

Yolo-Solano Air Quality Management District  
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**YOLO-SOLANO**  
AIR QUALITY MANAGEMENT DISTRICT

**PROPOSED AMENDMENTS TO  
RULE 4.3, FEES – ASBESTOS DEMOLITIONS/RENOVATIONS**

FINAL STAFF REPORT

November 28, 2018

Prepared by: Paul Hensleigh, Deputy Air Pollution Control Officer

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## I. EXECUTIVE SUMMARY

On December 12, 2018, the Yolo-Solano Air Quality Management District (District) Board of Directors will consider amendments to RULE 4.3, FEES – ASBESTOS DEMOLITIONS/RENOVATIONS. Rule 4.3 sets the fees the District charges to owners/operators performing demolitions and renovations.

The only amendment being proposed to Rule 4.3 is to add a provision to give the APCO the ability to waive fees for firefighting agencies when it's in the best interest of the public and the District.

The proposed amendments are for the modification of rates charged by our public agency for the purpose of meeting operating expenses. Therefore, staff prepared a Notice of Exemption to satisfy the requirements of the California Environmental Quality Act (CEQA). The notice states that the revisions to Rule 4.3 are exempt from the requirements of CEQA pursuant to a Statutory Exemption, Section 15273, Rates, Tolls, Fares, and Charges.

### A. BACKGROUND

#### History

Rule 4.3 was originally adopted in 1996 and was not amended for nearly twenty years, during which time District expenses related to review and approval of renovation/demolition projects increased substantially. In 2015, the Board amended this rule to increase fees over a 3 year period. After that initial 3 year period, the fees in the rule now can be adjusted by the Consumer Price Index (CPI) during the annual budget adoption process.

#### Overview of source category

This rule applies to the owners and operators who are doing renovations and/or demolitions of commercial structures. The rule does not apply to single family residential projects. The fees from this rule cover the District resources required to enforce District Rule 9.9 ASBESTOS, which enforces the Federal asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP).

## II. DISCUSSION OF PROPOSED RULE 4.3 AMENDMENTS

The only amendments to Rule 4.3 are as follows:

### **Section 400     Administrative Requirements**

The District will add a new section:

402     **WAIVER OF FEES:** The Air Pollution Control Officer may waive the fees required by this Rule for firefighting agencies when the waiver of such fees would be in the public interest and in the best interest of the District.

The District has been approached by several public firefighting agencies in regards to waiving the asbestos fees when they burn a structure for training purposes. At times, the agencies will have an old residence or structure donated to them to burn it down and practice extinguishing the flames.

This can be a mutually beneficial project for the property owner (desiring to demolish old buildings) as well as the firefighting agency (obtaining real world, live fire training).

The District does still require the property owner to comply with District Rule 9.9 by hiring a licensed contractor to survey the building for the presence of asbestos, and abate any asbestos prior to burning the structure. However, charging the property owner (or the fire agency) the additional District fees can be an obstacle in some cases which can delay or cancel the project.

Similar language (allowing the APCO to waive fees) is currently included in our agricultural burning fee rule, but was not previously included in the asbestos fee rule.

### **III. COMPARISON WITH OTHER APPLICABLE REGULATIONS AND REQUIREMENTS**

Health and Safety Code Section 40727.2 requires districts to prepare a written comparative analysis of any new control standard that identifies all existing federal air pollution control requirements, including, but not limited to, emission control standards constituting best available control technology (BACT) that apply to the same equipment or source type as the rule or regulation proposed for adoption or modification by the District. This rule is a fee rule only, so there are no control requirements and this analysis can't be performed.

### **IV. IMPACTS OF THE PROPOSED RULE**

#### Emissions Impacts

The amendments to this rule will not impact emissions.

#### Cost Effectiveness

CH&SC Section 40703 requires the District, in the process of the adoption of any rule or regulation, to consider and make public its findings related to the cost effectiveness of the rule. Cost effectiveness for rulemaking purposes is calculated by dividing the cost of air pollution controls required by the rule by the amount of air pollution reduced. The amendments to this rule will not impact emissions and therefore cost effectiveness calculations cannot be performed.

#### Socioeconomic Impacts

California Health and Safety Code Section 40728.5 (a) requires the District, in the process of the adoption of any rule or regulation, to consider the socioeconomic impact if air quality or emission limits may be significantly affected. However, districts with a population of less than 500,000 persons are exempt from the provisions of Section 40728.5 (a). The District's population is estimated to be approximately 331,600 and well below the 500,000 person threshold. Therefore, a socioeconomic analysis for this rulemaking is not required.

