

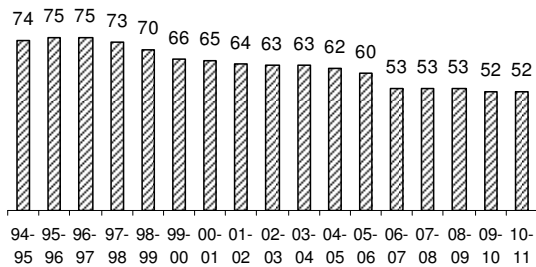
## REVISIONS TO RULE 42 PERMIT FEES

### BACKGROUND

#### Expenditures

The Air Pollution Control District (APCD) operating budget for fiscal year 2010-11 is approximately \$8.0 million, excluding pass through funds. (Pass through funds are spent directly on pollution control projects). About 77.5 percent of the APCD's operating budget is employee salaries and benefits. Figure 1 below shows APCD staff size during each year since its peak in 1992.

Figure 1  
Historical APCD Staff Size



Staffing cuts that occurred between 1997 and 2006 reflect lower workloads caused by completion of work mandated by the 1990 state and federal clean air act amendments, increases in efficiency due to low employee turnover, automation, changes in air toxics laws, and changes in trip reduction mandates. In 2006, expenses were further minimized by eliminating seven more staff positions and curtailing services and supplies expenditures. A management reorganization currently being implemented is expected to result in additional salary savings.

To estimate future expenditures, staff assumed the staff size of 52 positions will be maintained and salaries and benefits will increase at a rate of 3.0 percent per year to account for inflation.

#### Revenue

Current operating revenue for fiscal year 2010-11 is approximately \$7.7 million. APCD revenue comes from state and federal grants, automobile registration fees, and fees charged to sources of air pollution. Rule 42 sets the fee rates in the form of permit processing fees, filing fees, and annual permit renewal fees. The APCD receives no property tax revenue or general fund revenue. Figure 2 shows the APCD's sources of District operating revenue for fiscal year 2010-11.

Permit renewal fees are charged annually to each source of air pollution that is large enough to be required to have an APCD Permit to Operate. Most sources pay the minimum fee of \$525.00 per year. Larger emission sources are charged in proportion to their "permitted emissions," calculated in tons per year and pounds per hour.

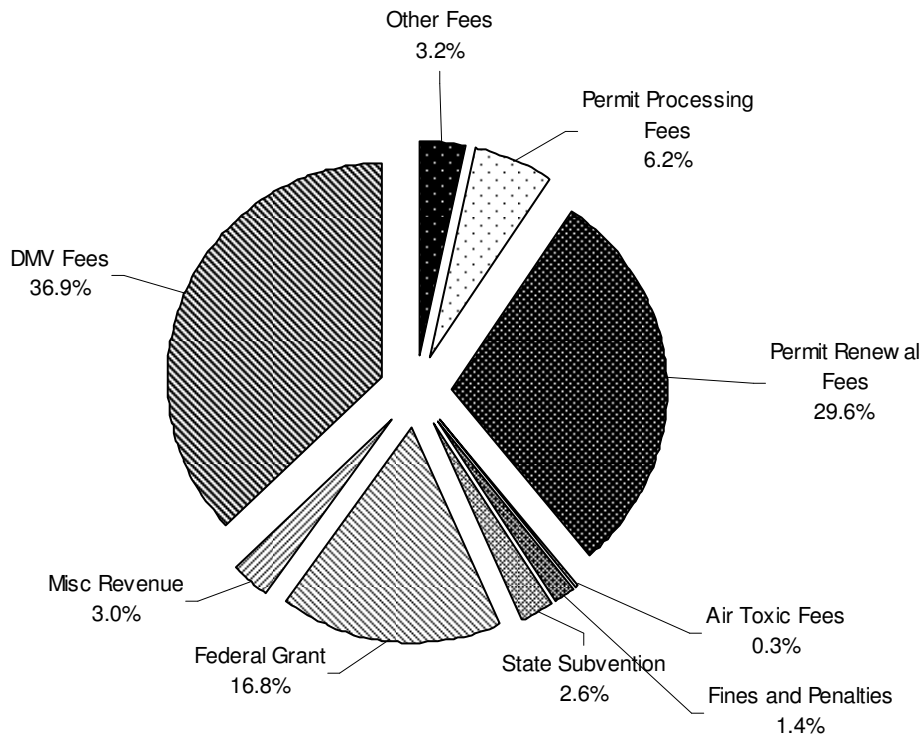
#### Budget and Proposed Revision

Expenses are expected to exceed revenue in fiscal year 2011-12. The difference will be made up by drawing down the APCD's fund balance.

