

State of California
AIR RESOURCES BOARD

**Final Statement of Reasons for Rulemaking
Including Summary of Comments and Agency Responses**

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

Public Hearing Date: April 14, 1994
Agenda Item No.: 94-4-1

I. GENERAL

The Staff Report: Initial Statement of Reasons for Proposed Rulemaking ("staff report"), entitled "Public Hearing to Consider the Adoption of Permit Fee Regulations for Nonvehicular Sources Pursuant to the California Clean Air Act," released February 25, 1994, is incorporated by reference herein.

Following a public hearing on April 14, 1994, the Air Resources Board (the "Board" or "ARB"), by Resolution 94-19, approved the adoption of the proposed California Clean Air Act Nonvehicular Source Fee Regulations. In approving the regulations, the Board directed the Executive Officer to adopt the regulations after making them available to the public for 15 days, provided that the Executive Officer considered written comments received during this period and made modifications as might be appropriate based on the comments received. The Board also directed the Executive Officer to present the regulations to the Board for further consideration if warranted. The subject regulations are contained in Title 17, California Code of Regulations (CCR), sections 90800-90803.

The regulations as approved by the Board differ from those initially proposed by the staff and made available with the staff report on February 25, 1994. The modifications to the initial proposal include a recalculation of the fee rate due to several emission changes reported by one district. These revisions were circulated for public review in a 15-day comment period. No comments were received on these revisions. The regulation was subsequently revised to address concerns of the Board about the treatment of emission calculation errors. Because this revision occurred after the first 15-day comment period, this new version was also circulated for a second 15-day comment period. No comments were received during the second public comment period. The double underline and strikeout format presented in the 15-day packages has been omitted for the final regulations attached here. Single underlines in the final regulations indicate the adoption of a new section and the amendment of an existing section.

The regulations as approved are intended to provide the Board with net revenues of \$3.0 million in fees (see staff report). These funds are necessary to partially defray the additional costs of California Clean Air Act programs related to nonvehicular sources as budgeted for the 1993-94 fiscal year (see Attachment 1).

The Board has determined that this regulatory action will result in a mandate to local air pollution control and air quality management districts in the form of administrative costs in assessing and collecting the fees. These costs are not expected to exceed five percent of the fees to be collected. However, the Board finds that these costs are not reimbursable pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code, because the districts have the authority, pursuant to Health and Safety Code section 39612 and the implementing regulations, to collect and retain fees sufficient to cover these costs.

The Board has determined that local agencies other than air pollution control or air quality management districts will incur costs in complying with the fee regulations. These local agencies are subject to the fee requirements because they operate facilities which emit 500 tons or more per year of any nonattainment pollutant or precursor and thus the fee regulations do not impose unique requirements on local governments. (See County of Los Angeles vs. State of California (1987) 43 Cal.3d 46.)

The regulations do not impose a mandate on school districts.

The Board has further determined that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulatory action was proposed or would be as effective and less burdensome to affected private persons than the action taken by the Board. No alternatives were proposed that would lessen any adverse impact on businesses.

II. SUMMARY OF COMMENTS AND AGENCY RESPONSES

During the 45-day comment period before the April 14, 1994, public hearing, the Board received written comments from the San Joaquin Valley Unified Air Pollution Control District. No other public comments were received at the Board hearing nor were any written comments received during the 15-day comment periods.

1. Comment: The San Joaquin Valley Unified Air Pollution Control District reallocated emissions among several facilities to be consistent with the definition used in the District's New Source Review rule. This change results in the reduction in the amount of emissions subject to the fees, totaling approximately 2,900 tons.

Agency Response: The reported changes in emissions have been incorporated into the final regulations.

2. During the 45-day period before the Board's hearing, the staff became aware that the Blythe/Palo Verde Valley area of Riverside County was deannexed from the South Coast Air Quality Management District and annexed to the Mojave Desert Air Quality Management District. One facility in the Blythe/Palo Verde Valley area is subject to the fees in this regulation. The regulation has therefore been revised to indicate that the Mojave Desert Air Quality Management District rather than the South Coast Air Quality Management District will be responsible for collecting the fees associated with the facility's emissions.

3. After the Board's hearing, it was determined that emission quantification errors should be considered in relieving districts from a portion of the fees. The regulation has been revised to reflect this determination. Because this revision occurred after the first 15-day comment period, a second 15-day comment period was needed to allow public review and comment on this change. No comments were received during the comment period.

Attachment 1

AIR RESOURCES BOARD
 CALIFORNIA CLEAN AIR ACT
 BUDGET ACT OF 1994, ITEM 3900-001-044
 (Dollars in Thousands)

	Positions	Dollars
BUDGET ACT OF 1989	54.0	\$ 6,635
Less Limited-Term Positions and One-Time Costs	-4.0	- 1,107
Plus Budget Change Proposals:		
#2. CA Clean Air Act	17.0	2,027
#2a. CA Clean Air Act - Data Processing	<u>-</u>	<u>137</u>
BUDGET ACT OF 1990	67.0	7,692
Plus Baseline Adjustments/Inflation	<u>-</u>	<u>186</u>
BUDGET ACT OF 1991	67.0	7,878
Plus Baseline Adjustments/Inflation	<u>-</u>	<u>236</u>
BUDGET ACT OF 1992	67.0	8,114
Plus Baseline Adjustments/Inflation	<u>-</u>	<u>227</u>
BUDGET ACT OF 1993	67.0	8,341
Plus Baseline Adjustments/Inflation	<u>-</u>	<u>112</u>
BUDGET ACT OF 1994	67.0	8,453
FUNDING: AIR POLLUTION CONTROL FUND		\$ 8,453
(Vehicular Fees)		(5,453)
(Non-Vehicular Fees)		(3,000)

ASD/Fiscal
5/31/94