#### Incremental Cost Effectiveness

CH&SC Section 40920.6 requires an assessment of the incremental cost-effectiveness for proposed

regulations relative to ozone, Carbon Monoxide (CO), Sulfur Oxides (SOx), Nitrogen Oxides (NOx), and their precursors. Incremental cost-effectiveness is defined as the difference in control costs divided by the difference in emission reductions between two potential control options that can achieve the same emission reduction goal of a regulation. Again, the District does not expect any emissions changes from these amendments, so no incremental cost-effectiveness analysis can be done.

#### Impacts to the District

This amendment will result in minimal changes to the revenue received by the District, as the District typically only receives 1 or 2 projects a year being done by firefighting agencies, which could now be exempt from paying the fees.

### **V. ENVIRONMENTAL IMPACTS OF METHODS OF COMPLIANCE**

California Public Resource Code Section 21159 requires the District to perform an environmental analysis of the reasonably foreseeable methods of compliance. The analysis must include the following information:

1. An analysis of the reasonably foreseeable environmental impacts of the methods of compliance.
2. An analysis of the reasonably foreseeable mitigation measures.
3. An analysis of the reasonably foreseeable alternative means of compliance with the rule or regulation.

The District does not expect any change in emissions from this rule amendment. Therefore an evaluation under this section cannot be performed.

The proposed amendments are for the modification of rates charged by our public agency for the purpose of meeting operating expenses. Therefore, staff prepared a Notice of Exemption (Attachment B) to satisfy the requirements of the California Environmental Quality Act (CEQA). The notice states that the revisions to Rule 4.3 are exempt from the requirements of CEQA pursuant to a Statutory Exemption, Section 15273, Rates, Tolls, Fares, and Charges.

### **VI. REGULATORY FINDINGS**

Section 40727(a) of the California Health & Safety Code (H&SC) requires that prior to adopting or amending a rule or regulation, an air district's board make findings of necessity, authority, clarity, consistency, nonduplication, and reference. The findings must be based on the following:

1. Information presented in the District's written analysis, prepared pursuant to H&SC Section 40727.2;
2. Information contained in the rulemaking records pursuant to H&SC Section 40728; and

3. Relevant information presented at the Board's hearing for adoption of the rule.

The required findings are:

Necessity: It is necessary for the District to adopt this amended rule in order to provide flexibility for the District to properly administer the asbestos program.

Authority: The District is authorized to adopt rules and regulations by California Health and Safety Code, Sections 40001, 40702, 40716, 41010 and 41013. [H&SC Section 40727 (b)(2)]

Clarity: The proposed rule is written so that the meaning can be easily understood by the persons directly affected by it. In addition, the record contains no evidence that the persons directly affected by the rule cannot understand the rule. [H&SC Section 40727(b)(3)]

Consistency: The proposed rule does not conflict with and is not contradictory to, existing statutes, court decisions, or state or federal regulations. [H&SC Section 40727(b)(4)]

Non-Duplication: The proposed rule does not duplicate any state laws or regulations, regarding the attainment and maintenance of state and federal air quality limits. [H&SC Section 40727(b)(5)]

Reference: The District must refer to any statute, court decision, or other provision of law that the District implements, interprets, or makes specific by adopting, amending or repealing the rule. [H&SC Section 40727(b)(6)]

## **VII. PUBLIC COMMENTS AND STAFF RESPONSES**

The District circulated this staff report and the proposed rule language for public comment at least 30 days prior to the public hearing. Notification was sent to surrounding Air Districts, City Managers within the District, building/planning/community development departments within the YSAQMD, all city and county libraries within the District, all Board members, and all affected sources (the firefighting agencies). The hearing notice was published in the Vacaville Reporter, Woodland Democrat, and the Davis Enterprise.

A copy of the public hearing notice, the draft staff report, and draft rule language, was posted on the District's web page at least 30 days prior to the public hearing.

No comments were received.

## **VIII. REFERENCES**

N/a

**ATTACHMENT A**

**PROPOSED RULE 4.3, ASBESTOS DEMOLITIONS/RENOVATIONS  
STRIKE-OUT UNDERLINE VERSION**

**ATTACHMENT B**

**NOTICE OF EXEMPTION FROM CEQA GUIDELINES**



### Notice of Exemption

**To:**     ☐     Office of Planning and Research  
                                  1400 Tenth Street, Room 121  
                                  Sacramento, CA 95814

☒     County Clerk  
                                  County of Yolo  
                                  625 Court Street Room 105  
                                  Woodland, CA 95695

☐     County Clerk  
                                  Solano County  
                                  600 Texas Street  
                                  Fairfield, CA 94533

**From:**           Yolo-Solano Air Quality Management District  
                          1947 Galileo Court, Suite 103  
                          Davis, CA 95618

**Project Title:**               Revision of Rule 4.3 – ASBESTOS DEMOLITIONS/RENOVATIONS

**Project Location:**       Yolo-Solano Air Quality Management District

**Project description:**    The District is proposing to amend Rule 4.3 to add the ability for the District to waive fees when it's in the public interest and best interest of the District.

