



**Proposed Amendments to the  
Air Toxics Hot Spots  
Fee Regulation  
for Fiscal Year 1998-99**

**September 1998**

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE AIR TOXICS  
HOT SPOTS FEE REGULATION FOR FISCAL YEAR 1998-99.

The Air Resources Board (ARB) will conduct a public hearing at the time and place noted below to consider amendments to the Air Toxics Hot Spots Fee Regulation for Fiscal Year 1998-99.

DATE : October 22, 1998

TIME : 9:30 a.m.

PLACE : Air Resources Board  
Board Hearing Room, Lower Level  
2020 L Street  
Sacramento, California

This item will be considered at a two-day meeting of the ARB commencing at 9:30 a.m., October 22, 1998, and continuing at 8:30 a.m., October 23, 1998, if necessary. This item may not be considered until October 23, 1998. Please consult the agenda for this meeting, which will be available at least ten days before October 22, 1998, 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 Kathy Spring at (916) 323-3485, or Telecommunications Device for the Deaf (TDD) at (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area, by October 8, 1998.

INFORMATIVE DIGEST OF PROPOSED ACTION/PLAIN ENGLISH POLICY  
STATEMENT OVERVIEW

Proposed Actions and Sections Affected: Proposed amendments to sections 90701, 90702, 90703, 90704 and 90705, title 17, California Code of Regulations (CCR) and Appendix A to sections 90700-90705 (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 and the local air pollution control and air quality management districts' (districts) costs of implementing and administering the Air Toxics Hot Spots Information and Assessment Act. The fees assessed through this regulation will be 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 air districts, and it establishes facility fees for the seven 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 section 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 these emissions. The Act also requires that the public be notified of facilities whose emissions pose potentially significant health risks. The high risk facilities must reduce their toxic emissions below the level of significance within five years pursuant to Health and Safety Code 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 requires the ARB to adopt a fee regulation to ensure that costs incurred by the State and air 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 (Health and Safety Code section 44380).

The ARB 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. Annual revisions have been needed to ensure that the State's and districts' costs of implementing the Program are fully recovered.

Districts may recover their Program costs and their portions of the State's cost 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. Six districts submitted district board approved costs for fiscal year 1998-99, and those districts have requested that the ARB adopt their facility fee 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.

Reduction in the State's Cost: The staff proposes that the Board again reduce State costs to implement the Air Toxics Hot Spots Program to \$1.27 million. This represents an approximate 6 percent, or \$80,000, reduction from fiscal year 1997-98 and a 76 percent reduction from Fiscal Year 1993-94 in State revenues to implement and administer the Program. The five percent adjustment factor that has been included in all previous Fee Regulations has not been included for fiscal year 1998-99. The adjustment factor had been added to the State's cost to ensure full cost recovery in the event of unforeseen business closures, nonpayment of fees, or other circumstances which would result in a shortfall in anticipated revenue. Based on historical fee collection patterns, it is possible that the State could realize an additional shortfall of approximately \$70,000 for fiscal year 1998-99. With the \$80,000 reduction in the State's Program costs, revenues for

fiscal year 1998-99 could fall approximately \$120,000 below the State's fiscal year 1997-98 Program costs.

Proposed Amendments to the Fee Regulation for Fiscal Year 1998-99 include:

- 1) The State's estimated revenue to be recovered through the Fee Regulation is approximately \$1,270,000 (this amount may differ slightly from the amount shown in Table 1 of the Fee Regulation due to rounding).
- 2) Districts' shares of the State's cost are changed to reflect the changes in the number of facilities per Facility Program Category based on the current status of facility risk, due to changes in health risk assessment results and prioritization scores.
- 3) Revisions were made to the list of districts that have requested the ARB to establish fee schedules as part of the Fee Regulation and their Program costs.
- 4) Fee Schedules were updated reflecting changes in district program costs for fiscal year 1998-99.
- 5) Fee amounts for industrywide facilities will increase from \$25 to \$35.
- 6) Mojave Desert Air Quality Management District (AQMD) toxics lists will be removed from Appendix A.

These proposed changes to the Fee Regulation for Fiscal Year 1998-99 are discussed in more detail in the Initial Statement of Reasons for Proposed Rulemaking for the Amendments to the Air Toxics "Hot Spots" Fee Regulation for fiscal year 1998-99.

AVAILABILITY OF DOCUMENTS AND CONTACT PERSON

The ARB has determined that it is not feasible to draft the regulation in plain English due to the technical nature of the regulation; however, a noncontrolling plain English summary of the regulation is available from the agency contact person named in this notice. The plain English summary is also included in the Initial Statement of Reasons, Executive Summary.

The ARB staff has prepared a Staff Report entitled "Proposed Amendments to the Air Toxics 'Hot Spots' Fee Regulation for Fiscal Year 1998-99" (Staff Report), which includes the Initial Statement of Reasons for the proposed action and a summary of the environmental impacts of the proposal, if any. Copies of the Staff Report and the full text of the proposed regulatory language, in underline and strike-out format, may be obtained from the California Air Resources Board, Public Information Office, 2020 L Street, Sacramento, California 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing. The ARB staff has compiled a record which includes all

information upon which the proposal is based. Copies of the documents may be obtained through the Public Information Office, 2020 L Street, Sacramento, California 95814.

To obtain this document in an alternative format, please contact the Air Resources Board's Americans with Disabilities Act Coordinator at (916) 322-4505, or the Telecommunications Device for the Deaf (TDD) at (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area.

Further inquiries regarding this matter should be directed to Linda Murchison, Chief, Emission Inventory Branch, Technical Support Division, P.O. Box 2815, Sacramento, California 95812, (916) 322-6021.

### COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of ARB's Executive Officer concerning the cost or savings necessarily incurred in reasonable compliance with the proposed amendments to the Fee Regulation are presented below.

The ARB's 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 XIII B of the California Constitution because the districts have the authority to levy fees sufficient to pay for the mandated Program (Health and Safety Code section 44380). These fees are intended to recover the full 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 district's total Program costs. For Fiscal Year 1998-99, the total district Program costs are estimated to be \$3,087,594. Therefore, the costs to the districts to implement the amended Fee Regulation are approximately \$308,759.

The Executive Officer has determined that adoption of the amended 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, and 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 XIII B, 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 \$36,729 for Fiscal Year 1998-99.

The Executive Officer has determined that the amended Fee Regulation does not create costs or savings in federal funding to any State agency or program.

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 Health and Safety Code section 44380 and sections 90700-90705 of title 17, CCR. The costs for the ARB to develop and implement the amended Fee Regulation are estimated to be \$114,000.

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 \$18,312 for Fiscal Year 1998-99.

The ARB's Executive Officer has determined, pursuant to Government Code section 11346.5(a)(3)(B), 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 Health and Safety Code section 44323 are currently assessed an annual State portion of fees of \$25. The proposed amendments would increase this fee to \$35. In developing the proposal, the staff has determined there is a potential cost impact on 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 \$71 to \$14,139. 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 1998-99.

The Executive Officer has also determined that adopting these amendments may have a significant, adverse economic impact on some businesses operating with little or no margin of profitability, including the ability of California businesses to compete with businesses in other states, based on an assessment of the evidence available in the record.

Accordingly, the following information is provided pursuant to Government Code section 11346.5(a)(7):

- (A) Identification of the types of businesses that would be affected.

All businesses that emit a criteria pollutant and a listed substance (Health and Safety Code sections 44320-44322; title 17, CCR, section 90702) must pay a Hot Spots fee, (Health and Safety Code sections 44380-44382; title 17, CCR, sections 90703-90705) unless specified conditions have been met, and will be affected by these proposed amendments. Businesses that are operating with little or no margin of profitability may experience significant adverse impacts by paying these fees. Appendix VI of the Staff Report includes a list, which may be modified, of the categories of businesses that may be included in the scope of this regulation.

- (B) Description of the projected reporting, record keeping, and other compliance requirements that would result from the proposed action.

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.

- (C) The ARB staff finds that the amendment of this regulation may have a significant adverse economic impact on businesses operating with little or no margin of profitability, including the ability of California businesses to compete with businesses in other states. The ARB staff 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.

In accordance with Government Code section 11346.3, the Executive Officer has determined that for businesses operating with little or no margin of profitability, 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. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

In considering the proposed amendments, the ARB must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendments are 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 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. To be considered by the Board, written submissions must be addressed to and received by the Clerk of the Board, Air Resources Board, P.O. Box 2815, Sacramento, California 95812, no later than 12:00 noon, October 21, 1998, or received by the Clerk of the Board 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 ten days prior to the hearing. 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 HEARING PROCEDURES

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

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 nonsubstantive 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 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 air 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 Officer, 2020 L Street, 1st Floor, Sacramento, California 95814, (916) 322-2990.

This is a statewide regulation. Once adopted by the ARB, and approved by the Office of Administrative Law, the fee schedule will be applicable to all subject facilities in the six air districts for which the proposed amendments would provide fee schedules. The remaining 29 air districts will be required to adopt district rules to comply with the Fee Regulation.

CALIFORNIA AIR RESOURCES BOARD

Michael P. Kenny  
Executive Officer

Date:

State of California  
California Environmental Protection Agency  
AIR RESOURCES BOARD  
Technical Support Division

Staff Report: Initial Statement of Reasons  
for Proposed Rulemaking

Proposed Amendments to the  
Air Toxics "Hot Spots" Fee Regulation  
for Fiscal Year 1998-99

ACKNOWLEDGMENTS

This staff report and proposed regulation were developed by the staff from the Technical Support Division with the assistance of representatives from industry, industry associations, environmental organizations, the air pollution control and air quality management districts, the California Air Pollution Control Officers Association (CAPCOA), the Office of Environmental Health Hazard Assessment (OEHHA), the Air Toxics Hot Spots Fee Regulation Committee, the De Minimis Committee, and the staffs from other divisions and offices at the Air Resources Board. We would particularly like to thank:

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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 1998-99

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Bay Area AQMD .....	Brian Bateman/Catherine Fortney/Scott Lutz
Butte County APCD .....	Jim Culbertson/Jim Wagoner
Calaveras County APCD .....	Lakhmir Grewal
Colusa County APCD .....	Harry Krug/Bill Sandman
El Dorado County APCD .....	David Mehl
Feather River AQMD .....	Larry Matlock
Glenn County APCD .....	Rick Steward
Great Basin Unified APCD .....	Ellen Hardebeck/Duane Ono
Imperial County APCD .....	Bob Fischer
Kern County APCD .....	Doug Ray
Lake County APCD .....	Robert Reynolds
Lassen County APCD .....	Ken Smith
Mariposa County APCD .....	Ed Johnson/Dave Walker
Mendocino County APCD .....	David Faulkner/Phil Towle
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Mojave Desert AQMD .....	Richard Wales
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CAPCOA ..... Stewart Wilson

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## EXECUTIVE SUMMARY

In this report, the staff of the Air Resources Board (ARB or Board) presents proposed amendments to the Air Toxics Hot Spots Fee Regulation (Fee Regulation, Title 17, California Code of Regulations, sections 90700-90705) for fiscal year 1998-99. 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)<sup>1</sup> by allocating portions of the State costs among the air pollution control and air quality management districts (districts). It also requires each district to collect fees to recover the State's and districts' Program costs and to provide to the ARB the districts' share of the State's Program costs.

