Ventura County Air Pollution Control District
FINAL STAFF REPORT – May 12, 2020

REVISIONS TO RULE 42 – PERMIT FEES, RULE 45.2 – ASBESTOS REMOVAL FEES, AND RULE 128 – COMPENSATION - HEARING BOARD MEMBERS

BACKGROUND

Expenditures

The Air Pollution Control District (APCD or District) operating budget for fiscal year 2019-20 is approximately $8.1 million, excluding one-time building renovation costs, pass through, and contingency funds. (Pass through funds are spent directly on air pollution control projects such as the District's Carl Moyer Memorial Air Quality Standards Attainment Program). For the past several years, actual expenditures have come in below budgeted amounts. In part, this is due to conservative budgeting practices. About 78 percent of the APCD's operating budget is employee salaries and benefits.

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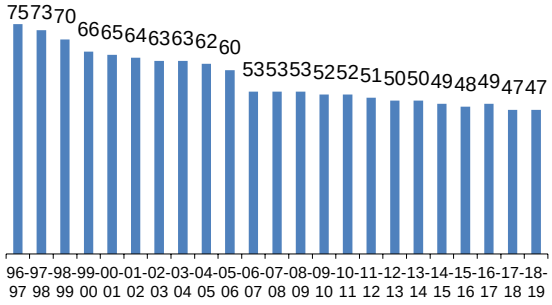
Figure 1 below shows APCD staff size during each year since its peak in 1997.

Figure 1
Historical APCD Staff Size



Staff reductions that occurred between 1998 and 2006 reflect lower workloads caused by completion of work mandated by the 1990 state and federal clean air act amendments, increases in efficiencies, automation, changes in air toxics laws, and changes in trip reduction mandates.

District has maintained a staffing level between 49-47 full-time equivalents since Fiscal Year 2015. To estimate future expenditures, staff assumed a target staff size of 47-49 positions will be maintained, and salaries and benefits will increase at a rate of 1.8 percent per year to account for inflation.

Revenue

Budgeted revenue for fiscal year 2019-20 was approximately $7.7 million. For the past several years, actual revenue has exceeded budgeted amounts. This can also be partially attributed to conservative budgeting practices. APCD revenue comes from state and federal grants, automobile registration fees, and fees charged to sources of air pollution. The APCD receives no property tax revenue or general fund revenue. Figure 2 shows the APCD's sources of operating revenue.

Rule 42 sets fee rates in the form of permit processing fees, filing fees, and annual permit renewal fees. Permit renewal fees are charged annually to each source of air pollution large enough to be required to have an APCD Permit to Operate. Most sources pay the current minimum fee of $623 per year. Larger emission sources are charged in proportion to their "permitted emissions," calculated in tons per year and pounds per hour.

Rule 45.2, Asbestos Fees, sets rates to be paid as a one-time fee for every demolition or renovation project which abates asbestos containing material (ACM). The fee is structured to be proportional to the amount of ACM being removed.

The other fee rules implement miscellaneous fees that, together with Rule 45.2, constitute the 3.59% of revenue shown as "other fees" in Figure 2.

Budget and Proposed Revision

Staff's current proposed amendment to Rule 42 is a permit renewal fee rate increase of 3 percent effective July 1, 2020. Permit renewal fees were increased in 2019 by 3.5 percent. The California consumer price index (CPI) has gone up 3.4 percent from the last time these fee rates were adjusted in 2019, the most recent data available when this rule revision was proposed. For most permit holders, adoption of this proposal will result in a fee increase of approximately $19.00 per year.

Rule 45.2 was adopted in 1989 and was last amended in 1992. It was adopted to account for staff resources used implementing both National Emission Standards for Hazardous Air Pollutants (NESHAPS) and Rule 62.7, Asbestos – Demolition and Renovation. Since 1992, fees collected through Rule 45.2 have not been

