

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

FINAL DRAFT STAFF REPORT

Amendments to Regulation III – Fees

**Rules 3010, 3020, 3030, 3040, 3050, 3060, 3070, 3110, 3120, 3135, 3140, 3147, 3150,
3155, 3160, 3180, 3190**

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March 17, 2015

I. BACKGROUND

To attain the state and federal air quality standards, the Federal and California Clean Air Acts require the San Joaquin Valley Air District to permit stationary sources, develop attainment plans, adopt rules and regulations, implement programs to reduce emissions, and ensure that permitted stationary sources of air pollutants are in compliance with all applicable federal, state, and District rules. The revenue to fund the District's annual operating budget for these programs generally comes from the following three sources: District Fees (Regulation III, Fees), funds from the Department of Motor Vehicles, and State and Federal Grants. While the District continues to lobby appropriate branches of the state and federal governments to maximize grant dollars and other revenues, the majority of the District's operating program is funded by fees collected under Regulation III.

Each year, significant cost and workload increases have been offset through implementation of streamlining and efficiency measures, and by productivity increases resulting from investment in advanced technologies. In fact, since its inception, the District has minimized the need for fee increases by adhering to fiscally-conservative principles aimed at maximizing efficiency and minimizing costs. These principles include things such as: leveraging the use of technology; developing innovative ways to streamline legally-required processes to improve service and reduce related operating costs; and identifying situations where fees charged for services do not cover the cost of those services and recommending adjustments to those fees rather than increasing overall fees. As a result of implementation of the above principles, the District has only required two across-the-board fee increases since its formation in 1992, in 1997 and 2007.

Because the fee schedules have been adjusted across the board only twice, the District's revenue stream from these fees has remained relatively stable over the 23 years since the District's inception. However, the number of programs implemented by

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the District, and their complexity, has grown tremendously over that same period. Where possible, for many of the new programs that the District implemented over the years, such as Title V permitting, Indirect Source Review, and registration of wood-burning heaters, new fees have generated the income to sustain the programs.

The District takes pride in having the lowest administrative overhead and the lowest permit fees amongst air districts in California. According to an independent audit conducted by central valley air quality advocates in 2009, after the District's last across the board fee increase, the District spent 76% less than other districts on salaries and benefits per ton of emissions reduced from stationary sources. Also, the same audit showed that the District's management and administrative cost as a percentage of operating budget was more than 20% below the average. Since then the District has taken on significant additional workload without any increase in staffing.

The District continues to make every effort to keep operating costs as low as possible while still meeting federal and state mandates. As one recent demonstration of this, the District's 2014/15 budget includes savings in operating costs of approximately \$1,000,000 due to a commitment to extensive employee hiring control efforts, and, as of the time of this writing, with attrition and careful hiring only as necessary to meet District mandates, the District is on track to nearly double that savings.

However, even with decades of intensive and pervasive efforts at minimizing costs, the District is currently operating in a deficit mode, in which costs are exceeding incoming revenues. The District Governing Board has expressed a preference that we pursue a targeted approach to fee increases, looking for source categories and functions for which costs are not being fully recovered. Towards that end, the proposal being discussed in this staff report is to begin to remedy this situation by raising fees in three areas which are not self-supporting at this time: open burning, hearing boards, and asbestos removal. In addition, the proposal includes increasing most other fees by 4.8%¹ starting in fiscal year 2015/16 and an additional 4.4% starting in fiscal year 2016/17.

II. DESCRIPTION OF REGULATION III - FEES

Regulation III – Fees, from the District's Rules and Regulations, establishes the fee rates and schedules associated with the regulatory obligations of the District including permitting, annual renewals, air toxics, conservation management plans, hearing boards open burning permits, asbestos removal permitting, and other functions performed by the District. The fees generated from these rules fund in part the District's annual operating budget. The fee rules in Regulation III proposed for amendment:

¹ While we reference increases of certain percentages throughout this staff report, the actual increases are generally rounded up to the nearest dollar. Where the fee is a multiple of some base, per-unit, fee the actual increases are rounded up to the nearest multiple.

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Regulation III - Fee Rules Proposed for Amendment

Rule 3010 Permit Fee

Rule 3020 Permit Fee Schedules

Rule 3030 Hearing Board Fees

Rule 3040 Open Burning Fees

Rule 3050 Asbestos Removal Fees

Rule 3060 Emission Reduction Credit Banking Fee

Rule 3070 Other Charges

Rule 3110 Air Toxics Fees

Rule 3120 Regulation VIII Alternative Compliance Plan Review Fee

Rule 3135 Dust Control Plan Fee

Rule 3140 Fees for Certification of Air Permitting Professionals

Rule 3147 Fees for Certification of Gasoline Dispensing Facility Testers

Rule 3150 Fees for Portable Equipment Registration

Rule 3155 Permit-Exempt Equipment Registration Fees

Rule 3160 Prescribed Burning Fees

Rule 3180 Administrative Fees for Indirect Source Review

Rule 3190 Conservation Management Practices Plan Fee

The remainder of the Regulation III Fee rules, Rule 3100 (California Environmental Quality Act Fee), Rule 3170 (Federally Mandated Ozone Nonattainment Fee) and Rule 3901 (Fees for Registration of Wood Burning Heaters), will not be included in the proposed rule amendments. Rule 3100 does not contain a specific fee, and therefore does not require updating². Rule 3170 fees are linked to federal law and are already annually adjusted to the consumer price index. Therefore, no increase is proposed to

