

Rule 307.1

Alternative Fees for Air Toxics Emissions Inventory

(A) General

(1) Purpose

(a) California Health and Safety Code (H&SC) §§44300 et seq. provides authority for the District to adopt a fee schedule to recover the cost of implementing and administering the Air Toxics “Hot Spots” Information and Assessment Act of 1987. The District shall annually collect from the owner/operator of each Facility meeting the criteria set forth in subsections (A)(2)(a)(i) and (ii), and each owner/operator shall pay, fees which shall provide for the following:

- (i) Recovery of anticipated costs to be incurred by the California Air Resources Board (CARB) and OEHHA to implement and administer the Act, and any costs incurred by OEHHA or its independent contractor for review of Facility health risk assessments.
- (ii) 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:
 - 1. review emission inventory plans and reports, health risk assessment plans and reports, and risk reduction audits and plans; and
 - 2. determine prioritization scores and public notification requirements; and
 - 3. verify plans and data; and
 - 4. administer this rule and the Air Toxics “Hot Spots” program.

(2) Applicability

(a) Except for Facilities exempted by H&SC §44324, this rule applies to any Facility which:

- (i) Manufactures, formulates, uses, or releases any of the substances listed by CARB pursuant to H&SC §44321 and contained in Appendix A-I, A-II and/or A-III of Title 17 of the California Code of Regulations (CCR) §§93300 et seq., which is incorporated by reference, or any other substance which reacts to form a substance so listed, and releases ten (10) tons per year or greater of any criteria pollutant; or,
- (ii) Manufactures, formulates, uses or releases any listed substance or any other substance which reacts to form any listed substance, and which releases less than ten (10) tons per year of any criteria pollutant and falls in any class listed in Appendix E to CCR §§93300 et seq.

(B) Definitions

For the purposes of this rule, the following definitions shall apply:

- (1) “Complex” - a Facility that has more than five (5) processes as determined by six (6) digit SCCs.
- (2) “Criteria Pollutant” - TOG, particulate matter, nitrogen oxides or sulfur oxides.
- (3) “District Update Facility” - a Facility:
 - (a) that has been prioritized by the District in accordance with subsection (B)(6) and H&SC §44360(a), and
 - (b) that is required by the District to submit a quadrennial emissions inventory update pursuant to H&SC §44344 during the applicable fiscal year, and
 - (c) whose Facility prioritization scores for cancer and non-cancer health effects are both greater than 1.0 and equal to or less than 10.0.
- (4) “Facility” - every structure, appurtenance, installation, and improvement on land which is associated with a source of air releases or potential air releases of a hazardous material.
- (5) “Facility Data List” - a list of facilities including the information set forth in CCR §90704(e)(3).

- (6) “Facility Prioritization” - a method of calculating a score (a numerical value) to evaluate if a risk assessment should be prepared by placing facilities into high, intermediate, or low categories. The score is based on the potency, toxicity, quantity, and volume of hazardous materials released from the Facility, the proximity of the Facility to potential receptors, including, but not limited to, hospitals, schools, daycare centers, work sites, and residences, and, any other factors that the District finds which may indicate that the Facility may pose a significant risk to receptors. The calculation method uses 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 CARB and which is incorporated by reference herein.
- (7) “Facility Program Category” -a list of Facilities, including Facility name and identification number, provided to CARB by the District each fiscal year, which lists the Facilities which meet the definitions in subsections (B)(1), (B)(3), (B)(9), (B)(12), (B)(13), (B)(14), (B)(15), (B)(16), (B)(17), (B)(23),and (B)(24).
- (8) “Industrywide Facility” - a Facility that qualifies to be included in an industrywide emission inventory prepared by the District pursuant to H&SC §44232, or an individual Facility which emits less than ten (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 District.
- (9) “Medium” - a Facility that has three (3) to five (5) processes as determined by six (6) digit SCCs.
- (10) Office of Environmental Health Hazard Assessment (OEHHA) – the State agency responsible for assessing environmental health hazards.
- (11) “Owner/Operator” - the person who owns or operates a Facility or part of a Facility.
- (12) “Prioritization Score Greater Than Ten (>10) Facility” - a Facility that does not have an approved health risk assessment and has been prioritized by the District in accordance with subsection (B)(6) and H&SC §44360(a), and the greater of the Facility’s prioritization scores for cancer and non-cancer effects is greater than 10.0.
- (13) “Risk Of 10.0 to Less Than 50 per Million Facility” - a Facility that had its health risk assessment approved by the District in accordance with H&SC §44362 and whose health risk assessment results meet either of the following criteria:

