

FINAL STAFF REPORT

EXISTING RULE 40 PERMIT AND OTHER FEES

April 2024

San Diego County Air Pollution Control District
Rule Development Section

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EXECUTIVE SUMMARY

The mission of the San Diego County Air Pollution Control District (District) is to improve air quality to protect public health and the environment. Accordingly, the District operates a county-wide permitting program for stationary (fixed) sources of air pollution pursuant to federal and State law. Stationary sources encompass large industrial facilities including power plants and landfills and smaller commercial establishments such as gas stations and dry cleaners. A facility’s permit outlines the required actions to comply with air pollution control requirements and protect air quality, the environment, and public health. District Rule 40 – Permit and Other Fees sets the fees for District permitting and other services, such as inspections and source testing, related to the implementation of the stationary source permitting, source testing, and asbestos programs.

District staff worked with Matrix Consulting Group (Consultant) to update the Cost Recovery Study analysis for Fiscal Year 2023-24 based upon new inputs associated with staffing, costs, and workload, as well as any changes in fee structures. The Consultant recommended and District staff proposes implementation of a Fiscal Year 2024-25 cost recovery scenario detailed in the FY 2024-25 Cost Recovery Analysis Report April 2024).¹ This recommendation is consistent with the Governing Board’s December 8, 2022, direction on fee increases that was adopted on January 12, 2023, and became effective on July 1, 2023.

Proposed Fiscal Year 2024-25 amendments to Rule 40 include: consolidating two initial evaluation and renewal fees for engines into one fee; clarifying language related to online fee estimates and permit revisions, health risk assessment, risk reduction audit, and risk reduction plan submittal requirements and refunds; eliminating six outdated initial evaluation and renewal fees that were site-specific or no longer active; converting eight fixed (flat) application fees to time & material; converting one time & material fee to a fixed fee; combining standard and online asbestos notification fees into one set of fees; combining demolition notification fees; eliminating four asbestos notification fees; and updating various fees consistent with the recommendations from the Consultant, as summarized in the table below. Increases in stationary source permitting fees are limited as required by Health and Safety Code Section 41512.7. This limitation is being met by limiting the proposed increases for fixed permit application fees, permit renewal fees, time & material charges, and processing fees, to not more than 15%.

Fee Category	Permit Application Fixed	Permit Renewal	Source Testing	Asbestos Notifications	Hearing Board	Time & Material	Processing Fee
Proposed % Fee Increase	6% to 15%	1% to 15%	2% to 15%	8% to 10%	0%	0% to 15%	10% to 15%

There are no revisions proposed to Rule 42 – Hearing Board Fees at this time. Increasing these fees at the previously adopted rate may result in the Hearing Board fees becoming cost prohibitive, without having a significant revenue impact upon the District since these fees comprise a very small amount of the revenue and costs for the District.

The following statements summarize important elements of the proposed rulemaking:

Comparative Analysis

An analysis comparing proposed amended Rule 40 with applicable requirements of federal and local regulations (“Comparative Analysis”) is not required because the proposed amendments do

not impose a new emission limit or standard, make an existing emission limit or standard more stringent, or impose new or more stringent monitoring, reporting, or recordkeeping requirements.

Socioeconomic Impact Assessment

An assessment of the socioeconomic impacts of proposed amended Rule 40 is not required because it will not significantly affect air quality or emissions limitations.

California Environmental Quality Act (CEQA)

The proposed administrative amendments to Rule 40 are categorically exempt from the provisions of CEQA pursuant to California Code of Regulations, Title 14, Section 15273, which exempts projects that involve the establishment or modification of charges by public agencies for the purpose of meeting operating expenses, purchasing supplies and equipment, or meeting financial reserve needs.

Environmental Justice

The proposed amendments to Rule 40 promote public engagement and transparency; and will help to fund the District's commitments to advancing policies, programs, and services that achieve environmental justice and equity. Fees for the District recover costs for permitting, and other programs and services, and support the District's vision of "Clean Air for All".