The staff proposes a fiscal year 1998-99 State budget for the Air Toxics Hot Spots Program (Program) of \$1,270,000. This State budget is less than the \$1,350,000 authorized by Health and Safety Code section 44380(e). The staff proposes to continue to use the same calculation method to allocate fees among the districts that was adopted for fiscal year 1997-98. This method bases fees on facilities' prioritization scores or health risk assessment results. Staff is proposing to amend the Fee Regulation by updating the fee tables found in the Fee Regulation to reflect the most current facility Program data submitted by the districts to the ARB by July 1, 1998. The fee table updates will also be based on a staff proposal to keep the same per-facility fee for the larger, or core facility fees that was used in fiscal year 1997-98. Staff also proposes to increase by \$10, the fees charged to industrywide facilities. This increase is justified by the additional work that the State must do to evaluate these facility types in fiscal year 1998-99. Based on the staff proposals and current facility Program data, most districts will see reductions in their shares of State costs.

The proposed Fee Regulation also contains fee schedules to recover local district Program costs for the six districts that requested to be included in the State's regulation. The remaining 29 districts will adopt their own fee schedules, as required by the Fee Regulation.

Overall, Program costs for most districts are going down, and the State's implementation costs have reached a maintenance level. State Program costs peaked at \$5,226,000 in fiscal year 1993-94, and they have since decreased by 76 percent to \$1,270,000 for fiscal year 1998-99. They have also decreased by 6 percent, or \$80,000, from fiscal year 1997-98.

In order to keep core facility fees unchanged from fiscal year 1997-98 and increase industrywide facility fees by only \$10, this Fee Regulation does not include a 5 percent adjustment factor that has been included in all previous Fee Regulations. The adjustment factor had been

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<sup>1</sup> 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.

added to the State's cost to ensure full cost recovery in the event of unforeseen business closures, nonpayment of fees, or other circumstances which would result in a shortfall in anticipated revenue. Based on historical fee collection patterns, it is possible that the State could realize an additional shortfall of approximately \$70,000. With the \$80,000 reduction in the State's Program costs, revenues for fiscal year 1998-99 would be approximately \$150,000 below the statutory cap of \$1,350,000. While staff will continue to meet its minimum statutory duties despite this shortfall, staff anticipates a significant reduction in the resources available to support the Program.

The Hot Spots Program was enacted to inform the California public about releases of toxic air pollutants and the risks those emissions pose to the public health. It sets forth requirements for facility operators, districts, and the State. It requires that emissions of toxic substances from specified facilities be quantified and compiled into an inventory, facilities be prioritized to determine which must conduct health risk assessments, risk assessments be conducted, the public be notified of significant health risks posed by nearby facilities, and emissions that pose significant risk be reduced.

The proposed Fee Regulation continues to focus the fees on those facilities of greatest public health concern and exempts facilities of least concern. Facility fees are based primarily on a facility's health risk assessment results or prioritization scores with some adjustment to account for the workload related to each facility. The Fee Regulation conforms with the provisions of Health and Safety Code Section 44380(a). This section requires a facility's district fees to be based on toxics emissions and the health risk priority assigned to the facility by the districts, to the maximum extent practicable. The Fee Regulation also conforms to sections 44344.4 through 44344.7 and 44380 (e) of the Health and Safety Code. Those sections establish facility fee exemption criteria and a cap on fees collected to support the Program.

Once again, fewer sources will pay State fees this year. Approximately 15 percent of core facilities that paid State fees in fiscal year 1997-98 will be exempt from State fees this year because of lower prioritization scores and health risk assessment results. Overall, this represents an 88 percent reduction in the number of core facilities paying State fees since 1994. Core facilities are the larger, unique facilities that pay the larger fees to support the Program. Approximately 46 percent of industrywide facilities have been exempted from paying State fees since 1994. Industrywide facilities are smaller facilities; like gasoline service stations, dry cleaners, print shops, and autobody shops; that meet the definition under Health and Safety Code section 44323.

The major provisions of this year's Fee Regulation are as follows:

- o The proposed a State budget for this Program of \$1.27 million for fiscal year 1998-99.**
- o The Program's proposed budget represents a 76 percent reduction since the peak in fiscal year 1993-94 and a 6 percent reduction from fiscal year 1997-98.**

- o **The State will continue to implement a public health protective, community right-to-know Program.**
- o **Fees are proposed to be based on the current method for allocating fees to the districts, which is based on facilities' health risk assessment results and prioritization scores.**
- o **The Fee Regulation tables will be updated based on current facility Program data submitted by the districts to the ARB by July 1, 1998.**
- o **Fee amounts for the six main fee categories are proposed to remain unchanged from fiscal year 1997-98.**
- o **Fee amounts for industrywide facilities are proposed to increase from \$25 to \$35 per facility.**
- o **Facilities with low prioritization scores and risk are proposed to continue to be exempted from fees based on prioritization scores, risk assessment results, and certain types of facilities meeting specific *de minimis* levels will continue to be exempted from fees, resulting in an overall 88 percent reduction in core facilities paying State fees since 1994.**
- o **Approximately 2,850 core and industrywide facilities that paid fees in fiscal year 1997-98 are exempted from paying fees for fiscal year 1998-99.**
- o **Fee schedules are proposed for six districts. Based on a method similar to the methodology proposed for State fees.**

The staff developed the proposed amendments to the Fee Regulation with the assistance of the Air Toxic Hot Spots Fee Regulation Committee (Committee) which was established in 1988 to develop the initial Fee Regulation. The Committee includes representatives from the districts, the ARB, and the Office of Environmental Health Hazard Assessment. The Committee met or held teleconferences in March, May, June, July, and August 1998 to discuss implementation of the Air Toxics "Hot Spots" Program and development of the 1998-99 Fee Regulation. In addition, the staff held several conference calls and meetings with representatives of affected industries, industry associations, and environmental organizations. The staff also held one set of public workshops in July 1998. Workshop notices were sent to over 7,000 facility operators and members of the public.

The staff recommends that the Board adopt the proposed amendments to the Fee Regulation for fiscal year 1998-99. The proposed changes are described in detail in this staff report.

## I.

### **INTRODUCTION AND OVERVIEW**

#### **A. INTRODUCTION**

The staff of the Air Resources Board (ARB or Board) 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 1998-99. 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 by July 1, 1998. Staff is also proposing a State budget for the Air Toxics "Hot Spots" Program for fiscal year 1998-99 of \$1,270,000.

The Fee Regulation recovers the ARB and the Office of Environmental Health Hazard Assessment (OEHHA) Program costs for implementing the Air Toxics Hot Spots Information and Assessment Act of 1987 (AB2588 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 collect fees to recover the State's and districts' Program costs and to provide to the ARB the districts' share of the State's costs.

This Chapter gives an overview of the Fee Regulation, Program costs, and the proposed changes to the Fee Regulation. Chapter II describes the requirements of the Program including legislative amendments to the Act. Chapter III details the State's and local governments' activities required to implement and maintain the Program. Chapter IV presents the State's and districts' costs to implement the Program. Chapter IV also describes the fees that must be paid by facilities located in air districts whose fee schedules are adopted by the Board as part of this Fee Regulation.

Chapter V gives a detailed description of the current Fee Regulation and the proposed changes. The environmental and economic impacts of the regulation are described in Chapter VI. The economic analysis includes the impact on both government and non-government entities, and the possible effects on jobs and businesses. Chapter VII presents evaluations of methods suggested as alternatives to the current method of assessing Program fees.

#### **B. PUBLIC OUTREACH**

The proposal to amend the Fee Regulation for fiscal year 1998-99 was developed in consultation with the Air Toxics Hot Spots Fee Regulation Committee (Committee), the affected industries, environmental groups, other government agency staffs, and the general public. The Committee, established in 1988 to develop the initial Fee Regulation, includes representatives from the districts, the ARB, and the OEHHA. The Committee met or held teleconferences in March, April, May, July, and August 1998, to discuss developing the Fee Regulation for fiscal year 1998-99. Representatives from all districts were invited to participate in the Committee meetings.

The ARB staff also held many discussions with individual interested parties and facility representatives to provide assistance in understanding the Program and in working with their respective districts.

ARB staff held several meetings and teleconferences with industry and environmental group representatives from our AB2588 “Hot Spots” Stakeholders group. This Stakeholders group is made up of approximately 90 members representing affected industries, industry associations, and environmental organizations. Teleconferences were held in May and July, 1998.

Finally, the ARB staff held a set of public workshops in July, 1998. Workshops were held in Sacramento and El Monte. A second set of workshops will be scheduled for mid-September. The staff sent workshop notices to over 7,000 facility operators and members of the public. In addition, the staff will send copies of the staff report to over 1,600 facility operators and the public.

At each of these meetings and workshops, we received valuable input, comments, and suggestions that were considered and incorporated in this proposal.

### **C. TOTAL PROGRAM COSTS**

The Act requires that the State's and the districts' costs of implementing the Program be recovered from fees paid by facilities subject to the Act. The Act also allows a district to request that the ARB adopt its fee regulation if the district program costs are approved by the district board and transmitted to the ARB by April 1 before the fiscal year for which the fees are to be collected. Six districts requested that the ARB adopt fee regulations for them, and they are included in this proposal. The remaining 29 districts plan to adopt their own fee schedules, as required by the Fee Regulation. The six districts whose fee regulations are included in this proposal are listed in Table 1.

#### **Table 1**

##### **Adoption of District Fees for Fiscal Year 1998-99** **Districts Included in the State Fee Regulation**

1. Antelope Valley
2. Great Basin Unified APCD
3. Imperial County APCD
4. Lassen County APCD
5. Mojave Desert AQMD
6. Santa Barbara County APCD

The estimated total cost for the State and districts to implement the Program for fiscal year 1998-99 is approximately \$4,358,000. This represents a reduction of approximately 7 percent from fiscal year 1997-98. The distribution of total costs among agencies which implement the program is shown graphically in Figure 1. Of the total cost, \$1,270,000, or twenty-nine percent is the State's cost, of which \$533,000, or 12 percent supports the ARB activities and \$737,000, or 17 percent supports the OEHHA activities. Seventy-one percent, or \$3,088,000, of the total costs support district activities.

This Regulation addresses the State Program fees and the district Program fees for the six districts listed in Table 1. The State fees for fiscal year 1998-99 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, to inform the public of the potential health risks, and to 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. A more detailed description of the State's anticipated activities is presented in Chapter III.

