

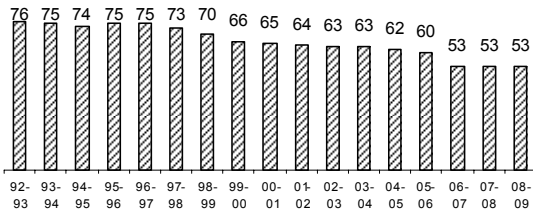
REVISIONS TO RULE 42 PERMIT FEES

BACKGROUND

Expenditures

The Air Pollution Control District (APCD) operating budget for fiscal year 2008-09 is approximately \$7.9 million, excluding pass through funds. (Pass through funds are spent directly on pollution control projects). About 78 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.

Staff is proposing to reduce one position in the current fiscal year. 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

Projected operating revenue for fiscal year 2008-09 is approximately \$8.0 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 2008-09.

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 \$509.00 per year. Larger emission sources are charged in proportion to their "permitted emissions," calculated in tons per year and pounds per hour.

District Financial Status

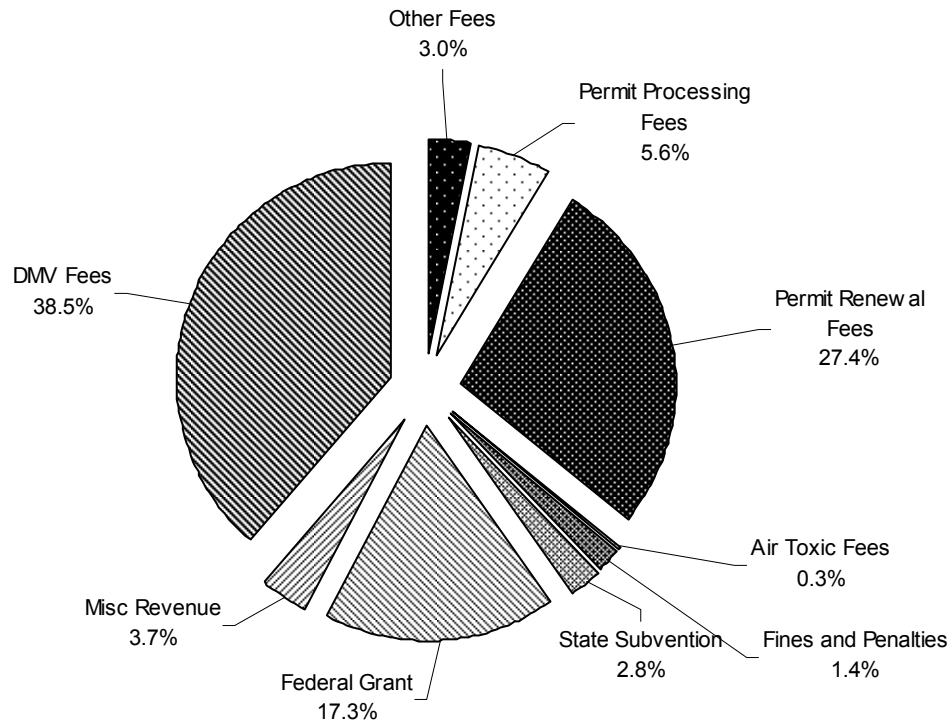
Projections for the current fiscal year (FY 2008-09) indicate a net savings for the District of up to \$600,000. However, these projections include the assumption all state and federal funding allocated to the District for this fiscal year will be received. In addition, projected revenue could decrease if permit renewals rates decline due to the current recession.

Staff is proposing a modest fee increase this year for the following reasons:

1. The District has already implemented significant cost-cutting measures and is proposing to eliminate one additional position.
2. Staff is expecting a significant increase in retirement costs in FY 2010-11, due to poor market performance. Labor costs, which are 79 percent of District expenditures, will increase.
3. Staff is expecting modest increases in rent for District facilities in FY 2010-11.
4. Permit fees comprise approximately 30 percent of the District's revenue and increases are capped at 15 percent per year. As a result, there is no mechanism to increase District revenue significantly in any one year.

Therefore, staff is proposing a modest 3.5 percent fee increase effective in FY 2009-10 to help prevent the need for large fee increases in the future.

Figure 2
APCD Operating Revenue 2008-09



PROPOSED REVISIONS

Staff proposes to increase permit renewal fee rates in Section H by 3.5 percent effective in fiscal year 2009-10. Current and proposed renewal fee rates appear in Appendix A.

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. If successful, this could reduce the need for future fee increases. Two other revisions to Rule 42 are also proposed.

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. Currently, most permit holders pay the minimum annual fee of \$509.00; this is proposed to increase to \$525.00.

Therefore, adoption of the proposed 3.5 percent fee increase would result in a fee increase of \$16.00 per year for most permit holders. Facilities with higher permitted emissions would be subject to larger permit renewal fee increases (3.5 percent). Adoption of this proposal would increase APCD revenue by approximately \$75,000 per year.

Administrative Fee

Staff proposes to change the transfer of ownership fee in Subsection A.1 to include any administrative activity that requires a permit document to be reissued outside of the renewal cycle. At a minimum, this includes transfer of ownership and changes to either the company name or its mailing address. The fee will not be charged for administrative changes that are made to a permit document during renewal.

