



Air Pollution Control Board
Greg Cox District 1
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May 11, 2004

TO: Workshop Participants
Other Interested Parties

**PROPOSED AMENDMENTS TO
RULE 40 - PERMIT AND OTHER FEES**

WORKSHOP REPORT

On May 6, 2004, the District conducted a public workshop to receive comments regarding the proposed amendments to Rule 40 - Permit and Other Fees. The workshop report and final proposed rule are attached. The final proposed rule contains changes listed in the Errata Sheet provided at the workshop. There were no changes resulting from comments made at the workshop.

The rule will likely be scheduled for public hearing on June 23, 2004.

If you have any questions, please call Veronica Allen at (858) 650-4509, Jorge Lopez at (858) 650-4547, or myself at (858) 650-4590.

MICHAEL R. LAKE, Assistant Director
Air Pollution Control District

Attachments

MRL:ls

**AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN DIEGO**

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

WORKSHOP REPORT

A notice for a workshop on the proposed amendments to Rule 40 was mailed to all permit holders in San Diego County. Notices were also mailed to all Economic Development Corporations and Chambers of Commerce in San Diego County, the U.S Environmental Protection Agency (EPA), the California Air Resources Board (ARB), and other interested parties. The workshop was held on May 6, 2004, and was attended by six people. Comments were received during the workshop. The workshop comments and the San Diego County Air Pollution Control District (District) responses are as follows:

1. WORKSHOP COMMENT

What constitutes expedited application processing? How are the expedited application processing fees initiated?

DISTRICT RESPONSE

Expedited application processing means that work on a permit application will be done primarily through overtime work and the evaluation will be expedited relative to when it would have been accomplished had the application been worked on during normal work hours and in the order received. Expedited processing will ensure more rapid action by the District. However, the rule cannot specify a universal processing period since that will depend upon the nature of the application, how complete the application information is, and what issues arise in the evaluation.

An applicant must specifically request expedited application processing. This request will have to be made in writing. Normally this request would be made when a permit application is submitted but could also be made at a later date if so desired by the applicant due to a change of circumstances. In either case, expedited permit processing fees would be charged if the majority of the work done on the application was performed on weekends, after hours, or on days off.

Expedited source testing means that either a source test protocol review, conducting a source test and/or witnessing a source test is requested by an applicant or permit holder on very short notice (e.g., 2 days rather than the normal 30 days for protocol review), that the service cannot be accommodated by the District within its existing schedule, and that accomplishment of the service requires either the majority of the work be done through voluntary overtime or by rescheduling source testing related activities already scheduled.

2. **WORKSHOP COMMENT**

Can an applicant request processing within a specified timeframe without triggering the expedited permitting program charges?

DISTRICT RESPONSE

Applicants may discuss expected application processing times with appropriate Senior District staff. This information can be used by an applicant to make decisions as to whether to request expedited processing. Where possible and where it does not adversely impact commitments to other applicants, the District will continue to try to accommodate the scheduling needs of applicants. However, when this is not possible due to other pending permit applications or source testing workloads, this provision gives the applicant an option to expedite the application (or source testing activity) if District resources are available.

3. **WORKSHOP COMMENT**

How would the expedited application processing program work for permit application fees that are charged on a Time and Materials (T&M) basis?

DISTRICT RESPONSE

If expedited processing is requested and District resources are available to provide expedited application processing, the District will contact the applicant and inform them that the application will be expedited. Work on the application would be conducted primarily on weekends, days off, or after hours. For T&M applications, an expedited permit application fee of one and one-half times the normal Rule 40 Fee Schedule 94 labor rates will be charged for all labor. The non-refundable processing fee and any applicable air contaminant emissions fees will be charged at the standard rate as specified in the rule.

As noted above in the response to Comment No.1, in the case of expedited source testing activities, the accomplishment of the service may require either the work be done through voluntary overtime or by rescheduling source testing related activities already scheduled.

The District will develop procedures and guidance to staff describing how these processes are to work. The District will collaborate with its external customers through the Air Pollution Permit Streamlining Committee to ensure the process will accomplish the objectives and remain equitable to the majority of businesses who expect timely and efficient handling of their applications and source testing without the need for expedited processing. The District will also evaluate the expedited application processing and source testing programs periodically to assess their effectiveness. If for any reason the expedited processing is found to be detrimental to the efficient operation of the permitting or source test programs, the District may decide to discontinue offering the service.

4. WORKSHOP COMMENT

There is a significant difference in the proposed renewal fees for essentially the same type of equipment under fee schedules 22(f) and 22(g). Did the District prepare an analysis showing how these different fees were determined? My company would like a copy of that analysis.

DISTRICT RESPONSE

The District analyzed labor data from compliance-related activities over the last five years for the two businesses affected by the fees referred to in the comment. That analysis formed the basis for the proposed fees. At the commentator's request, that analysis is being provided directly to the two affected businesses.