- (a) a total potential cancer risk, summed across all pathways of exposure and all compounds, equal to or greater than 10.0, but less than 50.0 cases per million persons or,
 - (b) 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.
- (14) “Risk Of 50.0 to Less Than 100.0 per Million Facility” - a Facility that has had its health risk assessment approved by the District in accordance with H&SC §44362 and whose health risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, equal to or greater than 50.0, but less than 100.0 cases per million persons.
- (15) “Risk Of 100.0 per Million or Greater Facility” - a Facility that has had its health risk assessment approved by the District in accordance with H&SC §44362 and whose health risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, equal to or greater than 100.0 cases per million persons.
- (16) “Simple” - a Facility that has one (1) or two (2) processes as determined by six (6) digit SCCs.
- (17) “Small Business” - a Facility which is independently owned and operated and has met the following criteria in the preceding year:
- (a) The Facility has ten (10) or less (annual full-time equivalence) employees; and
 - (b) The Facility’s total annual gross receipts are less than \$1,000,000; and
 - (c) The total annual gross receipts of the Facility’s California operations are less than \$5,000,000.
- (18) “Source Classification Codes” (SCCs) - number codes created by the United States Environmental Protection Agency used to identify processes associated with point sources that contribute emissions to the atmosphere.

- (19) “Standard Industrial Classification Code” (SIC Code) - 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.
- (20) “State Costs” - the reasonable anticipated cost which will be incurred by CARB and OEHHA to implement and administer the Act, as shown in the CARB staff report dated August 1997 and amended December 1997.
- (21) “Supplemental Fee” - the fee charged to cover the costs incurred by the District to review a health risk assessment containing supplemental information which was prepared in accordance with the provisions of H&SC §44360(b)(3).
- (22) “Total Organic Gases” (TOG) - all gases containing carbon, except carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.
- (23) “Tracking Facility” - a Facility that has been prioritized by the District in accordance with subsection (B)(6) and H&SC §44360(a), and the greater of the Facility’s prioritization scores for cancer and non-cancer effects is greater than 10.0., and meets either one of the following criteria:
- (a) the Facility has had its health risk assessment approved by the District in accordance with H&SC § 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
 - (b) the Facility has had its health risk assessment approved by the District in accordance with H&SC §44362 and the risk assessment results show a total hazard index for each toxicological endpoint, either acute and chronic, of equal to or greater than 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 1.0 and less than ten (10) cases per million persons.
- (24) “Unprioritized Facility” - a Facility that has not been prioritized by the District in accordance with subsection (B)(6) and H&SC §44360(a).

(C) Fees

- (1) All sources subject to this rule shall be assessed a fee pursuant to Table I of this rule.
- (2) Calculation of Fees
 - (a) The District shall establish the fee applicable to each Facility for the recovery of State and District costs. The District shall use State Costs and District costs to calculate fees, 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; and
 - (b) The District shall calculate fees on the basis of the Facility program category as set forth each fiscal year, except for Facilities excluded under subparagraph (C)(6)(a) through (C)(6)(g).
- (3) Flat Fees
 - (a) The maximum fee which a Small Business shall pay is \$300.00.
 - (b) Pursuant to the provisions of H&SC §44380.5, the supplemental fee which may be assessed upon the owner/operator of a Facility, to cover the direct costs to the District to review the information supplied, shall be \$2,000.00.
- (4) Fee Payment and Collection
 - (a) The District shall send notification of fees due, payable within sixty (60) days.
 - (b) If all fees due have not been received within sixty (60) days after the notice to pay such fees was received, the Air Pollution Control Officer may assess a penalty of not more than one hundred percent (100%) of the assessed fee, but in an amount sufficient, in the District's determination, to pay the District's additional expenses incurred by the owner/operator's non-compliance. If an owner/operator fails to pay the fee within 120 days after receipt of this notice, the District may initiate permit revocation proceedings. For the purpose of this subparagraph, the fee payment will be considered to be received by the District if it is postmarked by the United States Postal Service on or before the expiration date stated on the