I. INTRODUCTION

Rule 40 – Permit and Other Fees is used to establish all fees charged by the San Diego County Air Pollution Control District (District), as authorized by the Air Pollution Control District Governing Board, except for those specified in Rule 42 – Hearing Board Fees. These include, but are not limited to, fees for: applications, permits and registrations, renewals, source testing, asbestos demolition or renovation notifications, and various other program specific fees. Rule 40 is also used to determine refunds, forfeitures, and insufficient payment of fees, as applicable. Given that estimated costs and revenues for these services will fluctuate year to year due to shifts in staffing levels, program costs, level of effort, and other factors, Rule 40 is periodically updated to ensure that District fees are appropriately recovering costs associated with providing these services.

II. BACKGROUND

California Health and Safety Code Sections 41512 and 42311 allow the District to recover the full costs applicable to emission sources not included within a permit system such as asbestos fees, source testing fees, and Hearing Board fees as well as costs associated with the renewal, evaluation, and issuance of permits. These sections also provide limits on fee increases for permit to operate and authority to construct permits, restricting aggregate revenue increases to 15% annually. Based upon this legal authority, the District has a goal to review its fees every year to ensure that all fee-related costs are captured, and maximum cost recovery is achieved.

In 2020, the State Auditor issued a report regarding the District,² which identified that fee-related expenses were not being fully recovered. As a result of these findings, the District conducted its first external fee evaluation in 2021,³ with study results presented and adopted by the District Governing Board in May 2021. Before implementing associated fee increases which took effect on January 1, 2022, the District had not raised fees in three years.

At the end of 2021, the District worked with Matrix Consulting Group to prepare an update to the study conducted earlier in 2021. This update incorporated staffing and budgetary adjustments as well as several fee program modifications. The results of this analysis were presented and adopted by the Board for implementation on July 1, 2022. In September 2022, the District began working with Matrix Consulting Group to conduct the next update to the Cost Recovery Analysis for implementation on July 1, 2023.

As part of the continuing effort to ensure that fees cover the costs associated with their activities, the District is now updating its fees for implementation on July 1, 2024, and has updated the analysis from last year based on new inputs associated with staffing, costs, workload, and any changes in fee structures.

III. CONTROL TECHNOLOGIES

This section is not applicable to Rule 40. Rule 40 is an administrative rule that does not control nor impact any emissions; therefore, no control technologies apply to this rule.

IV. SUMMARY OF PROPOSED RULE REQUIREMENTS

A summary of proposed Fiscal Year 2024-25 amendments to Rule 40 are included below:

- Consolidation of two initial evaluation and renewal fees for engines in Fee Schedule 34 into one fee:
 1. Fee Schedule 34C with 34H
- Clarifying language related to online fee estimates in Sections (d)(2) and (d)(6).

- Clarifying language related to permit revisions in Section (d)(5).
- Clarifying language related to health risk assessment, risk reduction audit, and risk reduction plan submittal requirements and refunds in Sections (d)(6) and (i)(2).
- Eliminating six outdated initial evaluation and renewal fees that were site-specific or no longer active (Fee Schedules 13D, 20G, 29A, 31A, 38D, and 38F).
- Converting the following eight fixed (flat) application fees to time & material:
 1. Fee Schedule 1B – Abrasive Blasting Equipment
 2. Fee Schedule 2A – Abrasive Blasting Cabinets, Rooms and Booths
 3. Fee Schedule 2B – Abrasive Blasting Cabinets, Rooms and Booths w/ Transfer or Recycling System
 4. Fee Schedule 6A – Sand, Rock, Aggregate Screens
 5. Fee Schedule 23B – Bulk Terminal Grain and Dry Chemical Transfer and Storage Facility Equipment
 6. Fee Schedule 27J – Surface Coating Application Station
 7. Fee Schedule 34G – Piston Type Internal Combustion Engines
 8. Fee Schedule 50A – Coffee Roasters
- Combining standard and online asbestos notification fees into one set of fees.
- Combining Regulated Asbestos Containing Material (RACM) and Non-RACM demolition fees.
- Eliminating planned, emergency, revision, and cancellation fees for asbestos notifications.
- Converting Fee Schedule 40X – Asphalt Pavement Heaters/Recyclers, from a time & material fee to a fixed fee.
- Updating various fees consistent with the recommendations from the Consultant, as summarized in the following table:

Fee Category	Permit Application Fixed	Permit Renewal	Source Testing	Asbestos Notifications	Hearing Board	Time & Material	Processing Fee
Proposed % Fee Increase	6% to 15%	1% to 15%	2% to 15%	8% to 10%	0%	0% to 15%	10% to 15%

As many individual permit renewal and asbestos fee categories are approaching maximum cost recovery, District staff determined that a comprehensive review of labor data related to inspection services provided for these fee categories was necessary to ensure fairness and accuracy in the District’s fee structure while also reflecting the evolving nature of the compliance processes and regulatory landscape. As a result, the proposed amendments to Rule 40 have been revised since initially presented to the Governing Board on January 11, 2024, to better reflect current trends associated with these services. Upon thorough review of updated inspection labor data, the District determined that the average time required to provide compliance verification services for various permits (renewals) and asbestos renovation/demolition project types has changed. Those changes encompass both increases and decreases in inspection duration. Accordingly, adjustments were made to several proposed renewal and asbestos fees to account for the updated time assumptions. Proposed fees for permit types with reduced inspection times are being decreased and proposed fees for permit and asbestos project types with increased inspection times are being adjusted upwards by a maximum of 15%. The initial proposal presented in January included increases ranging from 8% to 15% for 142 renewal fees and increases ranging from 8% to 10% for 20 asbestos fees with a decrease to 1 asbestos fee. The updated proposal includes increases ranging from 1% to 15% for 120 renewal fees as well as decreases for 21 renewal fees and increases ranging from 8% to 10% for 6 asbestos fees with a decrease to 1 asbestos fee. (Note: some renewal and asbestos fees are proposed for consolidation or deletion) The change copy of Rule 40 posted to the District’s website and included as Attachment C in the Board Package, shows the initial proposed revisions to the rule using single-strikeout/single-underline and

proposed modifications made after the January 11, 2024, Board Hearing using double-strikeout/double-underline.

There are no revisions proposed to Rule 42 – Hearing Board Fees at this time. Increasing these fees at the previously adopted rate may result in the Hearing Board fees becoming cost prohibitive, without having a significant revenue impact upon the District since these fees comprise a very small amount of the revenue and costs for the District.

A line-by-line comparison between existing and proposed fee schedules 1-91 can be reviewed on the District's website at:

<https://www.sdapcd.org/content/dam/sdapcd/documents/rules/rule-workshops/050924/Comparison-Current-Proposed-Fee-Schedules.pdf>.

V. NUMBER OF SOURCES AND EMISSIONS SUBJECT TO THE RULE AND EMISSION IMPACTS

There are approximately 8,000 active permits that are subject to the annual operating fees in District Rule 40. Additionally, the District receives approximately 500 permit applications and 1,300 asbestos notifications annually that are subject to initial application fees and asbestos demolition and renovation fees. District staff also conducts over 200 source tests annually for emission units which require source testing to determine compliance and are subject to the applicable source test fees. The proposed amendments to Rule 40 will result in no emission impacts, as this is an administrative rule.

VI. COMPARATIVE ANALYSIS

Statutory Requirements

Prior to adopting, amending, or repealing a rule or regulation, California Health and Safety Code Section 40727 requires findings of necessity, authority, clarity, consistency, non-duplication, and reference, as defined therein. As part of the consistency finding and to ensure proposed rule requirements do not conflict with or contradict other District or federal regulations, Health and Safety Code Section 40727.2(a) requires the District to perform a written analysis identifying and comparing the air pollution control standards and other provisions of proposed amended Rule 40 with existing or proposed District rules and guidelines and existing federal rules, requirements, and guidelines applying to the same source category. Health and Safety Code Section 40727.2(g) further finds that if proposed new or amended rule or regulation does not impose a new emission limit or standard, make an existing emission limit or standard more stringent, or impose new or more stringent monitoring, reporting, or recordkeeping requirements, an air district may elect to comply with subdivision (a) by finding that the proposed new or amended rule or regulation falls within one or more of the categories specified in this subdivision.

