



Air Pollution Control Board

San Diego County Air Pollution Control District

GOVERNING BODY

GREG COX
First District

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Third District

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Fourth District

BILL HORN
Fifth District

AGENDA ITEM

DATE: March 15, 2017

AP01

TO: Air Pollution Control Board

SUBJECT: NOTICED PUBLIC HEARING: ADOPT AMENDMENTS TO RULE 40 – PERMIT AND OTHER FEES AND RULE 42 – HEARING BOARD FEES (DISTRICTS: ALL)

Overview

The mission of the San Diego County Air Pollution Control District (District) is to improve air quality to protect public health and the environment. Accordingly, the District operates a county-wide permitting program for stationary (fixed) sources of air pollution pursuant to federal and state law. Stationary sources encompass large industrial facilities such as power plants and landfills and smaller commercial establishments such as gas stations and dry cleaners. A permit outlines the specific actions a facility must take to control its air pollution emissions pursuant to federal, state, and local requirements. The permit consolidates these requirements in a single document and provides clear instructions to the facilities, helping them to comply with air pollution limitations. By minimizing their emissions, facilities are protecting the environment and public health.

Rule 40 sets the fees for the District's permitting and other services, and Rule 42 sets the fees for petitioning the District's Hearing Board for a variance (temporary relief) from an air pollution control requirement. These programs are funded on a fee-for-service basis in accordance with the Federal and California Clean Air Acts and Board of Supervisors Policy B-29: Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery. The District receives no General Purpose Revenue.

Permit fees were last updated over five years ago (December 7, 2011 (AP01)). Asbestos Notification fees were last updated nearly 13 years ago (June 23, 2004 (AP01)) and Hearing Board fees were last updated nearly 17 years ago (June 21, 2000 (AP01)). Over the past several years, the District was able to contain cost increases by implementing business process efficiencies and customer service enhancements, including the expansion of online and digital services. However, these efforts alone can no longer contain all cost increases.

Staff conducted an in depth analysis of the services provided to business customers and the actual costs of providing those services. The analysis results indicate that the total fee revenue collected by the District, in combination with federal and state funding, no longer covers the full costs of the services provided. This is due to certain cost increases that are beyond the District's

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control, including increased labor costs and new and increasingly stringent air quality mandates placed upon the District requiring further actions to protect public health. A fee adjustment is needed for Fiscal Year 2017-18 to ensure the District recovers the full cost of its services in accordance with federal, state, and local requirements.

The proposed fee adjustments, if adopted, would increase total annual fee revenue by \$786,040 (9.4%). This is equivalent to a 1.6% increase each year since the last fee adjustment.

Today's requested action is to adopt proposed amendments to Rule 40 - Permit and Other Fees and Rule 42 - Hearing Board Fees, reflecting an adjustment in fees paid by business customers to obtain air quality permits and other regulatory services of the District). The proposed fee adjustments enable the District to fully and equitably recover the costs of its permitting program and related services, while maintaining high levels of service and compliance with requirements for healthful air quality.

Recommendation(s)

AIR POLLUTION CONTROL OFFICER

1. Find that the amendment of Rules 40 and 42 is exempt from the California Environmental Quality Act (CEQA) as specified under section 15273 of the CEQA Guidelines as CEQA does not apply to the establishment, modification, structuring, restructuring or approval of fares and other charges by public agencies which are for the purpose of meeting operating expenses.
2. Adopt the Resolution entitled RESOLUTION AMENDING RULE 40 AND RULE 42 OF REGULATION III OF THE RULES AND REGULATIONS OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT.

Fiscal Impact

If approved, funds for this request will be included in the Fiscal Year 2017-18 CAO Recommended Operational Plan for the Air Pollution Control District. The recommended fee adjustments would result in a projected fee revenue increase of \$786,040 in Fiscal Year 2017-18. The funding sources are permit holders and other customers of the District's fee-based services. There will be no change in General Fund cost and no additional staff years.