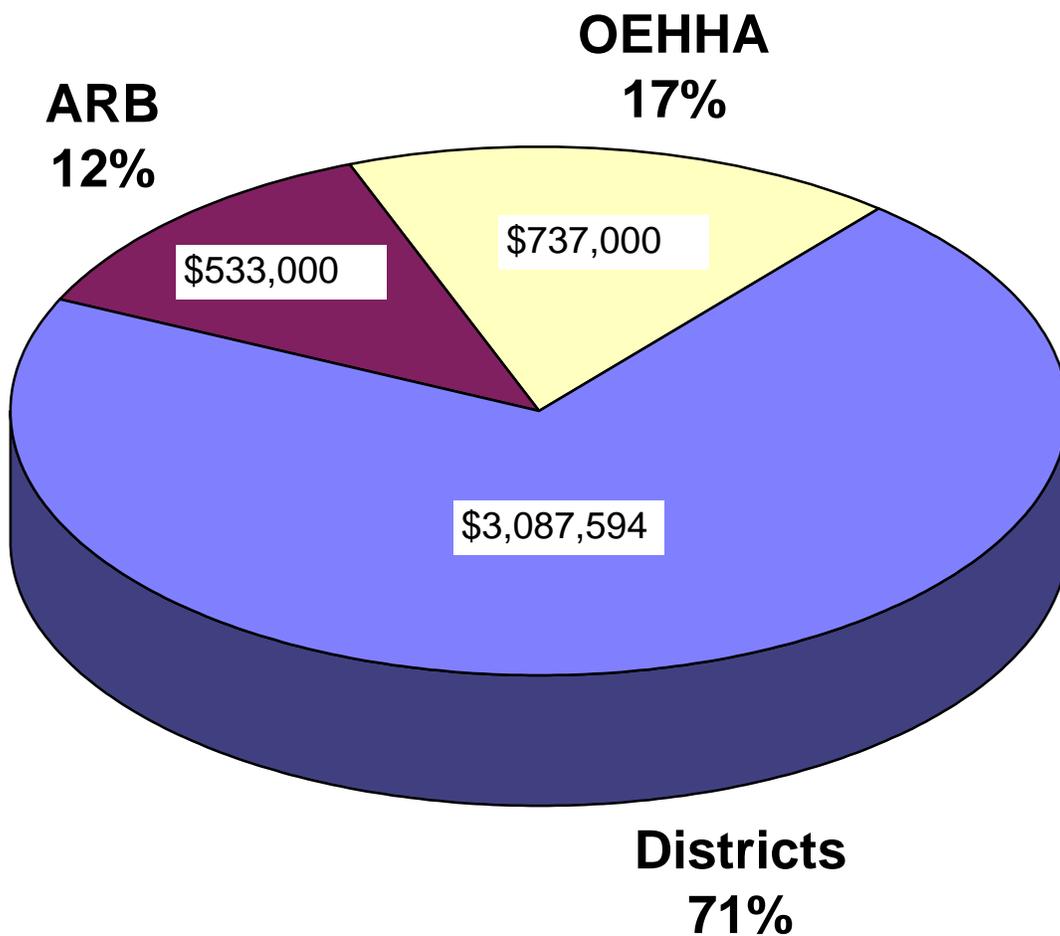
#### **D. TREND IN STATE PROGRAM COSTS**

The staffs of the ARB and the OEHHA prepared a plan in 1993 that projected the State's resources needed for the Program for five fiscal years, starting with fiscal year 1993-94. The plan, which forecasted Program requirements, was designed to streamline the Program and significantly reduce State operating costs. The goal was to downsize the Program and maintain essential elements such as maintaining a credible air toxics emission inventory, assessing potential health risks, informing the public of potential health risks, and reducing risks.

The Board approved the five-year plan at a public hearing on July 8, 1993. According to that plan, by fiscal year 1997-98, the total State costs would be reduced from \$5,226,000 to no more than \$3,497,000, as shown by the upper line (the original plan) in Figure 2. The ARB would reduce its Program costs by approximately 38 percent, from \$2,396,000 in fiscal year 1993-94 to \$1,509,000 in fiscal year 1997-98. The OEHHA would reduce its costs by about 38 percent, also from \$3,231,000 in fiscal year 1993-94 to \$1,988,000 in fiscal year 1997-98.

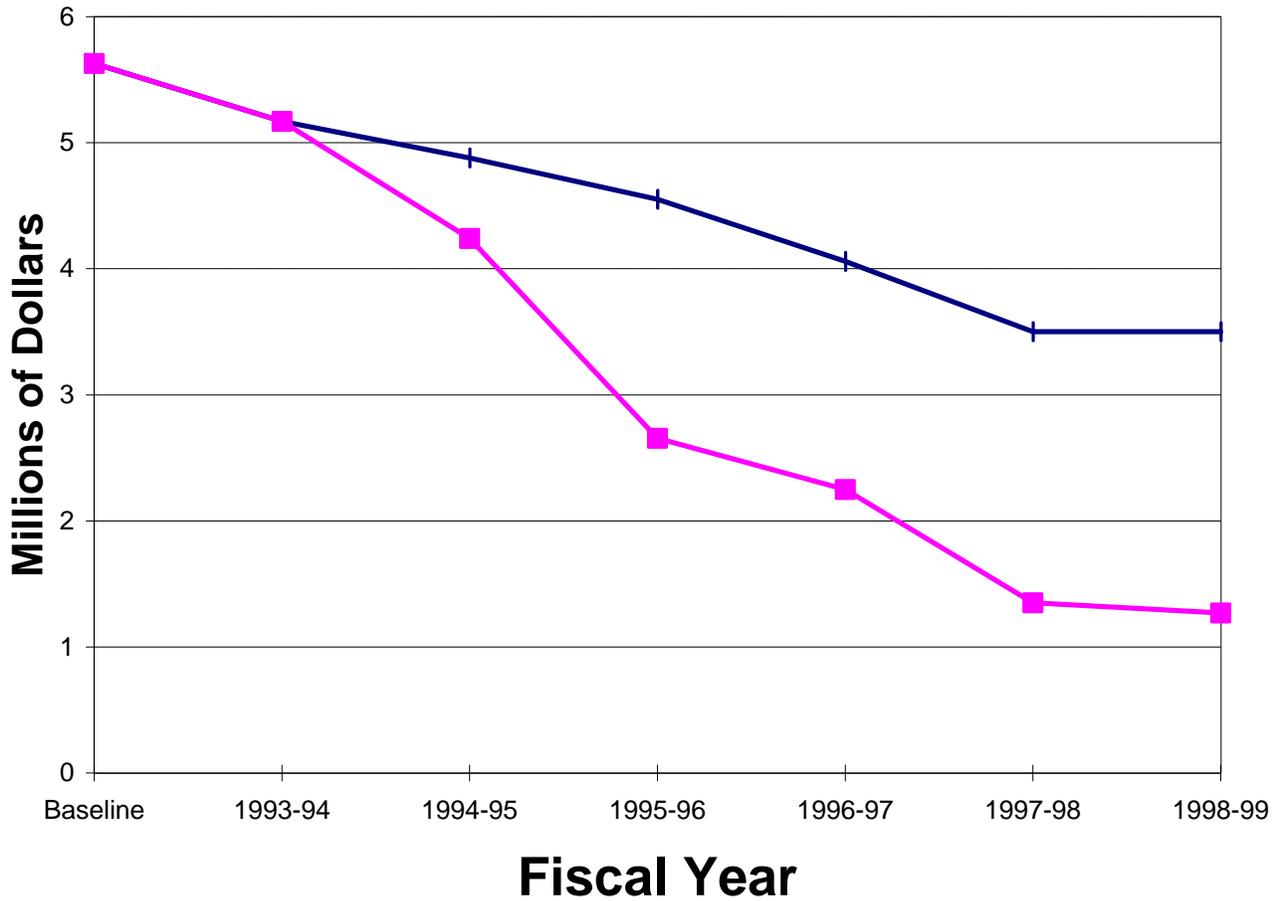
In fiscal years 1994-95, 1995-96, 1996-97, and 1997-98, the Board adopted fee regulations that accelerated the State's cost reductions beyond the original plan. This reduction is shown by the lower line in Figure 2. The proposed amount to be collected to support State activities for

## Estimated Total Program Costs Are Reduced for Fiscal Year 1998-99



Total Program Costs for the Districts and the State are Estimated to be \$4,357,594

# State's Proposed Accelerated Cost Reductions



—+— Original Plan —■— Current Proposal

fiscal year 1998-99 is \$1,270,000, a 64 percent reduction from the \$3.5 million proposed in the original plan. Overall, this represents a 76 percent reduction in State costs to implement the Program since fiscal year 1993-94 and an 6 percent reduction from fiscal year 1997-98. This reduction is also a 4 percent reduction beyond the cap set by Health and Safety Code section 44380(e). This total reduction in costs is commensurate with the reduction in workload resulting from the 1996 streamlining measures adopted in the Guidelines Report and also reflects the fact that many of the original tasks mandated by the Act are now completed or nearing completion.

Although the \$80,000 reduction in the State's costs to a budget of \$1,270,000 reflects the State's anticipated workload, the State could possibly realize a shortfall in revenues for fiscal year 1998-99, based on historical fee collection patterns. This Fee Regulation does not include a 5 percent adjustment that has been included in all previous Fee Regulations. The adjustment factor has been added to the State's cost to ensure full cost recovery in the event of unforeseen business closures, nonpayment of fees, or other circumstances which would result in a shortfall in anticipated revenue. Based on historical fee collection patterns, it is possible that the State could realize an additional shortfall of approximately \$70,000 for fiscal year 1998-99. With the \$80,000 reduction in the State's Program costs, revenues for fiscal year 1998-99 could fall approximately \$150,000 below the State's fiscal year 1997-98 Program costs. While staff will continue to meet its minimum statutory duties if a shortfall occurs, staff anticipates a significant reduction in the resources available to support the Program.

## **E. PROPOSED CHANGES TO THE FEE REGULATION**

For fiscal year 1998-99, the staff is proposing only minor changes to the Fee Regulation. The same method will be used to calculate districts' share of State costs as in fiscal year 1996-97 and fiscal year 1997-98. Fee categories will continue to be based on prioritization scores and health risk assessment results. Fee rates in those categories increase with increasing risks. The complexity of the facility will continue to be used as a secondary determinant of fees. That is, for a given level of risk, fees will vary approximately 5 percent based on whether the facility is considered simple, medium, or complex. The definitions of "simple," "medium," and "complex," are based on the number of Source Classification Codes (SCCs), as established by the U.S. Environmental Protection Agency, which are used to describe a facility's operation. The definition for "state industrywide" facilities is proposed to remain the same as in the fiscal year 1997-98 regulation. Facility fee amounts for six of the seven categories will remain the same as in fiscal year 1997-98. The ARB staff is proposing a \$10 increase in the fee industrywide facilities are assessed. This increase will be discussed later in this document. The fee categories and their definitions are shown in Figure 3. A detailed discussion of the fee method is presented in Chapter V.

