

ATTACHMENT A

Summary of January CAC Discussion and Public Comments

February 15, 2024

Santa Barbara County Air Pollution Control District
Community Advisory Council

260 San Antonio Road, Suite A
Santa Barbara, California 93110

Summary of CAC Discussion And Public Comments

Rule 210 Meeting: January 10, 2024

The following document contains a summary of the questions and public comments raised during the Community Advisory Council meeting on January 10, 2024. Please note that some of the questions and comments have been reordered to group similar topics together. Also, additional information has been added to some of the Staff Responses to provide for a more thorough response. The five groupings in this document are listed as follows:

- 1) General Questions on Rule 210, Fees
- 2) Cannabis-related Questions
- 3) Public Comments Received at the CAC Meeting
- 4) Follow-up CAC Questions
- 5) General Comments from CAC Members

General Questions on Rule 210, Fees

Question #1: What is the basis for the 85% cost recovery goal?

Staff Response: Matrix Consulting recommended an 85% cost recovery goal. Matrix identified that 100% is an ideal goal for an agency, but acknowledged that 100% is difficult at this point in time. The Bay Area AQMD and San Diego APCD started at 85% cost recovery when they went through a similar process with their fee rules.

Question #2: If permitted stationary source fees don't cover your expenses, how do you make up your budget?

Staff Response: Currently, the District is using other funding sources to cover the costs to implement the stationary source permit program. We receive state and federal grants, DMV fees, and some administrative funds to conduct grant programs such as the Carl Moyer Grant Program. We receive no taxpayer funds. Please see Figure 2.1 in the staff report which demonstrates the Operating Revenue by Category for Fiscal Year 2023-2024. While the District has been able to carry out the permit program using other funding sources, it is not the original intent of these funding sources to subsidize that program.

Question #3: What are the DMV fees used for?

Staff Response: Assembly Bill 2766 was adopted in 1990 to assess a \$4 fee on each vehicle registration. These DMV fees provide a revenue stream for implementing the California Clean Air Act and programs to reduce air pollution from motor vehicles and for related planning, monitoring, enforcement, and technical studies. When the DMV fees are freed up from subsidizing the permit program, the District could start other projects to put those funds back into the community.

Question #4: Are you prohibited from using the DMV funds as you have been for the permitting program?

Staff Response: It is not the legislative intent to use DMV fees to subsidize the stationary source permitting program. In 2020, the California State Auditor reviewed the San Diego County APCD's program and made recommendations that the DMV fees should be used to help reduce mobile source emissions instead of subsidizing the permit program. The Auditor also made recommendations to the state legislature that each air district increase the transparency of, and promote accountability for, the use of the vehicle registration fees. Santa Barbara County APCD is not bound by this audit, but we incorporated the

recommendations into the District's Cost Recovery Policy, where we aim to recover the costs for the stationary source program by assessing fees to the permitted sources.

Question #5: For businesses, we obviously want to avoid the delinquency penalty, but processing an invoice often takes time due to all the different departments and procedures needed to cut the check. Can we arrange for e-mailed invoices, or can we use an online payment system?

Staff Response: The Rule 210 language and invoices require the fees to be paid within 30 calendar days ("net 30"). However, the delinquency penalty is not assessed until day 61. Sources can request an e-mailed invoice and may pay for invoices through the District's online payment system. Sources may also pay by ACH or can arrange for a payment plan if the source calls the Fiscal Department to work out the details.

Question #6: When do the 12% increases for the existing fees start?

Staff Response: Pending Board approval, the initial increases would be effective on July 1, 2024 as they are already incorporated into the draft rule language. This clarification is described in the first few FAQs of the staff report.

Question #7: How much has the CPI increased the District's fees since 1991?

