



Air Pollution Control District Governing Board

San Diego County Air Pollution Control District

AGENDA ITEM #D.3

DATE: December 9, 2021

TO: Air Pollution Control District Governing Board

SUBJECT: ADOPTION OF PROPOSED AMENDMENTS TO RULE 40 - PERMIT AND OTHER FEES AND RULE 42 - HEARING BOARD FEES

REQUESTED ACTION:

1. Find that the requested action is exempt from the requirements of the California Environmental Quality Act pursuant to CEQA Guidelines Section 15273 because the additional fee revenues that would be generated by adjustments that could result from the adoption of proposed amendments to Rule 40 – Permit and Other Fees and Rule 42 – Hearing Board Fees will be used for the purposes set out in that section, including operating expenses and purchasing or leasing supplies, equipment, or materials.
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

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 public health.

District Rule 40 – Permit and Other Fees sets the fees for District permitting and other services, such as inspections and source testing, related to the implementation of the stationary source permitting program. Rule 42 – Hearing Board Fees sets the fees for petitioning the District Hearing Board for various actions such as permit appeals and variances (i.e., temporary relief) from air pollution control requirements. Proposed amendments to Rule 40 and Rule 42 include modifications to split payment and late fee provisions, minor clarifications, the removal of outdated language, and increases in

various fees consistent with the direction of the Governing Board on May 21, 2021, and the Public Hearing held on October 14, 2021. Increases in stationary source fees are limited as required by Health and Safety Code Section 41512.7. Fee increases are summarized in the table below and are detailed in Attachments D and E.

Fee Category	Permit Application Fixed	Permit Renewal	Source Testing	Asbestos Notifications	Hearing Board	Time & Material	Processing Fee
% Fee Increase	15%	15%	15%	25%	25%	15%	15%

Today’s hearing is to 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. If adopted, the proposed amendments will become effective on January 1, 2022, which will allow for testing of the new fees, revised invoicing, and outreach to stakeholders prior to implementation.

Rule 40 currently allows permit holders and applicants to submit a written request to split the payment of permit renewal and initial application evaluation fees due to financial hardship. In these instances, the first payment, including an administrative fee, must be deposited prior to the permit renewal due date or with the initial application, as applicable, and the second payment is then due 60 days later. The proposed amendments to Rule 40 include revisions to the split payment provisions that will extend fee payment for annual operating fees into four (4) payments instead of two (2), and clarifications to the split payment provisions for initial application evaluation fees. These proposed revisions will provide greater flexibility for businesses experiencing financial hardship while ensuring that the District receives the full payment for initial application evaluation and annual operating fees.

Additionally, the District has recognized the economic impacts due to the ongoing pandemic and has accepted written requests to waive late fees for businesses facing financial hardships. The proposed revisions to Rule 40 include a provision authorizing the Air Pollution Control Officer to waive late fees due to financial hardship during declared federal, State, or local emergencies on a case-by-case basis.

FISCAL IMPACT:

If adopted, these proposed amendments will result in additional revenues up to \$1.4 million per fiscal year, which would increase the District’s cost recovery percentage for its stationary source permit program from the current 66% to approximately 78% and would reduce annual stationary source permit program revenue deficits from \$4 million to approximately \$2.6 million.

ENVIRONMENTAL STATEMENT:

The proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15273, which exempts projects that involve the establishment or modification of charges by public agencies for the purpose of meeting operating

expenses, purchasing supplies and equipment, or meeting financial reserve needs, as described in the Cost Recovery and Fee Analysis Consolidated Report – April 2021 (Attachment B).

PREVIOUS RELEVANT BOARD ACTIONS:

October 14, 2021 (Item #3), Public Hearing: Receive Presentation for Proposed Amendments to Rule 40 – Permit and Other Fees and Rule 42 – Hearing Board Fee

RECOMMENDED BY:

Marvice Mazyck

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ATTACHMENTS:

[Attachment A-Rules 40_42 Resolution.pdf](#)

[Attachment B-Rules 40_42 Cost Recovery & Fee Analysis Report.pdf](#)

[Attachment C-Rules 40_42 Public Meeting Report.pdf](#)

[Attachment D-Rule 40 Change Copy.pdf](#)

[Attachment E-Rule 42 Change Copy.pdf](#)

[Attachment F-Rules 40_42 Current & Proposed Fee Schedules.pdf](#)