

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF PERMIT FEE REGULATIONS FOR NONVEHICULAR SOURCES PURSUANT TO THE CALIFORNIA CLEAN AIR ACT

The Air Resources Board (the "Board" or "ARB") will conduct a public hearing at the time and place noted below to consider adoption of new section 90800.4 and amended section 90803, Title 17, California Code of Regulations, which would require local air pollution control and air quality management districts to collect permit fees from major nonvehicular sources of nonattainment pollutants and their precursors to fund in part the Board's California Clean Air Act program for nonvehicular sources for the fiscal year 1993-94.

DATE: April 8, 1993

TIME: 9:30 a.m.

PLACE: Embassy Suites Hotel
Queen of the Lake Ballroom
4130 Lake Tahoe Blvd.
South Lake Tahoe, CA

This item will be considered at a one-day meeting of the Board which will commence at 9:30 a.m., April 8, 1993. Please consult the agenda for the meeting, which will be available at least 10 days before April 8, 1993.

INFORMATIVE DIGEST OF PROPOSED ACTION

Sections Affected: Proposed adoption of new section 90800.4 and amendment to section 90803, Title 17, California Code of Regulations (CCR).

In the California Clean Air Act (the "Act," Stats. 1988, ch. 1568), the Legislature imposed a number of requirements on the Board and the air pollution control and air quality management districts and provided a mechanism to help defray the state costs of implementing the Act.

To offset the increased costs of additional state programs related to nonvehicular sources, the Legislature, in section 39612 of the Health and Safety Code, authorized the Board, beginning July 1, 1989, to require districts to collect fees from holders of permits for facilities which emit 500 tons or more per year of any nonattainment pollutant or its precursors. The total amount of funds collected by these fees, exclusive of district administrative costs, may not exceed \$3,000,000 in any fiscal year. The authorization to assess fees expires on July 1, 1997.

In 1989, the Board adopted sections 90800-90803, Title 17, CCR, establishing the California Clean Air Act Nonvehicular Source Fee Regulations including the fee rate and amounts to be remitted to the ARB by the districts for the first year of the program, fiscal year 1989-90.

In 1990, the Board approved amendments to the regulations and a new section, section 90800.1, to provide funding for the second year of the program, fiscal year 1990-91. Again, fee rates and amounts to be remitted to the ARB were included.

In 1991, the Board approved amendments to the regulations and a new section, section 90800.2, to provide funding for the third year of the program, fiscal year 1991-92. Again, fee rates and amounts to be remitted to the ARB were included. Approved amendments to section 90801 included a specification that the area designations to be used will be those that are in effect on July 1 of the fiscal year for which fees will be collected. Also in section 90801, reactive organic gas was included as a precursor to both suspended particulate matter (PM10) and visibility reducing particles. Also, section 90803 was amended to be applicable to fees collected under section 90800.2.

In 1992, the Board approved a new section, section 90800.3, to provide funding for the fourth year of the program, fiscal year 1992-93. Again, fee rates and amounts to be remitted to the ARB were included. Also, section 90803 was amended to be applicable to fees collected under new section 90800.3.

Proposed new section 90800.4, Title 17, CCR, specifies the fee rate and amounts to be remitted to the ARB for the 1993-94 fiscal year, which is the fifth year of the nonvehicular source permit fee program. Section 90803 would be amended to be applicable to fees to be collected under new section 90800.4.

As with the fee regulations for the first four years, the proposed regulations provide for: 1) the collection of the emission fees by districts on a dollar-per-ton basis, 2) recovery of administrative costs by the districts, 3) imposition of additional fees on facilities that do not pay in a timely manner, and 4) exemption of districts from the fee collection requirements for demonstrated good cause.

The proposed fee rate was established based on the cost of state programs related to nonvehicular sources under the Act (\$3,000,000) and the amount of emissions of nonattainment pollutants or their precursors from sources subject to the fee requirements. In order to ensure collection of \$3,000,000, the regulations provide for the assessment of approximately \$3,240,000 in fees. This amount includes an adjustment of 10 percent to avoid a shortfall in collections as a result of unanticipated closings of businesses or other reasons. The total assessment further reflects a reduction of approximately \$56,000 that has been carried over to fiscal year 1993-94 from assessments that were received for fiscal year 1991-92.

The proposed regulations specify that fees shall be based on the estimated 1991 emissions from each facility as determined on or before January 29, 1993. Fees shall be collected by the affected districts from permitted sources which are located in nonattainment areas and are identified as having emitted 500 tons or more per year of any nonattainment pollutant or its precursors in 1991. Nonattainment areas are those in which air pollutant concentrations violate state ambient air quality standards. Nonattainment areas are identified in sections 60200-60209, Title 17, CCR.