Staff Response: Since 1991, the District has adjusted its fees by 113% in accordance with the annual CPI changes. For example, the filing fee for an ATC permit was \$230 in 1991 and it is \$491 in 2023. The District uses an April-to-April calculation for each CPI adjustment based on the California calculator for all Urban Consumers. Please note that the full CPI change between 1991 and 2023 is 137%, as the District did not perform any CPI adjustments between 1991 and 1995.

Question #8: Did the Matrix report bring out a per capita cost comparison to other larger air districts?

Staff Response: Matrix Consulting did not provide any sort of per capita cost or comparison to the other air districts.

Question #9: You mentioned that the Matrix report did not evaluate the asbestos fees or the annual emission fees. Are you going to increase those two fees in the future?

Staff Response: For asbestos, the District currently implements the federal NESHAP (National Emission Standards for Hazardous Air Pollutants), but we are looking to develop our own rule that is more complete and easier to implement. We will review the cost recovery and fees associated with the asbestos program at that time. As for the annual emission fee, it wasn't evaluated by Matrix since it's hard to silo that fee to hourly work associated with a specific project. The annual emission fee is used for operational funds to cover tasks such as general planning review and maintaining the air quality monitoring stations. There are no plans to increase the annual emission fee beyond the CPI at this time.

Question #10: With Particulate Matter (PM) coming into the Air Quality Planning fee equation and industrial sources controlling their dust, will agricultural operations take any responsibility for their operations?

Staff Response: Additional requirements on agricultural fugitive dust would require a new prohibitory rule. At this time, we're focusing on the fee provisions in Rule 210. No regulations impacting agricultural fugitive dust are being considered.

Question #11: For the prorated discount for the first annual review cycle for diesel emergency engines, why are the Title V sources getting a lower discount than a non-Title V source?

Staff Response: As identified in Section 4.3 of the Draft Staff Report for Rule 210 - Fees, the first cycle of the emergency engine annual review fee will be prorated for permits that were recently reevaluated for a three-year period. The prorated discount amount takes into account the permit fees already charged for diesel emergency engines. Title V sources are currently assessed the Miscellaneous Equipment fee (\$85.90 for a 3-year reevaluation permit) while non-Title V sources are currently assessed the Minimum Reevaluation fee (\$535 for a 3-year reevaluation permit). Since the current Title V permit fees for emergency engines are lower than the non-Title V fees, the prorated discount is lower for Title V sources.

Question #12: Why is there no reduction for the number of nozzles at a gas station?

Staff Response: Gas station fees have had reduced revenue since the State switched the requirements from six-pack (6 nozzles per dispenser) to uni-hose (two nozzles per dispenser) dispensers about 15 years ago. When that happened, there was a large reduction in permit fees from this source category. For this Rule 210 project, we initially considered going away from the “per nozzle” fee and switching to a “throughput” fee, but it proved to be more complicated. We’re proposing to stick with the existing “per nozzle” methodology to achieve cost-recovery.

Question #13: If a source pays an Interim Permit Approval Process (IPAP) fee, should they be given a reduction in the ATC (Authority to Construct) fee?

Staff Response: The IPAP fee was calculated to cover only the cost of creating and issuing the IPAP agreement. All of the work associated with an ATC permit still has to be performed, and issuing an IPAP agreement doesn’t reduce the workload associated with the ATC permit.

Cannabis-related Questions

Question #14: What are the emission implications of the cannabis industry and why is permitting the industry complicated?

Staff Response: The cannabis industry is a relatively new industry, and as such, requires staff training to properly permit. The Air District regulates post-harvest operations, as the growing and harvesting of cannabis are agricultural operations that are exempt from air district permit. The California Health and Safety Code requires that the District regulate post-harvest cannabis operations because they emit air pollution. Post-harvest cannabis operations include processing (e.g., trimming, drying, curing, flash freezing, etc.) of the plants, the manufacturing process of turning the cannabis into oils and other products (e.g., extraction, refinement, etc.), and the distribution, storage, and/or packaging of the products.¹

