

**SAN DIEGO COUNTY
AIR POLLUTION CONTROL DISTRICT**

**DRAFT PROPOSED AMENDMENTS TO
RULE 40 – PERMIT AND OTHER FEES**

WORKSHOP REPORT

The San Diego County Air Pollution District (District) conducted a public workshop via web conference on June 9, 2020, to discuss and gather feedback on draft proposed amendments to Rule 40 – Permit and Other Fees. This rule establishes the fees collected by the District to recover its costs to develop and issue air quality Permits to Operate, conduct air pollutant emissions testing, perform mandated inspections, and provide training to regulated entities.

A workshop notice and proposal summary were mailed to all permit holders, registration holders and chambers of commerce in the region, and was posted on the District’s website. Notices were also sent to the California Air Resources Board and U.S. Environmental Protection Agency. Other interested parties were notified via GovDelivery, the County of San Diego’s email subscription service.

Twenty-one people attended the workshop via web conference. A summary of their comments and the District’s responses follows.

1. WORKSHOP COMMENT

Will current Permits to Operate be extended?

DISTRICT RESPONSE

Yes, if the proposed Rule 40 amendments are adopted and a current permit is scheduled to expire during the deferral period of July 1 through December 31, 2020, it will remain valid through December 31, 2020, because of this deferral.

2. WORKSHOP COMMENT

Will the workshop presentation on the proposed deferral of permit renewal fees be distributed?

DISTRICT RESPONSE

Yes, a copy of the presentation with the Workshop Report will be provided to attendees and will be posted on the APCD website.

3. WORKSHOP COMMENT

Will this be the only change to Rule 40 for this year?

DISTRICT RESPONSE

Yes, the proposed deferral of permit renewal fees is the only proposed amendment to Rule 40 planned for this year.

4. WORKSHOP COMMENT

Will the District continue to inspect permitted units during the deferral period?

DISTRICT RESPONSE

Yes, permitted units will be subject to District inspection as usual to verify compliance with permit conditions and the applicable rules and regulations.

5. WORKSHOP COMMENT

Will there be a comment period on the proposed rule amendments or has that passed? Can we provide comments on part of Rule 40 that are not related to this amendment?

DISTRICT RESPONSE

Comments on Rule 40 may be provided at any time, including at the Board hearing on June 24, 2020. However, comments on the proposed amendments must be provided by the end of the Rule 40 workshop in order to be included in the Workshop Report.

Comments on other provisions of Rule 40 unrelated to the proposed fee deferral will be accepted, however, the current proposal is limited to the deferral of permit renewal fees.

6. WORKSHOP COMMENT

My permit expires in June 2020. What relief can I obtain?

DISTRICT RESPONSE

For permit holders that have been financially or operationally affected by the COVID-19 crisis, and are not covered by the proposed Rule 40 amendments, the District will consider requests for permit fee deferrals, waiver of late fees and split payment fees on a case-by-case basis. For more information, please contact Israel Garza, Chief of Support Services, at (858) 586-2607 or e-mail at Israel.Garza@sdcounty.ca.gov.

7. **WRITTEN COMMENT**

Appeals to the Hearing Board for citizens not associated with a project should be lowered to \$200. This could be included in the Fee Schedule. The clause cited in Rule 42(d) is a waiver, which could be used to waive the \$200 fee.

There is a problem with APCD Rule 42(d) as it does not have any standards. The lack of any standards or guidelines invites arbitrary decision making and improper discrimination. The Board can reject a request for a waiver if they like the project applicant or project, or dislike a non-profit or particular person. When the potential penalty for not being granted a waiver is \$1,666, the power to deny a waiver can be used as a tool to quash dissent and prevent legitimate concerns from being heard. Such power could also be wielded in an attempt to prevent someone from legally challenging a project. The \$1,666 is more than three times the \$425 fee for filing a legal challenge. Such an exorbitant fee puts an undue burden on a citizen's Constitutional right to seek legal redress.

DISTRICT REPOSE

Amendments to Rule 42 (*Hearing Board Fees*), will not be considered at the June 24, 2020, APCD Board hearing. State law requires publication of a 30-day notice of a public hearing to consider changes to District rules. Only proposed amendments to APCD Rule 40 have been noticed for the June 24th hearing at this time.

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06/10/20