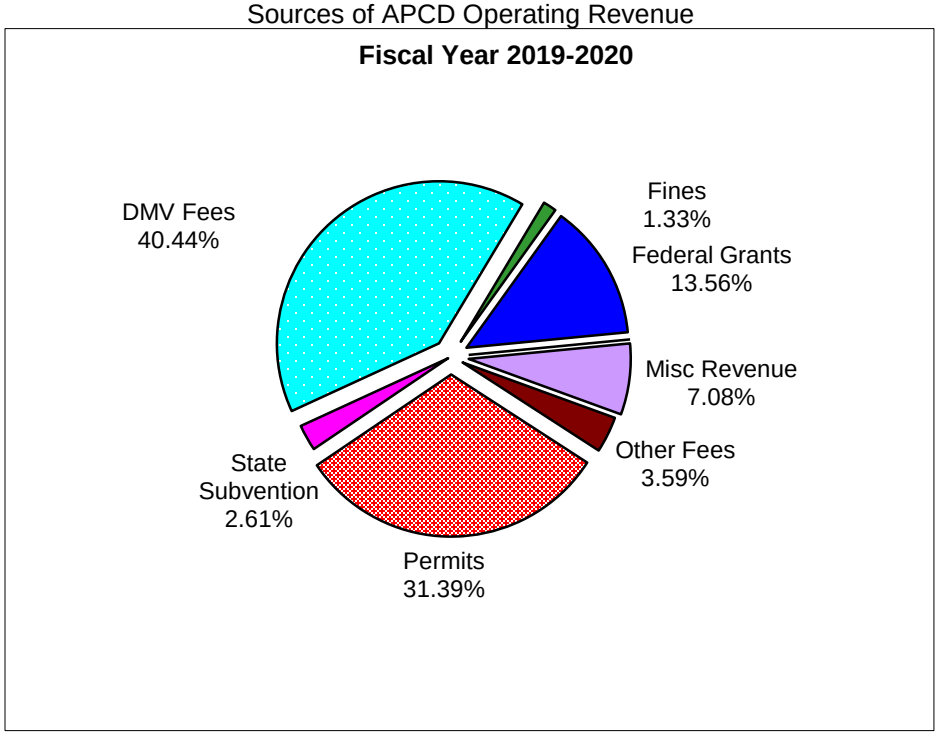
raised. Proposed changes to the fee structure and increased fees for all categories may be seen in Appendix A. These changes reflect actual staff time spent processing and implementing Rule 62.7, and NESHAP.

In June 2016, the District purchased a building that will serve as its permanent office. The building requires extensive renovation which will greatly reduce the District's fund balance. However, the fund balance is still being maintained within the targeted range. It should also be noted that while the building renovation is associated with a significant one-time cost, it will result in cost-savings in the long-term. The District is experiencing additional work related to permitted stationary sources in the form of appeals of land use permits on air quality issues, and a significant number of complaints related to air emissions. In addition, permit renewal revenue has decreased with the shutdown of at least one power plant.

Hearing Board

The Hearing Board of the VCAPCD is a quasi-judicial body established by state law to grant variances and either uphold or overturn APCD decisions regarding permit denials and operating conditions on permits outlined by Rules 110-130. Rule 128, Compensation - Hearing Board Members, was adopted in 1969 which required applicants requesting Hearing Board review to compensate all participating members for their time. The Hearing Board Committee consists of two citizen and three expert members who are provided $75 per day or part thereof for attendance, in accordance with Rule 128. The last time Rule 128 was amended was in 2001.

Figure 2
Sources of APCD Operating Revenue



PROPOSED REVISIONS

Discussion

Permit Renewal Fees

Staff proposes to increase the permit renewal fee rates in Section H of Rule 42 by 3 percent (rounded to the nearest whole dollar), effective July 1, 2020. The proposed rate tables are shown in Appendix B. For permit holders paying the minimum fee, adoption of this proposal would result in a fee increase of $19 per year.

Staff's proposal to increase permit renewal fee rates by 3 percent is less than the 3.3 percent increase in the California Consumer Price Index (CPI) that occurred between July 2018 and 2019. This was the most recent CPI data available when the rule revision was developed and was obtained from the California

Department of Industrial Relations' Division of Labor Statistics and Research.

This proposal will compensate for the increase in the CPI that occurred from the last time these fees were adjusted.

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 $623.00.

Therefore, adoption of the proposed fee increase would result in a fee increase of $19.00 per year, bringing the minimum annual renewal for most permit holder to $642. Facilities with higher permitted emissions would be subject to larger permit renewal fee increases. Adoption of this proposal would increase APCD revenue by approximately $62,000 per year.

To help minimize the need for future permit renewal fee increases, staff will continue to explore and implement cost-cutting measures as appropriate. Staff will also continue to work on stabilizing and increasing the District's state and federal funding sources.

Asbestos Removal Fees

Staff's proposal to increase asbestos fees reflects the most recent analysis of staff resources used while enforcing Rule 62.7 and NESHAP requirements. The proposed fees are less than neighboring Districts.

Hearing Board Member Compensation

Staff proposes to increase compensation provided to Hearing Board members for their services from $75 to $150 per day or part thereof for attendance at any meeting or public hearing held by their Board. This reflects the cost of living adjustment since the last time Rule 128 was amended, in 2001. The compensation is provided by the person or company requesting the variance hearing and has no impact on the District's budget.

Public Comments

Staff scheduled a workshop to present the proposed rule revisions on March 12, 2020. Staff has notified all permitted sources in the District by sending a meeting notice to each of the 1,400 stationary sources. In addition, notice of the workshop has been posted on the District's website. An Advisory Committee meeting will be held on March 24, 2020.