Manufacturing by far is the largest emission source due to the use of solvents with a high ROC (Reactive Organic Compound) content. Although the systems recycle the solvent, we’ve found that the systems are achieving less than a 100% recycle rate. Cannabis manufacturing can be compared to operations like a distillation column at an oil and gas plant, as they require time for our engineers to review and permit. Facilities that only process, distribute, store, or package cannabis may have lower criteria pollutants, but they often have odors associated with them. The focus of permitting post-harvest cannabis operations is to ensure the emissions from manufacturing and processing are accurately quantified and controlled to District permit requirements and odor-control equipment is working and being maintained properly. We’ve found that there are a lot of variations among the cannabis facilities since they are not standardized and have their own specific ways of performing their operations.

¹ District permitting information and advisories for the cannabis industry can be found at: www.ourair.org/cannabis/
Summary of January CAC Discussions

As specified in the California Health and Safety Code, the District is required to observe and enforce air quality requirements such as rules and regulations, permit conditions, and nuisance for all sources of air pollution, including post-harvest cannabis sources. The District achieves this by conducting routine inspections, responding to air quality complaints, and reviewing records and reports. Staff has provided permitting information to cannabis stakeholders through notifications and advisories, and the District will continue to do more surveillance to identify all applicable facilities.

Question #15: How many cannabis complaints do you receive (relative to other types)?

Staff Response: It ebbs and flows and depends on the situation and the individual facility. We have had nuisance complaints related to post-harvest cannabis facilities that were impacting the surrounding community. We had to work with the facility to address the complaints, make sure the facility was operating with an Air District permit, and verify that the odor-control system changes were successful.

Question #16: The cannabis industry seems to be doing their due diligence with the County to have an odor abatement plan verified by professional engineers. These businesses can have narrow margins, so have you thought of combining efforts with the County?

Staff Response: All air quality regulations fall within the purview of the District. We often collaborate and look into the requirements from other agencies, but regardless of what other agencies require, the District's responsibility is to ensure that all air quality rules and regulations are being implemented in an equitable and efficient manner. Our engineers ensure the odor-control systems are being operated properly and the operators are following the required maintenance procedures. We have permit conditions that, when followed, should allow the facility to operate without causing an impact to the surrounding community. During the inspection, we review their records and make sure they're following their permit conditions. We're focusing our efforts to make sure that there is continued compliance. Also note that not all cannabis operations fall within County jurisdiction, as some are under City jurisdiction.

Question #17: Do your permits reference the County odor-abatement plans?

Staff Response: Our permits do not incorporate the County odor-abatement plans by reference, as enforceable conditions. Our permits require inspection and maintenance plans to ensure odor systems are inspected regularly and being maintained. We collect all the manufacturer literature for the control systems, and make sure we have permit conditions that provide for the successful on-going operation and maintenance of the system.

Public Comments Received at the CAC Meeting

Commenters #1-2: Amanda Clark & Whitney Collie - Coastal Blooms Nursery & Sublime Processing

The commenters focused on 3 requests:

- 1) The District should issue a waiver since it undermines the permitting under the County's (Planning & Development) system.
- 2) If using a recommended control system from the District's Advisory, the District should set a flat fee for the odor-control system, and
- 3) The District should set the odor-control fee by system, not by device.

The commenters informed the group that the County requires the facility to pay for a consultant and perform odor monitoring for the first five quarters of initial operation. If there are no complaints within those five quarters, the facility can then continue their odor-monitoring on their own. If there are complaints, the County can pull a cannabis facility's land use permit. The commenters also addressed the different land use determinations and jurisdictions, as cannabis facilities in the City of Goleta do not have this quarterly monitoring requirement.

Commenter #3: Ambrose Curry [aka "Kapono"] - Bay Kinetic

The commenter focused on incentivizing industry to move toward best practices, and not being punitive. The commenter proposed reducing fees for smaller emitters and increasing fees for manufacturing operations that use solvents. The commenter also provided information relating to the maintenance of odor-control systems, referencing the applicable ASTM for predicting carbon breakthrough in carbon canisters. The commenter noted that the County recently received \$1.5 million to address odor issues through Geosyntec.

