

SCENARIO 3 (7.5%)

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PROPOSED AMENDED RULE 304. EQUIPMENT, MATERIALS, AND AMBIENT AIR ANALYSES

- (a) Whenever the Executive Officer finds that an analysis of the materials used by, or the emissions from, any source is necessary to determine the extent and amount of pollutants being discharged to the atmosphere, he may order the testing of such sources.
- (b) Whenever the Executive Officer has reasonable cause to believe that air pollutants being discharged into the atmosphere from any source may be contrary to any permit condition or any state or local law, order, rule, or regulation relating to air pollution, or may be endangering the comfort, repose, health, or safety of a considerable number of persons, or the public, he may order the testing of the ambient air which may be affected.
- (c) After the Executive Officer determines that ambient air testing should be conducted and that the source should be assessed fees to pay for such testing, and that the test has begun, he shall within two working days advise the source of the basis upon which the finding of reasonable cause was made, the pollutants being tested for, the duration of testing, and the estimated fees.
- (d) Testing will be accomplished by the collection of samples and the analyses of such samples by qualified personnel of the South Coast Air Quality Management District, continuous automatic recording ambient monitoring by a District van, device, facility or an independent testing laboratory under contract to the District. Alternatively, the Executive Officer may require (or the owner/operator of the source may, with the approval of the Executive Officer, elect) that testing be performed by an approved independent testing laboratory, that meets the criteria in subdivision (k). Such testing shall be done using procedures and methods and under conditions prescribed by the Executive Officer. Where tests are performed

by an approved independent testing laboratory, the Executive Officer may require that sampling and/or testing be witnessed by qualified District personnel at the fee rate of ~~\$102.18~~95.05 for FY 04-05 and ~~\$95.05~~ for FY 05-06 and thereafter per person per hour or prorated portion thereof. The owner/operator of the source shall provide to the Executive Officer a copy of all test reports, including all test data, description of test methods, analyses, and results.

- (e) The owner/operator of a source tested by District personnel or an independent testing laboratory under contract to the District shall not pay a fee for the initial test/analysis which is conducted to determine compliance with a permit condition, or any state or local law, order, rule, or regulation relating to air pollution, unless the result of such testing indicates a violation of any state or local law, order, rule, permit condition or regulation relating to air pollution in which case the fee shall be charged to the owner/operator in accordance with the fee specified in Rule 304.1. If the initial test/analysis indicates that the source is or may be in violation of a permit condition, or any state or local law, order, rule, or regulation relating to air pollution, any subsequent test/analysis conducted in order to verify the compliance status shall result in a fee charged to the owner/operator in accordance with the fee specified in Rule 304.1. Tests scheduled of one or more permit units to be operated under prearranged conditions, which are canceled due to a change in the permit units' prearranged operating conditions, shall result in a fee charged to the owner/operator in accordance with the fee specified in Rule 304.1. Such a fee shall not be charged if the owner/operator notifies the District of the cancellation at least 24 hours prior to the scheduled test date and time.
- (f) Fees for any test not listed in Rule 304.1 shall be determined by the Executive Officer.
- (g) Federal, state, or local government agencies or public districts shall pay all fees.
- (h) Should the estimated fees for conducting any ambient air monitoring program as described in subdivision (b) of this Rule exceed ~~\$13,003.25~~12,096.05 for FY 04-05 and ~~\$12,096.05~~ for FY 05-06 and thereafter, the affected owner/operator may, within 30 days of notification, request that the program be approved by the District Board at a public hearing.
- (i) After completion of testing, the owner/operator of the source shall be notified by the District accounting office of the fees to be paid. Such fees shall be assessed for all non-compliant samples, as described in subdivision (e), which indicates

that if, a source is or may be in violation of a permit condition or of any state or local law, order, rule, or regulation relating to air pollution, or when there may be any endangerment of the comfort, repose, health, or safety of a considerable number of persons or the public then, and a subsequent verification is required. Failure to pay any such fees within thirty (30) days after the date shown on the notice of fees due shall constitute grounds for the denial, revocation or suspension of the permits to operate at sources subject to permit requirements and shall constitute a violation of this Rule for any source, whether or not subject to permit requirements.