The regulations would also require the collection of fees from sources identified after January 29, 1993, as having emitted 500 tons or more per year of any nonattainment pollutant or its precursors during 1991.

AVAILABILITY OF DOCUMENTS AND CONTACT PERSON

The Board staff has prepared a Staff Report which includes the initial statement of reasons for the proposed action. The Staff Report, the full text of the proposed regulations, and any other information on which the proposal is based will be available and may be obtained at the Board's Public Information Office, 2020 "L" Street, Sacramento, CA 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing.

Further inquiries regarding this matter should be directed to Andy Delao, Stationary Source Emission Inventory Branch, P. O. Box 2815, Sacramento, California 95812, (916) 324-7169.

COSTS TO PUBLIC AGENCIES, BUSINESSES AND PERSONS AFFECTED

The Board's Executive Officer has determined that the regulations will not create costs or savings, as defined in Government Code section 11346.5(a)(6), to any state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code, except as discussed below, or other nondiscretionary savings to local agencies.

The Board's Executive Officer has determined that local agencies will incur some costs as a result of the proposed regulations. Air pollution control and air quality management districts will incur administrative costs in collecting the fees. These costs are not expected to exceed five percent of the fees collected. The Act authorizes the districts to recover these costs from facilities subject to the fees.

The aggregate cost to local government agencies other than air pollution control and air quality management districts which are subject to the fee regulations will be approximately \$41,300. These costs are based on emissions from local government agency facilities. These costs are not reimbursable state mandated costs pursuant to Government Code section 17500 et seq. because the fee regulations apply generally to all facilities in the state which emit 500 tons or more per year of nonattainment pollutants or their precursors and, therefore, do not impose unique requirements on local government agencies.

The aggregate costs to federal agencies which are subject to the fee regulations will be approximately \$75,600. These costs are based on emissions from federal facilities. Federal facilities are required to comply with all state and local requirements relating to the control and abatement of air pollution to the same extent as private persons, including the payment of permit fees.

The Executive Officer has determined that adoption of these regulations will not have a significant adverse economic impact on businesses. The Executive Officer has also determined that the potential cost impact on private

persons or businesses directly affected by the proposed regulations will be insignificant. Included among the facilities subject to the proposed regulations for the fiscal year 1993-94 fees are major oil and gas producers, utilities, and major manufacturing enterprises. See Staff Report, Attachment D: Facilities and Emissions Subject to the Proposed Fee Regulations.

The proposed regulations would require the collection of permit fees from specified facilities. The proposed fee rate is approximately \$16.00 per ton of nonattainment pollutants and their precursors that were emitted in 1991. The cost to affected businesses will therefore vary according to the magnitude of the 1991 emissions from the facilities. The cost to an individual business is estimated to range from a minimum of approximately \$8,000 to approximately \$405,000 for a multi-facility business based on 1991 emissions.

In addition, the Board must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing. To be considered by the Board, written submissions must be addressed to and received by the Board Secretary, Air Resources Board, P. O. Box 2815, Sacramento, CA 95812, no later than 12:00 noon, April 7, 1993, or received by the Board Secretary at the hearing.

The Board requests but does not require that 20 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulations.

STATUTORY AUTHORITY AND HEARING PROCEDURES

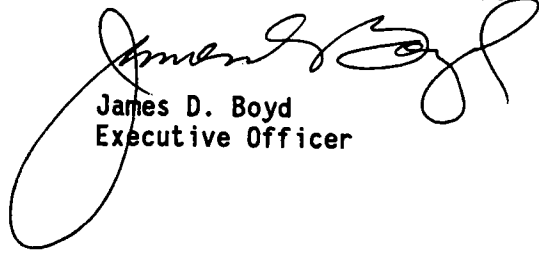
The regulations are proposed under that authority granted in sections 39600, 39601 and 39612 of the Health and Safety Code. The regulations are proposed to implement, interpret, or make specific sections 39002, 39500, 39600 and 39612 of the Health and Safety Code and the California Clean Air Act of 1988 (Stats. 1988, ch. 1568).

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Title 2, Division 3, Part 1, Chapter 3.5 of the Government Code.

Following the public hearing, the Board may adopt the proposed regulations as proposed or with nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulations with other modifications if the regulations as modified are sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulations as modified could result from the proposed regulatory action; in such event, the full text of the regulations with the modifications clearly indicated

will be made available to the public, for written comment, at least 15 days before they are adopted. The public may request the text of the modified regulations from the Board's Public Information Office, 2020 "L" Street, Sacramento, CA 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD



James D. Boyd
Executive Officer

Date: February 9, 1993