

ATTACHMENT TWO
PROPOSED AMENDMENTS TO BCDC PERMIT APPLICATION FEES
FEBRUARY 5, 2008

Appendix M

Commission Permit Application Fees
~~July 9, 2004~~

(a) All applicants for a Commission permit, permit amendment or amendment to an application shall submit as part of the application an application fee as identified in the following sections.

(b) The following permit application fees shall be effective until December 31, ~~2004~~ 2013 or until the Executive Director re-calculates the following year's fees under subsection (c), whichever is later.

<i>Type of Permit Application</i>	<i>Application Fee</i> <u>2008-2013</u>
Abbreviated Regionwide Permit	\$ 160 <u>100</u>
Regionwide Permit	\$ 320 <u>100</u>
First Time Extension for any permit	\$ 160 <u>150</u>
Nonmaterial Amendment to permit, including —Subsequent Time Extension	\$320
 <u>Nonmaterial Amendment To a Minor Permit</u> <u>Other Than a Time Extension With A Total</u> <u>Project Cost (TPC) of:</u>	
<u>--Less than \$5,000</u>	<u>\$100</u>
<u>--\$5,000 to \$50,000</u>	<u>\$150</u>
<u>--\$50,001 to \$100,000</u>	<u>\$200</u>
<u>--\$100,001 to \$600,000</u>	<u>\$300</u>
<u>--\$600,001 to \$100 million</u>	<u>0.05% of TPC</u>
<u>--more than \$100 million</u>	<u>\$100,000</u>

Nonmaterial Amendment To a Major Permit

Other Than a Time Extension With a TPC of:

<u>--Less Than \$5,000</u>	<u>\$100</u>
<u>--\$5,000 to \$50,000</u>	<u>\$150</u>
<u>--\$50,001 to \$100,000</u>	<u>\$200</u>
<u>--\$100,000 to \$600,000</u>	<u>\$600</u>
<u>--\$600,001 to \$100 million</u>	<u>0.10% of TPC</u>
<u>--more than \$100 million</u>	<u>\$100,000</u>

Material Amendment to permit	Same as for first time application
Material Amendment to application	75% of original application fee
Emergency Permit	Same as for project as if not an emergency

Minor Permit with a total project cost (TPC) of:

(1) less than \$300,000	\$480
(2) \$300,000 to \$10 million	0.16% of TPC
(3) more than \$10 million	\$16,000

<u>--Less Than \$5,000</u>	<u>\$150</u>
<u>--\$5,000 to \$50,000</u>	<u>\$175</u>
<u>--\$50,001 to \$100,000</u>	<u>\$350</u>
<u>--\$100,001 to \$600,000</u>	<u>\$1,050</u>
<u>--\$600,001 to \$10 million</u>	<u>0.12% of TPC</u>

<u>--\$10,000,001 to \$50 million</u>	<u>\$12,000 or 0.10%</u> <u>of TPC, whichever</u> <u>is greater</u>
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<u>--\$50,000,001 to \$100 million</u>	<u>\$50,000 or 0.08%</u> <u>of TPC, whichever</u> <u>is greater</u>
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--\$100,000,001 to \$300 million \$80,000 or 0.06%
of TPC, whichever
is greater

--\$300,000,001 to \$600 million \$180,000 or 0.04%
of TPC, whichever
is greater

--more than \$600 million \$240,000

Major Permit with a total project cost (TPC) of:

(1) ~~less than \$250,000~~ \$800
(2) ~~\$250,000 to \$10-million~~ 0.32% of TPC
(3) ~~more than \$10 million~~ \$32,000

--Less Than \$50,000 \$350
--\$50,000 to \$100,000 \$700
--\$100,001 to \$200,000 \$900
--\$200,001 to \$300,000 \$1,100
--\$300,001 to \$600,000 \$1,200
--\$600,001 to \$10 million 0.20% of TPC

--\$10,000,001 to \$50 million \$20,000 or 0.17%
of TPC, whichever
is greater

--\$50,000,001 to \$100 million \$85,000 or 0.14%
of TPC, whichever
is greater

<u>--\$100,000,001 to \$300 million</u>	<u>\$140,000 or 0.11%</u> <u>of TPC, whichever</u> <u>is greater</u>
<u>--\$300,000,001 to \$600 million</u>	<u>\$330,000 or 0.08%</u> <u>of TPC, whichever</u> <u>is greater</u>
<u>--more than \$600 million</u>	<u>\$600,000</u>

(c) Calculation of Permit Fees for Subsequent Years.

(1) For each five year period following the effective date of this regulation, commencing in 2013, the Commission will calculate:

(A) the average fiscal year revenue generated from fees collected over the prior five years;

(B) the highest fiscal year total regulatory program costs (TRP) over the prior five years;

(C) twenty percent of the highest TRP (“target revenue”).

(2) If the average revenue generated from fees is within five percent of the target revenue, then the Executive Director will not recalculate new fees for the following five years.

(3) If the average revenue generated from fees is more than five percent higher or lower than the target revenue, then the Executive Director will calculate new fees according to the method specified in subparagraph (4).

(4) Calculation Method. If new fees will be calculated pursuant to subparagraph (c)(3), the Executive Director shall use the following method.

