

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

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

**WORKSHOP REPORT**

The San Diego County Air Pollution Control District (District) held a workshop on proposed changes to Rule 40 - Permit and Other Fees on July 2, 2003. Notices were mailed to all San Diego County businesses and government operations with District air quality permits, all local Chambers of Commerce, all local Economic Development Corporations, the U.S. Environmental Protection Agency (EPA), the California Air Resources Board (ARB), and other interested parties. The workshop was attended by five people. The comments and District responses are as follows:

**1. WORKSHOP COMMENT**

I paid a permit renewal fee of \$187 four years ago and I am now paying about \$3,000. This includes a \$598 charge for a source test pilot study. What is a source test pilot study? It also includes a \$1,975 fee. What is this for? I would like this fee reduced more than the District is proposing to reduce it.

**DISTRICT RESPONSE**

The total permit renewal fee for this facility for FY 2003-04 is proposed to be reduced from \$2,705 to \$2,644. This includes a \$222 reduction in the equipment renewal fee, which is being partially offset by increases in a particulate matter source testing fee, air contaminant emissions fee, and permit renewal administrative fees.

This facility is a perlite manufacturing facility. Facilities manufacturing perlite emit fine particulate matter to the atmosphere and are subject to the particulate matter emission standards of District Rule 54. To determine compliance, an emissions test must be conducted. A particulate matter emissions test currently costs \$3,709.

In 1998, the Compliance Improvement Team (a District process improvement team consisting primarily of business customers) began a review of emissions testing frequency for various types of equipment. Based on this review, it was determined that perlite manufacturing lines should continue to be tested every five years. Affected sites are billed one-fifth of the cost of a test each year as part of the facility annual permit renewal fee. This facility has been paying one-fifth of the previous \$2,990 cost of a particulate matter emissions test annually. For fiscal year (FY) 2002-03, this annual fee amounted to \$598 and is being proposed to increase to \$742.

The total permit renewal fee for this perlite manufacturing facility for FY 2002-03 was \$2,705. This consisted of an emissions fee of \$82, a site (facility) processing and handling fee of \$30, a permit processing and handling fee of \$20 (\$20 for each permit unit), the \$598 emissions testing fee (one-fifth of the Fee Schedule 92A fee), and a \$1,975 base renewal fee (based on labor expended to determine compliance). The \$1,975 portion of the renewal fee relates directly to the District's cost of determining ongoing compliance at this specific facility. The total average annual cost to determine compliance, used to set fees for FY 2001-02 (paid in FY 2002-03), was \$1,975.

District staff directly involved in such compliance determinations track labor expended to the nearest tenth of an hour. This labor is then multiplied by the calculated labor rate for each staff person that expended the labor. Over the past five years, an average of 15.2 hours (including travel time) each year have been expended to determine compliance at this facility (compared to an average of 18 hours for the previous five-year period). Labor was expended by District inspectors as part of the routine business inspection process and to investigate a number of public complaints about excessive dust and particulate matter emissions from this facility. Labor was also expended by permit engineers to revise permit conditions specific to this facility.

The determination of the proposed revised fees for this facility was done in strict accordance with the methodology developed in FY 1997-98 by the Fee Review Group (business customers) and approved by the Air Pollution Control Board. The calculations to determine the fees have been double-checked to ensure they are accurate. Because the fees for this facility are based on actual documented costs, it would be inappropriate to arbitrarily further reduce the fees for this facility because any such reduction would have to be compensated by fee increases on other businesses to ensure permit program cost recovery.

The referenced \$187 renewal fee likely dates back to before the approved fee methodology was fully implemented and when actual labor costs were not yet being fully recovered in some cases.

## **2. WORKSHOP COMMENT**

Are there any changes being proposed to the permit renewal base fee for the federal Title V operating permit program? How will Title V permit renewal fees be determined?

### **DISTRICT RESPONSE**

No. The only changes proposed for Title V permit fees is to delete the initial (permit) application base fee, and the Schedule 94 labor rates. There is no change to how Title V permit renewal fees are based.

There are two aspects to the "renewal" of a Title V operating permit (mandated by federal law). The first refers to annual ongoing District costs to review and ensure compliance with the Title V permit terms and conditions, and to administer permit requirements. These annual costs are recovered through an additional yearly fee charged to Title V permitted facilities at the time of their regular District annual permit renewal fees. These additional costs are

estimated at the time of Title V permit issuance, then updated as needed to reflect actual District costs. The District engineer who issued the Title V permit develops this estimate in conjunction with the District's Compliance Division and can provide what the amount is for a specific Title V site.

The second aspect of Title V permit renewal is the review and re-issuance of the Title V permit, which has a term of five years after its initial issuance. The Title V facility must apply to the District for re-evaluation and re-issuance of their Title V permit not less than 12 months and not more than 18 months prior to permit expiration. At that time, the site should request an estimate from the District for the costs of that review and re-issuance.