² It should be noted that the District's CEQA program was identified by District staff as an area which is not entirely self-supporting. Specifically, acting as a Commenting Agency, the District assists lead agencies by providing technical expertise in characterizing project related impacts on air quality and identifying potential mitigation measures. When commenting on a Lead Agency's environmental analysis, the District reviews the air quality section of the analysis and other sections relevant to assessing potential impacts on air quality, i.e. sections assessing traffic and public health impacts. At the conclusion of its review, the District may submit comments to the Lead Agency that identify deficiencies in the air quality analysis with possible approaches to correct these deficiencies, and when appropriate, the District will recommend feasible mitigation measures. As a commenting Agency under CEQA, the District has no discretionary approval over the project and does not issue permits. Under such circumstances, the hours spent by District staff reviewing the project and providing the Lead agencies with comments is not billable. The District has found no legal mechanism to collect fees for this service, yet believes that such commenting is important and instrumental to minimizing growth in emissions from new developments. Therefore, the District is not proposing any fee at this time for this service and is instead investigating and working with Lead Agencies to find opportunities to streamline CEQA commenting processes.

Rule 3170. Rule 3901 was recently adopted so its fees are current and expected to adequately cover the costs of the associated program.

III. DISCUSSION

California Health & Safety Code 42311(a) provides air districts the authority to adopt fee schedules to cover the costs of permitting stationary sources of air pollution. Since its inception in 1992, the District has minimized the need for fee increases by adhering to the following fiscally-conservative principles:

- Leveraging the use of technology to minimize the need for staffing resources.
- Finding innovative ways to streamline legally-required processes to improve service and reduce related operating costs.
- Identifying situations where fees charged for services do not cover the cost of those services and recommending adjustments to those fees rather than increasing all fees.

As a result of applying the above principles, and in spite of complying with multiple new state and federal mandates, the District has only required two across-the-board fee increases, in 1997 and 2007. Other air districts have adjusted their fees upwards multiple times over the last several years, resulting in a significant cumulative difference in fee increases amongst air districts.

Comparison with Other Districts

(historical permit fee increases, last 16 years)

Bay Area	144.0%
South Coast	55.5%
Sacramento	49.9%
San Joaquin Valley	16.6%

Examples of New State and Federal Mandates and Additional Workload

- Five new ozone and PM attainment plans in the next two years
- More permitting and enforcement work for federal Title V and PSD permits
- New state enhanced vapor recovery requirements for gas tanks – over 800 facilities
- Assist businesses meet AB 32 requirements (Cap and Trade, GHG reporting)
- Develop major rules (Residential Wood Burning, Commercial Charbroiling, Residential Furnaces, Permit Exemptions, New Source Review)
- Increased work associated with CEQA and ISR as land development economy improves
- Pursue new state and federal grants for incentive funds
- Additional incentive programs operated as additional grant funds received

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- Implementation of enhancements to District's outreach program resulting from latest scientific public opinion survey (Burn Cleaner grant program, Clean Green Yard Machine, Northern Region media markets)
- Design and oversee execution of research studies in four significant areas
- Develop new web and mobile applications for further enhanced service and outreach
- Develop new in-house capacity for air quality modeling
- Update guidance documents for land use agencies (GAMAQI, Air Quality Guidelines for General Plans)
- Additional outreach to Valley schools to encourage participation in Real-time Air Advisory Network (RAAN)
- Implement work plan to engage schools and community stakeholders to solicit ideas for developing District's strategy for reducing vehicle emissions at schools
- Expansion of the RAAN system to provide neighborhood-level air quality information
- Implement action plan for deployment of cleaner vehicles throughout the Valley
- Local jurisdiction energy efficiency education and assistance
- Regional energy efficiency measure leveraging (e.g. solar project aggregation/streamlining)
- Energy efficiency/weatherization in environmental justice communities
- Small business energy efficiency education/outreach
- Agricultural energy efficiency program/incentives (e.g. ag pump efficiency)
- Install automation systems in air monitoring network
- Expand air monitoring network to meet federal mandate – siting analysis and installation of 4 new near roadway monitoring stations
- Implement changes to the District's Risk Management Policy resulting from changes to Cal/EPA's risk management guidelines
- Implement mandates of Affordable Health Care Act (health care for temporary employees)