Fund Balance

Board policy established a targeted range of 4 to 6 months operating expenses for the fund balance. Based on current budgeted operating expenses, the fund balance should therefore be stabilized between $2.7 million and $4.1 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 adequate funds.

The current (unaudited) fund balance as of June 30, 2019, is $11.3 million. The renovation of the District's new office building is expected to cost $5.3 million. In addition, the District will need to pay moving costs and will need to replace several older fleet vehicles. This would bring the District's fund balance into the range of $6 million. The fund balance is not expected to fall below the targeted range or be completely depleted in the near future.

Staff's current proposal is for a single permit renewal fee rate increase this year and does not include any future fee rate 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 likely be necessary to counter inflation's continual effect.

COST-EFFECTIVENESS AND IMPACT ANALYSES

Cost-Effectiveness

California Health & 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, 45.2 and 128 are not related to any control measure. Therefore, a finding of cost-effectiveness is not required.

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

Socioeconomic Impact Analysis

California Health & 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, 45.2 and 128 do not 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, 45.2 and 128 are administrative in nature and do not involve pollution control equipment. Therefore, an analysis is not required.

California Environmental Quality Act

The proposed revisions to Rule 42, 45.2 and 128 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. § 40727.2(a) states:

In complying with § 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, 45.2 and 128 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).

Appendix A
Proposed Asbestos Removal Fees in Rule 45.2, Subsection C

The fees in Subsections C.1, C.2, and C.3 of this rule shall not apply to demolition or renovation operations at residential buildings having four or fewer dwelling units.

~~1. Each project involving the removal of less than 160 square feet of asbestos containing material shall be assessed a fee of $75.00.~~

~~2. Each project involving the removal of 160 to 5000 square feet of asbestos containing material shall be assessed a fee of $230.00.~~

~~3. Each project involving the removal of more than 5000 square feet of asbestos containing material shall be assessed a fee of $305.00.~~

1. Each project involving the removal of greater than or equal to 100 but less than 1000 square feet of asbestos containing material shall be assessed a fee of $260.00.

2. Each project involving the removal of greater than or equal to 1000but less than 5000 square feet of asbestos containing material shall be assessed a fee of $620.00.

3. Each project involving the removal of greater than or equal to 5000 square feet of asbestos containing material shall be assessed a fee of $975.00.

4. For any project where the Air Pollution Control Officer determines that additional staff time is necessary to determine compliance or due to non-compliance with APCD Rule 62.7, an additional fee shall be charged to recover the costs of such inspections. This fee shall be assessed at the hourly rate established by the Air Pollution Control Board.

5. Each person filing a notification of an asbestos removal project, subject to the provisions of APCD Rule 62.7, shall pay upon filing, the nonrefundable fee prescribed herein.

6. Any revisions to removal or demolition dates, amounts of asbestos present or removed, or to contractors, transporters, or disposal site shall be assessed a fee of $60.00.

7. Each demolition project without asbestos removal shall be assessed a processing fee of $170.00.

8. Any fee prescribed in this rule may be adjusted annually by the Air Pollution Control Officer based on the change in the California Consumer Price Index (CPI) for the preceding year, as determined pursuant to Section 2212 of the Revenue and Taxation Code. Any fee rule adjustments greater than the change in CPI shall require approval by the Air Pollution Control Board.

Appendix B
Proposed Renewal Fees in Rule 42, Subsection H

Air Contaminant	Dollars per Ton/Yr Effective Dates			Dollars per Lb/Hr Effective Dates	
	Through 6/30/2020	After 6/30/2020		Through 6/30/2020	After 6/30/2020
Reactive Organic Compounds (ROC)	$109.00	$112.00	+	$109.00	$112.00
Nitrogen Oxides (NOx)	$109.00	$112.00	+	$109.00	$112.00
Particulate Matter (PM)	$81.00	$83.00	+	$81.00	$83.00
Sulfur Oxides (SOx)	$53.00	$55.00	+	$53.00	$55.00
Carbon Monoxide (CO)	$10.00	$10.00	+	$10.00	$10.00
Other Pollutants	$81.00	$83.00	+	$81.00	$83.00

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 [Consumer Price Index] adjustments directed by the Board after 6/30/2000.

Permitted Emissions	**Minimum Renewal Fee Effective Dates**	
	Through 6/30/2020	After 6/30/2020
Less than 5 tons/year	$ 623.00	$ 642.00
Less than 10 tons/year	$1,248.00	$1,285.00
Less than 15 tons/year	$1,864.00	$1,920.00
Less than 20 tons/year	$2,505.00	$2,580.00
Less than 25 tons/year	$5,000.00	$5,150.00
Equal to or more than 25 tons/year	$12,515.00	$12,890.00