The Fee Regulation will continue to include exemptions for low risk facilities. The Program exemptions are likely to continue to reduce the number of facilities subject to the Fee Regulation.

Staff is proposing only minor changes to the Fee Regulation for fiscal year 1998-99. The following is a summary of the major provisions of the Fee Regulation:

- o The proposed a State budget for this Program of \$1.27 million for fiscal year 1998-99.
- o The Program's proposed budget represents a 76 percent reduction since the peak in fiscal year 1993-94 and a 6 percent reduction from fiscal year 1997-98.
- o The State will continue to implement a public health protective, community right-to-know Program.
- o Fees are proposed to be based on the current method for allocating fees to the districts, which is based on facilities' health risk assessment results and prioritization scores.
- o The Fee Regulation tables will be updated based on current facility Program data submitted by the districts to the ARB by July 1, 1998.
- o Fee amounts for the six main fee categories are proposed to remain unchanged from fiscal year 1997-98.
- o Fee amounts for industrywide facilities are proposed to increase from \$25 to \$35 per facility.
- o Facilities with low prioritization scores and risk are proposed to continue to be exempted from fees based on prioritization scores, risk assessment results, and certain types of facilities meeting specific *de minimis* levels will continue to be exempted from fees, resulting in an overall 88 percent reduction in core facilities paying State fees since 1994.
- o Approximately 2,850 core and industrywide facilities are proposed for exemption from paying State fees since the 1997-98 Fee Regulation.
- o Fee schedules are proposed for six districts. Based on a method similar to the methodology proposed for State fees.

Figure 3

**Facility Program Categories\***

**Unprioritized Facility** (the district has not assigned a priority score)

Simple, Medium, or Complex

**Tracking Facility (Priority Score greater than 10 , Health Risk Assessment greater than or equal to 1 and less than 10, or Hazard Index greater than or equal to 0.1 and less than or equal to 1.0.)**

Simple, Medium, or Complex

**Prioritization Score great than 10**

Simple, Medium, or Complex

**Health Risk Assessment greater than or equal to 10 and less than 50; or, Hazard Index greater than 1.0**

Simple, Medium, or Complex

**Health Risk Assessment greater than or equal to 50 and less than 100**

Simple, Medium, or Complex

**Health Risk Assessment greater than or equal to 100**

Simple, Medium, or Complex

**Industrywide**

\*Within each category, except industrywide, exist three subcategories simple, medium or complex, based on the complexity of facility operation.

## **F. ENVIRONMENTAL AND ECONOMIC IMPACTS**

We do 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 the 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 VI.

## **G. RECOMMENDATION**

The staff recommends that the Board adopt these proposed amendments to the Fee Regulation for fiscal year 1998-99. These amendments are described in more detail in Chapter V, and the regulation text is shown in its entirety in Appendix I.

## II.

### PROGRAM ELEMENTS

#### A. INTRODUCTION

The legislation that established the Air Toxics Hot Spots Program, and subsequent amendments to that legislation, are discussed in this Chapter. Chapter II also explains how facilities subject to the Program are identified.

#### B. ASSEMBLY BILL 2588

In September 1987, Assembly Bill 2588 (Connelly; Statutes of 1987; Chapter 1252), the Air Toxics “Hot Spots” Information and Assessment Act (Act), was signed into law. The goals of the Act are to determine the extent of toxic air emissions in California, to assess their potential health implications, and to provide the public with information on releases of toxic substances into the environment (community right-to-know). In approving the Act, the Legislature found that facilities which manufacture or use toxic substances may routinely expose surrounding populations to emissions of toxic pollutants. The Legislature determined that the available emission information was not sufficient to allow an assessment of the potential health impacts of these emissions.

Under this Act (and subsequent amendments), operators of stationary sources are required to report the types and quantities of certain substances routinely emitted into the air. Air emissions that result from the routine operation of a facility or that are predictable must be reported. The Act requires that: 1) air toxics emissions from stationary sources be inventoried, 2) the potential health risks from the emissions be assessed, 3) the public be notified of potentially significant health risks, and 4) high risk facilities reduce their emissions below a specified level of significance.

##### 1. Applicability

###### a. General

The Act applies to any facility which meets one of the following criteria:

- (1) The facility manufactures, formulates, uses, or releases one or more listed substances (or any substance which reacts to form a listed substance) and **emits ten tons per year (TPY) or more** of total organic gases, particulate matter, nitrogen oxides, or sulfur oxides.

- (2) The facility is listed in any current toxics use or toxics air emission survey, inventory, or report released or compiled by a district.
- (3) The facility manufactures, formulates, uses, or releases a listed substance (or any substance which reacts to form a listed substance) and **emits less than ten TPY** of each criteria pollutant and is subject to Appendix E of the Guidelines Report.

The Act provided for phasing of facilities into the Program. Beginning in 1989, Phase I facilities became subject to the Program. These facilities emitted over 25 TPY of criteria pollutants and manufactured, produced, used, or released a listed substance. Phase I facilities also included facilities on district toxics inventories, reports or surveys. Phase II facility requirements became subject to the Program in 1990. As defined, Phase II facilities emitted 10-25 TPY of criteria pollutants and manufactured, produced, used, or released a listed substance. In 1991, Phase III facilities became subject to the Program. Phase III applied to facilities that emitted less than ten TPY of criteria pollutants, fell within certain industrial classes, and produced, emitted or used a listed substance. Phase III requirements must be completed two years after the corresponding deadlines for Phase I facilities.

Approximately 31,000 facilities, or 4 percent of California's 700,000 businesses, were subject to the Program. Of those 31,000 facilities, approximately 5,800 are larger, or “core”, facilities which had been required to submit individual emission inventory reports and to pay fees. Of those 5,800 larger facilities, more than 5,100, or 88 percent, have been exempted from paying State fees due to demonstrated low risks.

The remaining 25,000 smaller facilities are considered “Industrywide” facilities. The districts are required to develop an emission inventory and risk assessment for these facilities. These facilities include gasoline stations, dry cleaners, printing shops, and autobody shops. Approximately 11,600, or 46 percent, have been evaluated and have been exempted from paying State fees.

b. Exemptions from Requirements in the Act

The Act provides exemptions from certain Program requirements. These are:

- (1) Health and Safety Code section 44324 exempts certain uses of pesticides from the Act. A facility using pesticides is exempt unless it was subject to district permit requirements on or before August 1, 1987. These facilities are exempt from certain Program requirements and from the Fee Regulation.

- (2) Landfill facilities that are in compliance with Health and Safety Code section 41805.5 are exempt from only the emission inventory requirements, but they are still subject to other Program requirements including the Fee Regulation.
- (3) Health and Safety Code section 44380.1 exempts certain agricultural facilities from paying fees unless the fee schedule adopted by the district or the ARB is solely based on toxic emissions weighted for potency or toxicity.
- (4) Health and Safety Code section 44344.4(a) exempts facilities from fees and reporting requirements if their 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.
- (5) Health and Safety Code section 44344.4(b) exempts 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.

## 2. Emission Inventory Criteria and Guidelines Report

The ARB is required by the Act to adopt a criteria and guidelines regulation setting forth the requirements for the preparation of site-specific emission inventory plans and reports. The first Emission Inventory Criteria and Guidelines Regulation (Guidelines Regulation) was adopted in 1989, and it was subsequently amended in September 1990, June 1991, June 1993, May 1996, and July 1996. In May 1996, the Board adopted a proposal to re-codify the Guidelines Regulation as part of the California Environmental Protection Agency's Regulatory Improvement Initiative, undertaken in response to the Governor's Executive Order No. W-127-95 regarding "regulatory relief" efforts to reduce the regulatory burden on California business and the economy. The goal of the re-codification was to simplify the California Code of Regulations by removing the lengthy and technically detailed content of the Guidelines from the numbered sections of the Code, and instead incorporate by reference in the Code a report containing the requirements. The re-codification did not change the specific requirements of the Guidelines. The report entitled the "Emission Inventory Criteria and Guidelines Report, Published in Accordance with the Air Toxics 'Hot Spots' Information and Assessment Act of 1987" (the Guidelines Report) has the same enforceability as the Guidelines Regulation because it has been incorporated by reference into the California Code of Regulations.

The Guidelines Report as amended by the Board in July 1996 does the following:

- o defines which facilities must report;

- o defines a 3-tiered approach for update reporting requirements;
- o exempts low level facilities from emission inventory update reporting based on prioritization scores and health risk assessments;
- o sets reporting requirements for intermediate and high level facilities based on each facility's prioritization scores and health risk assessment results;
- o specifies the substances that must be quantified in an emission inventory report;
- o specifies the information a facility operator must include in an emission inventory update;
- o specifies the timetable facilities must follow for submitting initial inventories and updates; and
- o prescribes source testing requirements for emission estimation, other acceptable emission estimation methods, and the reporting forms to be used.

### 3. Reporting Requirements

Facilities subject to emissions reporting under the Criteria and Guidelines Report must prepare air toxics emission inventory plans. These plans describe how emissions must be measured or calculated. Upon district approval, a facility operator must implement the plan by submitting an inventory of emissions to the district within 180 days. Every four years, facilities are required to either update their emission information or report to their district that no changes have occurred. The Criteria and Guidelines Report contains detailed program emission reporting requirements.

For facilities defined as industrywide, facility operators are not required to prepare reports; the districts must prepare inventories for these facilities. The districts determine whether industrywide inventories are appropriate for facility classes by reviewing the criteria specified in Health and Safety Code 44323. These criteria include the following:

- (a) All facilities in the class fall within one four-digit Standard Industrial Classification Code.
- (b) Individual compliance with this part would impose severe economic hardships on the majority of the facilities within the class.
- (c) The majority of the class is composed of small businesses.
- (d) Releases from individual facilities in the class can easily and generically be characterized and calculated.

#### 4. Prioritization, Risk Assessment, and Public Notification

After reviewing the emission inventory data, the district must assess a facility's potential health risk and categorize the facility as high, intermediate, or low priority for purposes of determining who must conduct a health risk assessment. In establishing priorities, a district is to consider the potency, toxicity, quantity, and volume of hazardous materials released from the facility. The district is also to consider the proximity of the facility to the surrounding population, and any other factors that the district determines may influence the risk posed by the facility. Prioritization scores are extremely conservative risk assessments using conservative default values to estimate the concentrations of a toxic substance in the air that a receptor would experience.

Districts currently calculate prioritization scores and health risk assessment results based on procedures found in the following documents:

the CAPCOA Air Toxics "Hot Spots" Program Facility Prioritization Guidelines (July 1990), the CAPCOA Air Toxics "Hot Spots" Program Revised 1992 Risk Assessment Guidelines (October 1993), and the CAPCOA Gasoline Service Station Industrywide Risk Assessment Guidelines (December 1997).

The California Air Pollution Control Officers Association (CAPCOA) has developed all three of the documents to help districts and facility operators meet these requirements.