Examples of Efficiency Measures Implemented

- Employee STAR suggestion program (1000s of efficiency and improvement suggestions)
- Implementing Electronic Document Management Systems (paperless) for all District programs
- Advanced training and cross training throughout District departments allows efficient and flexible workload distribution
- On-line complaint portal system, allows photo and video submittal, auto-receives inspection reports
- Tablet computers and web based inspection forms for streamlined, paperless workflow for field inspectors
- GPS in field vehicles to improve efficiency, accountability and safety
- Automation for submittal and review of facility reports
- Electronic handling of public information requests
- More public information on District web site
- Worked with stakeholders to streamline permitting – quarterly meetings

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- Streamlined registration in lieu of permitting for some equipment
- Migration to virtual computer servers
- Automation for grants program – computerized internal grant management system
- Use of web to collect emission inventory data
- Web-based employment application system
- Changes to accounting structure to provide more accurate and timely information, and streamlined grant reporting
- Implemented enhanced online payment options
- Implemented new labor information system to better track and account for labor hours expended, and streamline payroll processing
- Strategic use of temporary staffing to reduce costs, minimize overtime, address fluctuating workloads
- New internally-developed budget program significantly reduces budget development time
- New internally-developed Human Resources Management Program improves speed and accuracy of performance evaluation processes, hiring and promotional processes and tracking, open enrollment, and much more.
- Reorganization of air monitoring team to better coordinate with air quality analysis team
- Reorganization of grants program to streamline and coordinate with finance team
- Reorganization of gas station permitting, and other permit processes, to enable permit processing by inspection team
- Automation of air monitoring functions: remote calibration, remote maintenance, automated data collection and analysis
- New smart phone implementation for inspectors to speed field processes and eliminate other hardware (camera, navigation units, wireless air-cards)
- Grant Application Web Portal to allow applicants to submit and track grant applications
- New finance electronic document system for viewing and handling invoices and contracts
- New paperless workflow systems (permit and incentive grant processing)
- Continued improvements to new online “Facility Permit Portal” to allow permitted facilities to submit applications electronically, and to review and retrieve more information related to their permitted facilities and applications
- Local Modeling Center will reduce dependence on ARB and avoid delays in plan development
- New streamlined computer programming systems implemented, using upgraded software platform, program modules, staff training
- Hardware and software updates to enhance data transfer speed internally and externally
- Significant automation of Air Quality Index and Agricultural Burn Allocation daily updates
- Developed and utilized grant program guidelines with pre-specified eligibility and cost-effectiveness selection criteria to minimize post-application processing work

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While we have implemented a large number of streamlining and efficiency efforts, as listed above, state and federal mandates continue to directly and indirectly increase workload. As noted above, before implementing any across the board fee increase to accommodate the increased workload, the Governing Board has directed District staff to identify specific programs that are not self-supporting, i.e., resources invested by the District in these programs are partially subsidized by other sources of District revenues, and to remedy such situations to the extent possible. The District has identified three such programs, analyzed below:

Agricultural/Open Burning Fees

District Rule 3040 establishes annual permit fees for agricultural operations which perform open agricultural burning pursuant to District Rule 4103 (*Open Burning*). Revenues collected from these fees are used to offset the cost of administering the District's agricultural burning program.

Estimated Revenues	\$ 323,000
Estimated Other Revenues*	\$ 150,000
Estimated Expenses	
Inspections	\$ 344,000
Permit Issuance & Renewals	\$ 112,000
Compliance Assistance	\$ 22,000
Burn Authorizations	\$ 406,000
Program Supervision	\$ 37,000
	\$ 921,000
Net (Loss)	\$ (448,000)

**Includes a proportional allocation of District non-fee revenues, including federal and state grants, interest and other miscellaneous revenues*

Agricultural burning in the San Joaquin Valley is closely regulated by the District. In accordance with state law, on a daily basis District staff determines when, how much, and where burning can occur. In order for a grower to burn, they must first receive a District permit and must receive approval to burn each day they wish to do so. Field staff monitors burning to ensure only authorized materials are burned and that best management practices are followed to minimize impacts to the public.

As in all endeavors, the District places an emphasis on developing innovative ways to streamline legally-required processes to improve service and reduce related operating costs associated with the agricultural burning program. Toward that end, the District developed and utilizes a sophisticated Smoke Management System (SMS), which divides the Valley into over 100 zones to determine the burn status and manages the allocation of burning to individual permitted locations. The SMS allows the District to more efficiently manage the agricultural burn program and produced significant cost savings to the District by allowing the downsizing of the staffing levels necessary to

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effectively administer the program. In addition, SMS also streamlines the process of obtaining agricultural burn authorization for permit holders by allowing the permit holder to either go through an automated phone system, the District's web site, or person-to-person with one of the District's agricultural burn operators.