Rule 40 provides that the actual District costs for the renewal of Title V permits are to be based on the labor hours spent and the applicable labor rates in Rule 40, Schedule 94.

3. **WORKSHOP COMMENT**

Why is the volatile organic compound (VOC) outlet test being deleted?

**DISTRICT RESPONSE**

Several years ago the District began tracking VOC tests as either onsite analysis (92q) or offsite analysis (92r). All VOC tests are now in one of these two categories. Accordingly, since Schedule 92(l) – Each VOC Outlet Source Test Only will no longer be used, it is being deleted from the fee schedule.

4. **WORKSHOP COMMENT**

How are District labor rates determined?

**DISTRICT RESPONSE**

The Time and Material (T+M) labor rates in Rule 40, Schedule 94 Labor Rates are used to recover directly billable labor costs and permit-related costs not directly billable to permitted sources. The directly billable labor costs include, for example, time spent preparing for, traveling to, and conducting a site inspection or emissions source test or evaluating an application and issuing permits. The permit-related costs not directly billable to a specific inspection, source test or permit application evaluation include, for example, time spent on supervision, training, accounting, records maintenance, labor tracking, permit streamlining efforts, and fee development activities. The labor rates also include other permit program-related indirect costs such as services and supplies, support staff, management and other overhead costs. The labor rate is established for each position classification that has permit-related activities and is determined using the salary and benefit costs for the classification and an overhead rate multiplier, divided by the average annual billable hours.

**5. WORKSHOP COMMENT**

Are all of the site (business)-specific fees listed in the proposed revisions to Rule 40?

**DISTRICT RESPONSE**

Yes, there are five new source-specific fees listed. Rule 40(c)(4) states, "If the Air Pollution Control Officer determines that the activities of any one company would cause an increase of at least 10 percent in any one Emission Unit Fee Schedule, the Air Pollution Control Officer may delete the costs attributed to that company from the cost data used to determine that type of Emission Unit Fee Schedule. The costs from such a company shall be recovered by development of a source-specific Emission Unit Fee Schedule. The specific Emission Unit Fee Schedules shall be submitted to the Air Pollution Control Board for consideration and adoption."

In the proposed Rule 40 amendments, the five (5) new source-specific Emission Unit Fee Schedules being added are to recover significantly higher facility-specific permit renewal costs that would otherwise cause fees for other facilities in those fee schedules to increase by more than 10%. The new source-specific fee schedules are 15(d), 23(e), 27(z), 34(j), and 37(c). The higher costs for these facilities were incurred providing assistance and oversight to bring these facilities into compliance and increased activities associated with the quarterly inspection program.

**6. WORKSHOP COMMENT**

What is the timeline for adopting the proposed changes to Rule 40, and when will the changes be effective?

**DISTRICT RESPONSE**

The District will be recommending that the Board approve the proposed changes to Rule 40 at its August 13, 2003, public hearing. The changes will become effective immediately. The revised permit renewal (and emission) fees will apply to all permits that were scheduled for renewal on or after July 1, 2003. Those renewals have been delayed pending these proposed fee changes. The revised permit application fixed fees and the Time and Material fee rates will apply on and after the date the Board approves the amendments to Rule 40.

**7. WORKSHOP COMMENT**

Where can a company get a list of contractors who can perform emissions testing in lieu of the District conducting the testing?

**DISTRICT RESPONSE**

The California Air Resources Board (ARB) has a certification process for emissions testing contractors. Under this process, contractors are certified for specific types of emissions tests; for example, tests for oxides of nitrogen, carbon monoxide, or particulate matter. The list of ARB-certified test contractors is updated periodically and is available from the District and ARB.

Several years ago, in conjunction with external customers, the District completed a comprehensive benchmarking study of its emission testing program. Based on this study, the cost of District testing is comparable to the costs of testing performed by certified contractors.

#### **8. WORKSHOP COMMENT**

Why doesn't the District outsource testing to reduce costs to businesses? Contractors could be required to have liability insurance in case of errors.

#### **DISTRICT RESPONSE**

Several years ago, in collaboration with its external customers, the District completed a comprehensive benchmarking study of its emission testing program. Based on this study, the cost of District testing was found comparable to the costs of testing performed by certified contractors. A facility may choose to have emissions testing performed by a contractor, but the District must witness the testing and recover its costs to ensure the testing is valid.

#### **9. WORKSHOP COMMENT**

Why does the District need to witness emissions tests performed by private contractors if the District approves these contractors?

#### **DISTRICT RESPONSE**

The District, again in collaboration with its business customers, previously reviewed testing completed by test contractors and observed by the District. This review clearly demonstrated that, even when District staff are present, contractors frequently attempt to deviate from the approved testing protocol. A detailed assessment of historical data demonstrated that this occurred most of the time. District customers indicated they wanted the District to continue test witnessing to assure the quality of results. However, the District will bring this issue to an upcoming regularly scheduled meeting of the Air Pollution Permit Streamlining (APPS) Committee and Compliance Improvement Team (CIT) to discuss with our business customers.

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