PROPOSED CHANGES]

# Regulation 3: Fees

## SCHEDULE S
## NATURALLY OCCURRING ASBESTOS OPERATIONS

1. ASBESTOS DUST MITIGATION PLAN INITIAL REVIEW AND AMENDMENT FEES:

   Any person submitting an Asbestos Dust Mitigation Plan (ADMP) for initial review of a Naturally Occurring Asbestos (NOA) project shall pay the following fee (including NOA Discovery Notifications which would trigger an ADMP review): $~~1,111~~1,278

   Any person submitting a request to amend an existing ADMP shall pay the following fee: $~~569~~654

2. AIR MONITORING PROCESSING FEE:

   NOA projects requiring an Air Monitoring component as part of the ADMP approval are subject to the following fee in addition to the ADMP fee: $~~8,570~~9,856

3. GEOLOGIC EVALUATION FEE:

   Any person submitting a Geologic Evaluation for exemption from Section 93105 shall pay the following fee: $~~4,232~~4,867

4. INSPECTION FEES:
   a. The owner of any property for which an ADMP is required shall pay fees to cover the costs incurred by the Air District in conducting inspections to determine compliance with the ADMP on an ongoing basis. Inspection fees shall be invoiced by the Air District on a quarterly basis, and at the conclusion of dust generating activities covered under the ADMP, based on the actual time spent in conducting such inspections, and the following time and materials rate: $~~213~~219 per hour

   b. The owner of any property for which Geologic Evaluation is required shall pay fees to cover the costs incurred by the Air District. Inspection fees shall be invoiced by the Air District, based on the actual time spent in conducting such inspections, and the following time and materials rate: $~~213~~219 per hour

*(Adopted 6/6/07; Amended 5/21/08, 5/20/09, 6/16/10, 6/15/11, 6/6/12, 6/19/13, 6/4/14, 6/3/15, 6/15/16, 6/21/17, 6/6/18, 6/5/19, 6/16/21, 6/15/22, 6/7/23, 6/5/24, ~~X/X/XX~~)*

## SCHEDULE V
## OPEN BURNING

1. Any prior notification required by Regulation 5, Section 406 is subject to the following fee:

   a. OPERATION FEE: $199

   b. The operation fee paid as part of providing notification to the Air District prior to burning will be determined for each property, as defined in Regulation 5, Section 217, and will be valid for one year from the fee payment date when a given fire is allowed, as specified in Regulation 5, Section 401 for the following fires:

| Regulation 5 Section – Fire | Burn Period |
|---|---|
| 401.1 - Disease and Pest | January 1 – December 31 |
| 401.2 - Crop Replacement[1] | October 1 – April 30 |
| 401.3 - Orchard Pruning and Attrition[2] | November 1 – April 30 |
| 401.4 - Double Cropping Stubble | June 1 – August 31 |
| 401.6 - Hazardous Material[1] | January 1 – December 31 |
| 401.7 - Fire Training | January 1 – December 31 |
| 401.8 - Flood Debris | October 1 – May 31 |
| 401.9 - Irrigation Ditches | January 1 – December 31 |
| 401.10 - Flood Control | January 1 – December 31 |
| 401.11 - Range Management[1] | July 1 – April 30 |
| 401.12 - Forest Management[1] | November 1 – April 30 |
| 401.14 - Contraband | January 1 – December 31 |

   [1] Any Forest Management fire, Range Management fire, Hazardous Material fire not related to Public Resources Code 4291, or any Crop Replacement fire for the purpose of establishing an agricultural crop on previously uncultivated land, that is expected to exceed 10 acres in size or burn piled vegetation cleared or generated from more than 10 acres is defined in Regulation 5, Section 213 as a type of Prescribed Burning and, as such, is subject to the Prescribed Burning operation fee in Section 3 below.

   [2] Upon the determination of the APCO that heavy winter rainfall has prevented this type of burning, the burn period may be extended to no later than June 30.

   c. Any person who provided notification required under Regulation 5, Section 406, who seeks to burn an amount of material greater than the amount listed in that initial notification, shall provide a subsequent notification to the Air District under Regulation 5, Section 406 and shall pay an additional open burning operation fee prior to burning.

2. Any Marsh Management fire conducted pursuant to Regulation 5, Section 401.13 is subject to the following fee, which will be determined for each property by the proposed acreage to be burned:

   a. OPERATION FEE:
   $~~821~~944 for 50 acres or less
   $~~1,117~~1,285 for more than 50 acres but less than or equal to 150 acres
   $~~1,408~~1,619 for more than 150 acres

   b. The operation fee paid for a Marsh Management fire will be valid for a Fall or Spring burning period, as specified in Regulation 5, Subsection 401.13. Any burning subsequent to either of these time periods shall be subject to an additional open burning operation fee.

3. Any Wildland Vegetation Management fire (Prescribed Burning) conducted pursuant to Regulation 5, Section 401.15 is subject to the following fee, which will be determined for each prescribed burning project by the proposed acreage to be burned:

   a. OPERATION FEE:
   $796 for 50 acres or less
   $1,079 for more than 50 acres but less than or equal to 150 acres

$1,404 for more than 150 acres

b. The operation fee paid for a prescribed burn project will be valid for the burn project approval period, as determined by the Air District. Any burning subsequent to this time period shall be subject to an additional open burning operation fee.

4. Any Filmmaking fire conducted pursuant to Regulation 5, Section 401.16 and any Public Exhibition fire conducted pursuant to Regulation 5, Section 401.17 is subject to the following fee:

   a. OPERATION FEE: $1,029

   b. The operation fee paid for a Filmmaking or Public Exhibition fire will be valid for the burn project approval period, as determined by the Air District. Any burning subsequent to this time period shall be subject to an additional open burning operation fee.

5. Any Stubble fire conducted pursuant to Regulation 5, Section 401.5 that requires a person to receive an acreage burning allocation prior to ignition is subject to the following fee, which will be determined for each property by the proposed acreage to be burned:

   a. OPERATION FEE: $509 for 25 acres or less
   $714 for more than 25 acres but less than or equal to 75 acres
   $867 for more than 75 acres but less than or equal to 150 acres
   $1,021 for more than 150 acres

   b. The operation fee paid for a Stubble fire will be valid for one burn period, which is the time period beginning September 1 and ending December 31, each calendar year. Any burning subsequent to this time period shall be subject to an additional open burning operation fee.

6. All fees paid pursuant to Schedule V are non-refundable.

7. All fees required pursuant to Schedule V must be paid before conducting a fire.

*(Adopted 6/1913; Amended 6/4/14, 6/3/15, 6/15/16, 6/21/17, 6/6/18 ,6/5/19, 6/3/20, 6/16/21, 6/15/22, 6/7/23, 6/5/24, X/X/XX)*