Within the agricultural burn program, the District strives to provide the highest levels of customer service to its stakeholders by:

- Operating the SMS call center 7 days a week to assist with burn permit and allocation issues
- Providing Individualized assistance to thousands of permit holders
- Leveraging technology such as SMS and web-based tools to streamline the burn authorization and inspection processes
- Committing to expedited inspection turnarounds (less than 10 days) when an inspection is required
- Emphasizing an educational approach to help permit holders understand and comply with air pollution regulations
- Preparing and distributing Compliance Assistance Bulletins and other materials to advise permit holders of upcoming changes to rules and regulations

In order to remedy the revenue shortfall and ensure that the District can continue to operate the agricultural burn program with the expected high levels of customer service, the District is proposing to increase District Rule 3010 agricultural/open burning fee sufficiently to remedy the current shortfall of approximately \$448 thousand in annual revenue.

In addition to the revenue shortfall, the District's analysis discovered that the costs were not proportionally allocated across the permit holders. Currently, permit holders pay \$26 for a permit with 1 location, \$46 dollars for a permit with 2 locations and \$73 for a permit with 3 or more locations. The cost of issuance and compliance assurance associated with a permit for 50 sites is not the same as a permit for 3 sites, and yet the fee for both is currently the same. Under the current system, small growers with one or two burn locations are, to some extent, subsidizing the costs of the agricultural burning permit program for the larger growers. After discussions with representatives of the agricultural industry, the District is recommending a fee of \$36 per location to more equitably reflect the District's costs based on the number of locations under permit. See attachment for specific language proposed for this rule.

Hearing Board Fees

District Rule 3030 establishes filing fees for individuals and/or companies petitioning one of the District's Hearing Boards. In accordance with the California Health and Safety Code, the District maintains three Hearing Boards (one in each regional office) to hear requests for variances from District rules, appeals of permit issuances or denials, and abatement orders. Revenue collected from these fees is used to offset the required

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public notice of the hearings, the Hearing Board Member stipends, and the other District costs associated with administering the Hearing Board program.

Estimated Revenues	\$ 73,000
Estimated Other Revenues*	\$ 31,000
Estimated Expenses*	
Public Noticing	\$ 5,000
Hearing Board Member Stipends	\$ 25,000
Hearing Board Meetings	\$ 9,000
Pre-Hearing Preparation (Staff Reports, Agendas, etc.)	\$ 85,000
Post-Hearing Decisions and Tracking	\$ 34,000
Program Supervision	\$ 33,000
	\$ 191,000
Net (Loss)	\$ (87,000)

**Includes a proportional allocation of District non-fee revenues, including federal and state grants, interest and other miscellaneous revenues*

In order to remedy this shortfall, the District is proposing to increase the Hearing Board filing fees by 4.8% starting in fiscal year 2015/16 and an additional 4.4% starting in fiscal year 2016/17. These adjustments are expected to result in approximately \$3,900 and \$3,800 in additional annual revenue, respectively.

To address the remaining shortfall, the District is proposing to implement an excess emission fee component to the Hearing Board fees. Variances with excess emissions require additional staff time to calculate/verify emission calculations, evaluate mitigation measures, conduct health risk assessments, and/or model ambient air quality impacts. Rather than allocate these costs across all variance petitions, the District is recommending to charge an excess emission fee of \$2.50 per pound to each variance with excess emissions. The proposed excess emission fees would be capped at \$3,000 per variance for small businesses and \$7,500 per variance for all other petitioners. These adjustments are expected to result in approximately \$42 thousand to \$69 thousand in additional annual revenue. See attachment for specific language proposed for this rule.

Asbestos Removal Fees

District Rule 3050 establishes filing fees for demolition and renovation notifications required under the federal asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP) program. The District has been delegated authority by the United States Environmental Protection Agency (USEPA) to enforce this program within the San Joaquin Valley. Revenues collected from these fees are used to offset the cost of administering the asbestos program.

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Estimated Rule 3050 Fee Revenues	\$ 313,000
Estimated Other Revenues*	\$ 276,000
Estimated Expenses	
Inspections	\$ 350,000
Demolition/Renovation Release Processing	\$ 216,000
Compliance Assistance, Consultations	\$ 89,000
Program Supervision	\$ 49,000
	\$ 704,000
Net (Loss)	\$ (115,000)

**Includes a proportional allocation of District non-fee revenues, including federal and state grants, interest and other miscellaneous revenues*

In order to remedy this shortfall, the District is proposing to increase each of the District Rule 3050 asbestos removal fees by 37% to remedy the shortfall of approximately \$115 thousand in annual revenue. See attachment for specific language proposed for this rule.

General Fee Increase

Even after addressing shortfalls in specific programs, as discussed above, the District will continue to operate in a deficit mode of approximately \$1,350,000 per year. The District released reserves and consumed fund balance by \$2,000,000 or more for each of the past two years, a trend that is anticipated to continue. The above program-specific remedies will make up about \$650 thousand of this budget imbalance. To address the remaining shortfall, the District is proposing to increase most other fees by 4.8% starting in fiscal year 2015/16 and an additional 4.4% starting in fiscal year 2016/17. These adjustments are expected to result in approximately \$586 thousand and \$563 thousand in additional annual revenue, respectively.

