



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

NATHAN FLETCHER
Fourth District

JIM DESMOND
Fifth District

AGENDA ITEM

DATE: April 10, 2019

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 countywide 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 recovers the full cost of its services pursuant to Federal and State law and to be consistent with 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 various actions, such as permit appeals and variances (temporary relief) from air pollution control requirements.

The District's fees were last updated by the Air Pollution Control Board on April 25, 2018 (AP01). Since that time, 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. The fees proposed today for Fiscal Year (FY) 2019-20 will be necessary to address cost increases based on labor agreements with County staff effective November 2017, and to ensure compliance with Board Policy B-29: Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery. This cost recovery proposal also represents the District's commitment to the Air Pollution Control Board (Board) and stakeholders to make recovering costs a regular part of District business, while providing business customers an opportunity to plan for fee increases. If approved, the fee adjustments are projected to increase total annual fee revenue by approximately \$314,000 (3%) in FY 2019-20 compared to the current fee revenue.

Today's requested action is to adopt the proposed amendments to Rules 40 and 42 relating to fees paid by business customers for air quality permits, air pollutant emissions testing, asbestos

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notifications, permit appeals, and requests for variances from permit requirements. 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.

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 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.

FISCAL IMPACT

The proposed increases to fees are not included in the Fiscal Year (FY) 2018-19 Operational Plan in the Air Pollution Control District. If approved, the proposed fee adjustments will result in additional estimated costs and revenue of \$314,000 effective Fiscal Year 2019-20. The funding source is fees paid by customers for District services. There will be no change in net General Fund cost and no additional staff years.

If approved, funds for this request will be included in the Fiscal Year 2019-20 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 13, 2019.

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

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fulfill the requirements of the Federal and California Clean Air Acts, which mandate the protection of 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 pollutant emissions testing, measures air quality, responds to complaints about air pollution, provides outreach to assist businesses in 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 improved air quality.

The proposed actions will 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 by the Air Pollution Control Board (Board) on April 25, 2018 (AP01). Since that time, costs for salaries, benefits, services and supplies have increased. There will be a 3% negotiated salary increase and associated benefit increases for County staff effective FY 2019-20, which are reflected in this cost recovery proposal. The District also factored non-discretionary costs that fluctuate annually, such as facilities costs. Approved negotiated annual salary and benefit increases for FY 2020-21 and FY 2021-22 are not reflected in this proposal, but will be included in future fee proposals for the Board's consideration.

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%. The proposed fee adjustments, if approved, would increase total annual permit fee revenue by 3.6% and, in combination with other revenue sources, provide for full cost recovery of District programs. In addition, the proposed fee adjustments are consistent with Board Policy B-29: Fees, Grants, Revenue Contracts – Department Responsibility for Cost Recovery, which 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 the general public do so.

Fee Development Process

The methodology used to develop fees for APCD is consistent across the County enterprise. 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

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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, benefit costs, equipment and supply costs, and a share of the administrative costs of the District and County. The hourly rate 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 the methodology and supporting documentation used to determine the proposed hourly rates and fees in this proposal. The Auditor and Controller found that the methodology used is consistent with Board Policy B-29 and in conformance with existing cost policies and procedures.

Proposed Fee Package

The fee proposal (Attachment A), if approved, would take effect in FY 2019-20. After a comprehensive analysis to ensure full cost recovery, an overall increase of 3% is required. The proposal would increase 149 fees, decrease 88 fees, consolidate 16 fees, add 16 fees, delete 11 fees, and leave 4 fees unchanged so as to accurately reflect the full costs of services provided. No changes to the Air Contaminant Emissions Fee are proposed.

The District has worked to contain costs where possible through business process improvements to enhance efficiency, leveraging technology to streamline operations, improve customer service, and increase compliance. Technology and efficiencies have saved \$900,000 annually, without which the proposed fees would have increased an additional 9%.

Customer/Stakeholder Notification

The continued success of District programs can be attributed in large part to its collaboration and partnership with stakeholders. To encourage stakeholder participation and input 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, notices were emailed to specific stakeholders and groups via the GovDelivery email subscription service. 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 directly with customers at two stakeholder meetings and a public workshop held in March 2019. A detailed list of stakeholder meetings is provided in Attachment E.

The District did not receive any comments that raised significant concerns. Overall, the comments indicated stakeholders value the District's air pollution control services, recognize the need for the proposed fee adjustments to recover the costs of providing those important 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.

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LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today’s proposed actions support the Operational Excellence Strategic Initiative in the County of San Diego’s 2019-2024 Strategic Plan with a goal of aligning services to available resources to ensure superior service delivery to customers. The proposed fee adjustments will 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

ATTACHMENTS

- Attachment A: 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
- 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:

April 25, 2018 (AP01), Amendments to Rule 40 (Permit and Other Fees) and Rule 42 (Hearing Board Fees)

BOARD POLICIES APPLICABLE:

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

BOARD POLICY STATEMENTS:

Board Policy B-29 mandates that departments recover full cost to the extent legally possible for services provided to agencies or individuals outside the County organization under grants, contracts, or for which fees may be charged. Reimbursement by fees, contracts and grants will be for the full cost of all services, with certain exceptions approved by the Board of Supervisors.

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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