- (j) A small business shall pay twenty percent (20%) of the fees listed in Rule 304.1. Small business is defined in Rule 102 as "Small Business."
- (k) For the purposes of this Rule, when an independent testing laboratory is used for the purposes of establishing compliance with District rules or to obtain a District permit to operate, it must meet all of the following criteria:
 - (1) The testing laboratory shall have no financial interest in the company or facility being tested, or in the parent company or any subsidiary thereof;
 - (2) The company or facility being tested, or parent company or any subsidiary thereof, shall have no financial interest in the testing laboratory;
 - (3) Any company or facility responsible for the emission of significant quantities of pollutants to the atmosphere, or parent company or any subsidiary thereof, shall have no financial interest in the testing laboratory; and
 - (4) The testing laboratory shall not be in partnership with, own or be owned by, in part or in full, the contractor who has provided or installed equipment (basic or control), or monitoring systems, or is providing maintenance for installed equipment or monitoring systems, for the company being tested.

The testing laboratory shall submit a statement certifying that it meets the above criteria with respect to the company or facility being tested.
- (l) Notwithstanding the provisions of subdivision (k), the Executive Officer, by written approval, may allow the operator of a publicly owned treatment works to conduct testing in connection with wastewater treatment or reclamation operation pursuant to this rule, if the Executive Officer determines the following:
 - (1) the operator complies with all requirements of this rule, other than

subdivision (k);

- (2) the operator submits a written self-testing plan request to the Executive Officer for certification on a method-by-method basis, in accordance with the requirements of guidelines established by the Executive Officer; and
 - (3) the operator pays a fee for the processing of the self-testing plan request at a rate of ~~\$102.18~~95.05 for FY 04-05 and ~~\$95.05~~ for FY 05-06 and thereafter per person per hour, pursuant to Rule 306(d), so as not to exceed the amount necessary to recover the District costs.
- (m) The District may approve independent testing firms to perform specified analyses and tests required for compliance with District rules, regulations and permit conditions.
- (1) Approval fees (for each method required for approval) will be assessed to cover the costs of processing the laboratory approval application and subsequent District validation of the independent firm's expertise and reliability.
 - (2) For firms located outside District boundaries, reasonable travel charges will be assessed for site visits as required as part of the approval process.
 - (3) An approved facility may renew its status by paying an annual fee per method and by complying with the original approval requirements as well as any additional approval requirements or any additional conditions.
Fees are based on actual costs at the staff hour rate specified in paragraph (d) above and as shown in Table I.
- (n) Service Charge for Returned Check
- Any person who submits a check to the District on insufficient funds or on instructions to stop payment on the check, absent an overcharge or other legal entitlement to withhold payment, shall be subject to a ~~\$32.42~~30.16 for FY 04-05 and ~~\$30.16~~ for FY 05-06 and thereafter service charge.

TABLE I
LABORATORY APPROVAL PROGRAM
FEE STRUCTURE
(per method)

	<u>FY 04-05</u>	<u>FY 05-06 and thereafter</u>
Application Review	\$ 136.21 <u>126.71</u>	\$126.71
Facility Inspection (if required)	\$ 102.18 <u>95.05</u> / hour up to \$ 299.50 <u>278.60</u> additional	\$95.05/hr up to \$278.60 additional
Audit Sample (if required)	\$ 102.18 <u>95.05</u> / hour up to \$ 399.29 <u>371.43</u> additional	\$95.05/hr up to \$371.43 additional
Annual Renewal	\$ 136.21 <u>126.71</u>	\$126.71
Method Equivalence	\$ 102.18 <u>95.05</u> / hour up to \$ 650.12 <u>604.76</u> additional	\$95.05/hr up to \$604.76 additional