Staff is proposing to increase permit renewal fee rates by 2.0 percent (more than the applicable CPI) effective July 1, 2011. For most permit holders, adoption of this proposal will result in a fee increase of \$10.00 per year. Staff is seeking a relatively small increase for renewal fees this year due to the current economic situation. Renewal fees did not increase in 2010.

While the District's fund balance is well above the targeted range, staff is proposing to increase fees by a small amount now to avoid the need for a significant increase in the future. Further, the U.S. Environmental Protection Agency (EPA) is considering a reallocation of existing federal grant funds, which could reduce federal funding to the District.

Figure 2  
APCD Operating Revenue 2010-11



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### PROPOSED REVISIONS

Staff proposes to increase permit renewal fee rates in Section H by 2.0 percent effective in fiscal year 2011-12. Current and proposed renewal fee rates appear in Appendix A. For permit holders paying the minimum fee, adoption of this proposal would result in a fee increase of \$10.00 per year.

#### Discussion

##### Permit Renewal Fees

Staff is proposing a renewal fee increase of 2.0 percent. This is greater than the California Consumer Price Index (CPI) increase for October 2009 through October 2010 (0.75 percent). This is the most recent CPI data available and was obtained from the California Department of Industrial Relations' Division of Labor Statistics and Research. Although staff is seeking an increase greater than the CPI this year, the request is relatively small due to the current economic situation.

Permit renewal fees are assessed annually in proportion to each permitted source's annual and hourly permitted emissions according to the fee rates in Section H of Rule 42. Sources with high permitted emissions pay higher renewal fees than sources with low permitted emissions. Most permit holders pay the current minimum annual fee of \$525.00. Therefore, adoption of the proposed 2.0 percent fee increase would result in a fee increase of \$10.00 per year for most permit holders. Facilities with higher permitted emissions would be subject to larger permit renewal fee increases (2.0 percent). Adoption of this proposal would increase APCD revenue by approximately \$43,000 per year.

Staff will continue to implement cost-cutting measures. Staff will also continue to work on stabilizing the District's state and federal funding sources.

### Fund Balance

Board Policy established a targeted range of 4 to 6 months operating expenses for the fund balance. Based on current operating expenses, the fund balance should therefore be stabilized between \$2.7 million and \$4.0 million. In addition, the fund balance policy prescribes a five-year revenue and expense projection to determine if additional fiscal resources are necessary to maintain an adequate fund balance.

The current (audited) fund balance as of June 30, 2010, is \$9.25 million. With no fee increase, the fund balance is projected to decrease by \$166,000 over the next year. The total projected fund balance decrease over the next four years is \$1.7 million. The fund balance is not expected to fall below the targeted range or be completely depleted in the near future.

The biggest financial challenge faced by the District is a large increase in mandatory contributions to the County retirement fund. There have been no changes in employee retirement benefits to cause the higher contributions. The District Board has implemented pension reform measures to reduce costs.

Staff's current proposal is for a single fee increase this year and does not include any future fee increases. New fund balance projections will be made annually to determine if fee rates must be adjusted. However, over the long term, periodic fee increases will probably be necessary to counter inflation's continual effect on the APCD's finances.

Staff will continue to work on stabilizing and increasing the District's state and federal funding sources.

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## **COST-EFFECTIVENESS AND IMPACT ANALYSES**

### **Cost-Effectiveness**

California Health and Safety Code § 40703 requires the APCD Board to consider and make public, in adopting a regulation, its findings relative to cost-effectiveness of Air Quality Management Plan (AQMP) control measures. The proposed revisions to Rule 42 are not related to any control measure. Therefore, a finding on cost-effectiveness is not required.

In addition, because BACT requirements and feasible control measures are not involved, an incremental cost-effectiveness analysis under Health & Safety Code Section 40920.6 is not required.

### **Socioeconomic Impact Analysis**

California Health and Safety Code § 40728.5, which went into effect on January 1, 1992, requires that the APCD Board consider the socioeconomic impact of any new rule or amendment to an existing rule if air quality or emission limits are affected. The proposed amendments to Rule 42 do not significantly affect air quality or emission limitations in Ventura County. Therefore, this analysis is not required.

### **Environmental Impacts Of Methods Of Compliance**

California Public Resources Code § 21159 requires the District to perform an environmental analysis of

the reasonably foreseeable methods of compliance if the proposed rule requires "the installation of pollution control equipment, or [specifies] a performance standard or treatment requirement..." The proposed revisions to Rule 42 are administrative in nature and involve no pollution control equipment. Therefore, an analysis is not required.

### **California Environmental Quality Act**

The proposed revisions to Rule 42 are exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code § 21080(b)(8) and State CEQA Guidelines § 15273(a), Rates, Tolls, Fares, and Charges.

### **Analysis Of Existing Federal And District Regulations**

California Health & Safety Code § 40727.2(a) requires districts to provide a written analysis of existing regulations prior to adopting, amending or repealing a regulation. Section 40727.2(a) states:

In complying with Section 40727, the district shall prepare a written analysis as required by this section. In the analysis, the district shall identify all existing federal air pollution control requirements, including, but not limited to, emission control standards constituting best available control technology for new or modified equipment, that apply to the same

equipment or source type as the rule or regulation proposed for adoption or modification by the district. The analysis shall also identify any of that district's existing or proposed rules and regulations that apply to the same equipment or source type, and all air pollution control requirements and guidelines that apply to the same equipment or source type

and of which the district has been informed pursuant to subdivision (b).

The proposed revisions to Rule 42 include no emission control standards; therefore, the requirements of Health & Safety Code § 40727.2(a) are satisfied pursuant to Health & Safety Code § 40727.2(g).

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## PUBLIC PARTICIPATION

### Public Workshop

A public workshop was held for the proposed revisions on February 15, 2011. There was one attendee. No changes to the proposed revisions were recommended.

### California Lutheran University

The District received a comment letter from California Lutheran University dated February 4, 2011, stating that the university is "strongly opposed to any fee increases."

Staff responded that many public and private entities are being impacted by the current economic situation, and the District is no different. The District has significantly reduced staff and has implemented pension reform to contain costs. Renewal fees did not increase in 2010. Further, the U.S. EPA is considering a reallocation of existing federal grant funds, which is expected to reduce federal funding to

the District. Staff is proposing a small fee increase now to avoid the need for a significant increase in the future.

### Advisory Committee

The Advisory Committee met to discuss the proposed revisions to Rule 42 on February 22, 2011. Discussion revolved around the current district fund balance, which is well above the current target range. Some committee members felt that an increase is not needed due to the healthy fund balance. Staff projections indicate that the fund balance will decrease substantially over the next five years. Staff stated that the proposed fee increase will smooth the fund balance reduction and prevent a large fee increase in future years.

There was no public participation at the meeting. The Committee recommended the proposed revisions by a 5 to 3 vote, with one abstention.

**Appendix A**  
**Proposed Renewal Fees in Rule 42, Subsection H**

The renewal fee shall be based on the following schedule plus annual CPI adjustments directed by the Board after 6/30/2000:

<u>Air Contaminant</u>	<u>Dollars per Ton/Yr</u>			<u>Dollars per Lb/Hr</u>	
	<u>Effective Dates</u>			<u>Effective Dates</u>	
	<u>Through 6/30/2011</u>	<u>After 6/30/2011</u>		<u>Through 6/30/2011</u>	<u>After 6/30/2011</u>
Reactive Organic Compounds (ROC)	<u>\$91.00</u>	<u>\$93.00</u>	+	<u>\$91.00</u>	<u>\$93.00</u>
Nitrogen Oxides (NOx)	<u>\$91.00</u>	<u>\$93.00</u>	+	<u>\$91.00</u>	<u>\$93.00</u>
Particulate Matter (PM)	<u>\$68.00</u>	<u>\$69.00</u>	+	<u>\$68.00</u>	<u>\$69.00</u>
Sulfur Oxides (SOx)	<u>\$45.00</u>	<u>\$46.00</u>	+	<u>\$45.00</u>	<u>\$46.00</u>
Carbon Monoxide (CO)	<u>\$ 9.50</u>	<u>\$10.00</u>	+	<u>\$ 9.50</u>	<u>\$10.00</u>
Other Pollutants	<u>\$68.00</u>	<u>\$69.00</u>	+	<u>\$68.00</u>	<u>\$69.00</u>

The permit renewal fee, however, shall not be less than a minimum fee calculated using the following method. Determine which pollutant among ROC, NOx, PM or SOx has the largest annual permitted emissions. Use the annual permitted emissions of that pollutant to determine the minimum fee from the following table. For a facility with no permitted emissions of any of these pollutants, the minimum fee shall be the lowest fee in the following table effective at the time of the permit renewal plus annual CPI adjustments directed by the Board after 6/30/2000.

<u>Permitted Emissions</u>	<u>Minimum Renewal Fee</u>	
	<u>Effective Dates</u>	
	<u>Through 6/30/2011</u>	<u>After 6/30/2011</u>
Less than 5 tons/year	<u>\$ 525.00</u>	<u>\$ 535.00</u>
Less than 10 tons/year	<u>\$1,050.00</u>	<u>\$1,070.00</u>
Less than 15 tons/year	<u>\$1,575.00</u>	<u>\$1,600.00</u>
Less than 20 tons/year	<u>\$2,100.00</u>	<u>\$2,150.00</u>
Less than 25 tons/year	<u>\$4,210.00</u>	<u>\$4,290.00</u>
Equal to or more than 25 tons/year	<u>\$10,525.00</u>	<u>\$10,740.00</u>