5. WORKSHOP COMMENT

Our company has reviewed the proposed fees as they would apply to our equipment and is in agreement with the proposal, with the exception of needing clarification of the differences in the schedules 22(f) and 22(g) fees above (Comment No.4). We believe the District does a good job with permit application processing given the limited resources available. However, in light of the constraints on resources, we believe there are some areas where the District may be misapplying its resources: (1) adding conditions to permits that are not supported by rule requirements; (2) changing permit conditions without adequate notification to the permit holder; and, (3) using District resources to list facilities in various databases where the data may be incorrect or inappropriate for the type or status of the facility. Not only are District resources impacted, but businesses must use their resources to challenge the District on the matter or to appeal the issue to the Hearing Board, impacting Hearing Board resources as well.

DISTRICT RESPONSE

The issues raised have been discussed previously with the commentator. These issues are being considered by the District in collaboration with its external customers as part of streamlining and process improvement efforts of the Compliance Improvement Team and the Air Pollution Permit Streamlining Committee. As to the first issue, the District is unaware of any widespread cases where permit conditions have been imposed that are not supportable by District rules or state or federal regulations. The District has established procedures for review of new and modified permit conditions by internal staff and by affected businesses. These procedures are being reviewed for further improvements. As to the second issue, the District has existing procedures requiring that permit holders be notified of changes. However, past efforts to streamline these procedures may have resulted in less clear or inadequate notice to permit holders. The District is implementing improvements to its process for notifying permit holders of changes.

As to the third issue, the District is typically required by either the state Air Resources Board or federal Environmental Protection Agency to provide emissions, inspection, compliance, and violation information to these agencies in the form they specify and following criteria that they have established. These requirements apply as well to other air districts in California, or nationally. When the District determines that air quality, emissions, or compliance data being used or published by these agencies is incorrect, outdated, or misleading, the District brings this to the attention of the agencies. Sometimes that is successful, sometimes affected businesses must also pressure these agencies to change the information being published. This latter comment was precipitated by an EPA nationwide requirement for certain non-compliance information on EPA-designated high priority facilities. The commenter's business is one of those EPA-designated facilities. The District is making arrangements for an EPA representative to participate in a future meeting of the Compliance Improvement Team/Air Pollution Permit Streamlining Committee to explain the EPA requirements and receive comments from local affected businesses.

6. WORKSHOP COMMENT

Regarding the Title V fees, there are a number of categories. Are the actual fee amounts based on estimates or past labor costs? Do the fees reflect both Compliance Division and Engineering Division costs? Can facilities be advised of what their annual compliance/renewal fee is based on?

DISTRICT RESPONSE

Fees for application related tasks are estimated before submittal of the application, deposited with the application, and then reconciled during and after the application processing to ensure actual costs are recovered. The estimate includes costs expected to be incurred by Engineering, Compliance, and Monitoring and Technical Services division staff. At the time of Title V permit issuance, the District engineer confers with a Senior Inspector to estimate the expected Compliance staff costs (and any estimated costs for other Divisions) associated with annual compliance-related efforts for the Title V permit that are additional to the regular compliance-related costs for the facility's District permits. The annual Title V compliance fee is based on this estimate. It should be subsequently reviewed to determine if actual costs are lower or higher and adjusted accordingly for future year fees.

The District will provide all current Title V permit holders with a breakdown of the labor estimates on which their annual Title V compliance renewal fees are based, and will provide the initial estimate to future applicants in conjunction with the initial Title V permit issuance.

7. WORKSHOP COMMENT

Twice a year, our company receives a stack of permit renewals. They have to be checked for accuracy and changes, and then posted in replacement of the current permit. The District has to print thousands of permit documents annually, mail them and manage them, even though

many are not being changed except for their expiration date. The District should consider streamlining this process. For example, if the permit is being changed, then it should be printed out and sent. If it is not being changed, perhaps a sticker with the new expiration date could be sent for the facility to place on their existing permit. This will not only save costs for the District, but it will also make it much easier for facilities to know when there are changes to permit requirements that businesses must comply with.

DISTRICT RESPONSE

The District is currently exploring a replacement for its existing permitting data management system that is used to generate and print permit renewals and renewal fee invoices, print permit changes, and track the status of permits. This legacy system is becoming increasingly expensive and difficult to maintain and upgrade, and cannot provide some of the permit system improvements (such as web-based filing and payments) being asked for by our customers. The commentor's suggestion has merit and will be evaluated for feasibility and cost-savings. If the approach suggested will reduce costs and simplify permit management for businesses, the District will consider it for incorporation into any replacement system. The District will also evaluate whether there are any interim measures that could be implemented without requiring costly programming changes to the existing system.