Analysis

The District finds that an analysis comparing proposed amended Rule 40 with applicable requirements of federal and local regulations (“Comparative Analysis”) is not required pursuant to Section 40727.2(g) of the California Health and Safety Code because the proposed amendments do not impose a new emission limit or standard, make an existing emission limit or standard more stringent, or impose new or more stringent monitoring, reporting, or recordkeeping requirements. The proposed amendments to Rule 40 are intended to ensure that District fees are appropriately recovering costs associated with the services provided.

VII. ECONOMIC IMPACTS AND COST-EFFECTIVENESS

Statutory Requirements

California Health & Safety Code [40703](#) requires that in adopting any regulation, a district shall consider, pursuant to Section 40922, and make available to the public, its findings related to the cost effectiveness of a control measure, as well as the basis for the findings and the considerations involved. A district shall make reasonable efforts, to the extent feasible within existing budget constraints, to make specific reference to the direct costs expected to be incurred by regulated parties, including businesses and individuals. The district shall also comply with California Health & Safety Code [40920.6\(a\)](#) pertaining to cost-effectiveness of best available retrofit control technology as applicable.

Analysis

Cost effectiveness accounts for the cost of emission reductions, typically expressed in dollars spent per pound or ton of emissions reduced. The District finds that a cost effectiveness evaluation (including an evaluation of incremental cost-effectiveness and other costs) is not applicable to Rule 40 pursuant to Section 40920.6(a), since it is an administrative rule that does not require emission reduction, nor does it require new or additional control equipment installation.

VIII. SOCIOECONOMIC IMPACT ASSESSMENT (IF APPLICABLE)

Statutory Requirements

Per California Health & Safety Code [40728.5](#) (if applicable), whenever a district intends to propose the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations, that agency shall, to the extent data are available, perform an assessment of the socioeconomic impacts of the adoption, amendment, or repeal of the rule or regulation. The district board shall actively consider the socioeconomic impact of regulations and make a good faith effort to minimize adverse socioeconomic impacts, as defined below. This section does not apply to the adoption, amendment, or repeal of any rule or regulation that results in any less restrictive emissions limit if the action does not interfere with the district's adopted plan to attain ambient air quality standards or does not result in any significant increase in emissions.

Analysis

The District finds that an assessment of the socioeconomic impacts of proposed amended Rule 40 is not required pursuant to Section 40728.5(a) of the California Health and Safety Code, as the proposed amendments will not significantly affect air quality or emissions limitations. The proposed amendments will not impact any emissions as Rule 40 is an administrative rule.

IX. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) DETERMINATION / PROCESS

CEQA is a state law that requires state and local agencies to identify the significant environmental impacts of projects and to avoid or mitigate those impacts, if feasible. CEQA requires environmental review of certain actions, including rule development projects. District staff conducted a review of whether CEQA applies to the adoption of proposed amended Rule 40. The District finds that proposed administrative amendments to Rule 40 are categorically exempt from the provisions of CEQA pursuant to California Code of Regulations, Title 14, Section 15273, which exempts projects that involve the establishment or modification of charges by public agencies for the purpose of meeting operating expenses, purchasing supplies and equipment, or meeting financial reserve needs, as described in the FY 2024-25 Cost Recovery Analysis Report (January 2024).⁴

X. ENVIRONMENTAL ANALYSIS

Statutory Requirements – Environmental Analysis of the Expected Methods of Rule Compliance

Pursuant to California Public Resources Code Section [21159](#), an agency listed in Section 21159.4 (i.e., air districts) shall perform an environmental analysis of the reasonably foreseeable methods of compliance at the time of adopting a rule of regulations of the following types:

- Installation of pollution control equipment.
- Performance standard (i.e., process or raw material changes or product reformulation) or treatment requirement, including a rule or regulation that requires the installation of pollution control equipment or a performance standard or treatment requirement pursuant to California Global Warming Solutions Act of 2006 (Division 25.5 (comment with Section 38500) of the Health and Safety Code).

In the preparation of the analysis, the District may utilize numerical ranges or averages where specific data is not available; however, the District shall not be required to engage in speculation or conjecture. The environmental analysis shall, at minimum, include all of the following:

- An analysis of the reasonably foreseeable environmental impacts of the methods of compliance.
- An analysis of reasonably foreseeable feasible mitigation measures.
- An analysis of reasonably foreseeable alternative means of compliance with the rule or regulation.
- For a rule or regulation that requires the installation of pollution control equipment adopted pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code), the analysis shall also include reasonably foreseeable greenhouse gas emission impacts of compliance with the rule or regulation.
- The environmental analysis shall take into account a reasonable range of environmental, economic, and technical factors, population and geographic areas, and specific sites.