billing notice. If the expiration date falls on a Saturday, Sunday, or a state holiday, the fee payment may be postmarked on the next business day following the Saturday, Sunday, or state holiday with the same effect as if it had been postmarked on the expiration date.

- (c) A Permit to Operate which is revoked for nonpayment of fees pursuant to subparagraph (C)(4)(b) above may be reinstated by the permit holder upon full payment of such overdue fees and accrued penalties.
- (5) The District shall collect the fees assessed by or required to be assessed by this rule. After deducting the costs to the District to implement and administer the program, the District shall transmit to CARB the amount the District is required to collect for recovery of state costs as specified in the staff report.

(D) Exemptions

- (1) A Facility shall be exempt from paying fees for Fiscal Year 1997-98 if by December 15, 1997, any one or more of the following criteria is met:
 - (a) The Facility has been prioritized by the District in accordance with subsection (B)(6) and H&SC §44360(a) using procedures that have undergone public review, and the Facility's prioritization score is equal to less than 1.0 for both cancer and non-cancer health effects. Those facilities that have not yet been prioritized shall remain in the appropriate Unprioritized category.
 - (b) The Facility had its health risk assessment approved by the District in accordance with H&SC §44362 and was notified in writing by the District that the risk assessment results show a total potential cancer risk at an actual receptor, summed across all pathways of exposure and all compounds, of less than one (1) chance per one million persons and a total hazard index for each toxicological endpoints, both acute and chronic, of less than 0.1. An approved final risk assessment is one that has been reviewed by OEHHA before being approved by the District. The 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.

- (c) The Facility primarily performs printing as described by SIC Codes 2711 through 2771 or 2782, and the Facility uses an annualized average of two (2) gallons per day or less [or seventeen (17) pounds per day or less] of all graphic arts materials.
- (d) 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 of effluent.
- (e) 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 (animal), 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). Facilities using incinerators that burn biomedical waste other than cremating animals do not qualify for this exemption.
- (f) 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 twenty (20) gallons per year or less of coatings or is a coating operation using hand held aerosol cans only.
- (g) 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.

(E) Effective Date

- (1) This rule is applicable only to Fiscal Year 1997-98.

**TABLE I
FACILITY FEES BY PROGRAM CATEGORY**

PROGRAM CATEGORY	AVAPCD Portion	State Portion	Total Fee
District Update Facility	\$125	\$--	\$125
Industrywide	\$75	\$25	\$100
Small Business	\$300*		\$300
UNPRIORITIZED			
Simple	N/A	N/A	N/A
Medium	\$2226	\$603	\$2829
Complex	\$2968	\$804	\$3772
TRACKING			
Simple	\$248	\$67	\$315
Medium	\$371	\$100	\$471
Complex	\$495	\$134	\$629
PRIORITIZATION SCORE > 10			
Simple	\$3463	\$1674	\$5137
Medium	\$3710	\$2009	\$5719
Complex	\$3957	\$2344	\$6301
RISK ASSESSMENT >=10<50			
Simple	\$4205	\$3014	\$7219
Medium	\$4452	\$3349	\$7801
Complex	\$4700	\$3684	\$8384
RISK ASSESSMENT >=50<100			
Simple	\$4947	\$4353	\$9300
Medium	\$5194	\$4688	\$9882
Complex	\$5441	\$5023	\$10464
RISK ASSESSMENT >=100			
Simple	\$5688	\$5693	\$11381
Medium	\$5936	\$6028	\$11964
Complex	\$6184	\$6363	\$12547

SIP: Not in SIP

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