

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

ADOPTION OF AMENDMENTS TO THE AIR TOXICS “HOT SPOTS” FEE REGULATION

UPDATED INFORMATIVE DIGEST OF ACTION

Actions and Sections Affected: Adopted amendments to the text in sections 90700 through 90705, and the tables in section 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 costs of the State and the local air pollution control and air quality management districts (districts) to implement and administer the Air Toxics “Hot Spots” Information and Assessment Act. The fees assessed through this regulation are used to inventory air toxics emissions, prioritize facilities for preparation of risk assessments, review risk assessments (districts only), notify the public of potential health risks from exposure to the emissions, and provide guidance to the facilities in reducing the potential risk from exposure to the emissions. The regulation specifically allocates the State’s costs among air districts, and establishes facility fees for the air districts that have requested the Air Resources Board (ARB) to adopt their fee schedules.

Background: The Air Toxics “Hot Spots” Information and Assessment Act of 1987 (the Act) (Health and Safety Code section 44300 et seq.) established a program to inventory air toxics emissions from facilities in California and to assess the potential risk to public health from exposure to these emissions. The Act also requires that the public be notified of any significant health risks associated with the emissions from high risk facilities. These high risk facilities must reduce their air toxics emissions below the level of significance within five years. The Act specifies activities that must be carried out by the ARB, the Office of Environmental Health Hazard Assessment (OEHHA), and the air districts, to implement the Act. The Act requires the ARB to adopt a fee regulation to ensure that costs incurred by the State and air districts in implementing and administering the Air Toxics “Hot Spots” Program (Program) are recovered through fees on facilities subject to the requirements of the Act (Health and Safety Code section 44380).

To implement the Act, the ARB first adopted the Fee Regulation in 1988. Each year, ARB staff, in consultation with the Fee Regulation Committee, which is comprised of the districts and OEHHA, reviews the Fee Regulation and prepares amendments for the ARB’s consideration. Annual revisions have been needed to ensure that the State’s and air districts’ costs of implementing the Program are recovered.

Air districts recover their Program costs and their portion of the State's cost by adopting their own fee rules or by requesting the ARB to adopt a fee schedule for them. If an air district requests the ARB to adopt its fee schedule, the district must submit its Program costs, approved by its air district governing board, to the ARB by April 1, prior to the applicable fiscal year.

Five air districts submitted district board approved costs for fiscal year 2001-2002 and requested ARB adoption of facility fee schedules.

Description of the Regulatory Action: At a public hearing held on October 25, 2001, ARB staff proposed amendments to the Air Toxics "Hot Spots" Fee Regulation for fiscal year 2001-2002 for the ARB's consideration. After considering the staff's recommendation, the ARB passed Resolution 01-47, which adopted modifications to the amendments contained in the September 7, 2001 staff report. These modifications were made due to further clarification of data submitted by the districts. The amendments affect the text in sections 90700 through 90705, as well as Tables 1, 2, 3a, 3b, 3c and 4 in section 90705, as determined by sections 90700 through 90705, and Appendix A, title 17, CCR. The Fee Regulation for fiscal year 2001-2002 adopted by the ARB is described below.

Reduction in the State's Cost: The proposed modifications to the amendments found in the September 7, 2001 staff report and adopted by the ARB, include a reduction in the State costs to implement the Air Toxics "Hot Spots" Program of approximately \$136,537 for fiscal year 2001-2002. This represents a reduction of twelve percent compared to fiscal year 2000-2001. State costs for fiscal year 2001-2002 will be approximately \$945,802. This represents a greater than 80 percent reduction in State revenues to implement and administer the Program from fiscal year 1993-94.

District Share of State Costs: The amendments to the Fee Regulation change the amount that each of the State's 35 air districts must remit to the State (Table 1 of the Fee Regulation) to recover the reasonably anticipated State costs to administer the Program for fiscal year 2001-2002. These changes result from changes in facility risk and complexity information, numbers of facilities qualifying for exemptions, and State Program costs. As discussed earlier, the State's Program cost for fiscal year 2001-2002 will be \$945,802.

Districts Requesting State Adoption of Fee Schedules: The adopted amendments establish fee schedules for the following five air districts: Lassen and Santa Barbara County APCDs, the Antelope Valley and Great Basin Unified APCDs; and the Mojave Desert AQMD. The Imperial County APCD was removed since they did not request the ARB to adopt their fee schedule.

The fee schedules in the Fee Regulation for the five air districts that requested ARB to adopt their fee rule include cost-per-facility fees. The Industrywide facilities (facilities that

qualify to have their emission inventories completed by the air district as part of an industrywide emission inventory according to Health and Safety Code section 44323) would pay facility fees between \$35 and \$95. If an Industrywide Facility has paid a fee once and the air district will not expend significant resources on the facility, subsequent fees may be waived by the district.

The following 30 air districts have chosen to adopt their own rules to recover the Program costs for fiscal year 2001-2002: Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Imperial, Kern, Lake, Mariposa, Modoc, Placer, San Diego, San Luis Obispo, Shasta, Siskiyou, Tehama, Tuolumne, and Ventura County APCDs; Feather River, Monterey Bay Unified, Northern Sonoma Unified, and San Joaquin Valley Unified APCDs; and Bay Area, Mendocino, North Coast Unified, Northern Sierra, Sacramento Metropolitan, South Coast, and Yolo-Solano AQMDs. These 30 air districts are required to adopt district fee rules that recover costs for fiscal year 2001-2002 (Health and Safety Code section 44380 (a)(2)).

Air Districts' Costs to be Recovered: Table 2 of the Fee Regulation was modified to reflect the district board-approved Program costs for fiscal year 2001-2002 for the air districts requesting ARB adoption of facility fees.

Changes to Table 3 of the Fee Regulation: Facility fees in Table 3 of the Fee Regulation were changed to include changes in the air districts' costs, facility risk and complexity information, numbers of facilities qualifying for exemptions, and State Program costs. The information for the Antelope Valley APCD, the Great Basin Unified APCD, the Lassen County APCD, the Mojave Desert AQMD, and the Santa Barbara County APCD was amended to reflect more current data for each Facility Program Category.

Changes to Specified Fees: The title in Table 4 (District Fees for Industrywide and District Update Facilities) of the Fee Regulation was revised to clarify what the district costs will be for each facility. Table 4 now lists only the district portion of fees for Industrywide facilities. The industrywide fees for each district were reviewed and the amounts changed to reflect only the district portion of the fees. These changes remove any ambiguity that was present in Table 4 in past fee regulations. The fee for District Update facilities in the Great Basin Unified APCD was updated to reflect a change in the amount of fees those facilities will be assessed.

Appendix A: No changes were made to Appendix A of the Fee Regulation, "Air Pollution Control District Air Toxic Inventories, Reports, and Surveys."

Comparable Federal Regulations: The Act established an air quality program unique to the State of California. No parallel federal requirement exists at this time. There is no federal fee that specifically targets 'Hot Spots' facilities. Accordingly, there is no conflict or duplication between this Fee Regulation and current federal regulations.