Other factors for consideration include the following:

- Pursuant to California Public Resources Code Section 21159(b), the preparation of an Environmental Impact Report (EIR) at the time of adopting a rule or regulation shall be deemed to satisfy this section.
- Pursuant to California Public Resources Code Section 21159(d), a project-level analysis is not required.
- Pursuant to California Public Resources Code Section 21159(f), the analysis is not intended, and may not be used, to delay the adoption of any rule or regulation for which an analysis is required to be performed pursuant to Section 21159.

Analysis – Environmental Analysis of the Expected Methods of Rule Compliance

District Rule 40 is an administrative rule that sets fees for District permitting and other services, such as inspections and source testing, related to the implementation of the stationary source permitting, source testing, and asbestos programs. Therefore, an analysis of expected methods of compliance is not required.

XI. ENVIRONMENTAL JUSTICE / UNDER-RESOURCED COMMUNITY ANALYSES

The proposed amendments to Rule 40 promote public engagement and transparency; and will help to fund the District's commitments to advancing policies, programs, and services that achieve environmental justice and equity. Fees for the District recover costs for permitting, and other programs and services, and support the District's vision of "Clean Air for All".

XII. RULE DEVELOPMENT / PUBLIC PARTICIPATION PROCESS

Pursuant to California Health and Safety Code Section 41512.5, the District is required to hold two Governing Board hearings for the adoption or revision of fees applicable to emission sources not included within a permit system, such as asbestos fees, source testing fees, and Hearing Board fees:

- The first Governing Board hearing shall be held at least 30 days prior to the Governing Board meeting at which the adoption or revision of the proposed fee schedule is to be considered.
- California Health and Safety Code Section 42311 also requires:
 - Sending out a Public Notice through the mail at least 14 days in advance of a Governing Board meeting to adopt or revise fees for the evaluation, issuance, and renewal of permits, to all interested parties (e.g., permit holders, applicants, Chambers of Commerce in the region).
 - The District to make available to the public information indicating the amount of cost, or estimated cost, required to provide the service for which the fee is charged, and the revenue sources anticipated to provide the service.

On the day the Public Notice is mailed, the Public Notice along with the supporting cost information is posted on the District's website and the link is distributed to interested parties through the District's electronic mail service and posted on various District social media accounts.

- Pursuant to H&SC 40725, the noticing requirements for all rule-adoption/amendment hearings shall include the following:
 - Publishing the Public Notice in the newspaper 30 days prior to the adoption hearing.

On the day the Public Notice is published in the newspaper, the Public Notice along with the supporting information is also posted on the District's website, distributed to interested parties through the District's electronic mail service, posted on various District social media accounts, and sent to CARB. If amendments to Rule 40 have been adopted, an email is distributed to interested parties through the District's electronic mail service with links to amended rule(s) and to the District's website where the Governing Board adoption package can be found. Finally, the complete Governing Board package is submitted to CARB for approval.

On November 21, 2023, a Public Notice regarding the first Governing Board hearing on January 11, 2024, was sent to approximately 15,000 recipients including each air quality permit holder and chamber of commerce in the region, subscribers to the District's email notification service, CARB, and was posted to the District's website providing an opportunity to submit written comments. On December 4, 2023, a reminder public notice was sent to the subscribers of the District's email notification system. Included in both notices was an invitation to participate in a virtual public workshop on December 6, 2023, to provide input regarding proposed amendments to Rule 40.

Public Workshop

During the December 6, 2023, public workshop, the District provided an overview of the draft Rule 40 changes, the cost recovery analysis methodology, and next steps to 19 attendees. Input and feedback from workshop attendees were solicited and encouraged to continue until the second Governing Board Hearing for adoption. Spanish interpretation services were provided during the workshop which was recorded and posted to the District's website. A summary of the comments from the December 6 workshop and District responses are provided below:

1. WORKSHOP COMMENT

If the proposed fees are approved by the District Governing Board, when would they become effective?