A facility classified as high priority must prepare a risk assessment to evaluate the potential adverse health effects on the exposed population and submit it to the district. The district may also require a facility not designated as "high priority" to prepare and submit a risk assessment.

A risk assessment, as defined under the Act, includes a comprehensive analysis of the dispersion of hazardous substances into the environment, the potential for human exposure, and a quantitative assessment of both individual and population-wide health risks associated with those levels of exposure.

A risk assessment usually begins with the estimation of the atmospheric quantities of the hazardous substances emitted at a source. A dispersion model is used to estimate the downwind concentration of the hazardous substances emitted. Inputs to the dispersion model include the emission rate of the hazardous substances, source parameters (i.e., stack height, building height, etc.), distance to receptors, terrain characteristics, and meteorological conditions. The output from the air dispersion model are the estimated short-term and long-term concentrations at the maximum-impacted receptor as well as a distribution of receptors. The concentrations are then evaluated through a multipathway assessment to determine the acute, chronic, and carcinogenic risks attributed to those hazardous substances at all receptors. Where meteorological, receptor, or

substance-specific data are not available, assumptions are used for inputs to the risk assessment process to bias the analysis toward a health-protective result.

Districts and the OEHHA review risk assessments. When requested, the districts must make the health risk assessments available to the public. The district is responsible for final approval of health risk assessments. If a district determines that there is a potentially significant health risk associated with emissions from a facility, the facility operator must notify all exposed persons of these findings. The CAPCOA has developed a document to help districts develop public notification procedures: the CAPCOA Air Toxics "Hot Spots" Program Public Notification Guidelines (October 1992).

#### 5. Annual Reports

Commencing July 1, 1991, each district must prepare and publish an annual report which summarizes the health risk assessment program, ranks facilities according to the cancer risk posed, identifies the facilities posing non-cancer health risks, and describes the status of the development of control measures.

#### 6. Fee Regulation

The Act requires the ARB to adopt a regulation that recovers the State's costs of operating the Program. The ARB may adopt a regulation that collects fees to support district's costs if requested by the district. State costs include those incurred by the OEHHA and the ARB. If a district does not request the ARB to adopt a fee regulation for it, it must adopt its own fee regulation.

##### a. State Adopted Fee Schedules

The ARB may adopt fee schedules for those districts that submit their Program costs to the ARB by April 1 preceding the fiscal year for which the fees are to be collected. Because these anticipated Program costs must be approved by formal action of the district's governing board, the public is given an opportunity to comment before the cost estimates are submitted to the ARB. The Fee Regulation requires the districts to specify how the collected fees will be used to administer the Program. This breakdown provides specific information on the local Program budget and becomes part of the regulatory file.

b. Collection Process

As required by Health and Safety Code section 44380(c), each district must invoice facility operators for the Air Toxics Hot Spots fees, whether the district adopts its own fee rule or it is included in the ARB's Fee Regulation.

The existing Fee Regulation requires each district to bill facilities for fees assessed, and it requires the district to remit its share of the State's costs to the ARB by April 1 of the applicable fiscal year. Table 1 of Appendix I (the Fee Regulation language) shows each district's share of the State's costs. The existing regulation also specifies that a fee will be considered past due if the facility does not remit the fee to the district within 60 days after receiving the fee assessment notice. The districts shall assess a penalty of up to 100 percent of the assessed fee against any facility which fails to pay the Hot Spots fee. Districts may also initiate permit revocation proceedings to collect overdue fees.

The existing Fee Regulation requires that for districts having ARB adopt their fee schedules, any fees collected beyond district and State Program costs be retained by the districts for expenditure in the next two fiscal years. If program revenues are so carried over, program costs to be recovered each year must be adjusted. If a shortfall occurs, the Fee Regulation specifies that the districts for which the State has adopted Fee Regulations may increase their program costs in subsequent years to recover revenue shortfalls.

**C. AMENDMENTS TO THE HOT SPOTS ACT**

1. Assembly Bill 4070

The Act was amended in 1990 by Assembly Bill 4070 (Connelly; Statutes of 1990; Chapter 1432). Assembly Bill 4070 requires a district to adopt its own fee rule unless the district submits its Program costs to the ARB prior to April 1 immediately preceding the year for which fees are to be collected. If the district decides to adopt its own fee rule, it must assess fees sufficient to cover the local and State costs of the Program. The amendments also specify that the State board shall review and may amend the Fee Regulation annually.

If a district adopts a fee rule to recover Program costs, the district must follow the rule adoption procedures set forth in the Health and Safety Code sections 40725 through 40728. These procedures require no less than a 30-day public notice for hearings with the opportunity for the public to submit comments on the rule. The fee rule must also specify the record keeping requirements.

## 2. Senate Bill 1378

In 1992, the Act was amended by Senate Bill 1378 (McCorquodale; Statutes of 1992; Chapter 375). Senate Bill 1378 requires any district that has an approved toxics emission inventory, by August 1 of the preceding year, to adopt a fee schedule using toxics emissions as the basis of the fees. The fees are to be, to the maximum extent practicable, proportionate to the extent of the releases identified in the toxics emission inventory and the level of priority the district assigns to that source.

## 3. Senate Bill 1731

The Act was also amended in 1992 by Senate Bill 1731 (Calderon; Statutes of 1992; Chapter 1162). With respect to fees, Senate Bill 1731 provides that the district or the State may assess a supplemental fee upon the operator of a facility which submits supplemental health risk assessment information. The supplemental information is optional. The maximum supplemental fee is set by the ARB in the Fee Regulation. Supplemental fees are those fees collected by districts to defray their costs if a facility operator requests that their Health Risk Assessment be updated.

Whenever a district determines that the emissions from a facility pose a potentially significant risk, Senate Bill 1731 requires the facility operator to conduct a risk reduction audit and develop a plan to implement airborne toxic risk reduction measures. These measures may include changes in production processes or materials, operation and maintenance, and emission controls. The plan must result in reduction of emissions to a level below the significant risk level within five years. Under certain circumstances, the district may either lengthen (up to five additional years) or shorten the time period to implement the plan. However, once a district determines that a facility presents a significant risk, the facility owner has six months to submit a risk reduction audit and plan to the district.

Senate Bill 1731 also requires the ARB to provide assistance to the districts and smaller businesses in obtaining information, assessing risk reduction methods, and applying risk reduction measures. For industries comprised mainly of small businesses, the ARB must develop a self-conducted audit and plan checklist to assist them in meeting the requirements of the Program. ARB staff are developing industry-specific audit and plan checklists for several industries which may save the affected industries the costs of individually evaluating risk reduction methods.

Senate Bill 1731 also requires OEHHA to establish guidelines for the preparation of health risk assessments. OEHHA is currently circulating elements of the risk assessment guidelines to the public for review and comment.

#### 4. Assembly Bill 1060

The Act was amended in 1993 by Assembly Bill 1060 (Costa and Pringle; Statutes of 1993; Chapter 1041). The bill requires facility operators to update their air toxics emission inventory every four years instead of every two years.

#### 5. Assembly Bill 956

Assembly Bill 956 (Cannella; Statutes of 1993; Chapter 1037) also amended the Act in 1993. This legislation provides for a fee exemption for certain facilities. The exemption applies to facilities which primarily handle bulk agricultural commodities and are subject to the Act only as a result of their particulate matter emissions. These facilities may be exempt from paying Hot Spots fees unless fee schedules are based solely on toxic emissions weighted for potency and toxicity.

#### 6. Assembly Bill 564

Assembly Bill 564 (Cannella; Statutes of 1996; Chapter 602) amended the Act in 1996. This legislation 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. Assembly Bill 564 also exempts 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 emission inventory updates, and there are provisions that allow districts to assess fees to recover the costs of processing those updates.

Assembly Bill 564 also set forth reinstatement criteria for facilities exempted from the Program. Finally, Assembly Bill 564 set caps on the State portion of Program costs for fiscal year 1997-98 of \$2 million dollars and \$1.35 million for fiscal year 1998-99 and each succeeding fiscal year.

### **D. BENEFITS OF THE PROGRAM**

Both the public and industry have benefited from the Program. Some of these benefits are presented below:

- o The Program has resulted in the development of the nation's first and most comprehensive statewide inventory of air toxics emissions. It allows California the ability to identify who the toxic emitters are in the State, the health risks posed by those emitters, and what is being done to reduce the risks.

- o The Hot Spots Program has been extremely effective in reducing air toxics emissions by providing ample incentives for facility operators to reduce emissions voluntarily and requirements for significant risk public notification and risk reduction action.
- o The requirement for risk reduction audits and plans is viewed as being more effective than “command and control” regulations by many facility operators as it allows facility operators to choose the most cost-effective methods for reducing emissions and risks from their facilities.
- o Information collected under the Hot Spots Program ensures the ARB and the districts use their resources most efficiently by allowing them to focus on the air toxics emitting sources of greatest concern.
- o The risk assessment guidelines being prepared by the OEHHA pursuant to the requirements of this program will assure that the best risk assessment science and data will be available statewide.

The Hot Spots Program serves as an integral part of the State’s effort to manage the Public’s exposure to toxic air pollutants, which in turn is critical to the comprehensive attempt to provide the citizens of this State with healthy air.

### III.

## **PROGRAM ACTIVITIES**

### **A. INTRODUCTION**

The ARB, OEHHA, and the 35 local air districts work together to implement the Air Toxics Hot Spots Program statewide. This chapter discusses the activities these governmental agencies perform or have performed to administer the Program. The Act specifies tasks that must be performed by each of these agencies. As the program comes to fruition many of the tasks have been completed or are nearing completion. The ARB has reached a maintenance level of Program activities. This chapter also specifies which tasks will be performed in fiscal year 1998-99.

### **B. STATE ACTIVITIES**

The ARB and OEHHA have been responsible for specific programmatic tasks specified in the Act. Figure 4 summarizes the State's activities. These activities are described in detail below.

#### 1. Air Resources Board Activities

##### a. Regulation Development

Each year, as required by the Act, the ARB staff reviews the Fee Regulation and proposes amendments as appropriate. To ensure the State's and districts' costs are recovered, the ARB staff, with the Fee Regulation Committee (Committee), reviews the method for distributing the State's cost among the districts and calculating facility fees, and develops any subsequent proposals for amending the Fee Regulation. The ARB staff consults with the districts to verify district Program costs and facilities subject to the Act, conducts public workshops, holds meetings and conference calls with affected industries and environmental groups, and prepares the proposed amendments to the Fee Regulation.

To ensure that districts and facilities submit useful, accurate, and uniform emission information, the ARB staff developed the Emission Inventory Criteria and Guidelines Regulation (the Guidelines Regulation). Section 93300.5 of Title 17 of the California Code of Regulations incorporates by reference the Air Toxics Hot Spots Emission Inventory Criteria and Guideline Report (the Guidelines Report). Section 93300.5, was adopted by the Air Resources Board on July 26, 1996, and was approved by the Office of Administrative Law on July 1, 1997.

## **Figure 4**

### **State Hot Spots Program Implementation Activities**

- o Regulatory Development and Implementation (ARB)
  - develop amendments to the Guidelines Report and Fee Regulation
  - prepare for and conduct public workshops
  - prepare for and hold meetings with interested groups
  - maintain the list of substances (identify new and/or delete compounds)
  - track status of implementation
  - provide assistance to districts, facility operators, and the general public
  
- o Methods Development and Review (ARB)
  - review source tests
  - review and approve alternative source test methods in inventory plans and reports
  - review and comment on pooled source test proposals
  - conduct toxics source test seminars for district staff
  - conduct limited air toxics source testing
  - develop air toxics emission factors
  
- o Air Toxics Emissions Database Maintenance (ARB)
  - provide toxics emission database information to other government departments and the public
  - perform computer programming tasks
  - develop merged criteria and toxics pollutant inventory -  
California Emission Inventory Development and Reporting System (CEIDARS2)
  - develop and implement electronic data submittal (FATES and CEIDARS-Lite)
  - develop a personal computer version of ATEDS and operator's manual
  - analyze data for setting priorities for toxic air pollutant control
  - computer time contract (Teale Data Center)
  
- o Emission Data Collection and Validation (ARB)
  - conduct initial emission data review
  - correct data (with district concurrence)
  - conduct quality control checks and correct data
  - follow-up with districts on data submittal and collection procedures
  - data entry contract

**Figure 4** (continued)

- o Risk Reduction Guidelines and Checklists Development (ARB)
  - hold public workshops on Senate Bill 1731 implementation including guidelines and checklists
  - assist smaller businesses in obtaining information, assessing risk reduction methods, and applying risk reduction techniques
  - locate possible emission sources
  - identify cost-effective control technologies
  - indicate possible pollution prevention measures
  - develop checklists for self-conducted audits and risk reduction options for industries comprised mainly of small businesses
  
- o Health Risk Assessment Review (OEHHA)
  - review health risk assessments submitted by districts
  - correct health risk assessments that are inaccurate
  - identify areas of incompleteness in health risk assessments
  - supply comments to the district regarding health risk assessments
  - assist the district staff in interpreting the results of a health risk assessment
  
- o Health Risk Assessment Guidelines Development (OEHHA)
  - develop new facility risk assessment guidelines
  - develop risk expressions that describe the probability and uncertainty in the risk assessment
  - coordinate with CAPCOA and ARB
  - notify the public of guidelines development
  - hold public workshops to discuss guidelines
  - present guidelines to Scientific Review Panel for comment
  - provide guidance to districts
  - review supplemental health risk assessment information
  - revise and update guidelines as appropriate
  - identify new cancer potencies
  - identify new chronic and acute health exposure levels
  - develop chemical potencies for cancer causing agents
  - develop health reference exposure levels for substances causing acute and chronic health effects
  - develop non-cancer health risk assessment methods
  - develop and operate a chemical database for substances having acute effects

**Figure 4** (continued)

- o Risk Assessment Assistance (OEHHA or ARB as noted)
  - provide assistance to risk assessment preparers, the public and districts on appropriate procedures (OEHHA - health assessment, ARB - air dispersion modeling)
  - verify computer modeling and meteorological data (ARB)
  - provide assistance on health reference exposure levels and chemical potencies (OEHHA)
  - review changes to emission inventory procedures to ensure that data are usable for health risk assessment (OEHHA)
  - update of health risk assessment personal computer program (ARB)
  
- o Develop Public Notification Procedures (OEHHA - health assessment, ARB - air dispersion modeling)
  - assist districts and facilities with public notification procedures and public meetings
  
- o Participate in Public Notification Workshops and Hearings (OEHHA - health assessment, ARB - air dispersion modeling)

The Guidelines Report implements the emission inventory reporting and updating provisions of the Air Toxics Hot Spots Program. It defines who is subject to the program, what they need to report and update, when they must report, which processes need source testing, and which chemical substances must be reported under the program.

The Guidelines Regulation was amended in 1993 to streamline the reporting requirements and, pursuant to Assembly Bill 1060, to change the emission inventory update schedule to a four-year period. In July of 1996, the Board approved additional streamlining amendments to the Guidelines Report based on staff recommendations and to conform with AB 564, which was approved by the Legislature in 1996. The Office of Administrative Law approved the Guidelines Report on July 1, 1997.

The ARB staff has held and will continue to hold meetings with affected industries, environmental groups, and districts to assist in implementing the Guidelines Report. The ARB staff have also provided written guidance on the streamlining measures.

In consultation with OEHHA, the staff reviews the list of substances in the regulation to identify new compounds that should be added to the list. The ARB staff tracks the status of Program implementation within the districts, provides assistance, and works closely with the

district staffs on a daily basis. When OEHHA completes their Health Risk Assessment Guidelines, anticipated in early 1999, the Guidelines Report will be amended again to incorporate the Health Risk Assessment Guidelines as the basis for reporting requirements.

b. Source Test Methods Development

Under the Guidelines Report, the ARB is responsible for specifying source test methods and defining when source testing is required to quantify emissions of toxic pollutants from specific sources. As a result of these requirements, the ARB has been involved in the development of emission test methods, the review of pooled source test proposals, the review of source test reports, and the approval of requests to use alternative test methods. The ARB staff has reviewed over 484 pooled source test proposals to date. At the request of the districts, the staff also conducts periodic seminars on how to review air toxics source test plans and reports .

The ARB staff has recently published the California Air Toxics Emission Factor (CATEF) database to assist and improve future emission inventory reporting and to ensure consistency and accuracy in the reported data. CATEF will also substantially reduce reporting costs for business by reducing the need for source testing. The emission factors, developed through a research contract, were calculated from source test data collected for the Air Toxics Hot Spots Program. The ARB staff is currently developing a follow-up contract to develop additional emission factors and make the CATEF computer software easier to use.

c. Air Toxics Emissions Database

The ARB staff developed and maintained the initial Air Toxics Emissions Database (ATEDS). The management of the air toxics emissions data was a specific requirement of the AB 2588 Act. A major task has been to merge the toxics emissions data with the ARB's criteria pollutant emissions database. Both databases are now merged into the statewide California Emission Inventory Development and Reporting System (CEIDARS2).

The ARB staff developed a software package (Facility Air Toxics Electronic Submittal or FATES) that allows facilities to submit air toxics emission data electronically. The FATES software reduces paperwork, speeds data entry, and reduces costs to the ARB, districts and facility operators. The ARB has completed the development of a second generation electronic submittal software, CEIDARS-Lite, which contains improvements of FATES and allow for integration of criteria and toxics emissions reporting and submittal to the merged CEIDARS2 system.

The ARB staff analyzes the toxics emission data and uses this information to set priorities for identifying and controlling sources of toxic air contaminants. The staff also makes the emission data available to other government agencies and the public.

d. Emission Data Collection and Validation

The ARB staff is responsible for entering new or updated emissions data received from the districts into CEIDARS2. When toxics emission data are received from the districts, the staff reviews the data and makes appropriate corrections prior to inputting the data into the CEIDARS2. The staff performs numerous quality control checks to ensure data accuracy.

e. Risk Reduction

Under the requirements added by Senate Bill 1731, whenever a district finds that a facility's emissions pose a potential significant health risk, the operator of the facility must conduct a risk reduction audit and develop a plan to implement airborne toxic risk reduction measures. The plan must state how the facility will reduce emissions to below the district-specified significant risk level within five years. Under certain circumstances, the district may either lengthen (up to five years) or shorten the time period to implement the plan. Upon district determination that a facility presents a significant risk, the facility operators have six months to submit a risk reduction audit and plan to the district.

Senate Bill 1731 requires the ARB to assist small businesses who have inadequate technical and financial resources to obtain information, assess risk reduction methods, and develop and apply risk reduction techniques. For selected industries that are comprised of mainly small businesses with substantially similar technology, the ARB has developed risk reduction guidelines which include a self-conducted audit and checklist. The staff worked closely with affected industries and the districts to develop six source-specific risk reduction guidelines and self-conducted audit and plan checklists for the following industries: aerospace, autobody refinishing, degreasing, dry cleaning, chrome plating, and service stations. In addition, a general guidance document has also been developed to assist those facilities not covered by the source-specific guidelines. The ARB, in cooperation with the districts, will forward the checklist to the businesses to assist them in meeting the audit and plan requirements. The checklists will allow a small business operator to avoid the expense of developing their own facility audit and plan checklist. The checklists will make it easier to determine measures needed to meet the requirements of the Act. The general guidance document; along with the aerospace, autobody shop, degreasing and chrome plating guidelines have been completed and distributed. The gasoline service station document is currently under management review and should be distributed in the fall of 1998 and the dry cleaner document is still in draft form.

## 2. Office of Environmental Health Hazard Assessment Activities

### a. Health Risk Assessment Review

Operators of high priority facilities must submit risk assessments of the potential health effects that may be associated with emissions from their facilities. The OEHHA reviews health risk assessments prepared by facilities and reviewed and submitted by the districts, including the exposure assessments and risk characterizations, to verify that the risks have been accurately assessed. As part of the review, OEHHA corrects risk assessments that are inaccurate and identifies areas of inadequacy. As part of this review, OEHHA also reviews risk assessment results from the use of nonstandard methodologies. Following the review, the OEHHA staff provides comments to the districts and assists the districts' staffs in interpreting the results. District are responsible for approving the final risk assessments after incorporating the OEHHA comments.

### b. Risk Assessment Guidelines

Senate Bill 1731, which amended the Act in 1992, requires OEHHA to adopt new facility risk assessment guidelines after: (1) consulting with CAPCOA's Toxics Committee and the ARB; (2) circulating the guidelines to the public and regulated community for comment; (3) submitting the guidelines to the Scientific Review Panel on Toxic Air Contaminants; and (4) holding public workshops. To the extent valid data are available, these risk assessment guidelines must allow facility operators to include alternative risk parameter values, likelihood distributions of risk estimates, microenvironmental characteristics, data from dispersion models, and population distributions. The OEHHA is also required to provide guidance to the districts in considering this supplemental information, when it is included in a risk assessment.

OEHHA also identifies newly available cancer potencies and non-cancer acute and chronic exposure levels used in assessing risks. In addition, OEHHA develops chemical potencies for cancer-causing agents and health reference exposure levels for substances causing acute and chronic health effects. OEHHA also develops non-cancer risk assessment methods and develops a chemical database for substances having acute effects.

## 3. Joint ARB/OEHHA/Districts Activities

### a. Risk Assessment Assistance

The staffs provide assistance to facilities, the public, and districts on appropriate exposure assessment procedures, including verifying computer modeling and meteorological data. The OEHHA provides information on health reference exposure levels and cancer potencies for substances involved in quantifying potential health risks. The ARB reviews changes to emission

inventory procedures to ensure that the data are reliable for health risk assessment. The ARB also updates, and makes available to the public, the health risk assessment computer program that is available at low cost to help prepare risk assessments.

b. Public Notification

Facilities whose health risk assessment results show their emissions pose a potential significant health risk must notify the public exposed to those emissions about the results of the risk assessment. ARB and OEHHA staffs have worked in conjunction with CAPCOA to develop and publish public notification guidelines. The ARB and the OEHHA also assist the districts and facilities with developing specific procedures for public notification, and they participate, as requested, in public notification workshops and hearings. The OEHHA interprets non-cancer and potential cancer risk assessment results for the public.

c. Industrywide Risk Assessment Guidelines

The ARB has also developed, in conjunction with OEHHA, the districts (through CAPCOA), and industry, Industrywide Risk Assessment Guidelines for autobody shops and gasoline service stations. Guidelines for evaluating drycleaners are currently under development.

4. Activities for Fiscal Year 1998-99

For fiscal year 1998-99, the ARB and OEHHA staff will be working on the following tasks: emission inventory data collection and database management; implementation of the fiscal year 1997-98 Fee Regulation; development and implementation of the fiscal year 1998-99 Fee Regulation; development of the 1999-2000 Fee Regulation; implementation of the Inventory Guidelines Report; health effects values evaluation and development; completion and implementation of risk assessment guidelines including uncertainty and exposure assessment methods; public notification assistance; assistance for computer software development; OEHHA regulatory and district assistance; and risk reduction assistance.

**C. DISTRICT ACTIVITIES**

The districts review and approve toxics emission inventory plans, reports and the quadrennial emission inventory updates before forwarding the information to the ARB. The districts are preparing industrywide emission inventory reports for some classes of facilities to minimize the economic impact on these facilities. The emission data findings are to be reported to the OEHHA, the Department of Industrial Relations, and the city and county health departments.

After reviewing emission inventory data, the districts prioritize facilities into low, intermediate, and high priority categories. Prioritization procedures are established by the districts based on the California Air Pollution Control Officers Association's (CAPCOA) Facility Prioritization Guidelines, July 1990 and the Gasoline Service Station Industrywide Risk Assessment Guidelines, December 1997. Based on a facility's priority, districts are required to exempt the facility entirely from the Program, to track it on a quadrennial basis, or to require it to prepare a health risk assessment. Once a facility's risk assessment is submitted to the district, the district must review the emissions data and air dispersion modeling before forwarding it to OEHHA for review of the health effects information. Based on OEHHA review and comments, the district may approve the risk assessment or request corrections from the facility. If the facility's emissions present a significant potential health risk, the district will require it to notify the public. The districts are required to establish public notification procedures.

Districts require these high risk facilities to audit their operations and prepare a plan to reduce their emissions below the significance level within specified time frames. The plans are submitted to the district for review of completeness. The district's review of completeness includes a substantive analysis of the emission reduction measures and the ability of the measures to achieve reductions quickly.

Other district responsibilities include insuring that any permit issued to a new or modified source complies with the Act and publishing an annual report on the status of the district's Program. Districts are also required to notify facility operators of changes to the list of substances or if a substance's potency factor has increased and to track whether a new sensitive receptor is planned within 500 meters of a facility with potential high risk.

The districts are also required to collect Program fees and forward the district's portion of the State's cost to the State. Some districts, at their option, develop and implement their own fee rules. Finally, most districts participate in the ARB Fee Regulation Committee, which develops the Fee Regulation, and in the CAPCOA Toxics Committee meetings which discusses the implementation of the "Hot Spots" Program.

## IV.

### **PROGRAM COSTS AND FACILITY FEES**

#### **A. INTRODUCTION**

Chapter IV contains a description of the costs of the Program and the proposed method for allocating those costs among the districts for collection through facility fees.

Staff is proposing to use the same method for allocating State Program costs among districts and for establishing facility fees for six districts as was used for the past two years. This method bases fees on the public health risk presented by a facility's air toxics emissions, and, to a lesser extent, on the workload the State and districts must devote to the facility through the program. Facilities are divided into several risk categories based on the facilities' health risk assessment results and prioritization scores.

The staff believes this is an equitable method to calculate facility fees, one which matches higher fees with the higher risk facilities. It complies with Health and Safety Code Section 44380(a)(3) and sections 44344.4 through 44344.7 and 44380 (e).

#### **B. PROPOSED STATE COSTS FOR FISCAL YEAR 1998-99**

Staff is proposing a total State Program cost to be recovered through fees in fiscal year 1998-99 of \$1,270,000. This State budget is less than the \$1,350,000 authorized by Health and Safety Code section 44380(e). In order to keep core facility fees unchanged from fiscal year 1997-98 and increase industrywide facility fees by only \$10, this Fee Regulation budget is \$80,000, or 6 percent, less than the State's cost for operating the Program in fiscal year 1997-98 and does not include a 5 percent adjustment factor that has been included in all previous Fee Regulations. This budget is 76 percent less than the budget for fiscal year 1993-94 and 64 percent less than the budget contemplated by the State's original 5-year budget reduction plan. We are proposing a reduction in the Program's budget to reduce the fiscal burden to facilities subject to the Fee Regulation. With this reduction in the budget, we anticipate further streamlining in State Program activities.

The ARB's share of the proposed State cost is \$533,000, and the OEHHA's share is \$737,000. Specific activities related to these proposed costs are identified in Appendix III. In addition to these costs, the five percent adjustment factor that had been included in all previous Fee Regulations has not been included. The adjustment factor had been added to the State's cost to ensure full cost recovery in the event of unforeseen business closures, nonpayment of fees, or other

circumstances which would result in a shortfall in anticipated revenue. Based on historical fee collection patterns, it is possible that the State could realize an additional shortfall of approximately \$70,000 for fiscal year 1998-99. With the \$80,000 reduction in the State's Program costs, revenues for fiscal year 1998-99 could fall to approximately \$150,000 below the State's fiscal year 1997-98 Program costs. Depending on the actual shortfall in fees collected, staff anticipates a significant reduction in the resources available to support the Program and in the State activities funded by the fees. If additional shortfalls occur, the ARB proposes to compromise the computer contract at the Teale Data Center. The end result of such an event would reduce the ARB's ability to store and retrieve Program-related data. The most profound impacts will be seen in the quantities of data the ARB could store. With a reduction in storage space, the ARB staff will face decisions concerning which data to store, the most current emissions inventory data versus the historic emissions inventory data.

The OEHHA proposes to reduce the exposure assessment and uncertainty methods portions of the health risk assessment guidelines development. If additional shortfalls occur, further reductions would be made in exposure assessment and uncertainty methods. The result of this reduction would be less information available to risk assessors concerning uncertainty of exposure assessments.

The method for allocating the State's costs among the districts is described in Appendix IV. The Fee Regulation distributes the State's Program costs among all facilities subject to fees. All facilities that are subject to the Act are subject to the Fee Regulation unless expressly exempted under Health and Safety Code sections 44324, 44344.4, or 44380.1, or under section 90702(c) of the Fee Regulation. The State's costs will cover the following activities: emission inventory and regulatory development costs, health effects evaluation and database development costs, risk assessment guidelines development costs, uncertainty and exposure assessment method development costs, public notification assistance costs, district assistance costs, and risk reduction guidance costs. The costs to OEHHA for risk assessment review are recovered on a fee-for-service basis, rather than through this Fee Regulation.

#### 1. Air Resources Board Costs

Of the \$1,270,000 State costs, \$533,000 will support the ARB activities. This cost includes the computer contract at Teale Data Center for \$126,000 and the key data entry contract for \$27,000.

The ARB is mandated to assist small businesses in complying with the risk reduction audit and plan provisions of Senate Bill 1731. The proposed cost to complete the risk reduction guidelines is \$38,000.

The ARB provides risk assessment and public notification assistance to districts and facility operators. The cost for this task is \$38,000.

The ARB staff reviews, proposes amendments, and implements the Air Toxic Hot Spots Fee Regulation. The ARB staff also works with districts to implement the emission inventory Program requirements. The cost for these tasks is \$114,000.

The ARB will maintain the Program by continuing to collect and provide air toxics emission data to the public, to inform the public of the potential health risks, and to 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 cost for these tasks is \$190,000.

## 2. OEHHA Costs

OEHHA requires \$737,000 to support its Program activities for fiscal year 1998-99. OEHHA's costs include \$125,000 for the health effects evaluation and risk assessment database development. For fiscal year 1998-99, OEHHA requires \$125,000 to complete development of the new risk assessment guidelines.

The risk assessment guidelines development also requires the OEHHA to develop and maintain exposure assessment and uncertainty analysis parameters and methods. The total cost for this area of guideline development is \$269,000.

The OEHHA costs for health risk assessment tracking are \$75,000. OEHHA also provides technical assistance to the ARB, districts, and facility operators to implement the Program including development of regulatory requirements. The cost for this assistance is \$143,000.

## **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 based on facility data received from the districts by July 1, 1998. The method for distributing State costs among the districts and the indices are described in Appendix IV of this report.

The distribution of State costs among the districts for fiscal year 1998-99 are shown on Table 2 of the Staff Report and Table 1 of the Fee Regulation. Table 2 also compares the allocation of the State's costs among districts for fiscal year 1997-98 and fiscal year 1998-99. The difference between the total fees in Table 2 and the total of the State's costs \$1,270,000 is due to rounding. Where a district's share of the State's cost has increased, it is due to an increase in the number of facilities in that district, or from facilities moving into a higher risk, higher fee Facility Program Category.

#### **D. DISTRICT COSTS FOR FISCAL YEAR 1998-99**

In the State's 35 districts, the ARB staff estimates that the total district costs to implement the Hot Spots Program for fiscal year 1998-99 will be \$3,087,594. This represents a decrease of approximately 8 percent from the fiscal year 1997-98 total of \$3,389,989. Table 3 shows that the anticipated districts' costs for 21 districts remain unchanged or are less than the fiscal year 1997-98 costs.

#### **E. TOTAL PROGRAM COSTS**

Total costs to the State and districts for fiscal year 1998-99 will be \$4,357,594. The State's costs are 29 percent of the total, and the districts' costs are 71 percent of the total. Total costs decreased 7 percent from fiscal year 1997-98. The estimated total Hot Spots Program costs for the State and districts for fiscal year 1998-99 are shown in Figure 5.

#### **F. DISTRICT FEE SCHEDULES**

Six districts which requested that the ARB adopt district fee schedules for them submitted their Board-approved Program costs by April 1, 1998. These districts are identified in Table 4, and their Board-approved Program costs are identified in Table 3 by a double asterisk. The individual facility fees for the six districts are calculated using the method described in Chapter V. The other 29 districts must adopt their own fee rule to recover their costs and their portions of the State's cost. Table 4 lists the districts requesting ARB adoption of facility fees and the districts adopting their own fee rules.

Appendix IV 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. District program costs in those six districts were approved by their respective district boards at public hearings.

The range of facility fees per category shown in Table 5 are for those districts for which the ARB is adopting a fee schedules. The actual fees for each Program category for each district is provided in Table 3 of the Fee Regulation. The range of fees shown in Table 5 is due to variations of fees among districts. Many factors affect a district's costs of implementing the Program. These factors include but are not limited to the following:

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

The total fee is the sum of the fee for the State costs and the fee for the district costs. This table was included at the request of facilities in these districts who wanted to know the State versus district portion of their fees.

**Table 2**  
**Comparison of Distribution of State Costs Among Districts**

	A	B	C
	Cost	Proposed Cost	% Difference
	Total	Total	From
<u>District</u>	<u>1997-98</u>	<u>1998-99</u>	<u>Column A</u>
Amador	7,406	3,182	-57.0
Antelope Valley	8,043	9,328	+16.0
Bay Area	72,038	80,022	+11.1
Butte	15,122	10,080	-33.3
Calaveras	1,077	542	-49.7
Colusa	5,982	1,674	-72.0
El Dorado	8,728	7,488	-14.2
Feather River	13,451	13,332	-0.9
Glenn	3,432	455	-86.7
Great Basin	10,994	9,909	-9.9
Imperial	9,725	10,775	+10.8
Kern (Desert)	5,409	735	-86.4
Lake	0	0	0.0
Lassen	2,959	3,129	+5.7
Mariposa	977	507	-48.1
Mendocino	4,619	4,519	-2.2
Modoc	375	70	-81.3
Mojave Desert	36,980	28,698	-22.4
Monterey	8,060	7,020	-12.9
North Coast	10,292	7,277	-29.3
Northern Sierra	9,186	8,917	-2.9
Northern Sonoma	50	70	+40.0
Placer	20,097	20,616	+2.6
Sacramento	11,902	9,232	-22.4
San Diego	189,401	107,464	-43.3
San Joaquin Valley	128,052	101,067	-21.1
San Luis Obispo	275	350	+27.3
Santa Barbara	54,886	54,838	0.0
Shasta	30,225	15,368	-49.2
Siskiyou	7,155	6,275	-12.3
South Coast	672,864	686,355	+2.0
Tehama	2,399	1,674	-30.2
Tuolumne	1,609	834	-48.2
Ventura	43,087	43,901	+1.9
<u>Yolo-Solano</u>	<u>20,648</u>	<u>14,662</u>	<u>-29.0</u>
<b>TOTAL</b>	<b>1,417,505</b>	<b>1,295,342</b>	

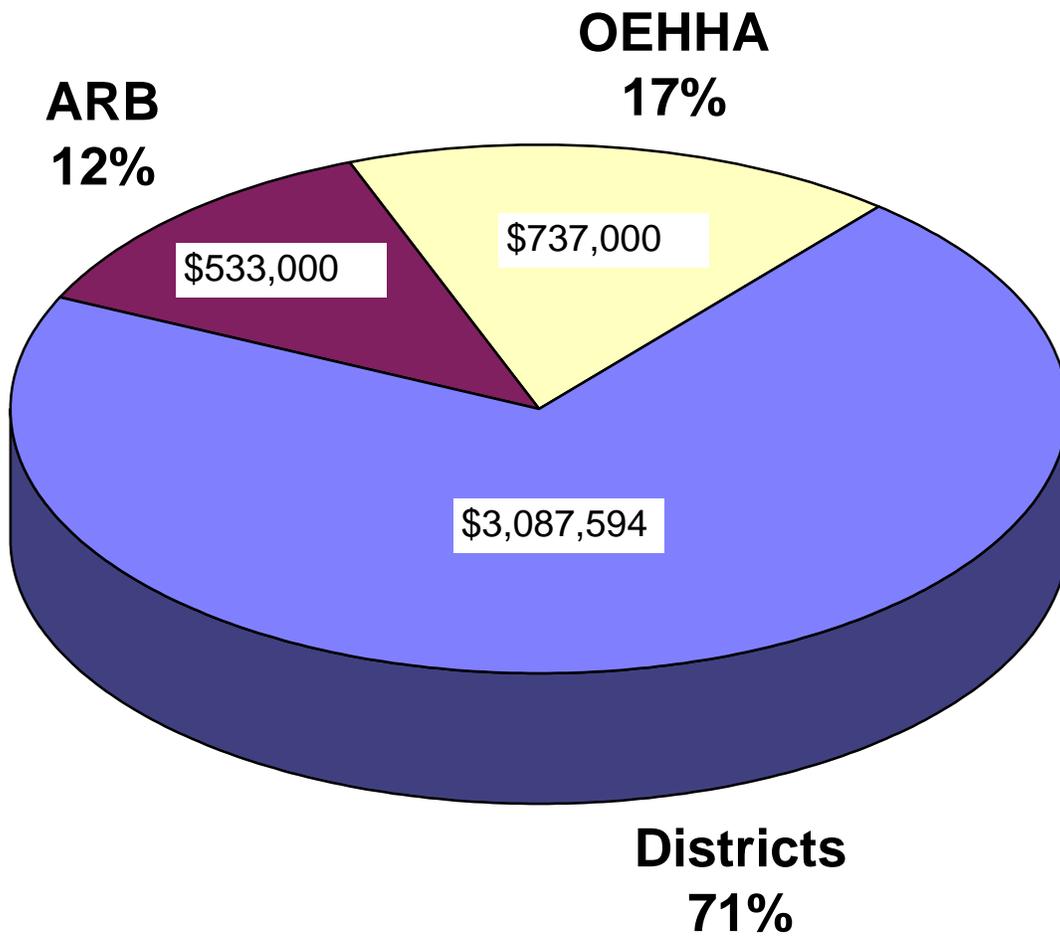
**Table 3****District Cost Comparison Between Fiscal Years 1997-98 and 1998-99\***

<u>District</u>	<u>Fiscal Year</u>	<u>Fiscal Year</u>
	<u>1997-98</u>	<u>1998-99</u>
Amador	0	<b>3,725</b>
Antelope Valley	0	<b>8,000**</b>
Bay Area	365,000	<b>375,900</b>
Butte	19,715	<b>15,000</b>
Calaveras	0	0
Colusa	17,000	17,000
El Dorado	7,480	7,480
Feather River	75,000	<b>35,000</b>
Glenn	5,500	5,500
Great Basin	6,790**	<b>7,105**</b>
Imperial	1,232**	<b>1,232**</b>
Kern	800**	<b>1,015</b>
Lake	2,000	2,000
Lassen	1,467**	<b>1,728**</b>
Mariposa	0	0
Mendocino	22,330	22,330
Modoc	0	0
Mojave Desert	15,000**	<b>23,000**</b>
Monterey	119,385	<b>111,325</b>
North Coast	0	<b>1,800</b>
Northern Sierra	24,000	<b>27,000</b>
Northern Sonoma	2,000	2,000
Placer	9,421	9,421
Sacramento	61,787	<b>61,787</b>
San Diego	360,000	<b>160,000</b>
San Joaquin Valley	400,000	<b>400,000</b>
San Luis Obispo	18,150	<b>19,057</b>
Santa Barbara	116,350**	<b>99,000**</b>
Shasta	20,000	<b>15,000</b>
Siskiyou	5,700	5,700
South Coast	1,599,702**	<b>1,541,239</b>
Tehama	1,200	<b>1,100</b>
Tuolumne	4,410**	<b>4,480</b>
Ventura	75,000	<b>70,000</b>
Yolo-Solano	32,670	32,670
TOTAL	3,389,989	3,087,594

District budget numbers for fiscal year 1998-99 in **bold** are those district's that supplied the ARB with budget figures. Costs are estimates unless otherwise noted.

\*\* District Board approved cost.

**Expenditure of Total Fiscal Year  
1998-99 Program Costs  
By Districts, the ARB, and OEHHA**



Total Program Costs for the Districts and the State are  
Estimated to be \$4,357,594

**Table 4**

**State and Air District Adoption of Fiscal Year 1998-99 Fees**

**Districts Included in the State Fee Regulation**

Antelope Valley	Great Basin	Imperial
Lassen	Mojave Desert	Santa Barbara

**Districts Adopting Local Fee Rules**

Amador	Bay Area	Butte
Calaveras	Colusa	El Dorado
Feather River	Glenn	Kern
Lake	Mariposa	Mendocino
Modoc	Monterey	North Coast
Northern Sierra	Northern Sonoma	Placer
Sacramento	San Diego	San Joaquin Valley
San Luis Obispo	Shasta	Siskiyou
South Coast	Tehama	Tuolumne
Ventura	Yolo-Solano	

**Table 5**  
**Range of Proposed Facility Fees**  
**For Those Districts Requesting the ARB Adopt a Fee Schedule\***

<u>Program Category</u> <u>Total Fees</u>	<u>State Portion</u>	<u>District Portion</u>	
Industrywide	35	0 - 75	35 - 110
Unprioritized			
Simple	402	414	816
Medium	603	355 - 756	958 - 1,352
Complex	804	829	1,633
Tracking (priority score $\geq 1 < 10$ , HRA $\geq 1 < 10$ /million, Simple Hazard Index $\geq .1 < 1$ )	67	83 - 338	150 - 405
Medium	100	125 - 507	225 - 607
Complex	134	167 - 676	301 - 810
Priority Score $> 10$			
Simple	1,674	967	2,641
Medium	2,009	2,990 - 3,549	4,999 - 5,558
Complex	2,344	1,105	3,449
Risk $\geq 10 < 50$ /million, Hazard Index $> 1$			
Simple	3,014	5,750	8,764
Medium	3,349	613 - 6,088	3,962 - 9,437
Complex	3,684	647 - 6,426	4,331 -
10,110			
Risk $\geq 50 < 100$ /million			
Simple	4,353		
Medium	4,688		
Complex	5,023	1,832	6,855
Risk $\geq 100$ /million			
Simple	5,693	7,779	13,472
Medium	6,028	8,117	14,145
Complex	6,363		

\* Summary of proposed fees for the six districts whose fee schedules are included in the Fee Regulation.



## V.

### EXISTING REGULATION AND PROPOSED CHANGES

#### A. INTRODUCTION

The proposed amendments to the Fee Regulation for fiscal year 1998-99 are presented in this Chapter. The staff of the Air Resources Board (ARB or Board) proposes to continue to use the methodology that was used for the previous two 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's proposed changes are minor and are found in section D. of this chapter.

#### B. PUBLIC OUTREACH

Staff developed the proposed changes to the Fee Regulation following extensive coordination with district representatives, the Fee Regulation Committee (Committee), an Industry/Environmental Stakeholders group, the regulated community, and the public. The Committee includes representatives from the air pollution control districts, the ARB, and the OEHHA. Representatives from all districts were invited to all meetings of the Committee. The Committee held five conference calls and will hold more after publication of the staff report. At these calls the Committee suggested methods for amending the Fee Regulation and evaluated those methods.

The staff held two public workshops to elicit comments and suggestions for amending the Fee Regulation. