SUMMARY OF BOARD ITEM

ITEM # 01-8-3: PUBLIC HEARING TO CONSIDER THE ADOPTION AND AMENDMENTS TO THE AIR TOXICS HOT SPOTS FEE REGULATION FOR FISCAL YEAR 2001-2002.

STAFF RECOMMENDATION: The staff recommends that the Board adopt the proposed amendments to the Air Toxics Hot Spots Fee Regulation for Fiscal Year 2001-2002.

DISCUSSION: The Air Toxics Hot Spots Information and Assessment Act of 1987 (the Act) authorizes the ARB to adopt a fee regulation to recover the costs incurred by the State to implement and administer the Air Toxics "Hot Spots" Program. This Program is designed to develop air toxics emission inventories, and to assess and minimize the risk to public health. The Fee Regulation requires each district to collect fees from facilities subject to the requirements of the Act in order to recover the State's and districts' Program costs. The proposed Fee Regulation will adopt fee schedules, containing per-facility fees, for the five districts that requested the ARB, by April 1, 2001, to include them in the Fee Regulation. The remaining 30 districts must adopt their own fee schedules.

The fees assessed through this regulation will be used to: provide assistance to districts, facility operators, and the general public in implementing the emission inventory requirements of the Program, collect air toxics emission inventory data and maintain an air toxics emissions database, review and approve health risk assessments, develop health risk assessment guidelines, develop risk reduction guidelines and provide assistance to districts and facilities, and provide assistance with public notification procedures.

For fiscal year 2001-2002, the staff is proposing to use the same method and fees for allocating the State's cost among districts as was used for fiscal year 2000-2001. That method allocates State costs to the districts based on the health risk of facilities in the districts as determined by risk assessment results or prioritization scores.

The staff proposes State costs of $880,000 to implement the Program in fiscal year 2001-2002. Approximately 40 percent of the budget supports ARB activities and 60 percent supports activities of the Office of Environmental Health Hazard Assessment.

The staff proposes that, beginning in fiscal year 2002-2003, the Board delegate the administration of the annual update and collection of the State Program costs to the Executive Officer and revise the method for recovering program costs for districts that have not adopted their own fee regulation. The proposed revisions will eliminate the need for the Board to annually reauthorize the Fee Regulation.

SUMMARY AND IMPACTS:

The staff proposal to recover State Program costs of $880,000 represents an 83 percent reduction in fees since fiscal year 1993-94, the peak year of the Program. This overall reduction is due to streamlining of the Program over the past several years and completion of Program tasks by the ARB, OEHHA, and the districts.

The proposed conversion of this fee program from an annual regulatory process to an annual administrative process will decrease the amount of resources devoted to collecting fees, allow an increase in the amount of resources dedicated to actually implementing the program, and provide the ARB and districts more flexibility in administering the program. These proposed revisions would freeze the fee rates at their current levels. Any future adjustment of the fee rates will still require action by the Board.

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE AIR TOXICS "HOT SPOTS" FEE REGULATION FOR FISCAL YEAR 2001-2002.

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and location noted below to consider amendments to the Air Toxics "Hot Spots" Fee Regulation for Fiscal Year 2001-2002.

DATE: October 25, 2001

TIME: 9:00 a.m.

PLACE: Monterey Bay Unified Air Pollution Control District
Board Room, 3rd Floor
24580 Silver Cloud Court
Monterey, CA 93940

This item will be considered at a two-day meeting of the ARB, which will commence at 9:00 a.m., October 25, 2001, and may continue at 8:30 a.m., October 26, 2001. This item may not be considered until October 26, 2001. Please consult the agenda for the meeting, which will be available at least 10 days before October 25, 2001, to determine the day on which this item will be considered.

This facility is accessible to persons with disabilities. If accommodation is needed, please contact the Clerk of the Board at (916) 322-5594, or Telephone Device for the Deaf (TDD) (916) 324-9531 or (800) 700-8326 for TDD calls from outside the Sacramento area, by October 10, 2001, to ensure accommodation.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Amendments to sections 90700, 90701, 90702, 90703, 90704 and 90705, title 17, California Code of Regulations (CCR) (The Air Toxics "Hot Spots" Fee Regulation).

The objective of the Air Toxics "Hot Spots" Fee Regulation (Fee Regulation) is to recover the State's costs and, where necessary, assist the local air pollution control and air quality management districts (districts) in recovering the costs of implementing and administering the Air Toxics "Hot Spots" Information and Assessment Act. The fees assessed through this regulation are used to inventory air toxics emissions, prioritize facilities, prepare risk assessments, review risk assessments, notify the public of potential health risks from exposure to the emissions, and provide guidance to the

facilities for reducing the potential risk from exposure to the emissions. The regulation specifically allocates the State's costs among the districts, and for 2001-2002, establishes facility fees for the five districts that have requested the ARB to adopt their facility fee schedules.

BACKGROUND

The Air Toxics "Hot Spots" Information and Assessment Act of 1987 (the Act) (Health and Safety Code (H&SC) sections 44300 et seq.) established a program to compile an inventory of air toxics emissions from facilities in California and to assess the potential risks to public health as a result of exposure to those emissions. The Act also requires that the public be notified of facilities whose emissions pose potentially significant health risks. High-risk facilities must reduce their toxic emissions below the level of significance within five years pursuant to H&SC section 44391(a). The Act specifies activities that the ARB, the Office of Environmental Health Hazard Assessment (OEHHA), and the districts must carry out to implement the Act. The Act authorizes the ARB to adopt a fee regulation to ensure that costs incurred by the state and, upon request, districts to implement and administer the Air Toxics "Hot Spots" Program (Program) are recovered by assessing fees on facilities subject to the requirements of the Act (H&SC section 44380).

The Board adopted the first Fee Regulation in 1988. Each year thereafter, the ARB staff, in consultation with the Fee Regulation Committee (which is comprised of representatives of the ARB, the districts, and OEHHA) reviewed the Fee Regulation and proposed amendments for the ARB's consideration. The Fees are collected annually to partially offset the state's cost for implementing the Program. For each of the last eight years, the revenues from the state's portion of the Fees have decreased. The proposed amendments for fiscal year 2002-2003 will continue that trend. The fees for each fee category have remained stable over the last few years and the staff does not anticipate any need for changing the way the fees are calculated or collected. While fee rates have remained stable, the amount of fees paid by facilities has decreased as facilities reduce toxic emissions and drop into lower fee categories.

Districts may recover their Program costs by adopting their own fee rules or by requesting the ARB to adopt fee regulations for them. If a district requests the ARB to adopt its fee regulation, it must submit its Program costs, approved by its district governing board, to the ARB by April 1, prior to the beginning of the fiscal year for which the fees are to apply. Five districts requested that the ARB adopt their facility fee regulations and submitted district board approved costs for fiscal year 2001-2002 by the April 1, 2001 deadline.

The proposed regulation also contains recordkeeping and reporting requirements. In accordance with Government Code sections 11345.3(c) and 11346.5(a)(11), the ARB's Executive Officer has found that the recordkeeping and reporting requirements of the regulation are necessary for the health, safety, and welfare of the people of the State.

Comparable Federal Regulations

The Act established an air quality program unique to the State of California. No equivalent federal requirement at this time targets toxics "Hot Spots" facilities. Accordingly, there is no conflict or duplication between this Fee Regulation and current federal regulations.

PROPOSED AMENDMENTS TO THE FEE REGULATION FOR FISCAL YEAR 2001-2002

The staff proposes amendments to the Fee Regulation which will recover approximately $900,000 in state costs to implement the Air Toxics "Hot Spots" Program in fiscal year 2001-2002. This represents more than an 80 percent reduction from fiscal year 1993-1994 in state revenues to implement and administer the program. This is a direct result of legislative changes to the Program, as well as changes that have streamlined the Program. The proposed amendments are summarized below.

Adoption of New Fee Schedules for Fiscal Year 2001-2002

The state portion of the fees has been revised to reflect the changes in the number of facilities per fee category in each district based on the current status of facility risk. This revision results in a decrease of $180,000 in fees that will be collected for fiscal year 2001-2002 from last year. Fee Schedules for five districts that have requested the ARB to include recovery of their district Program costs in the Fee Regulation were updated for fiscal year 2001-2002. These five districts are the Antelope Valley, Great Basin Unified, Lassen County, and Santa Barbara County Air Pollution Control Districts (APCDs), and the Mojave Desert Air Quality Management District (AQMD).

Delegation of Annual Update of the Fee Regulation to ARB Executive Officer

The staff is proposing that the Board delegate authority for the administration of the annual Air Toxics Hot Spots fee program to the Executive Officer of the ARB. This will convert the update of the annual State Program costs and collection of the fees into an annual administrative process beginning in fiscal year 2002-2003. The fees assessed in future years will use the current method of calculating the fees. This proposal will streamline the annual fee update and collection process, provide districts and facilities more time to collect, review, and update the toxic emission data used to estimate the fees, and allow more flexibility in administering the program. This will allow the staff to reduce the amount of resources needed to administer the fee program and to devote more resources towards the actual goals of the "Hot Spots" program. These goals include identifying the sources of toxic air pollution emissions in California and gaining a better understanding of the risks posed by toxic air pollutants. Information on the assessment, collection and use of the fees will still be available to the public via an annual status report on the fee program.

New Option for Recovery of District Program Costs

A new method for recovering district program costs is being proposed for districts that do not adopt local Hot Spots fee regulations beginning in fiscal year 2002-2003. This proposed amendment will authorize such districts to recover district program costs up to, but not to exceed, the State Program cost on a per-facility basis, from facilities that are subject to the State Fee Regulation. An accounting of the district Program costs for districts using this provision will be included in the annual status report on the fee regulation.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the potential environmental and economic impacts of the proposal, and supporting technical documentation. The staff report is entitled: "Initial Statement of Reasons for Proposed Rulemaking for the Amendments to the Air Toxics "Hot Spots" Fee Regulation for Fiscal Year 2001-2002".

Copies of the ISOR and full text of the proposed regulatory language, in underline and strike-out format to allow for comparison with the existing regulations, may be obtained from the ARB's Public Information Office, Environmental Services Center, 1001 "I" Street, 1st Floor, Sacramento, California 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing (October 25, 2001).

Upon its completion, the Final Statement of Reason (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the web site listed below.

Inquiries concerning the substance of the proposed regulations may be directed to the designated agency contact persons, Randy Pasek, Chief, Emission Inventory Branch, Planning and Technical Support Division, at (916) 323-8398 or Chris Halm, Air Pollution Specialist, Planning and Technical Support Division at (916) 323-8372.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

If you are a person with a disability and desire to obtain this document in an alternative format, please contact the Air Resources Board ADA Coordinator at (916) 323-4916, or TDD (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area.

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at http://www.arb.ca.gov/regact/hotspots/01-02/01-02.htm.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The Executive Officer has determined that the amended Fee Regulation will impose a mandate upon and create costs to the districts with jurisdiction over facilities subject to the Act. However, the mandate does not require state reimbursement to the districts pursuant to Government Code sections 17500 et seq., and section 6 of Article XIIIB of the California Constitution because the districts have the authority to levy fees sufficient to pay for the mandated Program (H&SC section 44380). These fees are intended to recover the costs of district implementation of the Air Toxics "Hot Spots" Program, including compliance with the amended Fee Regulation. The cost to the districts to implement the amended Fee Regulation is approximately 10 percent of the districts' total Program costs. For fiscal year 2001-2002, the total district Program costs are estimated to be $2,700,000. Therefore, the costs to the districts to implement the amended Fee Regulation are approximately $270,000.

The Executive Officer has determined that adoption of the proposed amendments to the Fee Regulation will impose a mandate upon and create costs to some publicly owned treatment works (POTWs). POTWs are subject to the Fee Regulation if they emit or use substances listed in Appendix A of the Emission Inventory Criteria and Guidelines Report (title 17, CCR, section 93300.5), release the specified quantity of at least one of the four specified criteria pollutants, or are classified by the district in one of the prescribed Program categories. The costs of complying with the Fee Regulation are not reimbursable within the meaning of section 6, article XIIIB, California Constitution and Government Code sections 17500 et seq., because POTWs are authorized to levy service charges to cover the costs associated with the mandated Program. The ARB staff estimates the total cost for POTWs to comply with the Fee Regulation to be $19,287 for fiscal year 2001-2002.

The Executive Officer has also made an initial determination that the proposed amendments to the Fee Regulation will not create costs or savings in federal funding to any state agency or program, or impose other non-discretionary costs or savings on local agencies.

The Executive Officer has also determined that the amended Fee Regulation will impose costs on affected state agencies. The costs to the ARB to implement and administer the Air Toxics "Hot Spots" Program, including the amended Fee Regulation, will be recovered by fees authorized by H&SC section 44380 and sections 90700-90705 of title 17, CCR.

Other affected state agencies (e.g., universities, hospitals, correctional institutions, and laboratories) that must pay fees pursuant to the amended Fee Regulation as emitters of specified pollutants should be able to absorb their costs within existing budgets and resources. Costs to these state agencies were estimated to total $20,127 for fiscal year 2001-2002.

In developing the proposal, the staff has determined there is a potential cost impact on representative private persons or businesses directly affected by the regulation. The economic impact the Program fees have on individual facilities is related to the facility's prioritization score or the results of a health risk assessment. Program fees for those districts the state is adopting a fee schedule for, range from $35 to $15,715. The fees for specific facility program categories for those districts for which the state is adopting fee schedules can be found in Table 3 of Appendix I of the Initial Statement of Reasons for the proposed amendments to the Air Toxics "Hot Spots" Fee Regulation for fiscal year 2001-2002.

The Executive Officer has also made an initial determination that amendments to this regulation may have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

All businesses that emit a criteria pollutant and a listed substance (H&SC sections 44320-44322; title 17, CCR, section 90702) must pay a "Hot Spots" fee, (H&SC sections 44380-44382; title 17, CCR, sections 90703-90705) unless specified conditions have been met, and will be affected by these proposed amendments. The amended fees would have little or no impact on the ability of California businesses to compete with businesses in other states. This is because the amended fees do not impose a noticeable impact on the profitability of California businesses. However, the amended fees may have an adverse impact on the ability of some California businesses operating with little or no margin of profitability. Appendix VII of the Staff Report includes a list of the categories of businesses that may be included in the scope of this regulation.

To comply with these proposed amendments, businesses will have to pay the fees assessed on them. These proposed amendments will not result in any additional reporting, record keeping, or other compliance requirements, beyond keeping records of payment.

The staff concludes that, overall, California businesses seem to be able to absorb the costs of the fees without significant adverse economic impact on their profitability. Although some businesses would potentially experience a greater reduction in their profitability than others, most businesses appear to be able to absorb the fee. However, the imposition of the amended fees may have a significant adverse impact on some businesses operating with little or no margin of profitability. The ARB has considered proposed alternatives that would lessen any adverse economic impact on businesses and invites you to submit proposals. Submissions may include the following considerations:

(i) The establishment of differing compliance or reporting requirements or timetables which take into account the resources available to businesses.

(ii) Consolidation or simplification of compliance and reporting requirements for businesses.

(iii) The use of performance standards rather than prescriptive standards.

(iv) Exemption or partial exemption from the regulatory requirements for businesses.

Submissions may also include the following considerations which more closely apply to these amendments:

(v) The establishment of differing payment requirements or timetables which take into account the resources available to businesses.

(vi) Exemption or partial exemption from the fee requirements for businesses.

(vii) Any other alternative that would lessen any adverse impact the fees may have on businesses.

The Executive Officer has also made an initial determination that the proposed regulatory action may affect the creation or elimination of jobs within the state of California, the creation of new businesses or the elimination of existing businesses within California, or the expansion of businesses currently doing business within California.

Finally, the Executive Officer has also determined that the regulation will affect small business. In an effort to reduce those potential impacts on small businesses, the ARB staff has placed a cap of $300 for those facilities that fit the definition of small business in the Fee Regulation. Facilities that fit the definition of industrywide facilities found in H&SC section 44323 would be assessed an annual state portion of fees of $35 under the proposed amendments.

Before taking final action on the proposed amendments to the regulations, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. The imposition of the fees and the requirement that the fees, in the aggregate, cover costs of implementing the Program, are mandated by statute. However, the Fee Regulation includes a cap on fees for small businesses. Additionally, existing exemptions will continue to relieve lower-risk facilities from paying any fee. These provisions are meant to minimize the burden of the regulation.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing, or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received by no later than **12:00 noon October 24, 2001**, and addressed to the following:

Postal Mail is to be sent to:

Clerk of the Board
Air Resources Board
1001 "I" Street, 23rd Floor
Sacramento, California 95814

Electronic mail is to be sent to: hs0102@listserv.arb.ca.gov and received at the ARB by no later than **12:00 noon October 24, 2001.**

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB no later than **12:00 noon, October 24, 2001.**

The Board requests, but does not require, 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The ARB encourages members of the public to bring any suggestions for modification of the proposed regulatory action to the attention of staff in advance of the hearing.

STATUTORY AUTHORITY AND REFERENCES

Amendments to the Fee Regulation are proposed under the authority granted to ARB in H&SC sections 39600, 39601, 44321, 44344.4, 44344.7, 44380, and 44380.5. The purpose of the Fee Regulation is to implement, interpret, and make specific sections 44320, 44321, 44322, 44344.4, 44344.7, 44361, 44380, and 44380.5 of the H&SC.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the ARB may adopt the regulatory language as originally proposed, or with non-substantive or grammatical modifications. The ARB may also adopt the proposed regulatory language with other modifications if the text, as modified, is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language, as modified, could result from the proposed regulatory action. Such modifications are expected to include but are not limited to the following:

(1) Districts' share of the State's costs may be revised on the basis of updating the number of facilities in the previously mentioned Program categories, changes to the State's budget, or adjustments to the category indices.

(2) The specified amounts of fees may be adjusted on the basis of corrections to the numbers of facilities in the previously mentioned Program categories, changes to the State's budget, or adjustments to the category indices.

(3) Fees specified by districts may be changed on the basis of information being provided by each such district.

(4) Changes may be made to Appendix A of the regulation in response to information provided between this date and the public hearing.

(5) Changes may be made to definitions in response to information provided between this date and the public hearing.

In the event that such modifications are made, the full regulatory text with the modifications clearly indicated will be made available to the public for written comment at least 15 days before it is adopted. The public may request a copy of the modified regulatory text from the Air Resources Board Public Information Office, 1001 "I" Street, Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

MICHAEL P. KENNY
EXECUTIVE OFFICER

Date: August 28, 2001

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at www.arb.ca.gov."

California Environmental Protection Agency

Air Resources Board

Proposed Amendments to the Air Toxics Hot Spots Fee Regulation for Fiscal Year 2001-2002

September 2001

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE AIR TOXICS "HOT SPOTS" FEE REGULATION FOR FISCAL YEAR 2001-2002.

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TIME: 9:00 a.m.

PLACE: Monterey Bay Unified Air Pollution Control District
Board Room, 3rd Floor
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Sections Affected: Amendments to sections 90700, 90701, 90702, 90703, 90704 and 90705, title 17, California Code of Regulations (CCR) (The Air Toxics "Hot Spots" Fee Regulation).

The objective of the Air Toxics "Hot Spots" Fee Regulation (Fee Regulation) is to recover the State's costs and, where necessary, assist the local air pollution control and air quality management districts (districts) in recovering the costs of implementing and administering the Air Toxics "Hot Spots" Information and Assessment Act. The fees assessed through this regulation are used to inventory air toxics emissions, prioritize facilities, prepare risk assessments, review risk assessments, notify the public of potential health risks from exposure to the emissions, and provide guidance to the

facilities for reducing the potential risk from exposure to the emissions. The regulation specifically allocates the State's costs among the districts, and for 2001-2002, establishes facility fees for the five districts that have requested the ARB to adopt their facility fee schedules.

BACKGROUND

The Air Toxics "Hot Spots" Information and Assessment Act of 1987 (the Act) (Health and Safety Code (H&SC) sections 44300 et seq.) established a program to compile an inventory of air toxics emissions from facilities in California and to assess the potential risks to public health as a result of exposure to those emissions. The Act also requires that the public be notified of facilities whose emissions pose potentially significant health risks. High-risk facilities must reduce their toxic emissions below the level of significance within five years pursuant to H&SC section 44391(a). The Act specifies activities that the ARB, the Office of Environmental Health Hazard Assessment (OEHHA), and the districts must carry out to implement the Act. The Act authorizes the ARB to adopt a fee regulation to ensure that costs incurred by the state and, upon request, districts to implement and administer the Air Toxics "Hot Spots" Program (Program) are recovered by assessing fees on facilities subject to the requirements of the Act (H&SC section 44380).

The Board adopted the first Fee Regulation in 1988. Each year thereafter, the ARB staff, in consultation with the Fee Regulation Committee (which is comprised of representatives of the ARB, the districts, and OEHHA) reviewed the Fee Regulation and proposed amendments for the ARB's consideration. The Fees are collected annually to partially offset the state's cost for implementing the Program. For each of the last eight years, the revenues from the state's portion of the Fees have decreased. The proposed amendments for fiscal year 2002-2003 will continue that trend. The fees for each fee category have remained stable over the last few years and the staff does not anticipate any need for changing the way the fees are calculated or collected. While fee rates have remained stable, the amount of fees paid by facilities has decreased as facilities reduce toxic emissions and drop into lower fee categories.

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The Act established an air quality program unique to the State of California. No equivalent federal requirement at this time targets toxics "Hot Spots" facilities. Accordingly, there is no conflict or duplication between this Fee Regulation and current federal regulations.

PROPOSED AMENDMENTS TO THE FEE REGULATION FOR FISCAL YEAR 2001-2002

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Adoption of New Fee Schedules for Fiscal Year 2001-2002

The state portion of the fees has been revised to reflect the changes in the number of facilities per fee category in each district based on the current status of facility risk. This revision results in a decrease of $180,000 in fees that will be collected for fiscal year 2001-2002 from last year. Fee Schedules for five districts that have requested the ARB to include recovery of their district Program costs in the Fee Regulation were updated for fiscal year 2001-2002. These five districts are the Antelope Valley, Great Basin Unified, Lassen County, and Santa Barbara County Air Pollution Control Districts (APCDs), and the Mojave Desert Air Quality Management District (AQMD).

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New Option for Recovery of District Program Costs

A new method for recovering district program costs is being proposed for districts that do not adopt local Hot Spots fee regulations beginning in fiscal year 2002-2003. This proposed amendment will authorize such districts to recover district program costs up to, but not to exceed, the State Program cost on a per-facility basis, from facilities that are subject to the State Fee Regulation. An accounting of the district Program costs for districts using this provision will be included in the annual status report on the fee regulation.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

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This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at http://www.arb.ca.gov/regact/hotspots/01-02/01-02.htm.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The Executive Officer has determined that the amended Fee Regulation will impose a mandate upon and create costs to the districts with jurisdiction over facilities subject to the Act. However, the mandate does not require state reimbursement to the districts pursuant to Government Code sections 17500 et seq., and section 6 of Article XIIIB of the California Constitution because the districts have the authority to levy fees sufficient to pay for the mandated Program (H&SC section 44380). These fees are intended to recover the costs of district implementation of the Air Toxics "Hot Spots" Program, including compliance with the amended Fee Regulation. The cost to the districts to implement the amended Fee Regulation is approximately 10 percent of the districts' total Program costs. For fiscal year 2001-2002, the total district Program costs are estimated to be $2,700,000. Therefore, the costs to the districts to implement the amended Fee Regulation are approximately $270,000.

The Executive Officer has determined that adoption of the proposed amendments to the Fee Regulation will impose a mandate upon and create costs to some publicly owned treatment works (POTWs). POTWs are subject to the Fee Regulation if they emit or use substances listed in Appendix A of the Emission Inventory Criteria and Guidelines Report (title 17, CCR, section 93300.5), release the specified quantity of at least one of the four specified criteria pollutants, or are classified by the district in one of the prescribed Program categories. The costs of complying with the Fee Regulation are not reimbursable within the meaning of section 6, article XIIIB, California Constitution and Government Code sections 17500 et seq., because POTWs are authorized to levy service charges to cover the costs associated with the mandated Program. The ARB staff estimates the total cost for POTWs to comply with the Fee Regulation to be $19,287 for fiscal year 2001-2002.

The Executive Officer has also made an initial determination that the proposed amendments to the Fee Regulation will not create costs or savings in federal funding to any state agency or program, or impose other non-discretionary costs or savings on local agencies.

The Executive Officer has also determined that the amended Fee Regulation will impose costs on affected state agencies. The costs to the ARB to implement and administer the Air Toxics "Hot Spots" Program, including the amended Fee Regulation, will be recovered by fees authorized by H&SC section 44380 and sections 90700-90705 of title 17, CCR.

Other affected state agencies (e.g., universities, hospitals, correctional institutions, and laboratories) that must pay fees pursuant to the amended Fee Regulation as emitters of specified pollutants should be able to absorb their costs within existing budgets and resources. Costs to these state agencies were estimated to total $20,127 for fiscal year 2001-2002.

In developing the proposal, the staff has determined there is a potential cost impact on representative private persons or businesses directly affected by the regulation. The economic impact the Program fees have on individual facilities is related to the facility's prioritization score or the results of a health risk assessment. Program fees for those districts the state is adopting a fee schedule for, range from $35 to $15,715. The fees for specific facility program categories for those districts for which the state is adopting fee schedules can be found in Table 3 of Appendix I of the Initial Statement of Reasons for the proposed amendments to the Air Toxics "Hot Spots" Fee Regulation for fiscal year 2001-2002.

The Executive Officer has also made an initial determination that amendments to this regulation may have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

All businesses that emit a criteria pollutant and a listed substance (H&SC sections 44320-44322; title 17, CCR, section 90702) must pay a "Hot Spots" fee, (H&SC sections 44380-44382; title 17, CCR, sections 90703-90705) unless specified conditions have been met, and will be affected by these proposed amendments. The amended fees would have little or no impact on the ability of California businesses to compete with businesses in other states. This is because the amended fees do not impose a noticeable impact on the profitability of California businesses. However, the amended fees may have an adverse impact on the ability of some California businesses operating with little or no margin of profitability. Appendix VII of the Staff Report includes a list of the categories of businesses that may be included in the scope of this regulation.

To comply with these proposed amendments, businesses will have to pay the fees assessed on them. These proposed amendments will not result in any additional reporting, record keeping, or other compliance requirements, beyond keeping records of payment.

The staff concludes that, overall, California businesses seem to be able to absorb the costs of the fees without significant adverse economic impact on their profitability. Although some businesses would potentially experience a greater reduction in their profitability than others, most businesses appear to be able to absorb the fee. However, the imposition of the amended fees may have a significant adverse impact on some businesses operating with little or no margin of profitability. The ARB has considered proposed alternatives that would lessen any adverse economic impact on businesses and invites you to submit proposals. Submissions may include the following considerations:

(i) The establishment of differing compliance or reporting requirements or timetables which take into account the resources available to businesses.
(ii) Consolidation or simplification of compliance and reporting requirements for businesses.

(iii) The use of performance standards rather than prescriptive standards.

(iv) Exemption or partial exemption from the regulatory requirements for businesses.

Submissions may also include the following considerations which more closely apply to these amendments:

(v) The establishment of differing payment requirements or timetables which take into account the resources available to businesses.

(vi) Exemption or partial exemption from the fee requirements for businesses.

(vii) Any other alternative that would lessen any adverse impact the fees may have on businesses.

The Executive Officer has also made an initial determination that the proposed regulatory action may affect the creation or elimination of jobs within the state of California, the creation of new businesses or the elimination of existing businesses within California, or the expansion of businesses currently doing business within California.

Finally, the Executive Officer has also determined that the regulation will affect small business. In an effort to reduce those potential impacts on small businesses, the ARB staff has placed a cap of $300 for those facilities that fit the definition of small business in the Fee Regulation. Facilities that fit the definition of industrywide facilities found in H&SC section 44323 would be assessed an annual state portion of fees of $35 under the proposed amendments.

Before taking final action on the proposed amendments to the regulations, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. The imposition of the fees and the requirement that the fees, in the aggregate, cover costs of implementing the Program, are mandated by statute. However, the Fee Regulation includes a cap on fees for small businesses. Additionally, existing exemptions will continue to relieve lower-risk facilities from paying any fee. These provisions are meant to minimize the burden of the regulation.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing, or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received by no later than **12:00 noon October 24, 2001**, and addressed to the following:

Postal Mail is to be sent to:

Clerk of the Board
Air Resources Board
1001 "I" Street, 23rd Floor
Sacramento, California 95814

Electronic mail is to be sent to: hs0102@listserv.arb.ca.gov and received at the ARB by no later than **12:00 noon October 24, 2001.**

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB no later than **12:00 noon, October 24, 2001.**

The Board requests, but does not require, 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The ARB encourages members of the public to bring any suggestions for modification of the proposed regulatory action to the attention of staff in advance of the hearing.

STATUTORY AUTHORITY AND REFERENCES

Amendments to the Fee Regulation are proposed under the authority granted to ARB in H&SC sections 39600, 39601, 44321, 44344.4, 44344.7, 44380, and 44380.5. The purpose of the Fee Regulation is to implement, interpret, and make specific sections 44320, 44321, 44322, 44344.4, 44344.7, 44361, 44380, and 44380.5 of the H&SC.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the ARB may adopt the regulatory language as originally proposed, or with non-substantive or grammatical modifications. The ARB may also adopt the proposed regulatory language with other modifications if the text, as modified, is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language, as modified, could result from the proposed regulatory action. Such modifications are expected to include but are not limited to the following:

(1) Districts' share of the State's costs may be revised on the basis of updating the number of facilities in the previously mentioned Program categories, changes to the State's budget, or adjustments to the category indices.

(2) The specified amounts of fees may be adjusted on the basis of corrections to the numbers of facilities in the previously mentioned Program categories, changes to the State's budget, or adjustments to the category indices.

(3) Fees specified by districts may be changed on the basis of information being provided by each such district.

(4) Changes may be made to Appendix A of the regulation in response to information provided between this date and the public hearing.

(5) Changes may be made to definitions in response to information provided between this date and the public hearing.

In the event that such modifications are made, the full regulatory text with the modifications clearly indicated will be made available to the public for written comment at least 15 days before it is adopted. The public may request a copy of the modified regulatory text from the Air Resources Board Public Information Office, 1001 "I" Street, Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

MICHAEL P. KENNY
EXECUTIVE OFFICER

Date: August 28, 2001

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at www.arb.ca.gov."

State of California
California Environmental Protection Agency
AIR RESOURCES BOARD

Staff Report: Initial Statement of Reasons For Proposed Rulemaking

Proposed Amendments to the Air Toxics "Hot Spots" Fee Regulation for Fiscal Year 2001-2002

ACKNOWLEDGMENTS

This staff report and proposed regulation were developed by the staff from the Planning and Technical Support Division with assistance from the Office of Environmental Health Hazard Assessment (OEHHA), the Air Toxics "Hot Spots" Fee Regulation Committee, and the staffs from other divisions and offices at the Air Resources Board.

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District Managers and Air Toxics "Hot Spots" Technical Advisory Committee for the Air Toxics "Hot Spots" Fee Regulation For Fiscal Year 2001-2002

Amador County APCD	Karen Huss
Antelope Valley APCD	Richard Wales
Bay Area AQMD	Catherine Fortney
Butte County APCD	Jim Culbertson
Calaveras County APCD	Lakhmir Grewal
Colusa County APCD	Harry Krug
El Dorado County APCD	David Mehl
Feather River AQMD	Larry Matlock
Glenn County APCD	Rick Steward
Great Basin Unified APCD	Ellen Hardebeck
Imperial County APCD	Bob Fischer
Kern County APCD	Glen Stephens
Lake County APCD	Robert Reynolds
Lassen County APCD	Ken Smith
Mariposa County APCD	Dave Conway
Mendocino County APCD	Phil Towle
Modoc County APCD	Joe Moreo
Mojave Desert AQMD	Richard Wales
Monterey Bay Unified APCD	David Craft
North Coast Unified AQMD	Wayne Morgan
Northern Sierra AQMD	Joe Fish
Northern Sonoma County APCD	Sean Connolly
Placer County APCD	Todd Nishikawa
Sacramento Metropolitan AQMD	Karen Kelley
San Diego County APCD	Tom Weeks
San Joaquin Valley Unified APCD	Rick McVaigh
San Luis Obispo County APCD	Paul Reitz
Santa Barbara County APCD	Rebecca Gaffney
Shasta County APCD	Mike Kussow
Siskiyou County APCD	Eldon Beck
South Coast AQMD	Sam Sumanth/Mike Nazemi
Tehama County APCD	Gary Bovee
Tuolumne County APCD	Bill Sandman
Ventura County APCD	Terri Thomas
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TABLE OF CONTENTS

		Page
Executive Summary		1
Table ES-1	Five Districts Included in the Fee Regulation	1
Table ES-2	Distribution of State Costs Among Districts	2
Figure ES-1	Distribution of Costs	3
Figure ES-2	Trend in State Costs	3
I. Introduction		7
II. Program Costs and Facility Fees		
A. Introduction		9
B. Proposed State Costs for Fiscal Year 2001-2002		9
C. Distribution of State Costs Among Districts		11
D. District Costs for Fiscal Year 2001-2002		13
E. District Fee Schedules		13
III. Existing Regulation and Proposed Changes		
A. Introduction		17
B. Summary of Existing Regulation		17
1. Fee Calculation Method		18
2. Exemption from the Fee Regulation		18
3. Designation of Facility Program Categories		19
4. Special Features of Current Regulation		20
5. Provisions for Facility Count Verification		20
C. Proposed Changes to the Regulation		21
1. Update Table 1		21
2. Update District Fee Schedules		21
3. Conversion to an Administrative Process in FY 2002-2003		22
IV. Economic and Environmental Impacts		
A. Introduction		25
B. Economic Impact Analyses		25
1. Impact on Government Agencies		25
2. Impact on Non-Government Facilities		26
C. Environmental Impact		28
V. Evaluation of Alternatives		
A. Introduction		29
B. Evaluation of Alternatives		29
C. Recommendation		30

200

Figures

Figure ES-1 Distribution of Costs 3
Figure ES-2 Trend in State Costs 3

Tables

Table ES-1 Districts Requesting Adoption of Fees 1
Table ES-2 Distribution of State Costs By District 2
Table 1 Program Costs for the ARB and OEHHA 10
Table 2 Distribution of State Costs By District 12
Table 3 District Costs 14
Table 4 Proposed Facility Fees for those Districts Requesting the ARB to Adopt a Fee Schedule 15
Table III-1 Category Indexes III-4
Table IV-1 List of Industries with Affected Businesses IV-2

Appendices

Appendix I The Air Toxics "Hot Spots" Fee Regulation I-1
Appendix II Proposed Amendments to the Air Toxics "Hot Spots" Fee Regulation for Fiscal Year 2001-2002 ..... II-1
Appendix III Fee Basis and Calculations III-1
Appendix IV Economic Impact Analysis IV-1
Appendix V Cost Estimates for Local and State Government Facilities ... V-1

References

A list of sources of working data (references) is located on page V-11 of this Staff Report, and may be reviewed upon request.

EXECUTIVE SUMMARY

The Air Toxics "Hot Spots" Information and Assessment Act of 1987[1] established an annual fee program for the California Air Resources Board (ARB) and local air pollution control and air quality management districts (districts) to recover the costs of implementing the program. This year the staff is proposing to update the Fee Regulation[2] for fiscal year 2001-2002 and to amend the regulation to eliminate the need for the Board to revisit this fee regulation on an annual basis in the future. These proposed revisions will significantly streamline the administration of the annual "Hot Spots" fee program. This will allow the staff to reduce the amount of resources needed to administer the fee program and to devote more resources towards the actual goals of the "Hot Spots" program. These goals include identifying the sources of toxic air pollution emissions in California and gaining a better understanding of the risks posed by toxic air pollutants.

The purpose of the Fee Regulation is to recover the State's Program costs to implement the Air Toxics "Hot Spots" Information and Assessment Act of 1987 (the Act) by allocating portions of the State costs among the districts. The Fee Regulation allocates the State costs among the districts and requires each district to collect and submit fees to the ARB to recover their district's portion of the State's Program costs. The proposed Fee Regulation also contains fee schedules to recover district Program costs for five districts that requested the ARB to include them in the Fee Regulation. The five districts whose fee regulations are included in this proposal are listed in Table ES-1. The remaining 30 districts must adopt their own fee schedule.

Table ES-1

Five Districts Included in the Fee Regulation

Antelope Valley APCD
Great Basin Unified APCD
Lassen County APCD
Mojave Desert AQMD
Santa Barbara County APCD

The staff proposes to continue to use the same calculation method to allocate fees among the districts that was adopted for the past four years. This method is based on the health risk of facilities in each district as determined by their prioritization scores or health risk assessment results. We are proposing to amend the Fee Regulation by updating the fee tables found in the Fee Regulation to use the most current facility Program data submitted by

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1 Health and Safety Code sections 44300-44394, Stats. 1987, Ch. 1252; as amended by Stats. 1989, Ch. 1254; Stats. 1990, Ch. 1432; Stats. 1992, Ch. 375; Stats. 1992, Ch. 1162; Stats. 1993, Ch. 1037; Stats. 1993, Ch. 1041; and Stats. 1996, Ch. 602.

2 Title 17, California Code of Regulations, sections 90700-90705.

the districts. Based on the staff proposal and current facility program data, most districts will see reductions in the amount of the State costs as shown in Table ES-2.

Table ES-2

Distribution of State Costs Among Districts

District	State Costs 1999-2000	State Costs 2000-2001	(Proposed) State Costs 2001-2002
Amador	2,552	1,346	105
Antelope Valley	10,133	9,263	8,248
Bay Area	80,022	83,371	47,877
Butte	10,435	9,296	4,433
Calaveras	0	0	0
Colusa	0	0	0
El Dorado	7,488	3,738	6,441
Feather River	5,015	12,492	535
Glenn	455	455	0
Great Basin	10,488	5,109	5,004
Imperial	10,775	10,775	9,655
Kern	729	589	140
Lake	0	0	70
Lassen	3,129	3,129	2,009
Mariposa	507	507	507
Mendocino	4,519	4,720	7,555
Modoc	70	70	0
Mojave Desert	27,053	22,295	22,015
Monterey	7,994	5,985	4,109
North Coast	7,207	1,502	67
Northern Sierra	7,185	7,215	805
Northern Sonoma	70	70	0
Placer	12,018	11,147	10,945
Sacramento	9,232	9,232	19,647
San Diego	114,896	138,231	114,116
San Joaquin Valley	81,347	53,023	45,435
San Luis Obispo	350	350	560
Santa Barbara	39,668	35,888	28,688
Shasta	12,757	12,054	10,682
Siskiyou	6,275	5,873	5,628
South Coast	684,077	578,153	485,025
Tehama	67	67	1,257
Tuolumne	834	700	700
Ventura	43,833	49,996	29,968
Yolo-Solano	5,698	5,698	5,978
TOTAL	1,206,878	1,082,339	$878,204

The estimated total cost for the State and districts to implement the Program for fiscal year 2001-2002 is approximately $3.67 million. Of the total cost, $880,000 is the State's cost. Of this amount, $350,000 supports the ARB activities and $530,000 supports the Office of Health Hazard Assessment (OEHHA) as shown in Figure ES-1. In future years, we expect State Program costs to decline slowly from this year's $880,000, well under the statutory cap of $1,350,000 that took effect in fiscal year 1998-99. The Program was substantially streamlined in the late 1990's, with additional measures to streamline the Fee Program being proposed to take effect in fiscal year 2002-2003.

Figure ES-1

Distribution of Costs

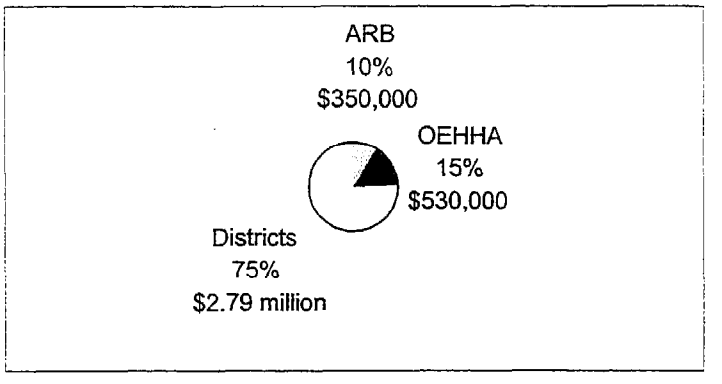
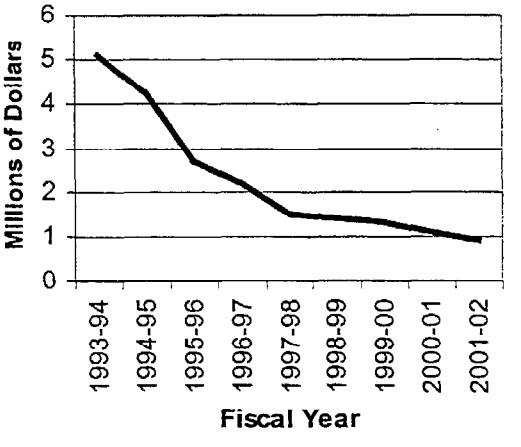


Figure ES-2 shows the trend in State Program costs since fiscal year 1993-94. Over the last 8 years, the revenues generated by this fee program have declined. This has been due

Figure ES-2

Trend in State Costs



to legislative changes to the program, certain classes of facilities being exempted from the fee program, and, most importantly, reductions in toxic emissions from facilities. While the State costs dropped rapidly during the first four years covered in Figure ES-2, the last four years have seen the State costs leveling off. This is the result of keeping the fees for fee categories the same, while incorporating small year-to-year changes in the number of facilities subject to the Program.

The approximately $880,000 proposed to be collected to support State activities for fiscal year 2001-2002 is more than an 80 percent reduction since fiscal year 1993-94 and a 19 percent reduction from fiscal year 2000-2001. This total reduction in costs is commensurate with the reduction in workload resulting from the 1996 streamlining measures adopted in the Emission Inventory Criteria and Guidelines Report and also reflects the fact that many of the original tasks mandated by the Act are now completed or nearing completion. As revenues from the fees continue to decline, more measures to streamline the program become necessary in order to continue the implementation of this Program while relying on declining resources.

The staff is proposing to streamline the Fee Program further by requesting that the Board delegate authority for the administration of the annual "Hot Spots" Fee Program to the Executive Officer of the ARB. The fees for each fee category have remained stable over the last few years, and the staff does not anticipate any need for major changes in the way the fees are currently calculated or collected. Because the fee program now has become a stable process, the staff believes that minor year-to-year adjustments in State program costs no longer merit the Board's annual review and approval. This proposal will maintain the fees for each fee category at fiscal year 2001-2002 levels for the foreseeable future. This fee method has received extensive public review and comment from the past five years. If it becomes necessary to make substantive changes to the Fee Regulation, the staff will return to the Board to amend the Regulation.

This change in process will significantly streamline the annual update and collection of fees to recover State Program costs. The staff anticipates that it will substantially reduce the resources necessary to administer the program. Streamlining the process will allow more resources to be allocated to implement the Program. It will also provide districts and affected facilities with more time to collect, review, and update the toxic emission data used to calculate the fees. This additional time will help address a concern frequently raised by facilities subject to the fees that the fees do not reflect up-to-date emission information.

The Act requires districts to adopt a fee regulation to recover the district Program costs, but the Act also allows districts to make a request to the ARB to adopt a fee regulation for them. However, converting the fee program to an annual administrative process will make it no longer feasible for the ARB to adopt local fee regulations. To address this issue, the ARB staff has worked with the staffs of the affected districts to develop a new method for recovering the costs of implementing the program for districts that have not adopted their own local fee regulation. Beginning in fiscal year 2002-2003, if a district has not adopted its own fee regulation, this proposal will authorize such districts to recover district program costs from facilities that are subject to the State Fee Regulation. This amount may be up to, but

shall not exceed, the State Program cost on a per-facility basis. Simply put, the maximum total fee for a facility in a district with no local fee regulation would be twice the State cost. One half of this would go to the State, and the other half would go to the district. The total fee for a facility could be less if the district needed less than the full amount of the State cost to recover its district program costs. This provision would in no way preclude districts from adopting their own fee regulations.

This option is designed primarily to allow small districts with low program costs to recover the cost of implementing the program without the need for adopting a local fee regulation. Because most districts' program costs exceed the State cost and most districts have already adopted their own fee regulation, we anticipate few districts will take advantage of this option. This change may require some districts to adopt their own fee regulation if they intend to recover their district costs at fiscal year 2001-2002 levels. This proposal ensures that this State-adopted district fee value complies with H&SC Section 44380(a)(3), which requires the fees for facilities to be based on their emissions, and that facilities in districts using this option will have the certainty of knowing the ceiling for their district fees.

To help keep the Board, districts, and the public informed about the Program, the ARB staff will prepare an annual status report that will summarize how the State Program costs were assessed and how the funds are being used by the State. In addition, an accounting of the district Program costs for districts using this provision will be included in the status report. This report will be made available to the Board, the districts, and the public 90 days after the Executive Officer has determined the State fees for the applicable fiscal year.

The proposal to amend the Fee Regulation for fiscal year 2001-2002 was developed in consultation with the Air Toxics "Hot Spots" Fee Regulation Committee (Committee). The Committee includes representatives from the districts, the ARB, and the OEHHA. The full text of the existing regulation, and the proposed changes to the regulation are located in Appendix I and II of this Staff Report, respectively.

The ARB staff does not anticipate any potential adverse impacts on the environment due to the implementation of these proposed amendments to the Fee Regulation. The Fee Regulation may continue to provide indirect environmental benefits because the fees may be an incentive for businesses to reduce air toxics emissions and the health risks associated with those emissions.

Although some businesses could experience greater reduction in their profitability than others, overall, California businesses are able to absorb the costs of the fees without significant adverse impact on their profitability. However, the proposed changes to the Fee Regulation may adversely impact businesses operating with little or no margin of profitability. This could include impacts on the ability of California businesses to compete with businesses in other states, an impact on the creation or elimination of jobs and businesses within California, and the expansion of businesses currently doing business within California. Economic and environmental impacts are described in more detail in Chapter IV.

The ARB staff will be holding a public workshop in September 2001, in Sacramento to take public comments. The staff will send workshop notices to over 3,000 facility operators and members of the public.

The staff recommends that the Board adopt the proposed amendments to the Fee Regulation for fiscal year 2001-2002. The proposed changes are described in detail in this staff report.

I.

INTRODUCTION

The Air Toxics "Hot Spots" Fee Regulation implements a process to recover the Air Resources Board (ARB or Board) and the Office of Environmental Health Hazard Assessment (OEHHA) Program costs for implementing the Air Toxics "Hot Spots" Information and Assessment Act of 1987[3] (AB 2588 or the Act) by allocating portions of the State costs to the air pollution control and air quality management districts (districts). It also requires each district to provide to the ARB the districts' share of the State's costs. This report presents a description of how the ARB staff has determined the fees for facilities that are subject to the "Hot Spots" Program.

The staff of the ARB is proposing to continue to use the current method for calculating fees and make only minor amendments to the Air Toxics "Hot Spots" Fee Regulation (Fee Regulation) for fiscal year 2001-2002. The staff is proposing significant changes to the process for administering the program in future years. These proposals will streamline the program and provide more flexibility to the ARB and districts in implementing the "Hot Spots" fee program. This will allow the staff to reduce the amount of resources needed to administer the fee program and to devote more resources towards the actual goals of the "Hot Spots" program. These goals include identifying the sources of toxic air pollution emissions in California and gaining a better understanding of the risks posed by toxic air pollutants. The amendments proposed will update the fee tables found in the Fee Regulation based on the most current facility Program data submitted by the districts to the ARB. Staff is proposing a State budget for the Air Toxics "Hot Spots" Program for fiscal year 2001-2002 of $880,000.

The same method will be used to calculate districts' share of State costs as in fiscal year 2000-2001. That method assigns facilities to Program fee categories based on their prioritization scores and health risk assessment results.

The following is a summary of the major provisions of the proposed Fee Regulation.

Fiscal Year 2001-2002

- A proposed State budget for this Program of $880,000 for fiscal year 2001-2002. The Program's proposed budget represents a 19 percent reduction from fiscal year 2000-2001.

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3 Health and Safety Code sections 44300-44394, Stats. 1987, Ch. 1252; as amended by Stats. 1989, Ch. 1254; Stats. 1990, Ch. 1432; Stats. 1992, Ch. 375; Stats. 1992, Ch. 1162; Stats. 1993, Ch. 1037; Stats. 1993, Ch. 1041; and Stats. 1996, Ch. 602.

- The current method for allocating fees to the districts continues to be based on facilities' health risk assessment results and prioritization scores.

- The Fee Regulation tables will be updated based on current facility Program data submitted by the districts to the ARB by July 1, 2001.

- Fee amounts for facility categories are proposed to remain unchanged from fiscal year 2000-2001.

- Fee schedules are proposed for five districts that requested to be included in the State Fee Regulation, based on a method similar to the methodology proposed for State fees. These districts are the Antelope Valley, Great Basin Unified, Lassen County, and Santa Barbara County AQMD, as well as the Mojave Desert AQMD.

Revisions Effective in Fiscal Year 2002-2003

- Delegate the administration of the annual update of the State Program costs and fee collection to the Executive Officer of the ARB and continue the fee rates contained in the fiscal year 2001-2002 fee regulation.

- Authorize districts that have not adopted a local fee regulation to recover district costs of implementing the program based on the State Program costs.

The State fees for fiscal year 2001-2002 will support a number of essential State activities. The ARB will maintain the Program by continuing to collect and provide air toxics emission data to the public, inform the public of the potential health risks, and work with facilities to reduce those risks. Specifically, the ARB staff will continue to collect emissions data for facilities of greatest concern; conduct quality control checks of those data; develop air toxics emission factors; implement electronic data submittal procedures; and provide emissions data to the public, government agencies, and the regulated community. The ARB staff will also continue to provide technical assistance to facilities for risk reduction audits and plans and other regulatory efforts needed to implement the Program.

The OEHHA will complete the health risk assessment guidelines and develop health values for those substances currently on the list of substances to be reported. In addition, OEHHA will continue to review health risk assessment results in coordination with the districts.

The following chapters present information on Program costs and facility fees, the existing regulation and proposed changes, the economic and environmental impacts of the proposed changes, and an evaluation of alternatives. The Appendices present the Proposed Regulation Order as well as details on the basis and calculations of the fees and the economic impacts.

II.

PROGRAM COSTS AND FACILITY FEES

A. INTRODUCTION

Chapter II contains a description of the State and districts costs of the Program and how the State costs are proposed to be allocated to the 35 districts for collection. Total costs to the State and districts for fiscal year 2001-2002 will be $3.67 million. The State's costs are 25 percent of the total and the districts' costs are 75 percent of the total.

B. PROPOSED STATE COSTS FOR FISCAL YEAR 2001-2002

Staff is proposing a total State Program cost of $880,000 in fiscal year 2001-2002 to be recovered through fees. The ARB's share of the proposed State cost is $350,000, and the OEHHA's share is $530,000. Specific activities related to these proposed costs are summarized in Table 1. This budget represents a 19 percent or $200,000 reduction from fiscal year 2000-2001. This reduction is a result of keeping the fees per Program fee category unchanged and the reduction in the number of fee-paying facilities. Staff believes that this reduction will not interfere with the State's ability to implement the Program. The method for allocating fees to the districts is explained in Appendix III.

Beginning with fiscal year 1998-99, State statutes now limit the State's costs to implement the "Hot Spots" Program to $1,350,000 (H&SC section 44380(e)). In addition, changes in legislation adopted in 1996 exempt facilities from paying State fees based on their health risks. This has dramatically reduced the number of facilities subject to "Hot Spots" Program fees.

The Fee Regulation distributes the State's Program costs among all facilities subject to fees. The costs for the ARB and OEHHA to implement the Program are shown in Table 1. All facilities that are subject to the Act are subject to the Fee Regulation unless expressly exempted under H&SC sections 44324, 44344.4, or 44380.1, or under section 90702(c) of the Fee Regulation.

Table 1

Program Costs for the ARB and OEHHA

		PYs*	Staff Cost	Contract Cost	Total
ARB	Regulation Development and Implementation	1.3	$100,000	$0	$100,000
ARB	Air Toxics Emission Database Maintenance	1.0	$76,000	$60,000	$136,000
ARB	Emission Data Collection and Validation	1.1	$84,000	$0	$84,000
ARB	Risk Assessment & Notification Assistance	0.2	$15,000	$0	$15,000
ARB	Develop Risk Reduction Guidelines	0.2	$15,000	$0	$15,000
	subtotal	3.8	$290,000	$60,000	$350,000
OEHHA	Health Effects Value Update	0.0	$0	$24,000	$24,000
OEHHA	Risk Assessment Guideline Update	3.5	$264,000	$0	$264,000
OEHHA	Exposure Assessment/ Uncertainty Methods Update	0.5	$38,000	$0	$38,000
OEHHA	Health Risk Assessment Tracking	1.3	$100,000	$0	$100,000
OEHHA	District/Board Assistance	1.4	$104,000	$0	$104,000
	subtotal	6.7	$506,000	$24,000	$530,000
	ARB subtotal	3.8	$290,000	$60,000	$350,000
	OEHHA subtotal	6.7	$506,000	$24,000	$530,000
	TOTAL	10.5	$796,000	$84,000	$880,000

* PY is equal to a position and is an approximation.

C. DISTRIBUTION OF STATE COSTS AMONG DISTRICTS

State costs are allocated among the districts using the number of facilities in each of the program categories and resource indices and are based on facility data received from the districts by July 1, 2001. The method for distributing State costs among the districts and the indices are described in Appendix III of this report.

The distribution of State costs among the districts for fiscal year 2001-2002 is shown in Table 2 of the Staff Report and Table 1 of the Fee Regulation. Table 2 in the Staff Report also compares the allocation of the State's costs among districts for fiscal year 1999-2000, 2000-2001 and fiscal year 2001-2002.

Table 2

Distribution of State Costs By District

District	State Costs 1999-2000	State Costs 2000-2001	(Proposed) State Costs 2001-2002
Amador	2,552	1,346	105
Antelope Valley	10,133	9,263	8,248
Bay Area	80,022	83,371	47,877
Butte	10,435	9,296	4,433
Calaveras	0	0	0
Colusa	0	0	0
El Dorado	7,488	3,738	6,441
Feather River	5,015	12,492	535
Glenn	455	455	0
Great Basin	10,488	5,109	5,004
Imperial	10,775	10,775	9,655
Kern	729	589	140
Lake	0	0	70
Lassen	3,129	3,129	2,009
Mariposa	507	507	507
Mendocino	4,519	4,720	7,555
Modoc	70	70	0
Mojave Desert	27,053	22,295	22,015
Monterey	7,994	5,985	4,109
North Coast	7,207	1,502	67
Northern Sierra	7,185	7,215	805
Northern Sonoma	70	70	0
Placer	12,018	11,147	10,945
Sacramento	9,232	9,232	19,647
San Diego	114,896	138,231	114,116
San Joaquin Valley	81,347	53,023	45,435
San Luis Obispo	350	350	560
Santa Barbara	39,668	35,888	28,688
Shasta	12,757	12,054	10,682
Siskiyou	6,275	5,873	5,628
South Coast	684,077	578,153	485,025
Tehama	67	67	1,257
Tuolumne	834	700	700
Ventura	43,833	49,996	29,968
Yolo-Solano	5,698	5,698	5,978
TOTAL	1,206,878	1,082,339	$878,204

D. DISTRICT COSTS FOR FISCAL YEAR 2001-2002

The ARB staff estimates that the total cost of the 35 districts to implement the "Hot Spots" Program for fiscal year 2001-2002 will be $2.7 million. Table 3 shows that district costs are decreasing for the majority of districts. In some cases, a district may have district costs listed in Table 3 and no State costs listed in Table 2. This may occur when a district has district tracking facilities that may be charged a district fee but are exempt from paying State fees. Table 3 also indicates which districts have requested that the ARB adopt their fee regulations.

E. DISTRICT FEE SCHEDULES

Five districts requested that the ARB adopt district fee schedules for them and submitted their Board-approved Program costs by April 1, 2001. These districts are identified in Table 3, along with their Board-approved Program costs. The individual facility fees for the five districts are calculated using the method described in Appendix III. The other 30 districts must adopt their own fee regulation to recover their costs.

Appendix III contains the equations that were used to calculate facility fees. Each facility's total fee is the sum of the district fee portion and the State fee portion for facilities in that category. The State fee portion per category is the same for each district; however, the district fee portion per category may vary from district to district since district program costs vary as do the number of fee-paying facilities. District program costs in those five districts were approved by their respective district boards at public hearings.

The ranges of facility fees per category shown in Table 4 are for those districts for which the ARB is adopting a fee schedule. The actual fees for each Program category for each district are provided in Table 3 of the Fee Regulation. The ranges of fees shown in Table 4 are due to variations in fees among districts. Fee rates in those categories increase with increasing facility risks as seen in Table 4. Many factors affect a district's costs of implementing the Program. These factors include but are not limited to the following:

- type and complexity of facilities located in each district,
- type and amount of listed toxic substances emitted,
- district overhead cost (regional variations in rent, salary base, etc.),
- amount of assistance the district provides to facilities in the Program.

Table 3

District Costs

	Fiscal Year 2000-2001	Fiscal Year 2001-2002
Districts Requesting ARB to Adopt a Fee Schedule (District Board approved costs)		
Antelope Valley	13,340	12,570
Great Basin	5,520	3,570
Lassen	2,089	2,489
Mojave Desert	35,135	31,985
Santa Barbara	50,000	50,000
Districts Adopting a Fee Schedule		
Amador	3,152	1,810
Bay Area	445,000	480,240
Butte	15,200	15,400
Calaveras	0	0
Colusa	2,000	2,000
El Dorado	7,480	7,480
Feather River	35,000	35,000
Glenn	1,250	2,000
Imperial	770	770
Kern	12,565	4,866
Lake	2,000	2,000
Mariposa	0	0
Mendocino	725	14,519
Modoc	0	0
Monterey	69,625	70,026
North Coast	2,500	0
Northern Sierra	27,500	27,500
Northern Sonoma	0	0
Placer	16,556	13,500
Sacramento	61,787	61,787
San Diego	251,000	290,000
San Joaquin Valley	232,757	209,481
San Luis Obispo	25,000	34,303
Shasta	12,000	12,000
Siskiyou	5,700	5,700
South Coast	1,400,000	1,336,861
Tehama	3,500	3,000
Tuolumne	4,450	4,450
Ventura	56,000	49,000
Yolo-Solano	1,375	9,609
TOTAL	2,800,976	$2, 793,916

Table 4

Proposed Facility Fees for those Districts Requesting the ARB to Adopt a Fee Schedule*

		Total State and District Fee				
Fee Category	State Portion of Fee	Antelope Valley	Great Basin Unified	Lassen County	Mojave Desert	Santa Barbara County
A (simple)	$1,674		2,555			
(medium)	2,009	7,113		4,498		
(complex)	2,344					
B (simple)	3,014					9,902
(medium)	3,349				10,428	10,642
(complex)	3,684	10,150			11,157	11,382
C (simple)	4,353					
(medium)	4,688					10,107
(complex)	5,023				13,676	
D (simple)	5,693					
(medium)	6,028					
(complex)	6,363					
E (simple)	402	800	780		800	
(medium)	603	4,143	1,170		4,143	
Complex)	804		1,560			
F (simple)	67				472	545
(medium)	100				708	818
(complex)	134				944	1,091
IW	35		25			60
DU		125	250		125	125

Fee Category	Fee Category Description
A	Priority Score > 10
B	Risk ≥ 10 < 50
C	Risk ≥ 50 < 100
D	Risk ≥ 100
E	Unprioritized
F	State Tracking Facility
IW	Industrywide
DU	District Update

* These amounts are taken from Table 3a-c in the Fee Regulation.

III.

EXISTING REGULATION AND PROPOSED CHANGES

A. INTRODUCTION

The proposed amendments to the Fee Regulation for fiscal year 2001-2002 are presented in this chapter. The ARB staff proposes to continue to use the methodology that was used in previous years to assess fees for State costs. This methodology bases fees on facilities' public health impacts. These health impacts are characterized by facility-specific prioritization scores and health risk assessment results. For those districts which have asked the Board to adopt their fee regulations, the staff proposes to again base district fees on a similar methodology. In addition, the staff proposes to continue to exclude facilities from the program fees based on prioritization scores, risk assessment results, and the de minimis activity levels defined for eight types of facilities.

The staff is also proposing revisions to streamline the fee program that will take effect in fiscal year 2002-2003. These proposed revisions will change the fee program from a regulation that must be revised every year into an annual administrative process. The change to an annual administrative process also will necessitate a change in the way districts that have not adopted a local "Hot Spots" fee regulation recover district costs.

B. SUMMARY OF EXISTING REGULATION

For fiscal year 2001-2002, the staff proposes to continue to use the same method used for fiscal year 2000-2001 for distributing the State's cost among districts and for calculating facilities' fees. This methodology bases fees on facility-specific prioritization scores and health risk assessment results and the complexity of the facility, which is based on the number of Source Classification Codes (SCCs) reported by facilities. This information is used to assign facilities to one of six risk categories plus an industrywide category. The method meets the goals of Senate Bill 1378 (McCorquodale; Statutes of 1992; Chapter 375) which amended H&SC section 44380(a)(3)). This method also meets the requirements of H&SC sections 44344.4 through 44344.7 and 44380 (e) which provides Program exemptions for those facilities thought to have the lowest risk.

The exemption applies to facilities whose prioritization scores for cancer and non-cancer health effects are both equal to or less than one, based on the results of the most recent emissions inventory or emissions inventory update. Those sections of the H&SC also exempt facilities from the State portion of Program fees if their prioritization scores for cancer and non-cancer health effects are both equal to or less than 10, based on the results of the most recent emissions inventory or emissions inventory update. These facilities must still submit quadrennial (every four years) emission inventory updates, and there are provisions that allow districts to assess fees to recover the costs of processing those updates. Those

sections of the H&SC also set forth reinstatement criteria for facilities exempted from the Program. Low risk facilities will continue to be exempted on the basis of prioritization scores and health risk assessments from the Program as facilities change their operations and districts provide updated facility information.

1. Fee Calculation Method

The fee calculation method is based on the number of facilities in seven Program categories (Facility Program Categories). This continues the ARB's commitment to meet the program goals set forth in H&SC section 44380(a)(3). That mandate requires that fees be set, to the maximum extent practicable, commensurate with the extent of the releases identified in the toxics emission inventory and the level of priority assigned to that source by the district. The method also fulfills the requirements of sections 44344.4(a) and (b) that facilities with low prioritization scores be excluded from the Fee Regulation. Facilities demonstrating low risk based on the results of health risk assessments will also be excluded from the Fee Regulation. Facilities with high prioritization scores or demonstrating high risk are targeted by the Fee Regulation. Risk assessment results are used when available; prioritization scores are used when risk assessment results are not available.

2. Exemption from the Fee Regulation

The proposed regulation would continue to exempt facilities demonstrating low potential risks to the communities in which they do business. A facility will qualify for an exemption from fees in three ways:

a) Prioritization Score: A facility that has a prioritization score (calculated by the district) of 10.0 or less for both cancer and non-cancer risk, and no risk assessment, shall be exempt from the State fee. A prioritization score is determined using health conservative assumptions for source parameters, distance to receptors, and meteorological conditions, to calculate a value that allows a district to categorize facilities for the purpose of performing a health risk assessment by examining the factors included under H&SC section 44360(a), including a facility's emissions and the potency of those emissions.

b) Risk Assessment Results: A facility that prepared a health risk assessment or screening risk assessment, as required by its district, which shows a potential cancer risk, summed across all pathways of exposure and all compounds, of less than one case per one million persons, and a total hazard index, both acute and chronic, for each toxicological endpoint of less than 0.1 shall be exempt from the Fee Regulation. The risk assessment must also have been reviewed by the OEHHA and must be approved by the district in writing to qualify for this exemption.

b) De Minimis Levels: Printing shops, wastewater treatment plants, crematoria, boat and ship building and repair facilities, and hospitals or veterinary clinics using ethylene

oxide are exempt from State fees if they operate at or below specified de minimis throughputs or usage, unless the facility was required to conduct a risk assessment by its district, and the results indicate the facility would not be exempt from fees. The intent of the exemptions is to provide an expedient way to exclude from fees, those facilities that clearly do not constitute or contribute to an air toxics hot spot.

De minimis activity levels can also be used to preclude new facilities from being brought in.

3. Designation of Facility Program Categories

Facilities are assigned to seven Facility Program Categories based upon each facility's risk assessment results or prioritization score. The Facility Program Categories, defined in the Fee Regulation, are summarized as follows:

- Unprioritized facility - a facility that has not been prioritized by its district.

- Tracking Facility - Composed of two subcategories: Both include facilities with Prioritization Scores 10.0 or greater, but
  (1) facilities whose health risk assessment results indicate a risk of 1.0 to less than 10.0 cases per million and a total hazard index for each toxicological endpoint, both acute and chronic, of less than or equal to 1.0, or
  (2) facilities whose health risk assessment results indicate a risk of less than 10.0 cases per million, and a total hazard index for each toxicological endpoint, either acute or chronic, of greater than or equal to 0.1, but less than or equal to 1.0.

- Prioritization score greater than 10.0 - for facilities whose prioritization score is greater than 10, but for which no risk assessment results are available.

- Risk of 10.0 to less than 50.0 cases per million, or a hazard index of greater than 1.0.

- Risk of 50.0 to less than 100.0 cases per million

- Risk of 100.0 cases per million or greater

- Industrywide facility - a facility which emits less than ten tons per year of criteria pollutants that is or will be in an industrywide inventory prepared by the district.

Complexity - Source Classification Codes

Recognizing the range of complexity in facilities, we further divided each of the facility risk categories into subcategories on the basis of facility complexity. Facilities can be categorized by Source Classification Codes (SCC), which are number codes created by the United States Environmental Protection Agency to identify processes associated with point sources that contribute emissions. One or more SCCs can classify any operation that causes air pollution. Based on the districts' experience and the staff's analysis of facilities, a correlation has been established between the number of SCCs at a facility and the complexity of that facility. Each SCC represents a specific process or function that is logically associated with a point source of air pollution within a given source category.

For subdividing the fee categories according to complexity, the Fee Regulation defines a facility with one or two processes or district SCCs as "Simple"; a facility with three, four, or five processes (SCCs) as "Medium"; and a facility with more than five processes (SCCs) as "Complex".

4. Special Features of Current Regulation

Many of the facilities subject to the Act are small businesses. Because many small businesses may operate with limited cash reserves and low net incomes, they may not be able to absorb an increase in the cost of doing business. Therefore, the fee regulation contains a fee cap for small businesses.

Prior to fiscal year 1993-94, most small businesses paid low fees because they typically emitted less than 25 tons per year of criteria pollutants. Small businesses that are included in the Industrywide category still pay the lowest fees or may even qualify for fee waivers from the districts. However, under the fee structure of the current regulation, some small businesses could be subject to fees that would be detrimental to their profitability. To prevent undue hardship for these businesses, the Fee Regulation contains an upper fee limit of $300 for any facility operating as a small business in the districts whose fee schedules are included in this Fee Regulation.

The cap for small businesses would apply to the facility fees for the five districts whose fee schedules are included in the State Fee Regulation.

5. Provisions for Facility Count Verification

The staff is proposing to continue requiring that districts provide documentation substantiating changes in facility Program data, including emission inventory updates. The information required continues to assist the staff in assigning facilities to the proper Facility Program Category for purposes of calculating the allocation of the State's costs. It also meets the requirements of H&SC section 44344.4(a) that prioritization scores be based on

the most recent emissions inventory or emissions inventory update. Without this information, the staff could not sufficiently validate facility counts provided by the districts.

C. PROPOSED CHANGES TO THE REGULATION

The following changes to the Fee Regulation are proposed for fiscal year 2001-2002. All changes to the proposed regulation are shown in Appendix II.

1. Update Table 1

Table 1 of the Fee Regulation lists the portion of the State costs each district is responsible for collecting from facilities located in their district. These amounts have been revised to reflect the most current facility Program data submitted by the districts to the ARB.

2. Update District Fee Schedules

Tables 2 and 3 of the Fee Regulation have been revised to reflect the district Program costs and facility fees in the five districts which have requested that the ARB adopt fee schedules for them in fiscal year 2001-2002. H&SC Section 44380 allows districts to request the ARB to adopt fee schedules for them provided the district submits its program costs to the ARB by April 1 of the fiscal year preceding the year to which the Fee Regulation applies.

For fiscal year 2001-2002, five districts have requested that the Board adopt fees for them and have fulfilled the requirements of H&SC section 44380. Those districts are the Antelope Valley, Great Basin, Lassen County, and Santa Barbara County APCDs; and the Mojave Desert AQMD. The proposed fee schedules (Table 3 of the Fee Regulation) reflect each district's share of the State's costs, as calculated by the ARB, and district Program costs that have been approved by the governing board of the district.

For these districts, the ARB will deduct the amount of a district's cost to be recovered from Industrywide facilities prior to distributing each district's allocation of State fees. If the district chooses to waive fees for Industrywide facilities, the State's allocation of fees that might have been recovered from these facilities will be distributed by the districts among facilities in other Facility Program Categories.

The five districts that requested that the ARB adopt district fee regulations for them have provided us with district costs for the fiscal year 2001-2002. The method used to calculate the district portion of the fees for the five districts is identical to that used for the State portion of the fees except that it is based on different resource indices as requested by the five districts. The individual facility fee is the sum of the appropriate district cost and the State Program cost. A detailed explanation of the fee calculation method is included in Appendix III.

3. Conversion to an Administrative Process in Fiscal Year 2002-2003

The fee rate for each Facility Program Category has remained constant over the last four years. However, the revenue generated by the Program has declined. This has been due primarily to facilities reducing their toxic emissions and being reclassified into lower Facility Program Categories that pay lower or no fees. These proposals will reduce the amount of resources needed to collect the fees and allow more resources to be applied to implementing the Program and reducing public risk due to toxic emissions.

In place of the annual Board adoption of the fee regulation, the staff is proposing that the Board delegate authority for the administration of the annual "Hot Spots" fee program to the Executive Officer. This would begin in fiscal year 2002-2003 and continue in subsequent years. So long as there are no significant changes in the State costs, the Air Toxics "Hot Spots" fee Program will be handled as an annual administrative process. To help keep the Board, districts, and the public informed about the program, the staff will prepare an annual status report that will summarize how the State program costs were assessed and how the funds are being used by the State.

For fiscal year 2001-2002, the districts must submit facility information to the ARB by April 1 for those districts that have requested that ARB adopt fees for them, and by July 1 for those districts that have adopted their own fee regulations. In the past, it has taken an additional 9-12 months to complete the regulatory process and for the ARB to invoice districts for their portion of the State costs. By converting the regulation into an administrative process, the deadline for districts to submit information can be postponed until September 1, with invoices being sent out around four months later. This will provide districts with additional time to collect and review facility emission data. With the Program no longer being a regulatory process, it will also provide the ARB and the districts more flexibility to incorporate last minute corrections to facility emission data.

As the fee program would be an annual administrative process, it will no longer be feasible for the ARB to adopt local fee regulations. To address this problem, ARB staff has worked with the staffs of the affected districts to develop a new method for recovering the costs of implementing the program for districts that have not adopted their own local fee regulation. Beginning in fiscal year 2002-2003, if a district has not adopted its own fee regulation, it will be authorized to recover its district costs from facilities that are subject to the State Fee Regulation in an amount up to, but not to exceed, the State Program cost on a per-facility basis. Simply put, the maximum total fee for a facility in a district with no local fee regulation would be twice the State costs. One half of this would go to the State, and the other half would go to the district. The total fee for a facility could be less if the district needed less than the full State cost to recover its district program costs. This provision would in no way preclude districts from adopting their own local fee regulations.

This option is designed primarily to allow small districts with low program costs to recover the cost of implementing the program without the need for adopting a local fee regulation. Because most districts' program costs exceed the State cost and most districts have already adopted their own fee regulation, we anticipate few districts will take advantage of this

facilities in districts using this option will have the certainty of knowing the ceiling for their district fees. In addition, an accounting of the district Program costs for districts using this provision will be included in the annual status report on the fee regulation.

The major advantage of this proposal will be to streamline the process of implementing the regulation. This proposal will reduce ARB staff time and minimize costs while providing more time and flexibility for districts, which will ensure that the information provided by districts to the ARB is the most accurate possible.

IV.

ECONOMIC AND ENVIRONMENTAL IMPACTS

A. INTRODUCTION

This chapter discusses the economic and environmental impacts from the fees assessed through this Fee Regulation. The ARB staff is not aware of any adverse economic impacts resulting from implementing the Fee Regulation. The economic impacts were determined using draft fees calculated based on facility Program data provided by the districts. For fiscal year 2001-2002, the staff is proposing that the fee levels for each of the facility program categories remain at fiscal year 2000-2001 levels. The ARB staff is also not aware of any adverse environmental impacts resulting from implementing the Fee Regulation. Program fees may have an indirect environmental benefit since they serve as an incentive to facility operators to reduce emissions and in the process, reduce their potential risk.

B. ECONOMIC IMPACT ANALYSES

The "Hot Spots" Act requires facilities subject to the Act to pay fees in accordance with the Fee Regulation. To comply with State law, before adopting any amendments to the Fee Regulation, ARB staff must evaluate the potential economic impacts of the fees. The staff does an analysis to determine if paying "Hot Spots" fees will have a fiscal impact on any State or local government agency. The staff conducts another analysis to determine the impact of the fees on California businesses. The economic impact analysis on businesses includes an evaluation of the ability of California businesses being assessed these fees to compete with similar businesses in other states. The staff also estimates if imposing these fees would cause a business to relocate, cease or commence operation, or hire or layoff employees, or any combination of these.

The staff performed the economic impact analyses using draft facility fees for fiscal year 2001-2002 for districts in the ARB Fee Regulation. Districts that are adopting their own fee rules provided us with estimates of fees for their facilities. For districts whose fee schedules are included in the Fee Regulation, draft fees were calculated based on the facility program category for facilities in those districts. For districts adopting their own fee rules, the staff used draft and adopted fee rules, as well as district personnel estimates of fees.

1. Fiscal Impact on Government Agencies

The ARB staff conducted a fiscal impact analysis for government agencies in July 2001. The analysis is included here as Appendix V. The Fee Regulation imposes two types of costs on State and local agencies. These are compliance costs to pay the fees and implementation costs to the State and districts to develop and implement the Fee Regulation.

a) State Government Agencies' Costs

The Fee Regulation will continue to impose costs on some State agencies that must comply with the requirements of the Act. An analysis by the staff indicates that State agencies will be able to absorb the fees assessed to them within existing budgets and resources. Hospitals, colleges and universities, and correctional facilities are examples of State-owned facilities that may have to pay "Hot Spots" fees. The fees for State agencies were estimated to range from $0 to $3,877. The total cost estimate for State-owned facilities is $21,274.

By law, the Fee Regulation must recover all of the ARB's and OEHHA's costs for the Program. Developing and implementing the Fee Regulation is part of the ARB's implementation cost. The staff estimates that the ARB's cost to develop and implement the Fee Regulation for fiscal year 2001-2002 is $100,000. This is approximately 11 percent of the total State portion of Program costs, $880,000, for the ARB and the OEHHA.

b) Local Government Agencies' Costs

The adoption of the proposed regulation will continue to create costs and impose a State-mandated program upon local government agencies that will be required to pay the fees established. Potentially affected agencies include air districts; utilities, air, water, and solid waste facilities; school districts; hospitals; and publicly owned treatment works (POTWs). The staff estimated that fees assessed local governmental agencies would range from $0 to $12,201. The State and district costs assessed to local governmental agencies, other than the districts, were estimated to be $129,725.

Implementing the amended Fee Regulation will create costs and impose a State-mandated local program upon the air pollution control districts. These costs are incurred because a district must set up a program to notify and collect fees from the operator of facilities subject to the Act. However, these district costs are not reimbursable by the State within the meaning of Section 6 of Article XIIIB of the California Constitution and Government Code, section 17500 et seq., because the districts have the authority to levy fees sufficient to pay for the mandated program (Government Code section 17556(d)). The districts' costs to implement the amended regulation are estimated to be $270,000.

The district costs for five districts will be recovered through the fee schedules in the proposed changes to the Fee Regulation. The Fee Regulation requires the remaining districts to adopt district rules to recover the district's costs and share of the State's costs. The total of districts' costs to be recovered is approximately $2.7 million.

2. Impact on Non-Government Facilities

The amended regulation will continue to create costs and impose a State-mandated program on facilities that are subject to the Air Toxics "Hot Spots" Information and Assessment Act of 1987. As described in Chapter I, each of these facilities may be required to pay a "Hot Spots" fee in accordance with the Fee Regulation. However, because net State revenues

are proposed to decrease, the amendments to the current Fee Regulation will not alone create additional cost impacts on such facilities in the aggregate.

The ARB staff conducted an economic impact analysis to determine the potential economic impacts to different business sectors resulting from the fees proposed in this regulation. The staff is also required to estimate if imposing these fees would cause a business to relocate, cease or commence operation, or hire or layoff employees, or any combination of these. Appendix IV contains the detailed economic impact analysis. Included in this analysis is an evaluation of the ability of California businesses, subject to the Fee Regulation, to compete with similar businesses in other states.

The approach used in assessing the potential economic impact of the amended regulation on businesses is as follows:

(1) A list of approximately 230 types of industries currently subject to the Fee Regulation was created from the facility program category data submitted by the districts.

(2) A typical business from each affected industry was selected.

(3) The highest fee (total of State and district fees), for districts for which the State is adopting a Fee Regulation, was estimated for each facility program category.

(4) These fees were then applied to a typical business in the affected industries in each facility program category.

(5) The estimated fees were adjusted for taxes because the profit data is reported on an after tax basis. Therefore, the costs (in this case the Program fee) must also be adjusted.

(6) The Return on Equity (ROE) was calculated for each of the business categories by dividing the net profit by the net worth. The adjusted fees were then subtracted from net profit data. The results were used to calculate an adjusted ROE. The adjusted ROE was then compared with the ROE before the subtraction of the adjusted fees, to determine the impact on the profitability of the businesses. A reduction in profitability of 10 percent indicates a potential for significant adverse economic impact.

This economic analysis includes industries with a wide variety of products. For some additional industries with affected businesses, however, an analysis of the potential impact of the fees could not be performed because of the lack of financial data.

The staff concludes that, overall, California businesses seem to be able to absorb the costs of the fees without significant adverse economic impact on their profitability. Although some businesses would potentially experience a greater reduction in their profitability than others, most businesses appear to be able to absorb the fee. However, the imposition of the amended fees may have a significant adverse impact on some businesses operating with little or no margin of profitability.

a) Ability to Compete with Other States

Analysis by the staff indicates that, in general, imposing these fees will not hinder a business' ability to compete with similar businesses in other states. However, for some businesses, operating with little or no margin of profitability, assessing these fees may have a significant adverse impact on their ability to compete with similar businesses in other states.

b) Effect on Jobs and Businesses

This proposed regulation is not expected to affect the creation or elimination of jobs or businesses within the State. The staff's analysis also indicates that imposing these fees should not cause a business to cease or commence operation or relocate, or any combination of these. However, for some businesses operating with little or no margin of profitability, assessing these fees may have a significant adverse impact on the creation, elimination, or expansion of jobs and businesses within the State.

C. ENVIRONMENTAL IMPACT

The staff does not anticipate any potential adverse impacts on the environment attributable to implementation of the amendments proposed to the regulation. The Fee Regulation may continue to provide indirect environmental benefits because the fees recover the State's cost for emission data collection and analysis, and businesses can use these data to voluntarily reduce emissions. Also, businesses have incentives to reduce their emissions so that they will pay lower fees because the fees are calculated based on the level of emissions and risks.

Neither the current Fee Regulation, nor any of the proposed amendments require the installation of pollution control equipment, or a performance standard, or a treatment requirement within the meaning of Public Resources Code section 21159.

V.

EVALUATION OF ALTERNATIVES

A. INTRODUCTION

This chapter discusses the various alternatives that the ARB staff considered in determining how to distribute State costs to the districts for the collection of fees. The ARB staff's recommendation on adoption of the proposed amendments is also included. During the development of the Fee Regulation for fiscal year 1998-1999, ARB staff evaluated, in conjunction with district staff, the affected industries, environmental groups, other government agency staffs and the general public, two alternative methods to the current fee method. Those alternatives included basing a district's allocation of the State portion of Program costs on population and freezing the district's allocation for fiscal year 1998-1999 at the same level as fiscal year 1997-1998. Both of these alternatives have consequences requiring further discussion. The ARB staff concluded that all alternatives were inferior to keeping the current method and basing fees on the current facility Program data. This conclusion applies to fees for fiscal year 2001-2002 also.

B. EVALUATION OF ALTERNATIVES

Government Code section 11346.2(b)(4) requires us to describe the alternatives to the proposed regulation that were considered. We identified the following options:

Option 1: Distribute State costs to districts based on population.

ARB staff evaluated an alternative method of distributing State Program costs to the districts based on the percentage of the State's population residing in its jurisdiction. This would appear to be a relatively straight forward and simple method, but there are issues that complicate this method. Fees can only be assessed from facilities subject to the Program and subject to paying the State portion of costs. After the district's portion is calculated based on population, it would be up to each district to determine the facility's fees. Districts with similar populations, but different numbers of facilities subject to fees, would see vast inequities in facility fees for like facilities in different districts. Because of the inequities this method could generate, the Fee Regulation Committee recommended that the ARB not use this method to calculate the districts' allocations for fiscal year 1998-1999.

Option 2: Keep the current method for distributing State Program costs, based on current data. Request that the Board delegate authority of administering the Fee Program to the Executive Officer.

The Fee Regulation fulfills a very specific legal requirement under H&SC section 44380. The proposed changes are made in accordance with those legislative mandates. The method

currently used relates a facility's fees more directly with its toxics emissions. No alternative would be more effective in carrying out the legislative mandated purpose for which the regulation is proposed or would be as effective, equitable, and less burdensome to affected private persons.

If the Board delegates authority of administering the Fee Program to the Executive Officer, the annual update and collection of fees to recover State Program costs will be significantly streamlined. Streamlining the process will allow more resources to be allocated to implement the program and reduce pressure to increase the fee rate. It will also provide districts and affected facilities with more time to collect, review, and update the toxic emission data used to calculate the fees. This additional time will help address a concern frequently raised by facilities subject to the fees that the fees do not reflect up-to-date emission information. This proposal will also allow for more flexibility in administering the program.

Option 3: Continue to require the Fee Regulation to be a regulatory item, rather than the proposed administrative process.

Because the fee program now has become a stable process, the staff believes that minor year-to-year adjustments in State program costs no longer merit the Board's annual review and approval.

Option 2 will allow the staff to reduce the amount of resources needed to administer the fee program and to devote more resources towards the actual goals of the "Hot Spots" program. These goals include identifying the sources of toxic air pollution emissions in California and gaining a better understanding of the risks posed by toxic air pollutants.

C. RECOMMENDATION

Based on the results of our evaluation and our discussions with the Fee Regulation Committee, the ARB staff is currently inclined to stay with the current method of calculating fees. The ARB also needed to consider the "Hot Spots" statute that requires that fees be "to the maximum extent practicable, proportionate to the extent of the releases identified in the toxics emission inventory and the level of priority assigned to that source by the district pursuant to Section 44360" into account when assessing alternatives. The staff believes that, from that mandate, it is clear that the authors intended that any fee method developed contain an emissions component, and a risk (priority) component if that is practicable. Neither of the first two alternatives fulfilled that requirement.

The option of continuing to require the Board to adopt fees is not cost effective compared with the proposed conversion of this regulatory item into an administrative process. This proposed change for fiscal year 2002-2003 is a change in process, not a change in the way facilities are assessed fees.

We recommend that the ARB adopt the proposed amendments to the Fee Regulation for fiscal year 2001-2002. These changes are described in more detail in Chapter III, and are contained in Appendix II to this report.

232

Appendix I

The Air Toxics "Hot Spots" Fee Regulation
Sections 90700 - 90705

Note: Appendix I contains the current Regulation that was approved by OAL in May 2001. Changes are proposed for the text of title 17, California Code of Regulations sections 90700-90705 for fiscal year 2001-2002. These proposed changes are located in Appendix II.

SUBCHAPTER 3.6 AIR TOXICS "HOT SPOTS" FEE REGULATION

Article 1. General

90700. Purpose and Mandate.

(a) This regulation provides for the establishment of fees to pay for the cost of implementing and administering the Air Toxics "Hot Spots" Information and Assessment Act of 1987 (the "Act"; Stats 1987 ch 1252; Health and Safety Code Section 44300 et seq.).

(b) Each district with jurisdiction over facilities meeting the criteria set forth in Section 90702(a) shall annually collect from the operator of each such facility, and each operator shall pay, fees which shall provide for the following:

(1) Recovery of anticipated costs to be incurred by the State Board and the Office to implement and administer the Act, as set forth in Table 1 of this regulation, and any costs incurred by the Office or its independent contractor for review of facility risk assessments submitted to the State after March 31, 1995 under Health and Safety Code Section 44361(c).

(2) Recovery of anticipated costs to be incurred by the district to implement and administer the Act, including but not limited to the cost incurred to: review emission inventory plans, review emission inventory data, review risk assessments, verify plans and data, and administer this regulation and the Air Toxics "Hot Spots" program.

NOTE: Authority cited: Sections 39600, 39601, and 44380, Health and Safety Code. Reference: Sections 44320, 44361, and 44380, Health and Safety Code.

90701. Definitions.

(a) "Air pollution control district" or "district" has the same meaning as defined in Section 39025 of the Health and Safety Code.

(b) "Criteria pollutant" means, for purposes of this regulation, total organic gases, particulate matter, nitrogen oxides or sulfur oxides.

(c) "District Update Facility" means a facility

(1) that has been prioritized by its district in accordance with Health and Safety Code Section 44360(a) using procedures that have undergone public review and that are consistent with the procedures presented in the California Air Pollution Control Officers Association (CAPCOA) Air Toxics "Hot Spots" Program Facility Prioritization Guidelines, July 1990", which has been approved by the State Board and which is incorporated by reference herein, and

(2) that is required by the district to submit a quadrennial emissions inventory update pursuant to Health and Safety Code Section 44344 during the applicable fiscal year, and

(3) whose prioritization scores for cancer and non-cancer health effects are both greater than 1.0 and equal to or less than 10.0.

(d) "Facility" has the same meaning as defined in Section 44304 of the Health and Safety Code.

(e) "Facility Data List" means a list of facilities, including the information set forth in Section 90704(e)(3).

(f) "Facility Program Category" means a grouping of facilities meeting the definitions in Sections 90701 (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (ae), (ah), (ai), (aj), (ak), (al), (am), (an), or (ao).

(g) "Guidelines Report" (Air Toxics "Hot Spots" Emission Inventory Criteria and Guidelines Report) is the report incorporated by reference under Section 93300.5 of this title that contains regulatory requirements for the Air Toxics "Hot Spots" Emission Inventory Program.

(h) "Industrywide Facility" means a facility that qualifies to be included in an industrywide emission inventory prepared by an air pollution control district pursuant to Health and Safety Code Section 44323, or an individual facility which emits less than 10 tons per year of each criteria pollutant, falls within a class composed of primarily small businesses, and whose emissions inventory report was prepared by the air pollution control district.

(i) "Office" means the Office of Environmental Health Hazard Assessment.

(j) "Operator" has the same meaning as defined in Section 44307 of the Health and Safety Code.

(k) "Prioritization Score Greater Than Ten (10.0) Facility" means a facility that does not have an approved health risk assessment and has been prioritized by its district in accordance with Health and Safety Code Section 44360(a) using procedures that have undergone public review and that are consistent with the procedures presented in the California Air Pollution Control Officers Association (CAPCOA) Air Toxics "Hot Spots" Program Facility Prioritization Guidelines, July 1990", which has been approved by the State Board and is incorporated by reference herein, and the greater of the facility's prioritization scores for cancer and non-cancer effects is greater than 10.0.

(l) "Prioritization Score Greater Than Ten (10.0) Facility (Complex)" means a facility that meets the criteria set forth in Section 90701(k), and has more than five processes as determined by six-digit Source Classification Codes (SCC).

(m) "Prioritization Score Greater Than Ten (10.0) Facility (Medium)" means a facility that meets the criteria set forth in Section 90701(k), and has three to five processes as determined by six-digit SCC.

(n) "Prioritization Score Greater Than Ten (10.0) Facility (Simple)" means a facility that meets the criteria set forth in Section 90701(k), and has one or two processes as determined by six-digit SCC.

(o) "Risk of 10.0 to Less Than 50.0 Per Million Facility" means a facility that has had its health risk assessment approved by the district in accordance with Health and Safety Code Section 44362 and whose risk assessment results meet either of the following criteria:

(1) a total potential cancer risk, summed across all pathways of exposure and all compounds, of greater than or equal to 10.0, but less than 50.0 cases per million persons or,

(2) a total hazard index for each toxicological endpoint, either acute or chronic, of greater than 1.0 and a total potential cancer risk, summed across all pathways of exposure and all compounds, of less than 50.0.

(p) "Risk of 10.0 to Less Than 50.0 Per Million Facility (Complex)" means a facility that meets the criteria set forth in Section 90701(o), and has more than five processes as determined by six-digit Source Classification Codes (SCC).

(q) "Risk of 10.0 to Less Than 50.0 Per Million Facility (Medium)" means a facility that meets the criteria set forth in Section 90701(o), and has three to five processes as determined by six-digit SCC.

(r) "Risk of 10.0 to Less Than 50.0 Per Million Facility (Simple)" means a facility that meets the criteria set forth in Section 90701(o), and has one or two processes as determined by six-digit SCC.

(s) "Risk of 50.0 to Less Than 100.0 Per Million Facility" means a facility that has had its health risk assessment approved by the district in accordance with Health and Safety Code Section 44362 and whose risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, of greater than or equal to 50.0, but less than 100.0 cases per million persons.

(t) "Risk of 50.0 to Less Than 100.0 Per Million Facility (Complex)" means a facility that meets the criteria set forth in Section 90701(s), and has more than five processes as determined by six-digit Source Classification Codes (SCC).

(u) "Risk of 50.0 to Less Than 100.0 Per Million Facility (Medium)" means a facility that meets the criteria set forth in Section 90701(s), and has three to five processes as determined by six-digit SCC.

(v) "Risk of 50.0 to Less Than 100.0 Per Million Facility (Simple)" means a facility that meets the criteria set forth in Section 90701(r), and has one or two processes as determined by six-digit SCC.

(w) "Risk of 100.0 Per Million or Greater Facility" means a facility that has had its health risk assessment approved by the district in accordance with Health and Safety Code Section 44362 and whose risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, of greater than or equal to 100.0 cases per million persons.

(x) "Risk of 100.0 Per Million or Greater Facility (Complex)" means a facility that meets the criteria set forth in Section 90701(w), and has more than five processes as determined by six-digit Source Classification Codes (SCC).

(y) "Risk of 100.0 Per Million or Greater Facility (Medium)" means a facility that meets the criteria set forth in Section 90701(w), and has three to five processes as determined by six-digit SCC.

(z) "Risk of 100.0 Per Million or Greater Facility (Simple)" means a facility that meets the criteria set forth in Section 90701(w), and has one or two processes as determined by six-digit SCC.

(aa) "Small Business" for the purposes of Section 90704(g)(2) means a facility which is independently owned and operated and has met all of the following criteria in the preceding year: 1) the facility has 10 or fewer (annual full-time equivalence) employees; 2) the facility's total annual gross receipts are less than $1,000,000; and 3) the total annual gross receipts of the California operations the facility is part of are less than $5,000,000. All oil producers in the San Joaquin Valley Unified Air Pollution Control District will be judged by the criteria of San Joaquin Valley Unified Air Pollution Control District Rule 2201, subsections 3.29.1 - 3.29.3 (Operative June 15, 1995) to determine overall facility size and boundaries for purposes of qualifying as a small business.

(ab) "Source Classification Codes" or "SCC" means number codes created by the United States Environmental Protection Agency used to identify processes associated with point sources that contribute emissions to the atmosphere.

(ac) "Standard Industrial Classification Code" or "SIC Code" means the Standard Industrial Classification Code which classifies establishments by the type of business activity in which they are engaged, as defined by the Standard Industrial Classification Manual, 1987, published by the Executive Office of the President, Office of Management and Budget, 1987, which is incorporated by reference.

(ad) "State costs" means the reasonable anticipated cost which will be incurred by the State Board and the Office to implement and administer the Act, as shown in Table 1 of this part.

(ae) "State Industrywide Facility" means a facility that (1) qualifies to be included in an industrywide emission inventory prepared by an air pollution control or air quality management district pursuant to Health and Safety Code Section 44323, (2) releases, or has the

potential to release, less than ten tons per year of each criteria pollutant, and (3) is either of the following:

(A) a facility in one of the following four classes of facilities: autobody shops, as described by SIC Codes 5511-5521 or 7532; gasoline stations, as described by SIC Code 5541; dry cleaners, as described by SIC Code 7216; and printing and publishing, as described by SIC Codes 2711-2771 or 2782; or

(B) a facility that has not prepared an Individual Plan and Report in accordance with sections 44340, 44341, and 44344 of the Health and Safety Code and for which the district submits documentation for approval by the Executive Officer of the State Board, verifying that the facility meets the requirements of Health and Safety Code Section 44323(a)-(d).

(af) "Supplemental Fee" means the fee charged to cover the costs of the district to review a health risk assessment containing supplemental information which was prepared in accordance with the provisions of Section 44360(b)(3) of the Health and Safety Code.

(ag) "Total organic gases" or "TOG" means all gases containing carbon, except carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.

(ah) "Tracking Facility" means a facility that has been prioritized by its district in accordance with Health and Safety Code Section 44360(a) using procedures that have undergone public review and that are consistent with the procedures presented in the California Air Pollution Control Officers Association (CAPCOA) "Air Toxics "Hot Spots" Program Facility Prioritization Guidelines, July 1990", which has been approved by the State Board and which is incorporated by reference herein, and the greater of the facility's prioritization scores for cancer and non-cancer health effects is greater than 10.0, and meets either one of the following criteria:

(1) the facility has had its health risk assessment approved by the district in accordance with Health and Safety Code Section 44362 and the risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, of equal to or greater than 1.0

and less than ten (10) cases per million persons and a total hazard index for each toxicological endpoint, both acute and chronic, of less than or equal to 1.0, or

(2) the facility has had its health risk assessment approved by the district in accordance with Health and Safety Code Section 44362 and the risk assessment results show a total hazard index for each toxicological endpoint, either acute or chronic, of greater than or equal to 0.1, but less than or equal to 1.0, and a total potential cancer risk, summed across all pathways of exposure and all compounds, of less than ten (10) cases per million persons.

(ai) "Tracking Facility (Complex)" means a facility that meets the criteria set forth in Section 90701(ah), and has more than five processes as determined by six-digit Source Classification Codes (SCC).

(aj) "Tracking Facility (Medium)" means a facility that meets the criteria set forth in Section 90701(ah), and has three to five processes as determined by six-digit SCC.

(ak) "Tracking Facility (Simple)" means a facility that meets the criteria set forth in Section 90701(ah), and has one or two processes as determined by six-digit SCC.

(al) "Unprioritized Facility" means a facility that has not been prioritized by its district in accordance with Health and Safety Code Section 44360(a) using procedures that have undergone public review and that are consistent with the procedures presented in the California Air Pollution Control Officers Association (CAPCOA) "Air Toxics "Hot Spots" Program Facility Prioritization Guidelines, July 1990", which has been approved by the State Board and is incorporated by reference herein.

(am) "Unprioritized Facility (Complex)" means a facility that meets the criteria set forth in Section 90701(al), and has more than five processes as determined by six-digit Source Classification Codes (SCC).

(an) "Unprioritized Facility (Medium)" means a facility that meets the criteria set forth in Section 90701(al), and has three to five processes as determined by six-digit SCC.

(ao) "Unprioritized Facility (Simple)" means a facility that meets the criteria set forth in Section 90701(al), and has one or two processes as determined by six-digit SCC.

NOTE: Authority cited: Sections 39600, 39601, 44380, and 44380.5, Health and Safety Code. Reference: Sections 44320, 44344.4, 44380, and 44380.5, Health and Safety Code.

Article 2. Applicability

90702. Facilities Covered.

(a) Except for facilities exempted by Health and Safety Code Section 44324, 44344.4(a), or 44380.1 this regulation applies to any facility which:

(1) manufactures, formulates, uses, or releases any of the substances listed by the State Board pursuant to Health and Safety Code Section 44321 and contained in Appendix A of the Guidelines Report, or any other substance which reacts to form a substance so listed, and releases 10 tons per year or greater of any criteria pollutant, or

(2) is listed in any current toxics use or toxics air emission survey, inventory, or report released or compiled by an air pollution control district and referenced in Appendix A, or

(3) manufactures, formulates, uses or releases any listed substance or any other substance which reacts to form any listed substance, and which releases less than 10 tons per year of each criteria pollutant and falls in any class listed in Appendix E of the Guidelines Report, or

(4) is reinstated under Health and Safety Code Section 44344.7.

(b) On or before July 1 of the applicable fiscal year, each district shall provide to the State Board a list of facilities meeting any one or more of the criteria specified in subdivision (c) and (d) of this section. The list of facilities shall include the facility's name, identification number, and documentation of the exemption or exemptions any facility qualifies for under this section.

(c) A facility shall be excluded from the calculation of the distribution of the State's cost specified in Section 90703(a) if by July 1 of the applicable fiscal year, any one or more of the following criteria is met:

(1) the facility has been prioritized by its district in accordance with Health and Safety Code Section 44360(a) using procedures that have undergone public review and that are consistent with the procedures presented in the California Air Pollution Control Officers Association (CAPCOA) "Air Toxics "Hot Spots" Program Facility Prioritization Guidelines, July 1990", which has been approved by the State Board and which is incorporated by reference herein, and the facility's prioritization score is less than or equal to 10.0 for cancer health effects and is less than or equal to 10.0 for non-cancer health effects.

(2) the facility has had its health risk assessment approved by the district in accordance with Health and Safety Code Section 44362 and the risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, of less than one case per one million persons and a total hazard index for each toxicological endpoint, both acute and chronic, of less than 0.1. Some appropriate procedures for determining potential cancer risk and total hazard index are presented in the CAPCOA "Air Toxics "Hot Spots" Program Revised 1992 Risk Assessment Guidelines, October 1993", which is incorporated by reference herein.

(3) the facility primarily performs printing as described by SIC Codes 2711 through 2771 or 2782, and the facility uses an annualized average of two gallons per day or less (or 17 pounds per day or less) of all graphic arts materials (deducting the amount of any water or acetone) unless a district required a health risk assessment and results show the facility would not qualify under Section 90702(c)(2).

(4) the facility is a wastewater treatment plant as described by SIC Code 4952, the facility does not have a sludge incinerator and the maximum throughput at the facility does not exceed 10,000,000 gallons per day unless a district required a health risk assessment and results show the facility would not qualify under Section 90702(c)(2).

(5) the facility is a crematorium for humans, animals, or pets as described by SIC Code 7261 or any SIC Code that describes a facility using an incinerator to burn biomedical waste (animals), the facility uses propane or natural gas as fuel, and the facility annually cremates no more than 300 cases (human) or 43,200 pounds (human or animal) unless a district required a health risk assessment and results show the facility would not qualify under Section 90702(c)(2). Facilities using incinerators that burn biomedical waste other than cremating animals do not qualify for this exemption.

(6) the facility is primarily a boat building and repair facility or primarily a ship building and repair facility as described by SIC Codes 3731 or 3732, and the facility uses 20 gallons per year or less of coatings or is a coating operation using hand held nonrefillable aerosol cans only unless a district required a health risk assessment and results show the facility would not qualify under Section 90702(c)(2).

(7) the facility is a hospital or veterinary clinic building that is in compliance with the control requirements specified in the Ethylene Oxide Control Measure for Sterilizers and Aerators, section 93108 of this title, and has an annual usage of ethylene oxide of less than 100 pounds per year if it is housed in a single story building, or has an annual usage of ethylene oxide of less than 600 pounds per year if it is housed in a multi-story building unless a district required a health risk assessment and results show the facility would not qualify under Section 90702(c)(2).

(8) the facility was not required to conduct a risk assessment under Health and Safety Code Section 44360(b),and the district, or the facility with the concurrence of the district, has conducted a worst-case, health conservative risk assessment using screening air dispersion modeling criteria set forth in Appendix F of the Guidelines Report and has demonstrated to the satisfaction of the district that the facility's screening risk levels meet the criteria set forth in Section 90702(c)(2).

(d) A facility shall be excluded from the fee schedule calculated in accordance with Section 90704(d)-(g) and from the fee schedule set forth in Table 3 for the applicable fiscal year if (1) it qualifies for exclusion pursuant to subdivision (c) of this section, (2) it is located

in a district which has met the requirements of section 90704(b) and (3) the district has requested State Board adoption of a fee schedule. Exclusion from fee schedules under this subdivision does not exempt a facility from any other applicable requirement under this title.

NOTE: Authority cited: Sections 39600, 39601, 44321, 44344.4, 44344.7, and 44380, Health and Safety Code.
Reference: Sections 44320, 44321, 44322, 44344.4, 44344.7, and 44380, Health and Safety Code.

Article 3. Fees

90703. District Board Adoption of Fees.

Except for the districts that have fulfilled all of the requirements specified in Section 90704(b), every district shall annually adopt a rule or regulation which recovers the costs specified in 90700(b), unless the district rule or regulation contains a specific provision for automatic readoption of the rule or regulation annually by operation of law.

(a) Except as specified in subdivision (b) of this section, or in Section 90702(c) and (d), the State Board shall calculate each district's share of state costs on the basis of the number of facilities in Facility Program Categories as defined in Sections 90701 (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (ae), (ah), (ai), (aj), (ak), (al), (am), (an), and (ao).

(1) For the purposes of subdivision (a) of this section, the district shall set forth the facilities that are in the described program categories on or before July 1 of the applicable fiscal year.

(b) For purposes of calculation of a district's share of State costs under subdivision (a) of this section, the number of facilities in the State Industrywide Facility Program Category will be based on the provisions of Section 90704(d)(2).

(c) Districts shall reimburse the State in accordance with Health and Safety Code Section 44361(c) for review of facility risk assessments submitted to the State after March 31, 1995.

NOTE: Authority cited: Sections 39600, 39601, 44321, and 44380, Health and Safety Code.
Reference: Sections 44320, 44321, 44322, 44361, and 44380, Health and Safety Code.

90704. State Board Adoption of Fees.

(a) The State Board shall annually adopt a regulation which meets the requirements of Health and Safety Code Section 44380(a). Districts whose fee schedules are included in this regulation under Section 90704(b) are subject to the provisions of subdivisions (d)-(i) of this section.

(b) The State Board may annually adopt a fee schedule which assesses a fee upon the operators of facilities subject to this regulation, and which identifies and provides for the recovery of both state costs and district costs to administer and implement the Act pursuant to Section 90700(b), for facilities located in districts that have completed all of the following requirements:

(1) The district board has approved, and adopted by resolution, the cost of implementing and administering the Act for the applicable fiscal year as specified in Section 90700(b)(2);

(2) The district has submitted a written request specifying the amount to be collected for the applicable fiscal year, through fees established by the State Board regulation, as calculated pursuant to Section 90704(d),(e),(f),(g), and (h) and including documentation of the costs;

(3) The district has submitted the resolution, request and documentation specified in subsections (1) and (2) to the State Board by April 1 preceding the applicable fiscal year.

(c) Any district whose fee schedule is included in this regulation pursuant to Section 90704(b)(1) - (3) may, as a substitute for this regulation, adopt a district fee rule that meets the requirements of Section 90700(b), provided that the district informs the Executive Officer of the State Board in writing.

(d) Calculation of Fees.

(1) The State Board shall establish the fee applicable to each facility for the recovery of state and district costs and shall notify each district in writing each year of the amount to be collected from each facility and of the amount of revenue which the district must remit to the State Board for reimbursement of state costs, as set forth in Table 1. When calculating the fees, the State Board shall use the State

costs in Table 1 and the district costs in Table 2, and shall take into account and allow for the unanticipated closing of businesses, nonpayment of fees, and other circumstances which would result in a shortfall in anticipated revenue.

(2) The State Board shall calculate fees on the basis of the Facility Data List as set forth by the district by July 1 of the applicable fiscal year, except for facilities excluded under Section 90702(c) or covered by Section 90704(f) and (g). For purposes of calculation of a district's share of State costs under this subdivision and under Section 90703(a), the number of State Industrywide facilities shall be used instead of the number of Industrywide facilities. Facilities that meet the Industrywide Facility definition but do not meet the State Industrywide Facility definition shall be placed in the appropriate Facility Program Category for purposes of calculation of a district's share of the State's costs. Districts may still assess facilities that meet the Industrywide definition but not the State Industrywide definition the fees listed in Table 4.

(e) Fees Based on Facility Program Category.

(1) The State Board shall provide a flat fee per facility based on the facility program category of the facility as set forth in Tables 3 and 4. The Facility Program Categories for Table 3 are Prioritization Score Greater Than Ten (10.0) (Complex); Prioritization Score Greater Ten (10.0) (Medium); Prioritization Score Greater Than Ten (10.0) (Simple); Risk of 10.0 to Less Than 50.0 Per Million (Complex); Risk of 10.0 to Less Than 50.0 Per Million (Medium); Risk of 10.0 to Less Than 50.0 Per Million (Simple); Risk of 50.0 to Less Than 100.0 Per Million (Complex); Risk of 50.0 to Less Than 100.0 Per Million (Medium); Risk of 50.0 to Less Than 100.0 Per Million (Simple); Risk of 100.0 Per Million, or Greater (Complex); Risk of 100.0 Per Million, or Greater (Medium); Risk of 100.0 Per Million, or Greater (Simple); Tracking (Complex); Tracking (Medium); Tracking (Simple); Unprioritized (Complex); Unprioritized (Medium); and Unprioritized (Simple). The Facility Program Category for Table 4 is State Industrywide.

(2) A facility that becomes subject to the Act after State Board adoption of the Fee Regulation, and is required to prepare

an Inventory Plan and Report during the applicable fiscal year in accordance with Sections 44340, 44341, and 44344 of the Health and Safety Code, shall pay the appropriate Unprioritized (Complex, Medium, or Simple) fee for that fiscal year.

(3) A district shall provide to the State Board, by July 1 of the applicable fiscal year, a Facility Data List. The Facility Data List shall contain the following information: (a) the district abbreviation, (b) the county ID, (c) the name and facility identification number, (d) the Standard Industrial Classification Code of the facility, (e) the number of Source Classification Codes, (f) complexity (Simple, Medium, Complex), (g) prioritization score, (h) health risk assessment results, (i) whether or not the health risk assessment has been reviewed by OEHHA, (j) whether or not a screening risk assessment was performed, (k) reason excluded from calculation of the State's cost under the previously applicable fiscal year's Air Toxics "Hot Spots" Fee Regulation, (l) whether or not the facility is a state industrywide facility, (m) whether or not the facility is a small business as defined under Section 90701 (aa), (n) whether or not the facility is an District Update Facility as defined under Section 90701 (c), and (o) former Facility Program Category for the previously applicable fiscal year. The district shall provide the SIC Code for facilities being added to the State Industrywide Facility category.

(f) Specified Flat Fees.

(1) An Industrywide Facility shall be assessed the flat fee specified in Table 4. If a facility was previously assessed, and has paid, a fee pursuant to the Facility Program Categories specified for Table 4, subsequent fees pursuant to Table 4 shall be waived by the district, if the district determines that there are insignificant costs with respect to said facility under the Act.

(2) A facility in the State Industrywide Facility Program Category, as defined by Section 90701(ae), shall be assessed the flat fee specified in Table 4.

(g) Other Flat Fees.

(1) Pursuant to the provisions of Section 44380.5 of the Health and Safety Code, the supplemental fee which may be assessed upon the operator of a facility, to cover the direct costs to the district to review the information supplied, shall be no higher than $2,000.

(2) The maximum fee that a small business, as defined in Section 90701(aa), shall pay will be $300.

(3) If in the judgment of a district the action will not result in a shortfall in revenue, a district may request the fee for the Unprioritized (Simple) category be set at no more than $800.

(4) Pursuant to the provisions of Section 44344.4(b) of the Health and Safety Code, the operator of an Update Facility may be assessed a fee of no higher than $125 to cover the direct cost to the district to review the facility's quadrennial emission inventory update submitted under Health and Safety Code Section 44344. Beginning with Fiscal Year 1997-98, a district may assess a higher fee to review quadrennial emission inventory updates if it adopts written findings that the costs of processing the emission inventory update exceed $125 and submits those findings to the State Board by April 1 preceding the applicable fiscal year. The fee adopted shall be no higher than that supported by the written findings.

(h) Costs to be recovered by the regulation adopted by the State Board pursuant to subdivision (b) of this section shall be calculated as follows: Each district board shall approve its anticipated costs to implement and administer the Act. The Air Resources Board will subtract from this amount anticipated revenues from collection of the flat fee specified in Section 90704(f); and any excess revenues obtained by the district pursuant to Section 90705(c). When submitting board-approved program costs to the State Board, the district shall include a breakdown of how the collected fees will be used.

(i) Districts shall reimburse the State in accordance with Health and Safety Code Section 44361(c) for review of facility risk assessments submitted to the State after March 31, 1995.

NOTE: Authority cited: Sections 39600, 39601, 44344.4, and 44380, Health and Safety Code.
Reference: Sections 44320, 44322, 44344.4, 44361, 44380, and 44380.5, Health and Safety Code.

90705. Fee Payment and Collection.

(a) Each district shall notify and assess the operator of each facility subject to this regulation in writing of the fee due. Except as provided in Sections 90702(c) and (d), 90703, 90704(f), and 90704(g), each district shall use the facility program category as the basis for billing. The operator shall remit the fee to the district within 60 days after the receipt of the fee assessment notice or the fee will be considered past due. If an operator fails to pay the fee within 60 days of this notice, the district shall assess a penalty of not more than 100 percent of the assessed fee, but in an amount sufficient, in the district's determination, to pay the district's additional expenses incurred by the operator's non-compliance. If an operator fails to pay the fee within 120 days after receipt of this notice, the district may initiate permit revocation proceedings. If any permit is revoked it shall be reinstated only upon full payment of the overdue fee plus any late penalty, and a reinstatement fee to cover administrative costs of reinstating the permit.

(1) The invoices sent by the districts to the facilities shall contain, but not be limited to, the following information: name and address of the facility; name, address, and phone number contact of the district sending the bill, date of bill, invoice number, fiscal year for which the bill is being sent, where to send the remittance, an indication of whether or not a small business cap is applicable, and the following statement: "The California Health and Safety Code Section 44380 requires the collection of fees from facilities subject to the requirements of the Air Toxics Hot Spots Information and Assessment Act of 1987."

(b) Each district shall collect the fees assessed by or required to be assessed by this regulation. After deducting the costs to the district to implement and administer the program, each district shall transmit to the State Board the amount the district is required to collect for recovery of state costs pursuant to Section 90700(b)(1), as set forth in Table 1, within 180 days of the receipt of an invoice from the State Board. Checks shall be made payable to the State Air Resources Board. The State Board shall forward the revenues

to the State Controller for deposit in the Air Toxics Inventory and Assessment Account.

(c) Any fee revenues received by a district for which fees have been adopted pursuant to Section 90704(b) that exceed district and state costs shall be reported to the State Board and shall be retained by the district for expenditure in the next two fiscal years.

(d) If a district does not collect sufficient revenues to cover both the district program costs and the portion of the state costs that the district is required to remit to the State Board for a particular fiscal year due to circumstances beyond the control of the district, the district shall notify the Executive Officer of the State Board prior to April 1 of the year following the applicable fiscal year and may for demonstrated good cause be relieved by the Executive Officer from an appropriate portion of the fees the district is required to collect and remit to the state.

Circumstances beyond the control of the district may include but are not limited to plant closure or refusal of the facility operator to pay despite permit revocation or other enforcement action. Documentation of the circumstances resulting in the shortfall shall be submitted to the ARB upon request. Nothing herein shall relieve the operator from any obligation to pay any fees assessed pursuant to this regulation.

(1) A district for which the State Board has adopted a fee schedule pursuant to Section 90704(b) may, upon notifying the Executive Officer of the State Board, carry over all or a portion of such shortfall in revenue from one to four fiscal years after the shortfall was discovered and add the shortfall amount to its program costs for each such subsequent fiscal year.

Notes: Authority cited: Sections 39600, 39601, and 44380, Health and Safety Code. Reference: Section 44380, Health and Safety Code.

Table 1

Revenues to be Remitted to Cover State Costs By District

District	*Revenues to be Remitted*
Amador	1,346
Antelope Valley	9,263
Bay Area	83,371
Butte	9,296
Calaveras	
Colusa	
El Dorado	3,738
Feather River	12,492
Glenn	455
Great Basin	5,109
Imperial	10,775
Kern	589
Lake	
Lassen	3,129
Mariposa	507
Mendocino	4,720
Modoc	70
Mojave Desert	22,295
Monterey	5,985
North Coast	1,502
Northern Sierra	7,215
Northern Sonoma	70
Placer	11,147
Sacramento	9,232
San Diego	138,231
San Joaquin Valley	53,023
San Luis Obispo	350
Santa Barbara	35,888
Shasta	12,054
Siskiyou	5,873
South Coast	578,153
Tehama	67
Tuolumne	700
Ventura	49,996
Yolo-Solano	5,698
TOTAL	$1,082,339

Table 2

District Costs to be Recovered Through the Fee Regulation

District	*Anticipated District Costs**
Antelope Valley	13,340
Great Basin	5,520
Imperial	770
Lassen	2,089
Mojave Desert	35,135
Santa Barbara	50,000

* These amounts may reflect adjustments for excess or insufficient revenues under sections 90705(c) and (d)(1).

Table 3a
Cost per Facility by District and Facility Program Category

District	*Unprioritized (Simple)*	*Unprioritized (Medium)*	*Unprioritized (Complex)*	*Tracking (Simple)*	*Tracking (Medium)*	*Tracking (Complex)*
State Portion Of Fee	402	603	804	67	100	134
Total Fee (State Portion + District Portion)						
Antelope Valley						
Great Basin	1,043	1,565	2,086			
Imperial				88		
Lassen						
Mojave Desert		4,294		477	715	954
Santa Barbara				331	594	792

Table 3b
Cost per Facility by District and Facility Program Category

District	*Score >10 (Simple)*	*Score >10 (Medium)*	*Score >10 (Complex)*	*Risk >=10 < 50 (Simple)*	*Risk >=10 < 50 (Medium)*	*Risk >=10 < 50 (Complex)*
State Portion Of Fee	1,674	2,009	2,344	3,014	3,349	3,684
Total Fee (State Portion + District Portion)						
Antelope Valley		7,832				11,060
Great Basin	3,170					
Imperial					3,732	4,088
Lassen		5,378				
Mojave Desert					10,730	11,476
Santa Barbara				8,607	9,271	9,935

255

Table 3c
Cost per Facility by District and Facility Program Category

District	*Risk >= 50 < 100 (Simple)*	*Risk >= 50 < 100 (Medium)*	*Risk >=50 < 100 (Complex)*	*Risk > = 100 (Simple)*	*Risk > = 100 (Medium)*	*Risk > = 100 (Complex)*
State Portion Of Fee	4,353	4,688	5,023	5,693	6,028	6,363
Total Fee (State Portion + District Portion)						
Antelope Valley						
Great Basin						
Imperial						
Lassen						
Mojave Desert			14,045			
Santa Barbara		11,597				

Table 4*

Fees for Industrywide and District Update Facilities

District	*Industrywide Facilities*	*District Update Facilities*
Antelope Valley	0	125
Great Basin	60	125
Imperial	35	38.50
Lassen	0	0
Mojave Desert	0	125
Santa Barbara	95	125

* State cost per facility is consistent statewide as follows:
State Industrywide facilities: $35

Appendix A

Air Pollution Control District
Air Toxic Inventories, Reports or Surveys

1. San Diego County Air Pollution Control District "List of Semiconductor Manufacturers Using Toxic Gases (Arsine or Phosphine). May 1988."

2. San Joaquin Valley Unified Air Pollution Control District "San Joaquin Valley Unified APCD Toxics List. February 25, 1994."

3. Santa Barbara County Air Pollution Control District "Current Santa Barbara County Air Pollution Control District List of Air Toxic Sources. July 14, 1997.

Appendix II

Proposed Amendments to the
Air Toxics "Hot Spots" Fee Regulation
For Fiscal Year 2001-2002

Note: Language to be added is underlined and language to be removed is shown in ~~strikeout~~.

PROPOSED REGULATION ORDER

Recommended deletions will be indicated by ~~strikeout~~ and recommended additions will be indicated by underlined lettering. Asterisks (****) indicate that a portion of the regulation is not included in this Appendix.

Amend Sections 90700 – 90704, and Tables 1, 2, 3a, 3b, 3c, and Table 4 and the text in Section 90705 of title 17, California Code of Regulations to read as follows:

Subchapter 3.6 Air Toxics "Hot Spots" Fee Regulation

Article 1. General

90700. Purpose and Mandate.

****

(b) Each district with jurisdiction over facilities meeting the criteria set forth in Section 90702(a) shall annually collect from the operator of each such facility, and each operator shall pay, fees which shall provide for the following:

(1) Recovery of anticipated costs to be incurred by the State Board and the Office to implement and administer the Act, as set forth in Table 1 of this regulation for fiscal year 2001-2002, and as determined by the Executive Officer for subsequent fiscal years, and any costs incurred by the Office or its independent contractor for review of facility risk assessments submitted to the State after March 31, 1995 under Health and Safety Code Section 44361(c).

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(c) Beginning in fiscal year 2002-2003, the ARB staff will prepare an annual status report that will summarize the State program costs, the Board activities supported by the fees, and the district costs. This report will be sent to the members of the Air Resources Board and the air pollution control and air quality management districts and will be made available to the public 90 days after the Executive Officer has determined the fees for the applicable fiscal year.

NOTE: Authority cited: Sections 39600, 39601, and 44380, Health and Safety Code. Reference: Sections 44320, 44361, and 44380, Health and Safety Code.

90701. Definitions.

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(e) "Facility Data List" means a list of facilities, including the information set forth in Section 90704(ef)(3).

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(v) "Risk of 50.0 to Less Than 100.0 Per Million Facility (Simple)" means a facility that meets the criteria set forth in Section 90701(rs), and has one or two processes as determined by six-digit SCC.

****

(aa) "Small Business" for the purposes of Section 90704(gh)(2) means a facility which is independently owned and operated and has met all of the following criteria in the preceding year: 1) the facility has 10 or fewer (annual full-time equivalence) employees; 2) the facility's total annual gross receipts are less than $1,000,000; and 3) the total annual gross receipts of the California operations the facility is part of are less than $5,000,000. All oil producers in the San Joaquin Valley Unified Air Pollution Control District will be judged by the criteria of San Joaquin Valley Unified Air Pollution Control District Rule 2201, subsections 3.29.1 - 3.29.3 (Operative June 15, 1995) to determine overall facility size and boundaries for purposes of qualifying as a small business.

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(ap) "Executive Officer" means the Executive Officer of the California Air Resources Board.

(aq) "State Facility Fee Rate" means the dollar value of the State fee assessed for each facility in a particular Facility Program Category.

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NOTE: Authority cited: Sections 39600, 39601, 44380, and 44380.5, Health and Safety Code. Reference: Sections 44320, 44344.4, 44380, and 44380.5, Health and Safety Code.

Article 2. Applicability

90702. Facilities Covered.

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(b) On or before July 1 for fiscal year 2001-2002, and September 1 for subsequent fiscal years ~~of the applicable fiscal year~~, each district shall provide to the State Board a list of facilities meeting any one

or more of the criteria specified in subdivision (c) and (d) of this section. The list of facilities shall include the facility's name, identification number, and documentation of the exemption or exemptions any facility qualifies for under this section.

(c) A facility shall be excluded from the calculation of the distribution of the State's cost specified in Section 90703(a) by July 1 for fiscal year 2001-2002, and September 1 for subsequent fiscal years ~~of the applicable fiscal year~~, if any one or more of the following criteria is met:

****

(d) For fiscal year 2001-2002, ~~A~~a facility shall be excluded from the fee schedule calculated in accordance with Section 90704(~~d~~e)-(~~g~~h) and from the fee schedule set forth in Table 3 ~~for the applicable fiscal year~~ if (1) it qualifies for exclusion pursuant to subdivision (c) of this section, (2) it is located in a district which has met the requirements of Section 90704(b) and (3) the district has requested State Board adoption of a fee schedule. Exclusion from fee schedules under this subdivision does not exempt a facility from any other applicable requirement under this title.

(e) Commencing July 1, 2002, a facility shall be excluded from the fee schedule calculated in accordance with Section 90704(e)-(h) if it qualifies for exclusion pursuant to subdivision (c) of this section as of September 1 of the applicable year, and is located in a district that is recovering district costs pursuant to Section 90704(e)(5).

NOTE: Authority cited: Sections 39600, 39601, 44321, 44344.4, 44344.7, and 44380, Health and Safety Code. Reference: Sections 44320, 44321, 44322, 44344.4, 44344.7, and 44380, Health and Safety Code.

Article 3. Fees

90703. District Board Adoption of Fees.

Except for the districts that have fulfilled all of the requirements specified in Section 90704(b) and (e)(5), every district shall annually adopt a rule or regulation which recovers the costs specified in 90700(b), unless the district rule or regulation contains a specific provision for automatic readoption of the rule or regulation annually by operation of law.

(a) Except as specified in subdivision (b) of this section, or in Section 90702(c) and (d), the State Board shall calculate each district's

share of state costs on the basis of the number of facilities in Facility Program Categories as defined in Sections 90701 (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (ae), (ah), (ai), (aj), (ak), (al), (am), (an), and (ao).

(1) For the purposes of subdivision (a) of this section, the district shall set forth the facilities that are in the described program categories on or before July 1 for fiscal year 2001-2002, and September 1 for subsequent fiscal years ~~of the applicable fiscal year~~.

****

NOTE: Authority cited: Sections 39600, 39601, 44321, and 44380, Health and Safety Code. Reference: Sections 44320, 44321, 44322, 44361, and 44380, Health and Safety Code.

90704. State Board Adoption of Fees.

(a) The State Board shall ~~annually~~ adopt a regulation for fiscal year 2001-2002 which meets the requirements of Health and Safety Code Section 44380(a). Districts whose fee schedules are included in this regulation under Section 90704(b) are subject to the provisions of subdivisions (d)-(~~i~~j) of this section.

(b) The State Board may annually adopt a fee schedule which assesses a fee upon the operators of facilities subject to this regulation, and which identifies and provides for the recovery of ~~both~~ state costs for the applicable fiscal year and district costs for fiscal year 2001-2002 to administer and implement the Act pursuant to Section 90700(b), for facilities located in districts that have completed all of the following requirements:

(1) The district board has approved, and adopted by resolution, the cost of implementing and administering the Act for ~~the applicable~~ fiscal year 2001-2002 as specified in Section 90700(b)(2);

(2) The district has submitted a written request specifying the amount to be collected for ~~the applicable~~ fiscal year 2001-2002, through fees established by the State Board regulation, as calculated pursuant to Section 90704(d),(e),(f),(g), ~~and~~ (h), and (i) and including documentation of the costs;

(3) The district has submitted the resolution, request and documentation specified in subsections (1) and (2) to the State Board by April 1, 2001.

(c) Any district whose fee schedule is included in this regulation pursuant to Section 90704(b)(1) - (3) may, as a substitute for this regulation, adopt a district fee rule for fiscal year 2001-2002 that meets the requirements of Section 90700(b), provided that the district informs the Executive Officer of the State Board in writing.

(d) Beginning in fiscal year 2002-2003, the Executive Officer will annually develop a fee schedule by applying the applicable State Facility Fee Rate contained in Table 3, or the $35 flat fee for Industrywide facilities, to each facility subject to the Fee Regulation in the Facility Data List provided by the districts pursuant to Section 90702, which meets the requirements of Health and Safety Code Section 44380(a). Districts whose fee schedules are included in this regulation under Section 90704(e)(5) are subject to the provisions (d)-(i) of this section.

(~~d~~e) Calculation of Fees.

(1) The State Board shall establish the fee applicable to each facility for the recovery of state and district costs and shall notify each district in writing ~~each year~~ of the amount to be collected from each facility and of the amount of revenue which the district must remit to the State Board for reimbursement of state costs, as set forth in Table 1. When calculating the fees, the State Board shall use the State costs in Table 1 and the district costs in Table 2 for fiscal year 2001-2002, and shall take into account and allow for the unanticipated closing of businesses, nonpayment of fees, and other circumstances which would result in a shortfall in anticipated revenue.

(2) Beginning in fiscal year 2002-2003, the Executive Officer will annually develop a fee schedule by applying the applicable State Facility Fee Rate contained in Table 3, or the $35 flat fee for Industrywide facilities, to each facility subject to the Fee Regulation in the Facility Data List provided by the districts pursuant to Section 90702, and shall notify each district in writing of the amount to be collected from each facility and the amount of revenue which the district must remit to the State Board for reimbursement of the State

costs. When calculating the fees, the Executive Officer shall take into account and allow for the small business cap of $300, unanticipated closing of businesses, nonpayment of fees, and other circumstances which would result in a shortfall in anticipated revenue.

(~~2~~3) The State Board shall calculate fees on the basis of the Facility Data List as set forth by the district by July 1 ~~of the applicable fiscal year~~ for fiscal year 2001-2002, except for facilities excluded under Section 90702(c) or covered by Section 90704(~~f~~g) and (g~~h~~). For purposes of calculation of a district's share of State costs under this subdivision and under Section 90703(a), the number of State Industrywide facilities shall be used instead of the number of Industrywide facilities. Facilities that meet the Industrywide Facility definition but do not meet the State Industrywide Facility definition shall be placed in the appropriate Facility Program Category for purposes of calculation of a district's share of the State's costs. Districts may still assess facilities that meet the Industrywide definition but not the State Industrywide definition the fees listed in Table 4 for fiscal year 2001-2002.

(4) Beginning in fiscal year 2002-2003, the Executive Officer shall make an annual determination of the fees on the basis of the Facility Data List set forth by the district by September 1 of the applicable fiscal year, except for facilities excluded under Section 90702(c) or covered by Section 90704(g) and (h). For purposes of calculation of a district's share of State costs under this subdivision and under Section 90703(a), the number of State Industrywide facilities shall be used instead of the number of Industrywide facilities. Facilities that meet the Industrywide Facility definition but do not meet the State Industrywide Facility definition shall be placed in the appropriate Facility Program Category for purposes of calculation of a district's share of the State's costs.

(5) Beginning in fiscal year 2002-2003 and for subsequent fiscal years, districts that do not have a locally adopted fee regulation are authorized to collect fees to recover local program costs up to, but not to exceed, the amount of the State Facility Fee Rate on a per-facility basis. Districts making use of this provision shall provide a summary of the

district program costs to ARB by September 1 of the applicable fiscal year.

(6) No later than December 1 of the applicable fiscal year, beginning in December of fiscal year 2002-2003, the Executive Officer shall make a final determination of the State Program fee amounts and the apportionment of those amounts to the districts, as calculated based on the State Facility Fee Rate and Facility Data List.

(ef) Fees Based on Facility Program Category.

(1) The State Board shall provide a flat fee per facility based on the facility program category of the facility as set forth in the State Facility Fee Rate in Tables 3 for all applicable fiscal years, and Table 4 for fiscal year 2001-2002. For fiscal year 2002-2003 and beyond, the fee for the Industrywide category shall be $35. The Facility Program Categories for Table 3 are Prioritization Score Greater Than Ten (10.0) (Complex); Prioritization Score Greater Ten (10.0) (Medium); Prioritization Score Greater Than Ten (10.0) (Simple); Risk of 10.0 to Less Than 50.0 Per Million (Complex); Risk of 10.0 to Less Than 50.0 Per Million (Medium); Risk of 10.0 to Less Than 50.0 Per Million (Simple); Risk of 50.0 to Less Than 100.0 Per Million (Complex); Risk of 50.0 to Less Than 100.0 Per Million (Medium); Risk of 50.0 to Less Than 100.0 Per Million (Simple); Risk of 100.0 Per Million, or Greater (Complex); Risk of 100.0 Per Million, or Greater (Medium); Risk of 100.0 Per Million, or Greater (Simple); Tracking (Complex); Tracking (Medium); Tracking (Simple); Unprioritized (Complex); Unprioritized (Medium); and Unprioritized (Simple). The Facility Program Category for Table 4 is State Industrywide.

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(3) A district shall provide to the State Board, by July 1, 2001, and for subsequent fiscal years by September 1 of the applicable fiscal year, a Facility Data List. The Facility Data List shall contain the following information: (a) the district abbreviation, (b) the county ID, (c) the name and facility identification number, (d) the Standard Industrial Classification Code of the facility, (e) the number of Source Classification Codes, (f) complexity (Simple, Medium,

Complex), (g) prioritization score, (h) health risk assessment results, (i) whether or not the health risk assessment has been reviewed by OEHHA, (j) whether or not a screening risk assessment was performed, (k) reason excluded from calculation of the State's cost under the previously applicable fiscal year's Air Toxics "Hot Spots" Fee Regulation, (l) whether or not the facility is a state industrywide facility, (m) whether or not the facility is a small business as defined under Section 90701 (aa), (n) whether or not the facility is ~~an~~ District Update Facility as defined under Section 90701 (c), and (o) former Facility Program Category for the previously applicable fiscal year. The district shall provide the SIC Code for facilities being added to the State Industrywide Facility category.

(~~f~~g) Specified Flat Fees.

(1) An Industrywide Facility shall be assessed the flat fee specified in Table 4 for fiscal year 2001-2002, and $35 per Industrywide facility for subsequent fiscal years. If a facility was previously assessed, and has paid, a fee pursuant to the Facility Program Categories specified for Table 4, subsequent fees pursuant to Table 4 shall be waived by the district, if the district determines that there are insignificant costs with respect to said facility under the Act.

(2) A facility in the State Industrywide Facility Program Category, as defined by Section 90701(ae), shall be assessed the flat fee specified in Table 4 for fiscal year 2001-2002, and $35 per industrywide facility for subsequent fiscal years.

(~~g~~h) Other Flat Fees.

(1) Pursuant to the provisions of Section 44380.5 of the Health and Safety Code, the supplemental fee which may be assessed upon the operator of a facility, to cover the direct costs to the district to review the information supplied, shall be no higher than $2,000.

(2) The maximum fee that a small business, as defined in Section 90701(aa), shall pay will be $300.

(3) If in the judgment of a district the action will not result in a shortfall in revenue, a district may request the fee for the Unprioritized (Simple) category be set at no more than $800.

(4) Pursuant to the provisions of Section 44344.4(b) of the Health and Safety Code, the operator of an Update Facility may be assessed a fee of no higher than $125 to cover the direct cost to the district to review the facility's quadrennial emission inventory update submitted under Health and Safety Code Section 44344. Beginning with Fiscal Year 1997-98, a district may assess a higher fee to review quadrennial emission inventory updates if it adopts written findings that the costs of processing the emission inventory update exceed $125 and submits those findings to the State Board by ~~April 1~~ June 30 preceding the applicable fiscal year. The fee adopted shall be no higher than that supported by the written findings.

(~~h~~i) For fiscal year 2001-2002, ~~C~~costs to be recovered by the regulation adopted by the State Board pursuant to subdivision (b) of this section shall be calculated as follows: Each district board shall approve its anticipated costs to implement and administer the Act. The Air Resources Board will subtract from this amount anticipated revenues from collection of the flat fee specified in Section 90704(~~f~~g); and any excess revenues obtained by the district pursuant to Section 90705(c). When submitting board-approved program costs to the State Board, the district shall include a breakdown of how the collected fees will be used.

(~~i~~i) Districts shall reimburse the State in accordance with Health and Safety Code Section 44361(c) for review of facility risk assessments submitted to the State after March 31, 1995.

NOTE: Authority cited: Sections 39600, 39601, 44344.4, and 44380, Health and Safety Code. Reference: Sections 44320, 44322, 44344.4, 44361, 44380, and 44380.5, Health and Safety Code.

90705. Fee Payment and Collection.

(a) Each district shall notify and assess the operator of each facility subject to this regulation in writing of the fee due. Except as provided in Sections 90702(c) and (d), 90703, 90704(~~f~~g), and 90704(~~g~~h), each district shall use the facility program category as the basis for billing. The operator shall remit the fee to the district

within 60 days after the receipt of the fee assessment notice or the fee will be considered past due. If an operator fails to pay the fee within 60 days of this notice, the district shall assess a penalty of not more than 100 percent of the assessed fee, but in an amount sufficient, in the district's determination, to pay the district's additional expenses incurred by the operator's non-compliance. If an operator fails to pay the fee within 120 days after receipt of this notice, the district may initiate permit revocation proceedings. If any permit is revoked it shall be reinstated only upon full payment of the overdue fee plus any late penalty, and a reinstatement fee to cover administrative costs of reinstating the permit.

****

(d) If a district does not collect sufficient revenues to cover ~~both the district program costs and~~ the portion of the state costs that the district is required to remit to the State Board for a particular fiscal year due to circumstances beyond the control of the district, the district shall notify the Executive Officer of the State Board prior to ~~April 1~~ June 30 of the year following the applicable fiscal year and may for demonstrated good cause be relieved by the Executive Officer from an appropriate portion of the fees the district is required to collect and remit to the state.

Circumstances beyond the control of the district may include but are not limited to plant closure or refusal of the facility operator to pay despite permit revocation or other enforcement action. Documentation of the circumstances resulting in the shortfall shall be submitted to the ARB upon request. Nothing herein shall relieve the operator from any obligation to pay any fees assessed pursuant to this regulation.

(1) A district for which the State Board has adopted a fee schedule pursuant to Section 90704(b) in fiscal year 2001-2002, or Section 90704(d) in subsequent years, may, upon notifying the Executive Officer of the State Board, carry over all or a portion of such shortfall in revenue from one to four fiscal years after the shortfall was discovered and add the shortfall amount to its program costs for each such subsequent fiscal year.

Notes: Authority cited: Sections 39600, 39601, and 44380, Health and Safety Code. Reference: Section 44380, Health and Safety Code.

Table 1

Revenues to be Remitted to Cover State Costs By Districts

District	*Revenues to be Remitted*	
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Butte	~~9,296~~	4,433
Calaveras		
Colusa		
El Dorado	~~3,738~~	6,441
Feather River	~~8,863~~	535
Glenn	~~455~~	0
Great Basin	~~5,109~~	5,004
Imperial	~~10,775~~	9,655
Kern	~~589~~	140
Lake	~~0~~	70
Lassen	~~3,129~~	2,009
Mariposa		
Mendocino	~~4,720~~	7,555
Modoc	~~70~~	0
Mojave Desert	~~22,697~~	22,015
Monterey	~~5,985~~	4,109
North Coast	~~1,502~~	67
Northern Sierra	~~7,215~~	805
Northern Sonoma	~~70~~	0
Placer	~~11,147~~	10,945
Sacramento	~~9,232~~	19,647
San Diego	~~138,231~~	114,116
San Joaquin Valley	~~53,023~~	45,435
San Luis Obispo	~~350~~	560
Santa Barbara	~~30,897~~	28,688
Shasta	~~13,093~~	10,682
Siskiyou	~~5,873~~	5,628
South Coast	~~545,513~~	485,025
Tehama	~~67~~	1,257
Tuolumne		
Ventura	~~45,775~~	29,968
Yolo-Solano	~~5,698~~	5,978
TOTAL	~~1,082,339~~	$878,204

Table 2

District Costs to be Recovered Through the Fee Regulation

District		*Anticipated District Costs**
Antelope Valley	~~13,340~~	12,570
Great Basin	~~5,520~~	3,570
~~Imperial~~	~~770~~	
Lassen	~~2,089~~	2,489
Mojave Desert	~~35,135~~	31,985
Santa Barbara		50,000
TOTAL	~~106,854~~	$100,614

* These amounts may reflect adjustments for excess or insufficient revenues under sections 90705 (c) and (d)(1).

Table 3a
Cost per Facility by District and Facility Program Category

District	*Unprioritized (Simple)*	*Unprioritized (Medium)*	*Unprioritized (Complex)*	*Tracking (Simple)*	*Tracking (Medium)*	*Tracking (Complex)*
State ~~Portion Of~~ Facility Fee Rate	402	603	804	67	100	134
Total Fee (State Portion + District Portion)						
Antelope Valley						
Great Basin	~~1,043~~ 780	~~1,565~~ 1,170	~~2,086~~ 1,560			
Imperial				~~88~~		
Lassen						
Mojave Desert	800	~~4,294~~ 4,143		~~477~~ 472	~~715~~ 708	~~954~~ 944
Santa Barbara				~~396~~ 545	~~594~~ 818	~~792~~ 1,091

Table 3b
Cost per Facility by District and Facility Program Category

District	*Score >10 (Simple)*	*Score >10 (Medium)*	*Score >10 (Complex)*	*Risk >=10 < 50 (Simple)*	*Risk >=10 < 50 (Medium)*	*Risk >=10 < 50 (Complex)*
State ~~Portion~~ ~~Of~~ Facility Fee Rate	1,674	2,009	2,344	3,014	3,349	3,684
Total Fee (State Portion + District Portion)						
Antelope Valley		~~7,832~~ 7,113				~~11,060~~ 10,150
Great Basin	~~3,170~~ 2,555					
~~Imperial~~					~~3,732~~	~~4,088~~
Lassen		~~5,378~~ 4,498				
Mojave Desert					~~10,730~~ 10,428	~~11,476~~ 11,157
Santa Barbara				~~8,607~~ 9,902	~~9,271~~ 10,642	~~9,935~~ 11,382

Table 3c
Cost per Facility by District and Facility Program Category

District	*Risk* >= *50 < 100* (Simple)	*Risk* >= *50 < 100* (Medium)	*Risk* >=*50 < 100* (Complex)	*Risk* > = *100* (Simple)	*Risk* > = *100* (Medium)	*Risk* > = *100* (Complex)
State ~~Portion Of~~ Facility Fee Rate	4,353	4,688	5,023	5,693	6,028	6,363
Total Fee (State Portion + District Portion)						
Antelope Valley						
Great Basin						
~~Imperial~~						
Lassen						
Mojave Desert			~~14,045~~ 13,676			
Santa Barbara		~~11,597~~ 10,107				

Table 4*

Fees for Industrywide and District Update Facilities

District	*Industrywide Facilities*	*District Update Facilities*
Antelope Valley	0	125
Great Basin	~~60~~ 25	~~125~~ 250
~~Imperial~~	~~35~~	~~38.50~~
Lassen	0	0
Mojave Desert	0	125
Santa Barbara	~~95~~ 60	125

* State cost per facility is consistent statewide as follows:
State Industrywide facilities: $35

Appendix III

Fee Basis and Calculations

This Appendix contains descriptions of the facility Program categories and category indexes used as the fee basis. The method and equations for calculating the distribution of the State's costs and facility fees are also described.

A. Proposed Fee Basis

1. Current Hot Spots Facility Program Category Method

The ARB staff proposes to continue to use the same method for distributing the State costs among districts and for calculating facility fees used in fiscal years 1996-97 through 2000-2001. That method bases fees on the public health risk presented by a facility's air toxics emissions and on the workload required by the State and district to process the facility through the Program. Facilities are classified into six major Program categories according to risk, or prioritization score if risk assessment results are not available, based on the facilities' air toxics emissions and the potencies or toxicities of the emitted substances. Industrywide facilities are placed into a seventh category and charged a flat fee.

The seven major Program categories are Industrywide, Unprioritized, Tracking, Priority Score greater than or equal to 10, Risk greater than or equal to 10 to less than 50/million, Risk greater than or equal to 50 to less than 100/million, and Risk greater than 100/million. Each category is further subdivided by complexity defined by the number of Source Classification Codes (SCCs). Category indexes (ratios) are used to distribute State Program costs, and district costs among the Program categories.

The fee basis has a relationship to the resources expended by the State and the districts on a facility, and the health risk priority of that facility. Based on the districts' and State's experience, the range of complexity and the time required to accomplish the Hot Spots Program requirements varies, even among facilities in the same Program category. There is a range of effort required based primarily on the complexity of the facility. In order to account for those variances in complexity within a Facility Program Category, Source Classification Codes (SCCs) are used to identify facilities as simple, medium, or complex.

For fiscal year 2001-2002, the definitions to subdivide the fee categories to account for complexity remain the same. We define a facility with one or two process SCCs as simple; a facility with three, four, or five SCCs as medium; and a facility with more than five SCCs as complex. To count the number of unique processes at a facility only the first six digits of the eight digit SCCs are used. Information regarding how a facility should be categorized is supplied by the districts. The definitions of the facility Program categories are found in section 90701 of the Fee Regulation (title 17, California Code of Regulations).

The use of Program categories as the basis for distributing the State's cost and assigning facility fees is in accordance with both the direction of the ARB and H&SC section 44380(a)(3) because the Program categories are determined by toxic releases and health risk priority.

2. Other Changes to Fee Basis

We propose to continue exempting facilities from the Fee Regulation in three ways as was done in the fiscal year 1996-97 through 2000-2001 Fee Regulations. The exemptions are listed in section 90702(b) of the Fee Regulation. A facility is exempt from the distribution of the State's cost if:

a) its prioritization score is less than 1.0 for cancer and non-cancer risk;
b) its risk assessment result shows a potential cancer risk of less than one case per one million persons and a total hazard index of less than 0.1.
c) it is a printing shop, wastewater treatment plant, crematorium, boat or ship building and repair facility, hospital or veterinary clinic using ethylene oxide, and meets an established de minimis throughput.

For facilities located in districts whose fees schedules are included in the State's Fee Regulation, these same exemptions apply, and facilities that meet at least one of the criteria would not pay a fee in fiscal year 2001-2002.

The Statewide Industrywide Facility Program Category includes four types of industrywide facilities, gasoline service stations, dry cleaners, autobody repair shops, and printing shops qualify as State Industrywide facilities. These four categories of facilities account for over 90 percent of industrywide facilities state-wide. Districts can add other facility categories to this State Industrywide category if the criteria outlined in section 90701(ad) are met. For fiscal year 2001-2002, these four categories will be assessed the State's cost of $35. This would be consistent with the current resources devoted to evaluating industrywide facilities. For distribution of the State's cost only, other facility types not meeting the criteria for the State Industrywide category would be placed into the appropriate Facility Program Category.

Section C of this Appendix discusses how we calculated a State cost per category for this Staff Report and distributed the State's cost.

B. Category Indexes

The category indices for the State's cost reflect the resource requirements of both the ARB and OEHHA. Indices were established based on the State's experience with the Program since 1988. The resource indices used for districts' costs are based on information received from the districts.

1. State Program Indexes

In developing category indexes to distribute State Program costs, the staff considered public health risk, facility complexity, workload, and economic impact. State Program costs are generally programmatic in nature and affect all facilities. The Program indexes reflect this.

To account for differences in workload for facilities other than State Industrywide facilities, the staff assigned an index of one to the Tracking (Simple) category. For the Tracking (Medium) category, the staff assigned a Program index of one and a half and two for the Tracking (Complex) category.

The remaining Program indexes for fiscal year 2001-2002 are shown in Table III-1.

2. District Indexes

Results from a survey of districts were used to assign an index for each category of facility based on workload, complexity, and risk. The district category indexes are shown in Table III-1.

3. State Industrywide Facilities

For fiscal year 2001-2002, the staff is proposing to retain a flat fee of $35 for State Industrywide facilities.

4. Fee Caps

Some small businesses may be found in categories assigned higher indices. To minimize the potential economic impact, these facilities may qualify to have their fees reduced if they meet the definition for small business contained in section 90701 of the Fee Regulation. The regulation caps fees for small businesses at $300.

C. Fee Calculation Method

As described in Section A of this Appendix, ARB staff is proposing to update the State portion of the fee totals for fiscal year 2001-2002 based on new facility information. The staff calculated a cost per facility and distributed the State's cost based on updated numbers of facilities in risk categories received from the districts by July 1, 2001. This cost distribution is described in this Section.

The method used to allocate the State's costs for the Air Toxics Hot Spots Program and calculate facility fees is described below with equations. The State's costs are distributed based on the number of facilities a district has in each Hot Spots Program

Table III-1

Category Indexes

Program Category	State Core Program Index	District Index
Priority Score >10 (**A**)		
Simple	25	14
Medium	30	15
Complex	35	16
Risk ≥10<50/million, Hazard Index >1 (**B**)		
Simple	45	17
Medium	50	18
Complex	55	19
Risk ≥50<100/million (**C**)		
Simple	65	20
Medium	70	21
Complex	75	22
Risk ≥100/million (**D**)		
Simple	85	23
Medium	90	24
Complex	95	25
Unprioritized (**E**)		
Simple	6	6
Medium	9	9
Complex	12	12
Tracking (**F**)		
Simple	1	1
Medium	1.5	1.5
Complex	2	2
State Industrywide (**IW**)	Flat	Flat

Note: The fee category code (A through F and IW) is given in parentheses after each Program Category.

category. The facility Program categories used for calculating fees in the equations below are defined in section 90701 of the Fee Regulation. The facility numbers used to distribute the State's costs and calculate facility fees were provided to ARB by the districts. For districts requesting ARB adoption of facility fees, the Hot Spots Program category of each facility will also be used. Employing the same method for allocation of the State's costs and for facility fees allows for greater consistency and equity.

1. Distribution of State and District Costs

The State's costs to be recovered are the total amount reasonably anticipated by the ARB and the OEHHA to implement and administer the Air Toxics Hot Spots Program for the specified fiscal year. The districts' costs are used only in calculating facility fees for the districts requesting ARB adoption of fee schedules for fiscal year 2001-2002.

For districts requesting the ARB to adopt fee schedules for them, flat fees are established for facilities in the seven major Program categories and their subcategories. Districts specify and provide justification for the fee amount for the facilities in the Industrywide category. Fees for facilities in the other six categories are calculated by adding the appropriate State cost per facility for the category to the district cost per facility. The districts' Program costs to be recovered by the regulation are distributed among facilities in all 18 categories by means of a flat per district, per facility cost for each of the Program categories. Districts may waive the fee for Industrywide facilities if certain criteria have been met. For districts requesting ARB adoption of fee schedules in fiscal year 2001-2002, if the fee for Industrywide facilities is waived this cost is apportioned among the fees of the other facilities in the district. A district with fees adopted in the State's Fee Regulation can choose to continue to assess the flat cost shown in Table 3 of the Fee Regulation or waive the fee for facilities it designates as Industrywide, including the State Industrywide facilities. If either of these options is chosen, the resulting difference will be apportioned among other facilities in the district.

For fiscal year 2002-2003 and beyond, the maximum amount a district that requests that ARB adopt their fees may charge a facility will be the State cost on a per-facility basis for all other facilities to recover district costs. Currently, Tables 3 and 4 allow a district to assess fees that are higher than the State cost per facility. Beginning in fiscal year 2002-2003, this will not be available unless the district adopts its own fee regulation. There continues to be no limit within this Program on the amount a district may charge any facility in any fee category as long as that district adopts its own regulation.

2. Table 1 of the Fee Regulation: Revenues to be Remitted to Cover the State's Costs

The proposed fee method recovers costs used by the State to administer and implement the Program. The staff is proposing a State budget of $880,000 for fiscal year 2001-2002.

The cost for Program related activities is divided among the total number of facilities to arrive at a State cost per facility in each Program category. The total cost of State Industrywide facilities ($35 multiplied by the number of facilities) is subtracted from the State Program costs of $880,000 to arrive at the State Program costs to be recovered. The number of facilities in each Program category is multiplied by the appropriate index for each category. The sum of these products is divided into the State Program costs recovered from core facilities to arrive at a Program unit cost. This unit cost is equal to the cost for a Tracking (Simple) facility since it has an index of 1. The unit cost is then multiplied by each index to arrive at a flat State cost for facilities in each Program category.

The following equations demonstrate the calculations to arrive at a Program cost per facility. In the following equations, these abbreviations will be used to describe the Program categories, and costs:

SIW	=	Industrywide	Us	=	Unprioritized (Simple)
Um	=	Unprioritized (Medium)	Uc	=	Unprioritized (Complex)
Ts	=	Tracking (Simple)	Tm	=	Tracking (Medium)
Tc	=	Tracking (Complex)	PSs	=	Priority Score >10 (Simple)
PSm	=	Priority Score >10 (Medium)	PSc	=	Priority Score >10 (Complex)
R1s	=	Risk ≥ 10 < 50 (Simple)	R1m	=	Risk ≥ 10 <50 (Medium)
R1c	=	Risk ≥ 10 < 50 (Complex)	R5s	=	Risk ≥ 50 <100 (Simple)
R5m	=	Risk ≥ 50 < 100 (Medium)	R5c	=	Risk ≥ 50 <100 (Complex)
R10s	=	Risk ≥100 (Simple)	R10m	=	Risk ≥100 (Medium)
R10c	=	Risk ≥100 (Complex)	#	=	Number
uc	=	unit cost	D	=	District
S	=	State			

(1) Calculation of the State Program Unit Cost:

a) Adjusted State Program Cost minus Industrywide cost = State Program Costs recovered from core facilities.

b) # Facilities in Program Category X Index = Product

Using the Program indexes in Table III-1 and the total number of facilities reported in each Program category by the districts:

c) Weighted Sum =

(# Us X Us S Index) + (# Um X Um S Index) + (# Uc X Uc S Index) +
(# Ts X Ts S Index) + (# Tm X Tm S Index) + (# Tc X Tc S Index) +
(# PSs X PSs S Index) + (# PSm X PSm S Index) +
(# PSc X PSc SIndex) + (# R1s X R1s S Index) +
(# R1m X R1m S Index) + (# R1c X R1c S Index) +
(# R5s X R5s S Index) + (# R5m X R5m S Index) +

(# R5c X R5c S Index) + (# R10s X R10s S Index) + (# R10m X R10m S Index) + (# R10c X R10c S Index)

d) Adjusted State Program Cost / Weighted Sum from equation (1c) = Program Unit Cost

e) Program Unit Cost from equation (1e) X Program Category Index = Program Facility Cost per Category

The calculation shown in equation (1f) is done for each facility Program category to attain the Program cost for that category.

Total District Share of State's Costs

The total share of the State's costs for a district is obtained by multiplying the number of facilities in each Facility Program Category by the State cost per facility. These products are summed to arrive at a district's portion of the State's cost.

(2) Calculation of a District's Total Share of the State's Cost:

a) Total District Portion of State's Cost:
(# SIW X $35) + (# Us X Us uc) + (# Um X Um uc) + (# Uc X Uc uc) + (# Tm X Tm uc) + (# Tm X Tm uc) + (# Tc X Tc uc) + (# PSs X PSs uc) + (# PSm X PSm uc) + (# PSc X PSc uc) + (# R1s X R1s uc) + (# R1m X R1m uc) + (# R1c X R1c uc) + (# R5s X R5s uc) + (# R5m X R5m uc) + (# R5c X R5c uc) + (# R10s X R10s uc) + (# R10m X R10m uc) + (# R10c X R10c uc)

3. Table 2 of the Fee Regulation: District Program Costs to be Recovered Through the Fee Regulation

The districts' Program costs shown in Table 2 of the Fee Regulation are provided by each district.

4. Table 3 of the Fee Regulation: Facility Fees

For districts requesting the ARB to adopt its fee schedule, a fee is assigned based on the Program category of a facility. All facilities in a district in the same Program category will pay the same flat fee. The following calculations are based on numbers each district supplied to the ARB.

Before calculating a district cost per facility, the costs a district will recover by assessing fees to Industrywide facilities are subtracted from the district's total cost. If a district decides to waive the fee for Industrywide facilities, other facilities in the district will be recovering the State's cost assessed to the district for its Industrywide facilities.

In determining the fee schedule, indexes were developed from information received from the districts which account for public health risk, workload, priority, and complexity. From the information received from districts, the State developed a category index for each Program category. These indices are shown in Table III-1.

The number of facilities in each Program category is multiplied by the corresponding district index. These products are summed and the district cost shown in Table 2 of the Fee Regulation is divided by this sum to arrive at a unit cost. The unit cost is the district cost for a Tracking (Simple) facility. The Tracking (Simple) unit cost is multiplied by each index to arrive at a cost per facility in the other Program categories.

(3) Calculation of District Cost per Facility:

a) # Facilities in Program Category X Index = Product

Using the District indices in Table III-1 and the total number of facilities reported in each Program category by the district:

b) Weighted Sum =

(# Us X Us D Index) + (# Um X Um D Index) + (# Uc X Uc D Index) +
(# Ts X Ts D Index) + (# Tm X Tm D Index) + (# Tc X Tc D Index) +
(# PSs X PSs D Index) + (# PSm X PSm D Index) +
(# PSc X PSc D Index) + (# R1s X R1s D Index) +
(# R1m X R1m D Index) + (# R1c X R1c D Index) +
(# R5s X R5s D Index)+ (# R5m X R5m D Index) +
(# R5c X R5c D Index)+ (# R10s X R10s D Index) +
(# R10m X R10m D Index) + (# R10c X R10c D Index)

c) District Cost / Weighted Sum from equation (3b) = District Unit Cost

d) District Unit Cost from equation (3c) X District Index =
District Cost per Facility

The calculation shown in equation (3d) is done for each facility Program category to attain the District cost for that category.

For the districts whose fee schedules are included in the Fee Regulation, the total cost per facility is the sum of the flat district Program category cost added to the flat State Program category cost.

e) Facility Fee = District Cost per Facility calculated from equation (3d) +
State Cost Calculated in equation (1d)

To calculate the total cost a district is to recover for both State and district costs, the total number of facilities in a Program category is multiplied by the fee obtained from

equation (5e). These products from each facility Program category are summed to obtain the total cost recovered. Facility fees are shown in Table 3 of the Fee Regulation.

5. Small Business Fee Cap Calculation

The Fee Regulation includes a provision to cap the fee of any business meeting the small business definition contained in section 90701(ab) at $300. This definition only applies to districts requesting ARB adoption of fee schedules. Districts have provided us with the number of facilities in each category that would qualify for this fee cap.

To provide this exemption, other facilities in the district are assessed the difference between the actual Program category fee and the $300 fee cap. The number of small businesses in a district multiplied by the difference between the fee and $300 is added to the district cost. The district fee calculation is redone after subtracting these facilities.

(4) Calculation of the District Cost per Facility Including the Small Business Fee Cap:

Unit Cost = District Cost + Small Business Exemption Cost / (# Us X Us Index) +
(# Um X Um Index) + (# Uc X Uc Index) + (# Ts X Ts Index) +
(# Tm X Tm Index) + (# Tc X Tc Index) +(# PSs X PSs Index) +
(# PSm X PSm Index) + (# PSc X PSc Index) +
(# R1s X R1s Index) + (# R1m X R1m Index) +
(# R1c X R1c Index) + (# R5s X R5s Index) +
(# R5m X R5m Index)+ (# R5c X R5c Index) +
(# R10s X R10s Index) + (# R10m X R10m Index) +
(# R10c X R10c Index)

The resulting unit cost from this calculation replaces the unit cost calculated in equation (5c). This new district unit cost and the other newly calculated costs per facility are added to the State cost per category to arrive at new facility fees.

6. Unprioritized (Simple) Fee Cap of $800

Districts having their fee schedules calculated by the ARB may also request to cap their Unprioritized (Simple) fee at $800 if it does not result in a shortfall. The State cost for a Unprioritized (Simple) facility is subtracted from $800. This is the amount of district cost that can be recovered from Unprioritized (Simple) facilities. This amount multiplied by the number of Unprioritized (Simple) facilities becomes a fixed cost to be subtracted from the total district cost to be recovered. The district cost equation is rerun without the Unprioritized (Simple) facilities.

(5) Calculation of the District Cost per Facility Including Unprioritized (Simple) Fee Cap:

a) $800 - Us Cost = Amount of District Cost to be Collected from each Us.

b) # Us X Amount from equation (5a) = Amount to Subtract from District Cost Total.

c) Unit Cost = District Cost - Amount from equation (5b) / (# Um X Um Index) + (# Uc X Uc Index) + (# Ts X Ts Index) + (# Tm X Tm Index) + (# Tc X Tc Index) +(# PSs X PSs Index) + (# PSm X PSm Index) + (# PSc X PSc Index) + (# R1s X R1s Index) + (# R1m X R1m Index) + (# R1c X R1c Index) + (# R5s X R5s Index) + (# R5m + R5m Index) + (# R5c X R5c Index) + (# R10s X R10s Index) + (# R10m X R10m Index) + (# R10c X R10c Index)

The district unit cost per facility calculated by the above equation (5c) replaces the district unit cost calculated in equation (3) or equation (4). This new district unit cost and the other newly calculated costs per facility are added to the State cost per category to arrive at new facility fees and an Unprioritized (Simple) fee of $800.

Appendix IV

Economic Impact Analysis

Introduction

Section 44380(a)(2) of the H&SC allows the districts to either adopt district Air Toxics "Hot Spots" fee rules or request the ARB to adopt a fee schedule for them. Thirty of the 35 districts have elected to adopt district fee rules. For the thirty districts adopting their own fee schedules, fees were estimated using their draft or adopted fee rules. For the five districts for which the ARB is calculating fees, the fees are based on the proposed program category in which the facilities are included and on the draft fees.

This Appendix evaluates the potential economic impact on California businesses of the proposed amendments to the Fee Regulation. Section 11346.3 of the Government Code requires that, in proposing to adopt or amend any administrative regulation, State agencies shall assess the potential for adverse economic impacts on California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states. The assessment shall also include the potential impact of the regulation on California jobs and on business expansion, elimination, or creation.

This economic impact analysis is based on a comparison of the return on owners' equity (ROE) for affected businesses before and after the inclusion of the amended fees. The analysis also uses publicly available information to assess the impact on competitiveness, jobs, and business expansion, elimination, or creation. The results are intended to provide an indication of the potential economic impact of the amended fees on businesses and individuals in California.

Affected Business

Any business which manufactures, formulates, uses, or releases any listed substance or any other substance which reacts to form a listed substance and emits ten or more tons per year of criteria pollutants (total organic gases, particulate matter, nitrogen oxides, or sulfur oxides) is affected by the amended regulation. Also affected are businesses listed on a district toxic inventory, report, or survey as referenced in Appendix A to the Fee Regulation or any business which releases less than ten tons per year of criteria pollutants and falls within a class listed in Appendix E to the Emission Inventory Criteria and Guidelines Report. A copy of the amended Guidelines Report can be obtained by accessing the ARB's home page at http://www.arb.ca.gov/div/tsd/eib/ab2588/ab2588.html on the Internet. Table IV-1 provides a list of industries with affected businesses.

Table IV-1

List of Industries with Affected Businesses

SIC Code	Industry
131	COTTON
132	TOBACCO
723	CROP PREPARATION SVCS FOR MKT
1061	FERROALLOY ORES, EXC VANADIUM
1099	METAL ORES, NEC
1221	BITUMINOUS COAL AND LIGNITE - SURFACE
1311	CRUDE PETRO AND NATURAL GAS
1321	NATURAL GAS LIQUIDS
1389	OIL/GAS FIELD SERVICES, NEC
1429	CRUSHED AND BROKEN STONE, NEC
1442	CONSTRUCTION SAND AND GRAVEL
1446	INDUSTRIAL SAND
1455	KAOLIN AND BALL CLAY
1474	POTASH/SODA/BORATE MINERALS
1623	WATER, SEWER, AND UTILITY LINE
2013	SAUSAGES & OTHER PREPARED MEAT
2022	CHEESE, NATURAL AND PROCESSED
2032	CANNED SPECIALTIES
2033	CANNED FRUITS AND VEGETABLES
2034	DEHYDRATED FRUITS/VEGTLB/SOUP
2037	FROZEN FRUITS AND VEGETABLES
2041	FLOUR/OTHER GRAIN MILL PRODUCT
2047	DOG AND CAT FOOD
2051	BREAD, CAKE, & RELATED PROD
2062	CANE SUGAR REFINING
2074	COTTONSEED OIL MILLS
2077	ANIMAL & MARINE FATS AND OILS
2084	WINES, BRANDY, BRANDY SPIRITS
2095	ROASTED COFFEE
2099	FOOD PREPARATIONS, NEC
2221	WEAVING MILLS, SYNTHETICS
2295	COATED FABRICS, NOT RUBBERIZED
2299	TEXTILE GOODS, NEC
2396	AUTOMOTIVE & APPAREL TRIMMINGS
2421	SAWMILLS & PLANING MILLS, GNL
2426	HARDWOOD DIMENSION & FLOORING
2431	MILLWORK
2436	SOFTWOOD VENEER AND PLYWOOD

SIC Code	Industry
2451	MOBILE HOMES
2491	WOOD PRESERVING
2499	WOOD PRODUCTS, NEC
2521	WOOD OFFICE FURNITURE
2522	OFFICE FURNITURE, EXCEPT WOOD
2541	WOOD PARTITIONS AND FIXTURES
2591	DRAPERY HARDWARE/BLINDS/SHADES
2599	FURNITURE AND FIXTURES, NEC
2611	PULP MILLS
2621	PAPER MILLS
2631	PAPERBOARD MILLS
2653	CORRUGATED & SOLID FIBER BOXES
2721	PERIODICALS
2752	COMMERCIAL PRINTING, LITHOGRAPHIC
2759	COMMERCIAL PRINTING, NEC
2812	ALKALIES AND CHLORINE
2819	INDUSTRIAL INORGANIC CHMLS,NEC
2821	PLASTICS MATERIALS AND RESINS
2822	SYNTHETIC RUBBER
2824	ORGANIC FIBERS, NONCELLULOSIC
2834	PHARMACEUTICAL PREPARATIONS
2843	SURFACE ACTIVE AGENTS
2851	PAINTS AND ALLIED PRODUCTS
2875	FERTILIZERS, MIXING ONLY
2891	ADHESIVES AND SEALANTS
2899	CHEMICAL PREPARATIONS, NEC
2911	PETROLEUM REFINING
2951	PAVING MIXTURES AND BLOCKS
2952	ASPHALT FELTS AND COATINGS
2992	LUBRICATING OILS AND GREASES
2999	PETROLEUM & COAL PRODUCTS, NEC
3011	TIRES AND INNER TUBES
3053	GASKETS, PACKING/SEALING DVCS
3061	MECHANICAL RUBBER GOODS
3069	FABRICATED RUBBER PRODUCTS,NEC
3083	LAMINATED PLSTCS PLATE & SHEET
3084	PLASTICS PIPE
3086	PLASTICS FOAM PRODUCTS
3087	CUSTOM COMPOUND PRCHSD RESINS
3088	CS PRODUCTS, NEC
3089	PLASTICS PRODUCTS, NEC
3211	FLAT GLASS
3221	GLASS CONTAINERS

SIC Code	Industry
3241	CEMENT, HYDRAULIC
3255	CLAY REFRACTORIES
3259	STRUCTURAL CLAY PRODUCTS, NEC
3261	VITREOUS PLUMBING FIXTURES
3272	CONCRETE PRODUCTS, NEC
3273	READY-MIXED CONCRETE
3274	LIME
3295	MINERALS, GROUND OR TREATED
3296	MINERAL WOOL
3312	BLAST FURNACES AND STEEL MILLS
3321	GRAY IRON FOUNDRIES
3324	STEEL INVESTMENT FOUNDRIES
3334	PRIMARY ALUMINUM
3339	PRIMARY NONFERROUS METALS, NEC
3341	SECONDARY NONFERROUS METALS
3353	ALUMINUM SHEET, PLATE AND FOIL
3363	ALUMINUM DIE-CASTINGS
3365	ALUMINUM FOUNDRIES
3366	COPPER FOUNDRIES
3369	NONFERROUS FOUNDRIES, NEC
3398	METAL HEAT TREATING
3399	PRIMARY METAL PRODUCTS, NEC
3411	METAL CANS
3412	METAL BARRELS, DRUMS, & PAILS
3432	PLUMBING FIXTR FITTINGS/TRIM
3443	FABRICATE PLATE WK-BOILER SHOP
3444	SHEET METALWORK
3448	PREFABRICATED METAL BUILDINGS
3451	SCREW MACHINE PRODUCTS
3452	BOLTS, NUTS, RIVETS, & WASHERS
3462	IRON AND STEEL FORGINGS
3463	NONFERROUS FORGINGS
3471	PLATING AND POLISHING
3479	METAL COATING/ALLIED SERVICES
3489	ORDNANCE AND ACCESSORIES, NEC
3491	INDUSTRIAL VALVES
3492	FLUID PWR VLVS/HOSE FITTINGS
3493	STEEL SPRINGS, EXC WIRE
3494	VALVES AND PIPE FITTINGS, NEC
3498	FABRICATED PIPE AND FITTINGS
3499	FABRICATED METAL PRODUCTS, NEC
3511	TURBINES/TURBINE GENERATOR SET
3519	INTERNAL COMBUSTION ENGINE,NEC
3542	MACHINE TOOLS, METAL FORM TYPE

SIC Code	Industry
3572	COMPUTER STORAGE DEVICES
3599	INDUSTRIAL MACHINERY, NEC
3621	MOTORS AND GENERATORS
3651	RADIO AND TV RECEIVING SETS
3663	RADIO/TV COMMUNICATIONS EQPMT
3671	ELECTRON TUBES
3672	PRINTED CIRCUIT BOARDS
3674	SEMICONDUCTORS/RELATED DEVICES
3679	ELECTRONIC COMPONENTS, NEC
3691	STORAGE BATTERIES
3699	ELECTRICAL EQUIP/SUPPLIES, NEC
3711	MOTOR VEHICLES AND CAR BODIES
3713	TRUCK AND BUS BODIES
3714	MOTOR VEHICLE PARTS/ACCESSORIES
3715	TRUCK TRAILERS
3716	MOTOR HOME MANUFACTURE
3721	AIRCRAFT
3724	AIRCRAFT ENGINES/ENGINE PARTS
3728	AIRCRAFT PARTS/EQUIPMENT, NEC
3731	SHIP BUILDING AND REPAIRING
3732	BOAT BUILDING AND REPAIRING
3761	GUIDED MISSILES AND SPACE VEH
3764	SPACE PROPULSION UNITS & PARTS
3799	TRANSPORTATION EQUIPMENT, NEC
3812	SEARCH & NAVIGATION EQUIPMENT
3822	ENVIRONMENTAL CONTROLS
3827	OPTICAL INSTRUMENTS AND LENSES
3829	MEASURING/CONTROLLING DVCS,NEC
3841	SURGICAL & MEDICAL INSTRUMENTS
3842	SURGICAL APPLIANCES & SUPPLIES
3845	ELECTROMEDICAL EQUIPMENT
3851	OPHTALMIC GOODS
3931	MUSICAL INSTRUMENTS
3949	SPORTING & ATHLETIC GOODS,NEC
3951	PENS AND MECHANICAL PENCILS
3993	SIGNS & ADVERTISING DISPLAYS
3999	MANUFACTURING INDUSTRIES, NEC
4499	WATER TRANSPORTATION SERVICES, NEC
4581	AIRPORTS/FLYING FIELDS/SVCS
4612	CRUDE PETROLEUM PIPE LINES
4613	REFINED PETROLEUM PIPE LINES
4729	PASSENGER TRANSPORT ARRANGEMENT, NEC
4911	ELECTRIC SERVICES

SIC Code	Industry
4922	NATURAL GAS TRANSMISSION
4923	GAS TRANSMISSION/DISTRIBUTION
4925	GAS PRODUCTION AND/OR DISTRIB
4931	ELECTRIC & OTHER SERVICES COMB
4941	WATER SUPPLY
4952	SEWERAGE SYSTEMS
4953	REFUSE SYSTEMS
4959	SANITARY SERVICES, NEC
4961	STEAM SUPPLY
5031	LUMBER, PLYWOOD & MILLWORK
5051	METALS SERVICE CENTERS/OFFICES
5083	FARM AND GARDEN MACHINERY
5088	TRANSPORTATION EQUIP/SUPPLIES
5093	SCRAP & WASTE MATERIALS
5145	CONFECTIONERY
5169	CHEMICALS & ALLIED PRDCTS, NEC
5171	PETRO BULK STATIONS/TERMINALS
5172	PETROLEUM PRODUCTS, NEC
5191	FARM SUPPLIES
5199	NONDURABLE GOODS, NEC
5211	LUMBER AND OTHER BUILDING MATERIALS
5541	GASOLINE SERVICE STATIONS
5561	RECREATIONAL VEHICLE DEALERS
7011	HOTELS, MOTELS & TOURIST COURT
7261	FUNERAL SERVICE & CREMATORIES
7359	EQUIPMENT RENTAL & LEASING,NEC
7384	PHOTOFINISHING LABORATORIES
7389	BUSINESS SERVICES, NEC
7534	TIRE RETREADING & REPAIR SHOPS
7699	REPAIR SERVICES, NEC
7812	MOTION PICTURE & VIDEO PRDTN
7819	SERV ALLIED TO MOTION PICTURES
7996	AMUSEMENT PARKS
7999	AMUSEMENT AND RECREATION, NEC
8062	GENERAL MED/SURGICAL HOSPITALS
8093	SPECIALTY OUTPATIENT CLINICS, NEC
8211	ELEMENTARY & SECONDARY SCHOOLS
8221	COLLEGES & UNIVERSITIES, NEC
8731	COMMERCIAL PHYSICAL RESEARCH
8734	TESTING LABORATORIES
9199	GENERAL GOVERNMENT, NEC
9223	CORRECTIONAL INSTITUTIONS
9711	NATIONAL SECURITY
9999	UNKNOWN

On July 26, 1996, the ARB approved amendments to the Guidelines Report which further define facilities subject to "Hot Spots" requirements. These amendments were approved by the Office of Administrative Law and became effective July 1, 1997.

Study Approach

This study covers a total of approximately 230 industries with affected businesses. The approach used in evaluating the potential economic impact of the amended fees on these businesses is outlined as follows:

(1) A typical business from each affected industry was selected from the facility program category data submitted by the districts.

(2) The highest fee (total of State and district fees), for districts for which the State is adopting a Fee Regulation, was estimated for each facility program category.

(3) These fees were then applied to a typical business in affected industries in a facility program category.

(4) The estimated fees were adjusted for taxes.

(5) The Return on Owner's Equity (ROE) was calculated for each of these businesses by dividing the net profit by the net worth. The adjusted fees were then subtracted from net profit data. The results were used to calculate an adjusted ROE. The adjusted ROE was then compared with the ROE before the subtraction of the adjusted fees to determine the impact on the profitability of the businesses. A reduction of more than 10 percent in profitability is considered to indicate a potential for significant adverse economic impacts.

The threshold value of 10 percent has been used consistently by the ARB staff to determine impact severity. This threshold is consistent with the thresholds used by the United States Environmental Protection Agency and others.

Assumptions

Since financial data for individual businesses were not available, this study used 1999-2000 Dun and Bradstreet financial data for a nationwide typical business in each industry. Using the nationwide financial data, the ROEs before and after the subtraction of the adjusted fees were calculated for industries listed in Table IV-1. The calculations were based on the following assumptions:

(1) A typical business on a nationwide basis in each industry is representative of a typical California business in that industry.

(2) All affected businesses are subject to federal and state tax rates of 35 percent and 8.835 percent respectively.

(3) Affected businesses neither increase the prices of their products nor lower their costs of doing business through short run cost-cutting measures.

Given the limitation of available data, staff believes these assumptions are reasonable for most businesses; however, they will not be applicable to all businesses.

Potential Impact on Businesses

Typical California businesses are affected by the amended fees to the extent that the implementation of the amended fees would change their profitability. Using ROE to measure profitability, we found that the average ROE of sample businesses in the industries listed in Table IV-1 changed by less than 2 percent. This represents a minor change in the average profitability of typical businesses in California.

The change in profitability of individual industries with affected businesses, however, varied widely from the industry averages. For the 242 industries listed in Table IV-1, for example, the change in profitability ranged from a high of 9 percent to a low of 0.002 percent. This variation in the impact of the amended fees can be attributed mainly to two factors. First, some businesses are subject to higher fees due to the type of industry in which they are involved, the type, quantity of emissions, potency of the substances emitted, the numbers of devices and emitting processes, and the location of the business. For instance, the estimated fees for sample businesses in the industries listed in Table IV-1 ranged from a high of $15,715 to a low of $35. Second, the performance of businesses may differ from year to year. Hence, the 1999-2000 nationwide financial data used may not be representative of a typical-year performance for some businesses.

The potential impacts estimated here may be high for the following reasons. First, the "Hot Spots" Program fees are not new to affected businesses. The impact of the fee as estimated here tends to be more severe than what it would be if we had used the incremental changes in fees rather than the total fees. Some businesses actually experienced a reduction in their fees and others were exempt from fees this year. Second, affected businesses probably would not absorb all of the increase in their costs of doing business. They might be able to either pass some of the cost on to consumers in the form of higher prices, reduce their costs, or do both.

Potential Impact on Consumers

No noticeable change in consumer prices is expected from the amended fees because the fees would have only a minor impact on the profitability of affected business. The

ARB staff project the maximum increase in product prices would be about one-tenth of one percent if affected businesses are able to pass the fees on fully to consumers. Price increases, however, would vary widely from business to business. They would range from a low of almost zero to a high of about one half of one percent.

Potential Impact on Employment

Since the amended fees impose no noticeable impact on the profitability of businesses, the staff expects no significant change in employment due to the imposition of the fees. However, the amended fees may impose hardship on some businesses operating with little or no margin of profitability, affecting the creation or elimination of jobs in California.

Impact on Business Creation, Elimination, or Expansion

No change is expected to occur in the status of California businesses as a result of the amended fees. This is because the fees have no significant impact on the profitability of businesses in California. However, should the amended fees impose significant hardship on California businesses operating with little or no margin of profitability, some small businesses may be forced out of the market or decide not to expand in California. Also, some businesses may decide against coming to California.

Impact on Business Competitiveness

The amended fees would have little or no impact on the ability of California businesses to compete with businesses in other states. This is because the amended fees do not impose a noticeable impact on the profitability of California businesses. However, the amended fees may have an adverse impact on the ability of some California businesses, operating with little or no margin of profitability, to compete with businesses in other states.

Conclusion

Overall, California businesses should be able to absorb the costs of the amended fees without significant adverse impacts on their profitability. Although some businesses would potentially experience a greater reduction in their profitability than others, the fee impact should remain absorbable. In addition, the actual impacts of the amended fees on the profitability of California businesses is most likely to be less than estimated in this analysis for the reasons described above. Also, revisions to the Emission Inventory Criteria and Guidelines Report (those amendments were adopted by the Air Resources Board in July 1996, approved by OAL, and became effective July 1, 1997) broaden the exemptions from reporting requirements and fees for many facilities being assessed fees in recent years. Those exempted facilities will no longer have their profitability impacted by the "Hot Spots" program. Also, with the reductions in State and district budgets to support the "Hot Spots" program, the fees have been reduced from those

assessed in previous years. These reductions in fees should also reduce any impact on the profitability of California businesses.

Since the amended fees impose no noticeable impact on the profitability of California businesses, the staff expects no significant change in employment; business creation, elimination, or expansion; and business competitiveness. However, the amended fees may impose a significant economic hardship on some California businesses operating with little or no margin of profitability.

Appendix V

COST ESTIMATES FOR LOCAL AND STATE GOVERNMENT FACILITIES

A. INTRODUCTION

This analysis estimates the potential costs to local and State government facilities resulting from the proposed amendments to the "Hot Spots" Fee Regulation, sections 90700-90705, title 17, California Code of Regulations (Fee Regulation) for fiscal year 2001-2002. The Fee Regulation is required by the Air Toxics "Hot Spots" Information and Assessment Act of 1987 as amended (Act) (H&SC sections 44300-44394). This analysis was conducted in compliance with section 11346.5 of the Government Code. Only local and State government owned facilities that are subject to the Fee Regulation have been addressed as provided for by the Government Code. The analysis covers facilities which are subject to fees because they either: (1) release the specified amounts of criteria air pollutants and meet the statute's requirements regarding the use, formulation, manufacture, or release of toxic air pollutants; or (2) are included on a district toxic inventory, report or survey.

Government facilities may be impacted by the Fee Regulation in two ways. First, the ARB and the air pollution control and air quality management districts (districts) incur costs developing and implementing the Fee Regulation. These implementation costs are fully reimbursable because these agencies are authorized to impose fees sufficient to recover the costs of the mandated "Hot Spots" Program. The Fee Regulation will recover the implementation costs.

Second, local and State government facilities must pay "Hot Spots" fees because they are subject to the requirements of the Act. These fees are compliance costs for local and State government facilities. Fees for facilities in districts for which the ARB adopts fee schedules are based on the quantity of air toxics emissions and the risk or toxicity of specific toxic substances. Facilities which pose the most significant health risks are assessed the highest fees. Facilities located in districts which adopt their own fee schedules are assessed fees in accordance with districts' rules. As detailed below, the cost per facility is not substantial and should be absorbable within existing budgets and resources.

The cost estimates set forth herein and summarized on the Fiscal Impact Statement are recurring, annual costs. In accordance with H&SC section 44380 and section 90704(a), title 17, California Code of Regulations, the fees are reviewed and updated annually to accommodate changes in facility status and program costs.

B. LOCAL GOVERNMENT COSTS

Local government costs are comprised of implementation costs and compliance costs.

1. Implementation Costs – Districts

a) Statement of the Mandate

In accordance with the Fee Regulation, districts must notify facilities that they are subject to "Hot Spots" fees and collect the fees. After deducting their costs from the fees collected, each district must forward their portion of the State's cost to the ARB.

b) Assumptions

Total Program costs for all districts for fiscal year 2001-2002 are estimated to be 2.7 million dollars. Eighteen districts provided estimates of fee implementation costs. For those districts, the cost of implementing the fees averaged 10 percent of the total district cost for implementing the "Hot Spots" Program. We assume that this 10 percent is also appropriate for the other districts as well.

c) Calculation

Fiscal year 2001-2002
Implementation Estimate = 0.1 X $2,700,000 = $270,000

2. Compliance Costs

Compliance costs are the fees assessed local government-owned facilities. Fees for facilities in districts for which the ARB adopts fee schedules are based on the risks presented by the air toxics emissions of that facility. Facilities are sub-divided into several program risk categories based on the quantity of a facility's air toxics emissions and the cancer potency or toxicity of the emitted substances. When available, facility risk values are used. When risk values are unavailable, facility prioritization scores are used. Prioritization scores are assigned by the district based on the potency, toxicity, and quantity of hazardous materials released from the facility and the proximity of the facility to potential receptors.

The program risk categories are:

- Unprioritized
- Prioritization Score Greater Than 10.0
- Risk of 10.0 to Less Than 50.0 Per Million, or a Hazard Index Greater Than 1.0
- Risk of 50.0 to Less Than 100.0 Per Million
- Risk of 100.0 Per Million or Greater
- HRA Tracking (Prioritization Score Greater Than 10.0 and either of the following conditions; a) a Risk Greater Than or Equal to 1.0 and Less Than 10.0, and a Hazard Index Less Than or Equal to 1.0, or b) a Risk Less Than 10.0, and a Hazard Index Greater Than or Equal to 0.1 and Less Than or Equal to 1.0)

Two other categories are included: one for industrywide facilities and one for district tracking facilities (facilities whose prioritization scores are between 1 and 10).

Industrywide facilities are those that have not prepared an Individual Plan and Report and for which the district submits documentation for approval by the Executive Officer of the State Board, verifying that the facility meets the requirements of H&SC 44323(a)-(d). District tracking facilities are required to complete quadrennial emission inventory updates and are subject to district fees only.

For each category, except industrywide and district tracking, Source Classification Codes (SCCs) further subdivide facilities based on complexity. The SCCs identify different processes at a facility. In general, facilities with multiple SCCs are more complex. Facilities with one or two SCCs are defined as simple, three to five SCCs are intermediate, and greater than five SCCs are complex.

Fees for facilities in districts that adopt their own fee schedule are based on their district's current "Hot Spots" fee rule.

a) Statement of the Mandate

Local government facilities are subject to the Fee Regulation if:

(1) they release specified quantities of criteria pollutants and use, manufacture, formulate or release any of the substances referenced in H&SC section 44321, and contained in Appendix A to the Emission Inventory Criteria and Guidelines, incorporated by reference in section 93300.5, title 17, California Code of Regulations, or

(2) they are included on a district's toxic inventory, survey, or report referenced in Appendix A to sections 90700-90705, title 17, California Code of Regulations.

b) Assumptions

Affected local government facilities are utilities, air, water and solid waste facilities; publicly owned treatment works (POTWs); general medical and surgical hospitals; transportation facilities; and general government facilities. Appendix A to this cost estimate is a list of local government facilities that will pay fees because they meet the criteria listed above. Appendix A also lists the estimated fee to be assessed to each facility. The facility list and fees in Appendix A are the basis for this cost analysis. Appendix A and B were compiled from the lists of facility names provided to the ARB by the districts.

For fiscal year 2001-2002, 30 districts are calculating and assessing their own fees. For facilities located in these districts, the most recent fees paid by the facilities or estimated 2001-2002 fees were provided by staff of the districts.

In the five districts that have requested ARB adoption of their fee schedules, fees are based on the risks presented by the air toxics emissions of that facility. The information identifying the appropriate risk assessment results or prioritization scores was obtained from the districts. The fee rate for each risk category will remain the same as last year.

Over the last eight years, the State budget for the Fee Regulation has been reduced by over 80%. Historically, local government facilities have not had difficulty absorbing the fees. Therefore, we anticipate that the fees for fiscal year 2001-2002 will be absorbable by these facilities.

c) Exemptions

The ARB staff will continue to exempt facilities with low or no potential health risk from the Fee Regulation. Any facility that meets one of the exemption criteria in the Fee Regulation would not be assessed a fee for fiscal year 2001-2002 if located in a district whose fee schedule is in the State's Fee Regulation. For this analysis, we are assuming that districts adopting their own fee rules will adopt similar exemptions.

d) Calculations

(1) Utilities, Air, Water and Solid Waste Facilities

Appendix A lists 79 utilities, air, water and solid waste facilities.

Six facilities are included in the "Prioritization Score Greater Than 10.0" level, and will pay estimated fees ranging from $125 to $5,275.

Thirty eight facilities are included in the "HRA Tracking" level, and will pay estimated fees ranging from $50 to $12,201.

Three facilities are included in the "Unprioritized" level, and will pay estimated fees ranging from $0 to $2,918.

Thirty two facilities are included in the "District Tracking" level, and will pay estimated fees ranging from $0 to $517.

Total costs for the utilities, air, water and solid waste facilities are estimated to be $71,089.

(2) POTWs

Appendix A lists 24 POTWs.

Eleven facilities are included in the "HRA Tracking" level, and will pay estimated fees ranging from $0 to $6,368.

One facility is included in the "Unprioritized" level, and will pay an estimated fee of $800.

Twelve facilities are included in the "District Tracking" level, and will pay estimated fees ranging from $0 to $2,728.

Total costs for the POTWs are estimated to be $26,481. This amount is the most recent estimate from ARB staff and is higher than the preliminary estimate documented in the Pubilc Notice in August, 2001.

(3) General Medical and Surgical Hospitals

Appendix A lists 6 general medical and surgical hospitals.

Of this total, one facility is included in the "Risk of 10.0 to Less Than 50.0 Per Million" level, and will pay an estimated fee of $7,387.

Three facilities are included in the "HRA Tracking" level, and will pay estimated fees of $648 and $8,571.

Two facilities are included in the "District Tracking" level, and will pay estimated fees of $0 and $125.

Total costs for general medical and surgical hospitals are estimated to be $18,786.

(4) Transportation Agencies

Appendix A lists 10 transportation agencies.

Two facilities are included in the "Prioritization Score Greater Than 10.0" level, and will pay estimated fees of $2,534 and $8,856.

One facility is included in the "HRA Tracking" level, and will pay an estimated fee of $904.

Six facilities are included in the "District Tracking" level, and will pay estimated fees ranging from $0 to $275.

Total costs for transportation agencies are estimated to be $12,569.

(5) General Government Facilities

Appendix A lists 3 general government facilities.

One facility is included in the "Unprioritized" level, and will pay an estimated fee of $800.

Two facilities are included in the "District Update" level, and will not pay fees.

Total costs for general local government facilities are estimated to be $800.

3. Conclusions

SUMMARY OF ESTIMATED LOCAL GOVERNMENT COSTS

Implementation Costs (Districts)	$270,000
Compliance Costs	
1. Utilities; Air, Water, and Solid Waste Facilities	$71,089
2. POTWs	$26,481
3. General Medical and Surgical Hospitals	$18,786
4. Transportation Agencies	$12,569
5. General government Agencies	$800
Compliance Costs Subtotal	$129,725
Total Cost to Local Governments	$399,725

District implementation costs are not reimbursable from the State within the meaning of section 6 of Article XIIIB of the California Constitution and Government Code sections 17500 et seq., because these local facilities have the authority to levy fees sufficient to defray the costs for the mandated Program (Government Code section 17556(d)). The fees collected pursuant to H&SC section 44380 are intended to recover the costs of district implementation of the Program. Districts are required to collect the fees and, after deducting their costs, transmit to the State the amount set forth in the Fee Regulation for recovery of the State's costs.

A high percentage of treatment works are publicly owned. Their costs of compliance with the proposed regulation are not reimbursable by the State within the meaning of Article XIIIB, section 6 and Government Code sections 17500 et seq., because POTWs are authorized, by enabling statutes, to levy service charges to cover the costs associated with the mandated Program.

C. STATE GOVERNMENT COSTS

State government costs are comprised of implementation costs and compliance costs.

1. Implementation Costs - ARB

a. Statement of the Mandate

The ARB performs tasks to develop, implement and administer the Fee Regulation, as required by the Act. The implementation costs for the ARB will be recovered by fee collections in accordance with sections 90700-90705, title 17, California Code of Regulations.

b. Assumptions

Approximately 1 person year (PY) is utilized by the ARB to develop and implement the amended Fee Regulation. The Office of Environmental Health Hazard Assessment (OEHHA) incurs no implementation cost to develop the Fee Regulation.

c. Calculation

The total cost of this function is approximately $100,000 per year. This is based on a professional staff person budgeted at $100,000 per year.

Fiscal year 2001-2002
Implementation Estimate = 1.0 PYs X $100,000/year = $100,000

2. Compliance Costs

Compliance costs are fees assessed to State government-owned facilities. Fees for State government-owned facilities in districts for which the ARB adopts fee schedules are based on the risks presented by the emissions of that facility. Fees for facilities in districts that adopt their own fee schedule are based on their district's current "Hot Spots" fee rule.

a) Statement of the Mandate

State government facilities are subject to the Fee Regulation if:

(1) they release specified quantities of criteria pollutants and use, manufacture, formulate or release any of the substances referenced in H&SC section 44321, and contained in Appendix A to the Emission Inventory Criteria and Guidelines, incorporated by reference in section 93300.5, title 17, California Code of Regulations, or

(2) they are included on a district's toxic inventory, survey, or report referenced in Appendix A to sections 90700-90705, title 17, California Code of Regulations.

b) Assumptions

Affected State facilities include general government agencies, general medical, surgical, and psychiatric hospitals, correctional institutions, and universities and community colleges. Appendix B to this cost estimate is a list of the State's facilities which are assessed fees because they meet the criteria listed above. Appendix B also lists the estimated fee to be assessed each facility. The facility list and fees in Appendix B are the basis for this cost analysis. Appendix B was compiled from the lists of facility names provided to the ARB by the districts.

For fiscal year 2001-2002, 30 districts are calculating and assessing their own fees. For facilities located in these districts, the most recent fees paid by the facilities or estimated 2001-2002 fees were provided by districts' staff. Most districts are not yet able to precisely estimate facility fees for fiscal year 2001-2002.

In the five districts with fee schedules adopted by the ARB, State-owned facilities will pay the fee associated with the applicable risk or toxicity of their air toxic emissions. The information identifying the appropriate risk assessment results or prioritization scores was obtained from the districts. The fee rate for each risk category will remain the same as last year.

Historically, State government facilities have not had difficulty absorbing the fees. Therefore, we anticipate that the fees for fiscal year 2001-2002 will be absorbable by these facilities.

c) Exemptions

The ARB staff will continue to exempt facilities with low or no potential health risk from the Fee Regulation. Any facility that meets one of the exemption criteria in the Fee Regulation would not be assessed a fee for fiscal year 2001-2002 if located in a district whose fee schedule is in the State's Fee Regulation. For this analysis, we are assuming that districts adopting their own fee rules would adopt similar exemptions.

d) Calculations

(1) General Government Agencies

Appendix B lists one general government facility in the "HRA Tracking" level, and will pay an estimated fee of $2,055.

(2) General Medical, Psychiatric, and Surgical Hospitals

Appendix B does not contain any Hospitals subject to fees.

(3) Correctional Institutions

Appendix B lists 13 correctional institutions.

Three facilities are included in the "Prioritization Score Greater Than 10.0" level, and will pay estimated fees of $402 and $2,055.

Three facilities are included in the "Unprioritized" level, and will not pay fees.

Six facilities are included in the "District Tracking" level, and will pay estimated fees of $0 and $125.

One facility is included in the "HRA Tracking" level, and will not pay fees.

Total costs for correctional institutions are estimated to be $7,060.

(4) Colleges and Universities

Appendix B lists 23 universities, colleges, and community colleges.

One facility is included in the "Prioritization Score Greater Than 10.0" level, and will pay an estimated fee of $1,485.

Of this total, six facilities are included in the "HRA Tracking" level, and will pay estimated fees ranging from $0 to $648.

Nine facilities are included in the "Unprioritized" level, and will pay estimated fees ranging from $0 to $3,877.

Seven facilities are included in the "District Tracking" level, and will pay estimated fees ranging from $0 to $517.

Total costs for universities, colleges and community colleges are estimated to be $12,159.

3. Conclusions

SUMMARY OF ESTIMATED STATE GOVERNMENT COSTS

Implementation Costs (ARB)	$100,000
Compliance Costs	
1. General Government Agencies	$2,055
2. Correctional Institutions	$7,060
3. Universities, Colleges and Community Colleges	$12,159
Compliance Costs Subtotal	$21,274
Total State Costs	$121,274

The ARB will recover its implementation costs through fees authorized by H&SC section 44380 and sections 90700-90705, title 17, California Code of Regulations.

D. SUMMARY

The costs for implementing the fee regulations for fiscal year 2001-2002 are summarized in the following table.

	Costs		
	Local	State	Total
Fee Implementation	$270,000	$100,000	
Compliance	$129,725	$21,274	
TOTAL	$399,725	$121,274	$520,999

E. SOURCES OF WORKING DATA - REFERENCES

1. Implementation

Estimated fee rule implementation costs from districts.
District Fee and Cost Survey: April 1, 2001.

2. Compliance

Total fees provided by the districts from March 31, 2001, to July 9, 2001.

Information from Districts by the July 1, 2001 deadline for those districts that ARB is adopting a fee schedule for: Antelope Valley Air Pollution Control District, Great Basin Unified Air Pollution Control District, Lassen County Air Pollution Control District, Mojave Desert Air Quality Management District, and Santa Barbara County Air Pollution Control District.

APPENDIX A: LOCAL GOVERNMENT AGENCIES FY 2001-2002

UTILITIES; AIR, WATER, AND SOLID WASTE FACILITIES

DISTRICT	COUNTY	FACILITY ID	FACILITY NAME	SIC	COMPLEXITY (1)	PRIORITY SCORE	HRA	TOTAL FEE
BA		621	City of Santa Clara, Electric	4941	S	82.8	2.1	$1,413
BA		1179	Redwood Landfill Inc			274.5	0.9	$5,157
BA		1271	West County Wastewater District			10.8		$125
BA		1364	Cypress Amloc Land Co, Inc			38.5	0.9	$551
BA		1464	Acme Fill Corporation			112.7	0.9	$2,009
BA		1812	Kirby Canyon Landfill			27.5	0.9	$336
BA		1840	West Contra Costa County Landfill			23.3	0.9	$264
BA		2039	Potrero Hills Landfill, Inc			33.5	0.9	$453
BA		2066	Waste Management of Alameda County			53.8	0.9	$874
BA		2246	Tri-Cities Recycling			97.3	0.9	$1,708
BA		2253	City of Sunnyvale Solid Waste	4953	S	25.9	0.9	$303
BA		2254	Sonoma County Dept. of Public			114.2	0.9	$2,040
BA		2266	Browning Ferris Industries of CA, In			76.1	0.9	$1,304
BA		2721	City of Palo Alto Landfill	4953	S	46.0	2.0	$699
BA		2740	City of Mountain View (Shorell	4953	S	130.6	2.7	$2,361
BA		3029	Contra Costa Sanitary Landfill			18.6	0.9	$159
BA		3256	Turk Island Solid Waste Disposal S.			12.9	0.9	$125
BA		3499	City of Menlo Park	4953	S	51.1	0.9	$798
BA		4116	San Francisco, City and County, PUC			22.8		$238
BA		5095	Republic Services Vasco Road, LLC			89.3	4.0	$1,547
BA		9013	International Disposal Corporation			204.2	0.9	$3,808
BA		9183	Napa-Vallejo Waste Mgt. Aut.			25.2	0.9	$289
BA		10189	West Contra Costa Energy Recovery			13.8	0.9	$125
BA		11247	Clover Flat Landfill Inc			30.3	7.4	$420
IMP	13	15	Imperial Irrigation Dist.	4911	I	11.0	6.2	$3,349
SAC	34	20	McClellan AFB/SMUD	4911	C			$0
SC	33	1464	COACHELLA VALLEY WATER DIST	4941	S	18.2		$5,275
SC	33	2868	INDIO CITY, PUBLIC WORKS DEPT	4939	S	8.2		$0
SC	30	3513	IRVINE RANCH WATER DIST	4940	I			$2,918
SC	19	21189	LA CO., SANITATION DIST, M. CYNS1-3	9631	S	1.2		$0
SC	19	22221	LA CO., SANITATION DIST NO.2	9631	S	1.3		$0
SC	19	25070	LA CO., SANITATION DISTRICT	4953	C	25.5	1.4	$648
SC	30	35189	NEWPORT BEACH CITY - UTIL. DEPT	1311	S			$800
SC	19	42514	LA CO.,SANIT. DIST,CALABASAS LANDFILL	4953	I	1.4	0.9	$517
SC	19	42633	LA CO., SANITATION DIST	4953	I	11.0	1.2	$486
SC	19	43536	PACIFIC ENERGY-PENROSE LANDFILL	4911	S	3.4		$0
SC	19	43537	PACIFIC ENERGY; TOYON C. LANDFILL	4911	S	2.5		$0
SC	19	44577	LONG BEACH CITY, SERRF PROJECT	4953	I	248.0	1.2	$486
SC	19	45262	LA CO, SANIT. DIST. UNIT NO.02	4953	S	12.5	6.2	$325
SC	19	55449	BKK CORP., LANDFILL DIV. GNRL	4953	I	278.9	6.9	$12,201

SC	33	62862	IMPERIAL IRRIGATION DISTRICT	9631	S	1.9		$0
SC	33	70290	EASTERN MUNICIPAL WATER DISTRICT	4941	S	3.2		$0
SC	33	70292	EASTERN MUNICIPAL WATER DISTRICT	4941	S	2.3		$0
SC	33	74338	CITY OF CORONA - UTIL. SERV. DEPT.	9631	S	5.2		$0
SC	19	800074	LA CITY, DWP HAYNES GEN. STATION	4911	I	39.3	1.7	$7,979
SC	19	800075	LA CITY, DWP SCATTERGOOD GEN. STA.	4911	I	32.7	0.0	$486
SC	19	800168	PASADENA CITY, DWP	4931	I	17026.4	0.2	$486
SC	19	800193	LA CITY, DWP VALLEY GEN. STA.	4911	I	908.0	0.3	$0
SC	19	800214	LA CITY, SANIT. BUREAU NSR USE ONLY	9631	C	368.4	7.6	$648
SD	37	3114	Oceanside City/ Mission Landfill		S	4.1		$0
SD	37	3680	S.D. City Pt. Loma Wste. Wtr. Trmt. Plant		C	8.1	7.3	$0
SD	37	5924	Landfill Generating Partners		S	6.2		$0
SD	37	5924	S.D. Cnty/ San Marcos II Landfill		C	101.4	7.4	$184
SD	37	5985	Encina Waste Water Authority		S	35.1		$2,009
SD	37	6182	S.D. Cnty/ Bonsall Landfill		S	3.2	3.7	$0
SD	37	6257	Allied Waste/Sycamore Landfill		S	5.3		$0
SD	37	6283	S.D. Cnty/ Hillsborough Landfill		S	9.5		$0
SD	37	86072	S.D. City/ So Chollas Landfill		S	12.0		$1,674
SD	37	86085	Oceanside City/ Maxson St Landfill		S	3.5		$0
SD	37	86099	S.D. Cnty/ Duckpond Landfill		S	2.2		$0
SD	37	88127	S.D. Cnty/ Bell JHS Landfill		S	9.5		$0
SD	37	88135	S.D. Cnty/ Valley Center Landfill		S	1.7		$0
SD	37	88136	S.D. Cnty/ Palomar Airport Landfill		S	1.3	3.9	$0
SD	37	88137	S.D. Cnty/ Gillespie Landfill		S	4.8		$0
SD	37	88138	S.D. City/ Arizona St. Landfill		S	7.5		$0
SD	37	88176	Otay Landfill, Allied Waste		I	129.3	10.0	$100
SD	37	88177	S.D. Cnty/ San Marcos I Landfill		S	5.7		$0
SD	37	88179	Allied Waste/Romana Landfill		I	0.6		$0
SD	37	88180	S.D. Cnty/ Fallbrook Landfill		S	1.8		$0
SD	37	88181	S.D. Cnty/ Poway Landfill		S	5.2		$0
SD	37	88188	Borrego Landfill, Allied Waste		I	4.2		$0
SD	37	88189	S.D. Cnty/ Viejas Landfill		S	3.0		$0
SD	37	88190	S.D. Cnty/ Encinitas II Landfill		S	8.2		$0
SD	37	88196	S.D. City/ Miramar Landfills		I	1320.0		$2,009
SJU	39	21194	STOCKTON MUNICIPAL UTILITY	4939	S	8.4		$125
SJU	15	50292	WEST KERN WATER DISTRICT	4941	S	6.3		$125
SJU	39	51363	NORTHERN CALIFORNIA POWER	4911	S	0.1		$0
VEN	56	1377	Ventura Waste H2O Treatment		I	9.9		$1,153
VEN	56	1399	VRSD-Ballard Landfill Flare		S	0.0		$0
TOTAL		**79**						**$71,089**

PUBLICLY OWNED TREATMENT WORKS (POTWs)

DIST	COUNTY	FACILITY ID	FACILITY NAME	SIC	COMPLEXITY	PRIORITY SCORE	HRA	TOTAL FEE
BA		591	East Bay Municipal Utility District	4952	I	215.6	8.0	$5,839
BA		617	Palo Alto Regional Water Quality	4952	I	18.3	8.0	$2,341
BA		778	San Jose/Santa Clara Water Pollution	4952	I	201.9	3.9	$6,368
BA		861	San Mateo Water Quality Control	4952	I	40.2	5.8	$656
BA		1209	Union Sanitary District	4952	I	274.5	0.9	$5,157
ED	9	27	South Tahoe Public Utility District	4952	S	9.0		$559
MBU	27	129	MRWPCA	4952	C	5.8		$0
SAC	34	106	Regional Sanitation District	4952	C	1.5		$0
SC	19	2212	LA CITY, LA-GLENDALE WATER REC.	4952	S	2.8		$0
SC	19	2680	LA CO., SANITATION DISTRICT	4952	I	27.4	0.7	$0
SC	33	9961	RIVERSIDE CITY, WATER QUAL. CONT.	4952	S			$800
SC	19	10245	LA CITY,SANIT. BUREAU,TERM. IS.	4952	S	20.7	1.2	$325
SC	30	13433	ALISO WATER MANAGEMENT AGENCY	4952	I	2.5		$0
SC	19	16576	LA CO., SANITATION DIST UNIT NO.01	4952	I	15.9	8.4	$486
SC	30	17301	OR CO., SANITATION DIST	4952	I	144.4	7.6	$486
SC	33	19159	EASTERN MUN WATER DIST	4952	S	2.4		$0
SC	30	29110	OR. CO., SANITATION DIST	4952	I	287.9	8.0	$486
SC	19	56100	LA CO., SANITATION DISTRICT	4952	S	2.4		$0
SC	19	76240	BURBANK CITY PWD,BURBANK WTR REC	4952	S		0.9	$0
SHA	45	139	City of Redding POTW - Clear Creek	4952	S	1.0		$0
SJU	39	21210	STOCKTON STP-MAIN PLANT	4952	C	2.3		$125
SJU		30282	TURLOCK WWTP	4952	S	9.8		$2,728
SJU	10	40042	CITY OF FRESNO	4952	C	4.9		$125
SJU	54	50055	CITY OF VISALIA WATER CONSERVA	4952	C	9.8		$0
Total		**24**						**$26,481**

GENERAL MEDICAL AND SURGICAL HOSPITALS

DIST	COUNTY	FACILITY ID	FACILITY NAME	SIC	COMPLEXITY	PRIORITY SCORE	HRA	TOTAL FEE
BA		475	Santa Clara Valley Health and Hospital		I	0.1		$0
BA		508	Tenet Health System Hospital		I	1.4		$125
SAC	34	1041	UCD Medical Center	8062	C	26.8	4.0	$2,055
SC	19	3093	LA CO., OLIVE VIEW/UCLA MED. CENTER	8060	S	919.9	30.0	$7,387
SC	19	6384	LA CO., RANCHO LOS AMIGOS MED. CEN	8060	C	62.0	3.1	$8,571
SC	19	20197	LAC/USC MEDICAL CENTER	8060	C	159.3	1.7	$648
TOTAL		6						$18,786

TRANSPORTATION AGENCIES

DIST	COUNTY	FACILITY ID	FACILITY NAME	SIC	COMPLEXITY	PRIORITY SCORE	HRA	TOTAL FEE
BA		3464	City of Santa Clara	4593	S	56.4	0.9	$904
SC	19	7117	LA CITY, DEPT OF AIRPORTS	4581	S	2.7		$0
SC	19	13906	LA CO., SANITATION DIST	9621	S	1.6		$0
SC	19	21646	LA CITY, DEPT OF AIRPORTS	4581	I			$0
SC	19	25196	LA CITY, STREET MAINT B. DEPT PUB WK	2951	S	0.5		$0
SC	19	61962	LA CITY, HARBOR DEPT	1700	I	0.7		$0
SD	37	6225	Escondido, City of		S	8.4		$0
VEN	56	165	City of Simi Valley		S	3.4		$275
VEN	56	1137	Oxnard - City of		C	154.0		$8,856
VEN	56	1139	Ventura Port District		S	26.8		$2,534
TOTAL		10						$12,569

GENERAL GOVERNMENT

DIST	COUNTY	FACILITY ID	FACILITY NAME	SIC	COMPLEXITY	PRIORITY SCORE	HRA	TOTAL FEE
SC		20853	Huntington Beach City		S			$800
SC	19	50234	TORRANCE CITY	9199	S	2.6		$0
SC	33	66413	INDIO CITY	9100	S	4.3		$0
TOTAL		3						$800

TOTAL LOCAL GOVERNMENT FACILITIES 122 $129,725

APPENDIX B: STATE GOVERNMENT AGENCIES FY 2001-2002

GENERAL GOVERNMENT AGENCIES

DIST	COUNTY	FACILITY ID	FACILITY NAME	SIC	COMPLEXITY	PRIORITY SCORE	HRA	TOTAL FEE
SAC	34	61	State of California-Central Plant	4961	C	17.0	8.4	$2,055
TOTAL		1						$2,055

CORRECTIONAL INSTITUTIONS

DIST	COUNTY	FACILITY ID	FACILITY NAME	SIC	COMPLEXITY	PRIORITY SCORE	HRA	TOTAL FEE
AMA	3	7	Prison Industries		I			$0
AMA	3	3	Mule Creek State Prison		I			$0
LAS	18	11	California Correctional Center		I	49.7		$2,009
MBU	27	43	Soledad CTF	9223	S	26.6		$402
SAC	34	107	Folsom State Prison	9223	C	16.7		$2,055
SC	36	3716	CYA TRAINING SCHOOL	9223	I			$0
SC	36	3769	CALIF ST DEPT OF CORR.,CAL INS MEN	9999	I	2.4		$0
SC	33	17749	ST CALIF DEPT CORR., CAL REHAB CNTR	9223	C	6.1		$0
SD	37	86017	Calif. State Dept. of Corrections		C	3.0		$2,344
SJU	16	40015	CALIFORNIA STATE PRISON AVENAL	9223	C	9.7		$125
SJU	16	40016	CALIF STATE PRISON CORCORAN	9223	C	7.5		$125
SLO	40	76	California's Men's Colony	9223	I	3.4	1.9	$0
YS	48	5010	Cal State Prison	9223	C	10.0		$0
TOTAL		13						$7,060

UNIVERSITIES, COLLEGES, AND COMMUNITY COLLEGES

DIST	COUNTY	FACILITY ID	FACILITY NAME	SIC	COMPLEXITY	PRIORITY SCORE	HRA	TOTAL FEE
BA	43	2478	UCSF/Parnassus	8221	I	87.0		$1,485
SAC	34	1108	Cal State University-Sacramento	8221	I	1.6		$0
SB	42	2795	UCSB		C	30.2	1.6	$134
SC	30	1912	SADDLEBACK COMM. COLLEGE DIST.	8220	I			$0
SC	19	2316	CERRITOS COMMUNITY COLLEGE	8222	S			$800
SC	19	2638	OCCIDENTAL COLLEGE	8220	I	9.3		$0
SC	19	2961	CAL ST UNIV, DOMINGUEZ HILLS	8211	I	1.2		$517
SC	19	4351	CAL ST, POLYTECHNIC UNIV, POMONA	8221	I	2.8		$0
SC	19	4565	CAL ST UNIV NORTHRIDGE	8221	I	2.9		$517
SC	19	5023	CAL ST UNIV L. BEACH (STUDENT HOUSIN	8221	I			$0
SC	30	19185	NO ORANGE CO,COMM. C. DIST, CYPRES	8221	C			$0
SC	19	21505	LA CITY COLLEGE	8222	S			$0
SC	19	21836	CALIFORNIA INSTITUTE OF THE ARTS	8221	S			$800
SC	36	23043	CAL ST UNIV, SAN BERNARDINO	8220	C	0.0		$0
SC	33	49387	UNIV CAL, RIVERSIDE	8221	C		7.1	$648
SC	19	800244	CLAREMONT COLLEGES	8221	I			$0
SC	30	800288	UNIV CAL IRVINE (NSR USE ONLY)	8221	C		5.6	$648
SD		351	SD STATE UNIV			10.4	0.1	$0
SD		400	UNIV OF CAL, SAN DIEGO			1.8		$0
SD	37	402	UCSD Campus		C	37.1	1.8	$134
SJU	10	40017	CALIFORNIA STATE UNIVERSITY	8221	C			$3,877
SLO	40	24	California Polytechnic University	8221	I	12.2	0.7	$0
YS			UNIV CAL, DAVIS	8221	C			$2,599
TOTAL		**23**						**$12,159**

TOTAL STATE GOVERNMENT FACILITIES

37 **$21,274**

TOTAL LOCAL AND STATE GOVERNMENT FACILITIES

159 **$150,999**

(1) Complexity: Simple = 1-2 SICs
Intermediate = 2-5 SICs
Complex >5 SICs