DISTRICT RESPONSE

If adopted, the proposed amendments to Rule 40 will become effective on July 1, 2024.

2. WORKSHOP COMMENT

Commenter indicated that they are not in support of proposed fee increases.

DISTRICT RESPONSE

The District acknowledges the comment. The proposed fee increases are consistent with a multi-year cost-recovery plan adopted by the Governing Board on May 21, 2021.⁵

1st Governing Board Hearing

During the January 11, 2024, public hearing, the District provided an overview of the draft Rule 40 changes, the cost recovery analysis methodology, and estimated costs and revenues associated with the proposed revisions to the Governing Board and members of the public in attendance. Input and feedback from hearing attendees was solicited and encouraged to continue until the second Governing Board Hearing for adoption. Spanish interpretation services were provided during the hearing which was recorded and posted to the District's website. A summary of the comments from the January 11 Public Hearing and corresponding District responses, are provided below:

1. PUBLIC COMMENT

Fees for asbestos notifications have increased by 25%, 25%, and 15% over the last three years. Continued asbestos notification fee increases could create a disincentive for regulated entities to comply with the notification and safe work practice requirements in District Rule 1206 and result in asbestos abatement being conducted by unqualified contractors, particularly for small residential projects, which could cause unnecessary exposure to asbestos containing materials. The District should ensure that appropriate compliance efforts are in place to help maintain a level playing field for abatement contractors that follow Rule 1206 requirements and that enforcement action is taken for property owners and contractors who are not in compliance with these requirements. Outreach and education efforts should be increased so that property owners and contractors understand the requirements as well as the potential health risks and penalties associated with noncompliance.

DISTRICT RESPONSE

The District's asbestos program is essential to protect public health and enhance the quality of the environment by reducing exposure to hazardous air pollutant emissions. District staff routinely conduct inspections of regulated abatement activities in response to renovation and demolition notifications as well as complaints to ensure compliance with District rules. The asbestos notification fees in Rule 40 are used to cover the costs associated with conducting these inspections along with program outreach efforts and enforcement actions taken when noncompliance is identified. Penalties associated with asbestos violations are typically among the most severe levied by the District to help deter non-compliance and minimize exposure to hazardous asbestos containing materials. District staff regularly holds trainings with affected stakeholders to educate them on the requirements of Rule 1206 and has recently updated the asbestos program website⁶ to provide more information on frequently asked questions. The District is currently evaluating the feasibility of potential amendments to Rule 1206 and is exploring potential opportunities for enhanced community outreach on asbestos awareness.

2. PUBLIC COMMENT

The District should exhaust its budget to deliver services for public good and take a science-based approach to determine costs for implementing clean air programs, including increased outreach on District programs and air pollution concerns.

DISTRICT RESPONSE

The District uses a comprehensive cost recovery analysis model that has been consistently used over the past several years and is a widely accepted approach to cost analysis which takes into account direct and indirect costs associated with providing services to support the District's stationary source permitting, inspection, source testing, and asbestos programs. District staff works with an independent external consulting firm to update the cost recovery study analysis annually based upon new inputs associated with staffing, costs, and workload, as well as any changes in fee structures.

On April 9, 2024, a Public Notice regarding the second Board hearing on May 9, 2024, was published in a local newspaper, posted on the District's website, and sent to all interested parties who have subscribed to the District's email notification service. On April 24, 2024, a public notice regarding the second Board hearing was sent to approximately 15,000 recipients (including each air quality permit holder and chamber of commerce in the region, subscribers to the District's email notification service, and the California Air Resources Board) providing an opportunity to submit written comments.

On April 25, 2024, District staff provided an update to the San Diego County Air Pollution Control District Planning and Policy Committee (PPC) on the proposed amendments to Rule 40. There was one public comment in support of the proposed amendments and one written comment submitted in opposition of proposed fee increases. The PPC voted to recommend approval of the proposed amendments to the Governing Board.

XIII. OTHER RULE AMENDMENTS (IF APPLICABLE)

There are no other ongoing rule amendments that are directly tied to the proposed amendments to Rule 40.