Business Impact Statement

If approved, the proposal will have a positive impact on the business community by enabling the Air Pollution Control District to maintain high quality services, and by updating the alignment of fees to the actual costs of services provided to fee payers in each fee category. Total annual fee revenues paid by business customers would increase 9.4%, equivalent to a 1.6% increase each year since the last fee adjustment. The fee increases are necessary to ensure full cost recovery for services performed by staff.

Advisory Board Statement

The Air Pollution Control District Advisory Committee unanimously recommended adoption of

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the proposal on February 8, 2017.

Background

The mission of the Air Pollution Control District (District) is to improve air quality to protect public health and the environment. The District is required to regulate stationary (fixed) sources of air pollution in accordance with federal and state law. Stationary sources include power plants, manufacturing and industrial facilities, stationary internal combustion engines, gas stations, landfills, and solvent cleaning and surface coating operations. Reducing air pollution emissions from these sources helps the region fulfill the requirements of the State and Federal Clean Air Acts, where it is mandated to protect public health by meeting specific clean air standards in limited timeframes.

The District evaluates applications for new and modified stationary sources, issues permits to operate, conducts compliance inspections, witnesses and conducts air pollutant emissions testing, responds to complaints about air pollution, provides outreach to assist businesses in their compliance efforts, and administers a Hearing Board that considers permit appeals, orders of abatement, and requests for variances from air pollution control requirements.

Today's requested action meets federal, state, and local requirements placed upon the District to recover the costs of the services provided. Specifically, federal law requires the District to adopt fees to recover the full cost of issuing federally mandated operating permits to major stationary sources (sources whose total air pollution emissions in a year exceed certain levels). State law authorizes the District to increase fees to recover the actual costs of the services provided, but the total permit fee revenue from all Permit Applications and Permit Renewals may not increase by more than 15% in a fiscal year. In addition, Board Policy B-29: Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery (Board Policy B-29) directs departments to seek to recover the full cost of all services they provide. Under this Board policy, the individual or entity requesting the service is responsible for all the costs associated with that service to ensure those benefitting from the services pay for those services, rather than the public in general. The proposed fees, if approved, would increase total revenue from Permit Applications and Permit Renewals by 13.7%, which comports with state law and fulfills Board Policy B-29. Lastly, the District receives no General Fund Revenue.

Permit fees were last updated more than five years ago (December 7, 2011 (AP01)). Asbestos Demolition or Renovation Notification fees were last updated nearly 13 years ago (June 23, 2004 (AP01)) and Hearing Board fees were last updated nearly 17 years ago (June 21, 2000 (AP01)). Since then, the District has implemented several program efficiencies and customer service enhancements. Examples include online applications for permits, online viewing of digital permit files, electronic inspection forms for engines, an online emissions inventory system, and a new District website. The District has also increased staff cross-training that enables efficient and flexible workload distribution across work units, preventing a need for staffing increases to meet new and increasingly stringent federal and state mandates. These efforts, among others, have helped offset increasing costs over the past several years.

Staff has completed a comprehensive analysis of all services provided to customers, including

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an examination of the tasks and functions performed and the associated costs. The analysis demonstrates that total fee revenues no longer cover the total costs of the services provided. This is due to workload increases associated with changed federal and state mandates and regulatory requirements, and increases in costs for labor (including retirement and benefits) and equipment and supplies. Therefore, a fee adjustment is necessary to comply with cost recovery requirements while maintaining the expected high levels of service and compliance with requirements for healthful air quality.

Fee Development Process

The fee development process combines a determination of the staff time required to provide each specific regulatory program service and a determination of the hourly rate that will recover the District's associated costs. Time requirements were determined through extensive time studies to document the number of hours required by staff to perform each service.

Next, the District determined hourly rates. The hourly rate is the foundation of how the County enterprise charges fees for its services. It is calculated using a methodology that is consistent across the County enterprise. The hourly rate is comprised of many components, including the labor rate paid to staff, their benefit costs, equipment and supply costs, and a share of the administrative costs of the District and County. The hourly rate was then used to calculate each fee based on the number of actual hours of documented time required by staff to perform each service.

The Auditor and Controller has reviewed and approved the supporting documentation and the methodology used to determine the proposed hourly rates and fees in this proposal.