**Name of Public Agency Approving Project:**       Yolo-Solano Air Quality Management District

**Name of Person or Agency Carrying Out Project:**   Yolo-Solano Air Quality Management District

Exempt Status:

- ☐     Ministerial  
☐     Emergency Project  
☐     Categorical Exemption  
☒   Statutory Exemption (CEQA Guidelines Section 15273, Rates, Tolls, Fares, and Charges)

**Reason why project is exempt:**       The revision of Rule 4.3 is the modification of rates charged by a public agency for the purpose of meeting operating expenses and is therefore exempt from CEQA because it constitutes a statutory exemption pursuant to CEQA Guidelines 15273.

**Lead Agency Contact Person:**       Mat Ehrhardt, Air Pollution Control Officer  
**Telephone Number:**               (530) 757-3650

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_ **Title:** \_\_\_\_\_

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**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**ATTACHMENT C**

**RESOLUTION NO. 18-09**

## **RESOLUTION NO. 18-09**

### **RESOLUTION AMENDING YOLO-SOLANO AIR QUALITY MANAGEMENT DISTRICT RULE 4.3**

**WHEREAS**, California Health and Safety Code section 40702 provides that an air quality management district shall adopt rules and regulations as may be necessary or proper to execute the powers and duties granted to, and imposed upon, the district by Division 26 of the Health and Safety Code; and

**WHEREAS**, Health and Safety Code section 40727 provides that before adopting, amending, or repealing a rule or regulation, a district board shall make findings of necessity, authority, clarity, consistency, nonduplication, and reference, based upon information developed pursuant to section 40727.2, information in the rulemaking record maintained pursuant to section 40728, and relevant information presented at the public hearing required by section 40725; and

**WHEREAS**, section 15273 of the CEQA Guidelines provides that modification of rates charged by public agencies for the purpose of meeting operating expenses are statutorily exempt from CEQA review; and

**WHEREAS**, District staff identified a single requirement within Rule 4.3 – ASBESTOS DEMOLITIONS/RENOVATIONS which required updating to provide flexibility for the District to administer the asbestos review program.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Directors of the Yolo-Solano Air Quality Management District hereby finds, authorizes, directs and declares as follows:

1. The Board of Directors has considered and hereby adopts by reference the staff report prepared in this matter.
2. The Board of Directors makes the following findings pursuant to Health and Safety Code section 40727:
  - a. Necessity: Information in the District's rulemaking record maintained pursuant to Health and Safety Code section 40728 demonstrates a need for amending District Rule 4.3;
  - b. Authority: Health and Safety Code section 40702 permits the District to amend District Rule 4.3;
  - c. Clarity: District Rule 4.3 as amended is written so that its meaning can be easily understood by the persons directly affected by it;

- d. Consistency: District Rule 4.3 as amended is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations;
  - e. Nonduplication: District Rule 4.3 as amended does not impose the same requirements as an existing state or federal regulation;
  - f. Reference: By adopting District Rule 4.3, the District meets the requirements of Health & Safety Code Sections 40702.
- 3. The Board of Directors finds that the District has complied with the procedural requirements set forth in Chapters 6 and 6.5 of Part 3 of Division 26 of the Health and Safety Code.
  - 4. The Board of Directors finds that amending District Rule 4.3 is the modification of rates charged for the purpose of meeting operating expenses and is therefore statutorily exempt from CEQA review.
  - 5. The Board of Directors hereby amends District Rule 4.3 as set forth in Exhibit 1 (Attachment A of the Staff Report), which is attached and incorporated by reference. The amendment is effective December 12, 2018.

**PASSED AND ADOPTED** by the Board of Directors of the Yolo-Solano Air Quality Management District this 12th day of December, 2018, by the following vote:

Ayes:

Noes:

Absent:

Abstain:

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Tom Stallard, Chair Board of Directors  
Yolo-Solano Air Quality Management District

Attest:

Approved as to Form:

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Denise Almaguer, Clerk  
Board of Directors

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Hope Welton, District Counsel

**ATTACHMENT D**

**WRITTEN COMMENTS RECEIVED**