After these fee increases, the District will continue to have the lowest fees of any major air district in the state (see table below for just a few permit fee examples), and we will continue to follow our commitment to cutting operating costs through the utilization of technology (Permit Administration System, On-line Permit Facility and Grant Portals, Compliance computer programs and in-field tablet computer access, Electronic Document Management System, inter-region permit processing, etc.), process streamlining (Guidelines for Expedited Application Review, permit streamlining meetings, application review templates for specific source categories, Grant process streamlining), and much more.

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Comparison of Annual Permit Renewal Fee (in dollars)

Air District	150 hp IC Engine	550 hp IC Engine	2 Nozzle Gas Station	16 Nozzle Gas Station	Paint Spraying Operation in Booth
San Joaquin Valley APCD (current)	117.00	479.00	68.00	554.00	87.00
San Joaquin Valley APCD (effective 7/1/15)	123.00	502.00	72.00	581.00	92.00
San Joaquin Valley APCD (effective 7/1/16)	129.00	524.00	76.00	607.00	96.00
South Coast AQMD*	341.76	1224.04	202.08	1616.64	341.76
Sacramento Metro AQMD*	376.00	1508.00	706.00	1600.00	754.00

* SCAQMD and SMAQMD also charge an emissions fee for permitted equipment, while the Valley Air District does not.

These proposed fee increases are needed to reduce an annual operating deficit that is estimated to average about \$2-3 million over fiscal years 2015/16 and 2016/17 but are not likely to completely eliminate it. Continued implementation of the District's intensive operational streamlining is hoped to achieve sufficient additional efficiencies to balance costs and revenues. Even with the proposed fee increases, the costs for permittees will continue to be the lowest in the state, when compared to those charged by other air districts.

IV. PROPOSED RULE AMENDMENTS

A. Rule 3100 (California Environmental Quality Act Fee), Rule 3170 (Federally Mandated Ozone Nonattainment Fee), and Rule 3901 (Fees for Registration of Wood Burning Heaters)

Rule 3100, Rule 3170, and Rule 3901 will not be included in the proposed rule amendments. Rule 3100 does not contain a specific fee, and therefore does not require updating. Rule 3170 is linked to federal law and its fees are already annually adjusted to the consumer price index. Therefore, no increase is proposed to Rule 3170. Rule 3901 fees were recently adopted and because of this its fees are current and expected to adequately cover the costs of the associated program.

B. Summary of Proposed Rule Amendments

1) The following changes are proposed for Rules 3010, 3020, 3060, 3070, 3090, 3110, 3120, 3135, 3147, 3140, 3150, 3155, 3160, 3180, and 3190:

Increase each of the fees associated with these rules by 4.8%, effective July 1, 2015, and again by 4.4%, effective July 1, 2016. Hourly fees associated with compensating the District for time spent, such as for the processing of permit applications, are not being increased by this action.

2) In addition to the change discussed above, the following changes are being proposed for Rule 3010.

The District is clarifying that hourly evaluation fees associated with the processing of permits under sections 3.1 and 3.2 of Rule 3010 are payable based on the time spent by the District, regardless of the application's eventual disposition. This is consistent with District interpretation and application of the current language, but avoids potential confusion in situations where a permit is not issued. The proposed changes are detailed below:

3.0 Evaluation/Air Quality Impact Analysis Fee

3.1 Every applicant who files an application for an Authority to Construct or a Permit to Operate with the District shall pay an engineering evaluation fee for the processing of the application. ~~issuance of an Authority to Construct or Permit to Operate.~~ The fee shall be calculated using the staff hours expended and the prevailing weighted labor rate. All filing fees paid shall be credited towards the evaluation fee.

3.2 Part 70 permits as required by District Rule 2520

Every applicant for a federally mandated operating permit, a modification or amendment to a federally mandated operating permit, or a certificate of conformity, shall also pay an evaluation fee for the processing of the application. ~~issuance of the federally mandated operating permit or certificate of conformity.~~ The fee shall be calculated using the staff hours expended and an average weighted labor rate. All filing fees paid shall be credited towards the evaluation fee. The hourly fees charged to the applicant shall not exceed by more than 10% the amount of the advance fee estimate, or a revision thereto provided by the District.

3) The following changes are proposed for Rule 3030 (Hearing Board Fees):

Increase each of the fees associated with these rules by 4.8%, effective July 1, 2015, and again by 4.4%, effective July 1, 2016. In addition, the District is proposing to implement an excess emission fee of \$2.50 per pound for each variance with excess emissions. The proposed excess emissions fees would be capped at \$3,000 per variance for small businesses and \$7,500 per variance for all other petitioners, and would be effective July 1, 2015.

Proposed amendments would add the aforementioned excess emission fees and the provisions necessary to administer the assessment and collection of the fees.