Proposed Fee Package

The fee proposal, if adopted, would take effect on July 1, 2017. The proposal would increase 329 fees, decrease 39 fees, and add 1 fee. The average fee is proposed to increase as follows for the following fee categories: Permit Application fee by \$267 (18%); Permit Renewal fee by \$117 (27%); Emissions Test fee by \$741 (39%); Emissions Test-Witness fee by \$59 (3%); and Hearing Board fee by \$846 (361%). The average hourly rate for Time and Material fees will increase by \$18 (13%). The average Asbestos Demolition or Renovation Notification fee is proposed to decrease by \$160 (22%). No changes are proposed for the Air Contaminant Emissions Fee.

Fee Consolidation and Simplification

The fee adjustment proposal would simplify the fee structure by deleting 43 fees that are no longer necessary and consolidating another 17 fees.

Customer and Stakeholder Outreach

The District conducted outreach to customers to present, discuss, and receive comments on the fee adjustment proposal. The District held a public workshop on January 19, 2017. Advance notice of the workshop was mailed to every air quality permit holder and chamber of commerce in the region. A workshop notice was also distributed to interested parties through the County's electronic mail service, and posted on the District's website. The District's responses to the

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comments and questions received are summarized in a workshop report that was provided to interested parties. Additionally, separate meetings were held with the District's permit stakeholder group, the District's Advisory Committee, and the leadership of the Industrial Environmental Association. A detailed list of stakeholder meetings is included in Attachment E.

Overall, the business community has indicated they highly value the District's services and recognize the need for the proposed fee adjustments to recover the costs of providing those services to them. Additionally, some customers have recommended more frequent and smaller fee adjustments in the future.

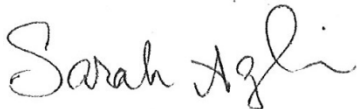
Environmental Statement

Section 15273 of the CEQA Guidelines (California Code of Regulations, Title 14, Section 15273) provides that CEQA does not apply to the establishment, modification, structuring, restructuring or approval of fares and other charges by public agencies which are for the purpose of meeting operating expenses. As detailed above, the proposed amendments to Rule 40 and Rule 42 are necessary to achieve full cost recovery of the District's fee-based services. Therefore, the adoption of the proposed amendments is exempt from the requirements of CEQA.

Linkage to the County of San Diego Strategic Plan

Today's requested action supports the Operational Excellence Initiative in the County of San Diego's 2017-2022 Strategic Plan with a goal of providing appropriate resources to ensure superior service delivery to our customers. The proposed fee adjustments help ensure fiscal stability of the air pollution control program and enable staff to continue serving the business community and the general public in a manner that protects air quality and public health.

Respectfully submitted,



SARAH E. AGHASSI
Deputy Chief Administrative Officer



ROBERT J. KARD
Air Pollution Control Officer

ATTACHMENT(S)

- Attachment A: Summary of Current and Proposed Fee Schedules
- Attachment B: Resolution Amending Rules 40 and 42 of the District's Rules and Regulations
- Attachment C: Change Copy of Rule 40
- Attachment D: Change Copy of Rule 42
- Attachment E: Listing of Stakeholder Meetings

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AGENDA ITEM INFORMATION SHEET

REQUIRES FOUR VOTES: Yes No

WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED
 Yes No

PREVIOUS RELEVANT BOARD ACTIONS:

December 7, 2011 (AP01), Amendments to Rule 40 – Permit and Other Fees; June 23, 2004 (AP01), Amendments to Rule 40 – Permit and Other Fees; June 21, 2000 (AP01), Amendments to Rule 40 – Permit and Other Fees & Rule 42 – Hearing Board Fees.

BOARD POLICIES APPLICABLE:

Policy B-29: Fees, Grants, Revenue Contracts – Department Responsibility for Cost Recovery

BOARD POLICY STATEMENTS:

N/A

MANDATORY COMPLIANCE:

N/A

ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION NUMBER(S):

N/A

ORIGINATING DEPARTMENT: AIR POLLUTION CONTROL DISTRICT

OTHER CONCURRENCES(S): N/A

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