(A) No earlier than July 1 and no later than October 1 of 2013 and in five year increments ~~each year thereafter~~, the Executive Director shall calculate the ~~permit application~~ fees that will apply to applications received in the following five calendar years.

(B) The ~~permit application~~ fees shall be calculated in the following way:

(A) ~~Calculate the average annual target revenue that is 20% of the Commission’s total regulatory program costs, as defined in subsection (3), for the current state each of the prior five fiscal years.~~

~~—(B) Calculate the previous revenue that is the sum of all permit application fees received in each of the five the previous fiscal calendar years, and calculate the average annual revenue.~~

~~—(C) Calculate the adjustment factor by dividing the average annual 20% target revenue by the previous average annual revenue.~~

(i) Divide the target revenue derived from subparagraph (c)(1)(C) by the average revenue generated from fees derived from subparagraph (c)(1)(A). This is the adjustment factor.

~~(D)~~ (ii) Adjust the permit application fees by multiplying each fee by the adjustment factor.

~~(3)~~ (5) The “total regulatory program costs” (TRP) shall be based on the amount of revenue appropriated to support the Commission’s regulatory program in the Budget Act for that fiscal year.- The total regulatory program costs shall be calculated by: (A) identifying the direct costs for employee compensation, contracts, and equipment and facilities that are allocated to the Commission’s permit and enforcement activities; (2) adding to the direct costs the indirect costs such as administrative, legal, and other support allocated to the regulatory program; and (3) subtracting any reimbursements, grants, abatements or other income received to support regulatory program activities.

~~(4)~~ (6) The adjusted fees shall be effective on January 1 of the following calendar year and shall remain effective for ~~twelve months~~ five years or until the Executive Director calculates the ~~following year’s~~ new fees, whichever is later. All calculated figures shall be rounded up to the nearest dollar.

(d) Total Project Cost

(1) “Total project cost,” means all expenditures, including the cost for planning, engineering, architectural, and other services, made or to be made for designing the project plus the estimated cost of construction of all aspects of the project both inside and outside the Commission’s jurisdiction.

(2) The total project cost for an amendment to a permit shall consist of only the total project cost of the subject matter of the amendment application.

~~(2)~~ (3) The Commission shall use the cost stated by the applicant in the application to BCDC to determine the total project cost unless the Executive Director determines that the amount stated does not appear to include the total project or to reflect accurately all project costs.

~~(3)~~ (4) Whenever the Executive Director determines that the stated project cost does not appear to include the total project cost or to reflect accurately all project costs, he or she shall return the application unfiled and state his or her reasons for concluding that the total project is not included or why the stated cost does not accurately reflect all project costs or the Executive Director shall hold the application unfiled until the applicant verifies the total cost figures by having an estimator selected by the Executive Director and prepaid by the applicant review and certify as complete and accurate all project costs.

(e) Fees for Projects Involving More than One Category. Projects involving two (2) or more categories, (i.e., shoreline construction and filling as part of one (1) project), will not be charged the total of the fees that would be due if each part of the project were considered as a separate application. Rather, the fee is the single amount due under the highest fee category into which the project falls.

(f) When Fees are to be Paid. All fees shall be paid before the Commission files a permit application. No fees shall be charged for preliminary inquiries and requests for information prior to the filing of an application.

(g) Refunds.

(1) A \$100 refund of an administrative permit application fee shall be made if the application is withdrawn prior to the mailing of the administrative listing for the application. No refund shall be made for an administrative permit application after listing.

(2) For all other fees, the first \$200 hundred dollars is not refundable and the remainder shall be refunded if the application is withdrawn prior to mailing notice of a public hearing either on whether the application is complete or on whether the project is consistent with the applicable Commission policies but shall not be refunded after the notice of the public hearing has been mailed.

(h) Fees in Special Circumstances

(1) The fee for resubmitting an application that had earlier been denied by the Commission or withdrawn by the applicant before a Commission vote shall be seventy-five percent (75%) of the fee that would be charged for a new application covering the same work. Such fee shall be in addition to the fee charged for the original application.

(i) Fees for Applications Arising from an Enforcement Investigation.

(1) The Commission shall double all relevant application fees if the Executive Director determines that the applicant submitted the application in response to an investigation by the staff or the Commission of a possible violation of the McAteer-Petris Act, the Suisun Marsh Preservation Act, or the terms or conditions of a permit.

(2) Applications shall be presumed to have arisen out of an enforcement investigation if the staff prepared a written enforcement report prior to the applicant presenting the application for filing.

(j) Appeal of Fee Determination.

(1) Any person who believes a fee charged is not correct under these regulations may appeal to the Commission any objection that the applicant, the Executive Director, and the Chair cannot resolve.

(2) Pending resolution of the amount of the fee, the applicant shall pay the fee that the Executive Director assesses and shall file a letter explaining why the fee is incorrect.

(3) When an applicant appeals a fee, the Commission shall determine the correct fee at the time it votes on the application or at the time for commenting on the administrative listing, whichever applies.

Note: Authority cited: Section 66632(f), Government Code; and Section 29201(e), Public Resources Code. Reference: Section 66632(b), Government Code; and Section 29520(b), Public Resources Code.