4) The following changes are proposed for Rule 3040 (Agricultural/Open Burning Fees):

Amend the current three-tiered fee structure, which is based on permits with 1 location, 2 locations, or 3 or more locations, to a non-tiered per location structure, and set the fee to \$36 per location to more equitably allocate the costs across permit holders. In addition, the Burn Day Exemption fee would be increased from \$36 per location per day to \$50 per location per day. These changes would be effective July 1, 2015.

5) The following changes are proposed for Rule 3050 (Asbestos Removal Fees):

Increase each of the fees associated with this rule by 37%, effective July 1, 2015.

V. PROPOSITION 26 ANALYSIS

Proposition 26, approved by California voters in 2010, requires increases in taxes to be approved by a vote of impacted residents. However, under the definitions in Proposition 26, this proposed fee increase is not a tax, as the increases are all charges imposed for reasonable regulatory costs.

VI. RULE DEVELOPMENT PROCESS

A. Public Workshop

The District held a public workshop on February 17, 2015. The focus of the public workshop was to present, discuss, and receive comments on the proposed amendments. At the public workshop, District staff presented the objectives of the rule-amending project, explained the District's rule development process for this project, solicited feedback from affected stakeholders, and informed all interested parties of the comment period and project milestones.

Documents for this rule-amending project were made available on the District's website prior to the public workshop, and a two week comment period followed the public workshop. Comments were received during the public workshop and the two week comment period. The comments and District responses are presented in Appendix A.

B. Changes to the Rules and Staff Report due to Comments received

No changes to the Rules or Staff Report were made as a result of comments received.

C. Public Hearing

In accordance with California Health and Safety Code (CH&SC) Section 40725, the proposed amendments to the District Fee Rules and final draft staff report will be publicly noticed and made available on the District's website prior to the Governing Board public hearing to consider adoption of the proposed rule amendments. The proposed amendments and final draft staff report will be made available for public comment no later than March 17, 2015 with an associated two week public comment period ending at 5:00 PM on March 31, 2015. The public is also invited to provide comments during the public hearing for the adoption of the proposed rule amendments on April 16, 2015.

V. COST EFFECTIVENESS AND SOCIOECONOMIC IMPACT ANALYSIS

Pursuant to State law, the District is required to analyze the cost effectiveness of any proposed rule amendment that implements Best Available Retrofit Control Technology (BARCT). The draft amendments do not add BARCT requirements and therefore are not subject to the cost effectiveness analysis mandate.

Additionally, state law requires the District to analyze the socioeconomic impacts of any proposed rule amendment that significantly affects air quality or strengthens an emission limitation. The draft amendments will have neither effect, and are therefore not subject to the socioeconomic analysis mandate.

VI. RULE CONSISTENCY ANALYSIS

Pursuant to CH&SC Section 40727.2 (g) a rule consistency analysis of the draft rule is not required. The draft rules do not strengthen emission limits or impose more stringent monitoring, reporting, or recordkeeping requirements.

VII. ENVIRONMENTAL EFFECTS

Pursuant to the California Environmental Quality Act, staff investigated the possible environmental impacts of the proposed amendments. District staff have concluded that the proposed amendments will not have any significant adverse effect on the environment since they will not alter the environmental status quo. Staff will prepare a Notice of Exemption under the provisions of Public Resource Code 15061(b)(3) for this project.

Attachments: Proposed Rules 3010, 3020, 3030, 3040, 3050, 3060, 3070, 3110, 3120, 3135, 3140, 3147, 3150, 3155, 3160, 3180, 3190

Appendix A

Comments Received and District Responses

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Comment 1 – Juan Campos (California Resources Corporation):

Will the fee increase affect alternate compliance plan fees (e.g., boilers)?

Response 1:

The proposed fee increase will only affect those fees listed within Regulation III Rules, and will not affect any other fees, such as the annual fee payment compliance option for boilers subject to District Rule 4320.

Comment 2 – Jack Hamm (San Joaquin Farm Bureau Federation):

General Fees: In addition to other fees that will be raised individually, the staff report shows a proposed amendment to the general fees that will go up 4.8% in FY 2015/2016 and an additional 4.4% in FY 2016/2017. This will lead to an almost 10% increase in the next two years for all fees. This is a tremendous increase in a very short period of time. The staff report is quick to point out that the San Joaquin Valley APCD has not raised rates across the board since 2007 and they will still much lower than those of other Districts in the state. However, the staff report neglects to mention why that is. It is very simple, the regulated community in the valley lacks the tax base to be able to absorb increased regulatory costs and we are no more equipped to do so now than we were in 2007.

Response 2:

As discussed in the staff report, the District is responsible to implement programs needed to attain state and federal air quality standards. The District adheres to fiscally-conservative principles aimed at maximizing efficiency and minimizing costs, through actions such as leveraging the use of technology and developing innovative ways to streamline legally-required processes to improve service and reduce related operating costs. Pages 5 and 6 of the staff report list numerous examples of efficiency measures the District has implemented to provide better service while minimizing costs. Additionally, the District's 2014/15 budget includes savings in operating costs of approximately \$1,000,000 through extensive hiring control efforts, and at the time of this writing, with attrition and careful hiring only as necessary, the District is on pace to nearly double that savings. It is because of these fiscally-conservative principles that the District has only required two across-the-board fee increases, in 1997 and 2007, and has fees that are much lower than those of other air districts in the state.

Comment 3 – Jack Hamm (San Joaquin Farm Bureau Federation):

Agricultural Fees – Rule 3040: We cannot support the proposed increase in fees for the agricultural burning program. The proposed amendment to rule 3040 will increase the fees to \$36 dollars per location instead of offering a “3 or more” site category for \$73. The rationale given for this increase is to lessen the burden on small growers but it is inherently flawed because it neglects to realize the consequences of increasing the fee \$10 for growers with one site and almost doubling the cost for growers with only two sites. The proposed increase will have a considerable economic impact on growers of all size.

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Furthermore, the reason for the proposed increase is that the program can no longer fund itself with fees. We believe that the District needs to look at how to increase efficiency in this area. Is it reasonable to require a grower to seek a permit for every single burn? Is it necessary for all burns to be supervised?

Unfortunately, there is a significant issue with cross-agency communication. The District should feel secure in knowing that growers are not burning materials that should not be disposed of in that manner because hazardous materials and plastics are very highly regulated. Furthermore, the District could move to an annual permitting system that would decrease administrative costs.

Response 3:

As a point of clarification, the proposed change from the current three-tiered fee structure to a non-tiered per location structure is to more equitably spread the costs among the permit holders, resulting in 60% of the current burn permits seeing a \$10 increase in the annual fee.

As a further clarification, the District currently operates an annual permitting system. Each grower that wishes to burn is issued a permit, on an annual basis with an annual fee, for each location a burn will occur. The grower must then obtain daily authorization for each burn they plan to conduct through the year. There are no additional fees associated with burn authorizations. Daily authorizations are required as the District must determine when, how much, and where burning can occur, in accordance with state law. District field staff monitors burning to ensure only authorized materials are burned and that best management practices are followed to minimize impacts to the public.

As detailed under the response to Comment 2, above, the District is sensitive to the impact that raising fees can have on sources. The District has implemented many efficiency measures to administer the agricultural burning program as discussed in the staff report, most notably in developing and utilizing a sophisticated Smoke Management System (SMS). The SMS allows the District to more efficiently manage the agricultural burn program and has produced significant cost savings while improving service to the burn permit holders.

The District worked closely with farmers and the agricultural industry representatives to allow farmers to engage in open burning when necessary while complying with applicable state law. Title 17 of the California Code of Regulations requires the District to implement a smoke management program that requires burn permits and establishes daily burn authorizations based on air quality, meteorological conditions, and types, amounts and locations of materials to be burned, among other factors. In 2003, the California Health and Safety Code (CH&SC) was amended through SB705 (Flores) to require the District to limit the open burning of diseased crops, establish best management practices for other weeds and maintenance, and effectively prohibit open burning for all other crop categories. While the CH&SC is designed to achieve

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emissions reduction by implementing wide scale prohibitions and regulations on agricultural burning, it recognizes that technological and economic factors may limit the non-burning alternatives to agricultural material disposal, and it allows the District to determine the details and timing of the prohibitions provided certain criteria are met.

Comment 4 – Jack Hamm (San Joaquin Farm Bureau Federation):

Permit Renewal Fees: The proposed amendments also will increase the permit renewal fees \$6 a year for the next two years. While this seems like a relatively small number, when you consider that it will apply to all internal combustion engines that are required to have a permit, it could potentially be a significant increase on operations.

Response 4:

The District is aware of the significant number of agricultural engines in the Valley. In fact, the District has invested over \$120 million to assist farmers to replace engines with lower emitting engines or electric motors. Regarding the comment about the impact the increased permit fees may have, please refer to the response to Comment 2.

Comment 5 – Jack Hamm (San Joaquin Farm Bureau Federation):

Hearing Board Fees – Rule 3030: The hearing board fees are proposed to increase 4.8% in FY 2015/2016 and an additional 4.4% in FY 2016/2017, it is not clear if this is in accordance with or in addition to the increase in the general fee increases. However, any increase in fees to file with the hearing board runs the risk of preventing those who cannot afford the expense their right to administrative process. Individuals should have ready access to a hearing on decisions made regarding permits and we oppose any infringement on that right.

Response 5:

The District would like to clarify that the proposed hearing board fee increase is separate from and not in addition to the general fee increase. We have clarified the language in the staff report to make this clear.

As stated above, the District proposes to increase fees to cover the costs of implementing programs only after those costs surpass the District's intensive streamlining efforts. These fees are used to offset the cost of required public notice of hearings, the Hearing Board Member stipends, and other costs to administer the Hearing Board program. Additionally, in order to keep these costs as low as they can be, the proposed increase in filing fees will not cover the shortfall in this program. Therefore, the District has proposed an additional fee applicable only to those variances that have excess emissions, such that the additional costs of administering these variances is borne only by those companies that need such variance, and is not borne by all petitioners.

Comment 6 – Jack Hamm (San Joaquin Farm Bureau Federation):

We understand that the District is operating at a deficit and is looking for ways to bridge the gap between expenses and income but it is not the responsibility of the regulated

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community to make up the difference. Government mandates should be government funded. We oppose the proposed amendments to the rules that will significantly increase fees and the regulatory burden on the agricultural community in San Joaquin County.

Response 6:

The commenter suggests that the cost of the mandated program that the district implements be funded by the government. This would suggest taxing the public and businesses at large. The District has no desire to impose a tax on the Valley to administer unfunded state and federal mandates.

Additionally, the District understands that increasing fees has an impact on the regulated community, and does not take raising fees lightly. The District Governing Board, in line with the fiscally-conservative principles the District operates under, expressed a preference to pursue a targeted approach to fee increases to address the deficit mode under which the District is operating. Therefore, the proposal is to raise fees in 3 areas that are not self-supporting at this time and increasing most other fees by 4.8% in fiscal year 2015/16 and an additional 4.4% in fiscal year 2016/17. However, the District is not solely relying on the proposed fee increases to eliminate the annual operating deficit. The District must and will continue to implement the District's intensive operational streamlining.

Comment 7 – Greg Pritchett (Chevron U.S.A. Inc.):

Draft Rule 3030 would complicate the variance process by requiring an excess emissions invoicing, fee payment, and refund procedure that would increase District staff processing time for the sole purpose of generating revenue to cover District staff costs. In addition to this, industry will be required to process an invoice and second check request, increasing staff time for industry.

Response 7:

As discussed in the staff report, the District proposes to increase fees to cover the costs of implementing programs only after those costs surpass the District's intensive streamlining efforts. The Hearing Board fees are used to offset the cost of required public notice of hearings, the Hearing Board Member stipends, and other costs to administer the Hearing Board program. Variances with excess emissions require additional staff time to calculate/verify emission calculations, evaluate mitigation measures, conduct health risk assessments, and/or model ambient air quality impacts. Therefore, the District has proposed an additional fee applicable only to those variances that have excess emissions, such that the additional costs of administering these variances is borne only by those companies that need such variances, and is not borne by all petitioners. To avoid the potential for excessively high fees, the proposed excess emission fees would be capped at a maximum of \$3,000 per variance for small businesses and \$7,500 per variance for all other petitioners. This proposed approach will help keep petition filing fees down for the approximately 60% of all petitions which do not include excess emissions.

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Consistent with the District's extensive streamlining efforts, the District believes that the staff's hours necessary to implement an excess emissions fee will be minimal and incremental as the time-consuming aspect of calculating/verifying excess emissions associated with a variance is required regardless of whether or not this fee is in place. Furthermore, the District only receives approximately 40 variance petitions per year that include excess emissions.

Comment 8 – Greg Pritchett (Chevron U.S.A. Inc.):

The excess emission fee would provide no air quality benefit.

Response 8:

The District is required by state law to operate three Hearing Boards (one in each regional office) to hear requests for variances from District rules, appeals of permit issuances or denials, and abatement orders. Furthermore, California Health and Safety Code provides the air district the authority to adopt fees to cover the costs of implementing the Hearing Board program. Revenue collected from the Hearing Board fees is used to offset the required public notice of the hearings, the Hearing Board member stipends, and the other costs associated with administering the Hearing Board program consistent with state law.

As discussed previously, variances with excess emissions require additional staff time to calculate/verify emission calculations, evaluate mitigation measures, conduct health risk assessments, and/or model ambient air quality impacts. The proposed approach to include an excess emission fee component will allow the District to offset its costs while helping to keep petition filing fees down for the approximately 60% of all petitions which do not include excess emissions.

Comment 9 – Greg Pritchett (Chevron U.S.A. Inc.):

Finally, in an effort to limit excess emissions fees, the requirement for an excess emissions fee may result in sources expediting work in either an unsafe, inefficient, or inadequate manner that could result in injury or repeat variances that would not occur if the work was not performed under the pressure of time associated with a cost.

Response 9:

Consistent with California Health and Safety Code, as a prerequisite condition for the Hearing Board to grant a petition for variance, the Board must find that during the period of the variance the petitioner will reduce excess emissions to the maximum extent feasible. As state law already imposes a requirement to minimize excess emissions to the maximum extent feasible, the District does not believe that the proposed excess emissions fee would create an impediment to conducting work in a safe, efficient and otherwise adequate manner to prevent injury or the need for additional variances.

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