The third paragraph of Subsection A.1 is proposed as follows:

For each application to ~~transfer ownership of~~ make an administrative change to a Permit to Operate, an Authority to Construct or a Certificate of Emission Reduction Credits, an applicant shall pay a Filing Fee of \$225.00. Administrative changes are actions that require a Permit to Operate, an Authority to Construct or a Certificate of Emission Reduction Credits to be reissued and include, but are not limited to, transfer of ownership, name change, or mailing address change.

Permit Processing Fees

Subsection B.2 describes the permit processing fees that are applicable to specific permit activities. Subsection B.2.a describes a fee based on "the actual hours spent by staff in evaluating the application," where the fee is the hours multiplied by the Air Quality Engineer service rate times 1.3. Currently, it applies to "Authority to Construct applications or applications to certify emission reduction credits."

Subsection B.2.c describes a fee for Permit to Operate applications where an Authority to Construct was not obtained. In these cases, the application is treated as an Authority to Construct application under Rules 26 and 42. Processing fees for these applications include the fee in Subsection B.2.a, which does not specifically mention Permits to Operate. Therefore, the following clarifications to these subsections are proposed:

Subsection B.2.a:

For Authority to Construct applications, Permit to Operate applications where specified, or applications to certify emission reduction credits, the processing fee shall be based on ...

Subsection B.2.c:

For each Permit to Operate application for which an Authority to Construct was not obtained, the processing fee shall be the sum of the fees required by ~~subsection a~~ Subsection B.2.a and the fees required by ~~subsection b~~ Subsection B.2.b.

In addition, Subsection B.2.b is proposed for revision. This subsection describes fees for the processing of Permits to Operate. Staff proposes to add hourly permit processing fees for Part 70 (Title V) permits, as follows:

For Permit to Operate applications, the processing fee shall be the initial permit period fees, and any applicable source test fees as described in Rule 47. For new permits, the initial permit period fees shall be calculated in the same way that renewal fees are calculated using the fee schedule in Section H of this Rule. For existing permits, the initial permit period fees shall be calculated as an adjustment to the renewal fees for the current permit period using the fee schedule in effect the last time the permit was renewed. Initial permit period fees of less than \$50.00 shall be waived. In addition, for Part 70 permit applications, the processing fee shall include the fee specified in Subsection B.2.a.

This fee will apply only to Part 70 permit applications that implement Authority to Construct applications.

Discussion

Permit Renewal Fees

Staff is proposing a renewal fee increase of 3.5 percent. This is based on the increase in the California Consumer Price Index (CPI) for October 2007 through October 2008. This is the most recent CPI data available and was obtained from the California Department of Industrial Relations' Division of Labor Statistics and Research. Staff is seeking only a modest increase this year due to the current economic situation.

Staff will continue to implement cost-cutting measures. Staff will also continue to work on stabilizing and increasing the District's state and federal funding sources. If successful, this could reduce the need for future fee increases.

Permit Processing Fees

Rule 42 has no provision to recover the cost of finalizing a Permit to Operate. For most "normal" permit applications, no more than two hours is required to finalize a permit. For Part 70 permit revisions, significantly more time is required because Part 70

permits are more complicated than District Permits to Operate and include additional tasks, such as public review and EPA notification. Both the Santa Barbara County APCD and the San Luis Obispo County APCD charge an hourly fee for this service.

The current AQ Engineer service rate is \$113.00 per hour. Staff estimates that Part 70 permit processing

time under Subsection B.2.b at approximately 100 hours per year. At 1.3 times this amount (Subsection B.2.a), an additional \$14,690 of revenue is possible with the proposed revision to Subsection B.2.b ($\$113 \times 100 \times 1.3$).

The proposed revisions to Subsections B.2.a and B.2.c are clarifications and have no fiscal impact.

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).

MEETINGS AND COMMENTS

Workshop February 3, 2009

District staff conducted a public workshop on the proposed revisions on February 3, 2009; there were four attendees. No changes to the proposed rule were made as a result of the workshop. A workshop notice was mailed to each permit holder and to other interested persons.

Advisory Committee February 24, 2009

The Advisory Committee did not recommend adoption of the proposed revisions to Rule 42 on a tie vote, with 4 yes votes, 4 no votes, and 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 6/30/2009</u>	<u>After 6/30/2009</u>		<u>Through 6/30/2009</u>	<u>After 6/30/2009</u>
Reactive Organic Compounds (ROC)	\$87.50	\$91.00		\$87.50	\$91.00
Nitrogen Oxides (NOx)	\$87.50	\$91.00		\$87.50	\$91.00
Particulate Matter (PM)	\$66.00	\$68.00		\$66.00	\$68.00
Sulfur Oxides (SOx)	\$44.25	\$45.00		\$44.25	\$45.00
Carbon Monoxide (CO)	\$ 9.00	\$ 9.50		\$ 9.00	\$ 9.50
Other Pollutants	\$66.00	\$68.00		\$66.00	\$68.00

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 6/30/2009</u>	<u>After 6/30/2009</u>
Less than 5 tons/year	\$ 509.00	\$ 525.00
Less than 10 tons/year	\$1,017.00	\$1,050.00
Less than 15 tons/year	\$1,525.00	\$1,575.00
Less than 20 tons/year	\$2,034.00	\$2,100.00
Less than 25 tons/year	\$4,068.00	\$4,210.00
Equal to or more than 25 tons/year	10,170.00	\$10,525.00