



Air Pollution Control Board

San Diego County Air Pollution Control District

GOVERNING BODY

GREG COX
First District

DIANNE JACOB
Second District

KRISTIN GASPAR
Third District

RON ROBERTS
Fourth District

BILL HORN
Fifth District

AGENDA ITEM

DATE: April 25, 2018

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 including power plants and landfills and smaller commercial establishments such as gas stations and dry cleaners. A facility's permit outlines the actions they must take to comply with air pollution control requirements and protect air quality, the environment and, especially, public health.

The District is obligated to recover the full cost of its services pursuant to federal and State law and Board Policy B-29: Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery. The District receives no General Purpose Revenue. Rule 40 sets the fees for District permitting and other services. Rule 42 sets the fees for petitioning the District Hearing Board for a variance (temporary relief) from an air pollution control requirement.

The District's fees were last updated on March 15, 2017 (AP01). Since the last cost recovery package the District has continued to provide services to the public at the approved rates through increased efficiencies and process improvements, as well as achieving cost savings in other categories. Based on Countywide negotiated salary increases that took effect in November 2017, after the last fee adjustment, the fees proposed today, for Fiscal Year 2018-19, will be necessary in order to address cost increases and ensure compliance with Board Policy B-29. This cost recovery proposal also represents the District's commitment to the Air Pollution Control Board (Board) to make recovering costs a regular part of our business, while providing stakeholders an opportunity to plan for fee increases. If approved, the fee adjustments are projected to increase total annual fee revenue by approximately \$173,000 (2%).

Today's requested action is to adopt the proposed amendments to Rules 40 and 42, reflecting an adjustment in fees paid by business customers to obtain air quality permits and other services of the District. The proposed fee adjustments enable the District to fully and equitably recover the

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costs of its permitting program and related services, while maintaining high levels of service and compliance with requirements for healthful air quality.

Recommendations

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

The proposed increases to fees are not included in the budget in the Air Pollution Control District. If approved, the proposed fee adjustments will result in additional estimated costs and revenue of \$173,000 effective Fiscal Year 2018-19. The funding sources are fees paid by customers. There will be no change in General Fund cost and no additional staff years.

If approved, funds for this request will be included in the Fiscal Year 2018-19 CAO Recommended Operational Plan in the Air Pollution Control District.

BUSINESS IMPACT STATEMENT

If approved, these recommendations will enable the Air Pollution Control District to maintain high quality services to the business community that ensure ongoing compliance with federal, State and local air pollution control laws. These important services provide a level playing field for businesses and ensure they operate in a manner that protects air quality and public health.

ADVISORY BOARD STATEMENT

The Air Pollution Control District Advisory Committee voted unanimously to support the proposal during their meeting on March 14, 2018.

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 by federal and State law to regulate stationary (fixed) sources of air pollution including 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 Federal and California Clean Air Acts, where it is mandated to protect public health by meeting specific clean air standards in limited timeframes.

To fulfill these requirements, the District evaluates applications for new and modified stationary sources, issues permits to operate, conducts compliance inspections, witnesses and conducts air

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pollutant emissions testing, responds to complaints about air pollution, provides outreach to assist businesses in their compliance efforts, and administers a Hearing Board program that considers permit appeals and requests for variances from air pollution control requirements.

The practice of continuous improvement, implementing operational efficiencies, and prioritizing resources in key areas has positioned the District to respond to evolving program and regulatory changes. The District's continued success is also attributed to a strong partnership with its stakeholders. The District seeks input on an ongoing basis in order to build programs that are effective in achieving positive outcomes and making a collective impact.

The proposed actions help ensure the 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. The District's fees were last updated on March 15, 2017 (AP01). Since the 2017 fee package update, costs such as salaries and benefits, and services and supplies, have continued to rise. For example, since the 2017 cost recovery package was approved, there was a Countywide 3% negotiated salary increase that is currently in effect, and another Countywide 3% negotiated salary increase that will go into effect during Fiscal Year (FY) 2018-19. This cost recovery package will capture the total 6% negotiated salary and associated benefits increase. In addition, the District factored non-discretionary costs into their fee calculations. These included costs that fluctuate annually such as facility costs and costs for legal Counsel.

The proposed actions are necessary for compliance with federal, State, and local requirements for cost recovery. Specifically, federal law requires the District to adopt fees to recover the full cost of issuing federally mandated operating permits. State law authorizes the District to increase fees to recover the actual costs of its regulatory program services, provided the total annual permit fee revenue does not increase by more than 15%. In addition, Board Policy B-29: Fees, Grants, Revenue Contracts – Department Responsibility for Cost Recovery (Board Policy B-29) directs departments to recover the full cost of all services they provide. Under this Board policy, an individual or entity is responsible for all costs associated with a requested service to ensure those benefiting from the services pay for them, rather than having others do so while receiving no benefit.

Countywide negotiated annual salary and benefit increases have been approved through FY 2021-22. Those increases and other future increases are not reflected in this cost recovery proposal, but will be considered in future fee packages that are brought before the Board.

Fee Development Process

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

The hourly rate is comprised of 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

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for the District was then used to calculate each fee type based on the number of actual hours of documented time required by District staff to perform each service.

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

Proposed Fee Package

The fee proposal (Attachment A), if approved, would take effect beginning in FY 2018-19. After a comprehensive analysis to ensure full cost recovery, an overall increase of 2% is required. This adjustment will increase 346 fees and leaves 4 fees unchanged so as to accurately reflect the full costs of services provided. No changes to the Air Contaminant Emissions Fee are proposed.

Customer/Stakeholder Notification

The continued success of District programs can be attributed in large part to its partnership and collaboration with stakeholders. The District's programs are more likely to be effective in protecting the health and safety of San Diegans countywide if they have stakeholder support and participation.

To encourage stakeholder participation and solicit their comments on District programs and the proposed fee package, notices were mailed to every air quality permit holder and chamber of commerce in the region. Additionally, emails were sent directly to specific stakeholders and groups via GovDelivery. Furthermore, stakeholders and permit holders were invited to review the proposal on the District's website and to contact staff by email or telephone. District staff met with customers at three stakeholder meetings and public workshops held in March 2018.

A detailed list of stakeholder meetings is provided in Attachment E. Overall, stakeholders indicated they highly value the District's services, recognize the need for the proposed fee adjustments to recover the costs of providing those services, and find the proposed fee adjustments to be reasonable.

ENVIRONMENTAL STATEMENT

The proposed actions are exempt under CEQA Guidelines as Section 15273(a) provides exemptions for changes in rates, tolls, fares, or other charges by public agencies for the purposes of meeting operating expenses.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today's proposed actions support the Operational Excellence Initiative in the County of San Diego's 2018-2023 Strategic Plan with a goal of providing appropriate resources to ensure superior service delivery to 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.

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Respectfully submitted,

Respectfully submitted,



SARAH E. AGHASSI
Deputy Chief Administrative Officer



ROBERT J. KARD
Air Pollution Control Officer

ATTACHMENTS

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

March 15, 2017 (AP01), Amendments to Rule 40 (Permit and Other Fees) and 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 CONCURRENCE(S): N/A

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Errata Summary for Agenda Item APCD 01 –

There is an Errata for Agenda Item APCD 01. The Board Letter was modified to correctly reference the name of the Resolution on page 2 in Recommendation 2 and on page 5 in the list of Attachments as:

Resolution Adopting Amendments to Rule 40 – Permits and Other Fees and Rule 42 – Hearing Board Fees, of Regulation III of the Rules and Regulations of the San Diego County Air Pollution Control District