Commenter #4: Lindsay Cokeley – Local Cannabis Company.

The commenter said that their facilities are triple-regulated, between the City, the County, and the District. The commenter recommended re-looking at the fee calculation for the square foot amount and adding definitions for how the fees would apply to the equipment types. The commenter recommended that the District should also consider looking at differences between cannabis operations. As an example, if a facility is using half the building space for just storage, the square foot fee is penalizing the storage operation compared to a facility that is using their whole building for more odorous processing operations.

Commenter #5: Mario De La Piedra - Farming First Holdings

The commenter said that his processing facility is in the middle of a residential neighborhood. The facility has already spent \$500,000 on odor-abatement plans and is spending \$33,000 per year on carbon replacement. The commenter offers tours of the facility to show how well the equipment works.

Commenter #6: Travis Nichter – Local Cannabis Processing Company.

The commenter began by asking questions to District staff about the estimated income from the new cannabis fees, the number of facilities currently permitted, and the total number of facilities within the County. The commenter explained that his facility is 70,000 square feet with 10 carbon scrubbers of all the same type, so he believes that it's not going to take the District extra work to understand each individual scrubber. The commenter estimated his fees to be \$70,000 under the draft rule language and asked staff about the fee amount. Staff responded that the draft fee schedule was based on the workload for the permitting evaluations and compliance inspections that have been performed to date.

The commenter addressed learning curves and how he understands permitting the first facilities at the beginning probably took more time. The commenter asked the District to wait and re-evaluate the cannabis fees after more time is spent understanding the cannabis industry. The commenter noted that the fee proposal would have a significant impact on their operational cost.

The commenter verified that no combustion equipment is used for the drying process and the facility dehumidifies the cannabis in a closed loop system. The commenter was also asked if he was interested in the District's Cost Reimbursement Basis where the District assesses fees based on the hourly rates for staff time, but the commenter said he would have to look into it some more.

Follow-up CAC Questions

Question #18: Can the District reevaluate the cannabis costs in the future in 1-2 years from now?

Staff Response: Rule 210 can always be reopened in the future if there are new staff or industry efficiency measures that reduce the workload and fees associated with permitting and inspecting this industry. However, the District is currently under-recovering the cost to implement the permit program for the post-harvest cannabis operations.

Question #19: The public comments are very compelling. Does the District have any responses?

Staff Response: Staff has discussed potential options in response to the one written comment and one office hours appointment. We don't want to disincentivize the use of multiple odor-control devices, as we would rather facilities over-install control devices to prevent public nuisances. However, after hearing all the comments and public discussion, we'll want to bring this item back to the CAC in February after we evaluate this topic further. We will talk to both the County and the cannabis sources to gather additional input.

General Comments from CAC Members

- Suggested reevaluating the fee rule more regularly (every 5-10 years).
- Suggested showing a graph of how the proposed fee increases relate to the projected deficits.
- Clarified that the District is the appropriate agency to address nuisance and criteria pollutants, independent of what the County is doing for the cannabis industry. The role of the CAC is not to decide if the District is going to permit sources. The CAC is here to address the cost and cost estimates to the District.
- Suggested the District check in with the County to see how their cannabis program is working and how they evaluate the long-term maintenance of the odor-control systems, beyond the initial five quarters.
- Suggested the District establish definitions in the fee rule for cannabis operations. The definitions should address odor-control systems and the differences between storage, processing, and manufacturing operations.
- Suggested incentivizing the cannabis industry to go above minimum requirements and ensure smaller operators aren't unfairly affected by the fee structure.
- Suggested the District look at outreach options to ensure industries affected by the fee rule know of the changes, and once the rule is final and approved, ensure awareness and compliance.
- Encouraged affected industries to share feedback with the District as soon as possible to allow the District to consider comments while the process is still underway.