XIV. CONCLUSIONS, FINDINGS, AND RECOMMENDATIONS

Statutory Requirements

Pursuant to California Health & Safety Code [40727](#), before adopting, amending, or repealing a rule or regulation, the district board shall make findings of necessity, authority, clarity, consistency, nonduplication, and reference, as defined in this section, based upon information developed pursuant to Section 40727.2, information in the rulemaking record maintained pursuant to Section 40728, and relevant information presented at the hearing. As used in this section, the terms listed below have the following meaning:

- “Necessity” means that a need exists for the regulation, or for its amendment or repeal, as demonstrated by the record of the rulemaking authority.
- “Authority” means that a provision of law or of a state or federal regulation permits or requires the regional agency to adopt, amend, or repeal the regulation.
- “Clarity” means that the regulation is written or displayed so that its meaning can be easily understood by the persons directly affected by it.
- “Consistency” means that the regulation is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations.
- “Nonduplication” means that a regulation does not impose the same requirements as an existing state or federal regulation unless a district finds that the requirements are necessary or proper to execute the powers and duties granted to, and imposed upon, a district.
- “Reference” means the statute, court decision, or other provision of law that the district implements, interprets, or makes specific by adopting, amending, or repealing a regulation.

Analysis

Proposed amended Rule 40 is not expected to negatively impact affected residents or industries including small businesses, nor affect employment or the economy of San Diego County. Findings made pursuant to H&SC Section 40727 for the list noted above have been included in the Governing Board Resolution for the proposed amended rule. Furthermore, if adopted, the proposed amendments are projected to increase fee-related revenues to approximately \$11.4 million per fiscal year, which would increase the District's estimated aggregate fee-for-service cost recovery percentage for its stationary source permitting, source testing, asbestos, and Hearing Board programs to approximately 90% and would reduce projected annual program related estimated revenue deficits to approximately \$1.3 million. The proposed amendments to Rule 40 are in line with the State Auditor's 2020 recommendations and will facilitate continued progress towards maximum cost recovery for the District's stationary source regulatory programs. Decreased reliance on other revenue sources to cover the costs of implementing these stationary source programs creates potential opportunities to utilize those revenues to support other clean air programs and advance the District's Vision of Clean Air for All. As such, District staff recommends the Governing Board find that the proposed amendments are exempt from the requirements of CEQA, and to adopt the corresponding Board Resolution to amend Rule 40 as proposed.

This Staff Report addresses all the requirements specified in Health and Safety Code Sections 40725 through 40728.5 for rule development.

XV. REFERENCES

¹ April 2024 Matrix Consulting Group Report:*

<https://www.sdapcd.org/content/dam/sdapcd/documents/rules/rule-workshops/050924/FY24-25-Cost-Recovery-Analysis-Report-Apr2024.pdf> *Note: An updated version of this report was prepared subsequent to the January 11, 2024, public hearing to reflect revised fee proposals and is included in the Board Package for the May 9, 2024, hearing.

² 2020 State Auditors Report:

<https://www.auditor.ca.gov/pdfs/reports/2019-127.pdf>

³ 2021 Matrix Consulting Group Report:

https://www.sdapcd.org/content/dam/sdapcd/documents/governing-board/meetings/120921/Item3_Attachment%20B-Rules%2040%2042%20Cost%20Recovery%20Fee%20Analysis%20Report.pdf

⁴ April 2024 Matrix Consulting Group Report:*

<https://www.sdapcd.org/content/dam/sdapcd/documents/rules/rule-workshops/050924/FY24-25-Cost-Recovery-Analysis-Report-Apr2024.pdf> *Note: An updated version of this report was prepared subsequent to the January 11, 2024, public hearing to reflect revised fee proposals and is included in the Board Package for the May 9, 2024, hearing.

⁵ May 21, 2021 Air Pollution Control District Governing Board Agenda Item #1:

https://www.sdapcd.org/content/dam/sdapcd/documents/governing-board/meetings/052121/Item%201_052121_Cost%20Recovery%20Taskforce_Board%20Letter.pdf

⁶ SDAPCD Asbestos Program:

<https://www.sdapcd.org/content/sdapcd/compliance/compliance-requirements/asbestos-program.html>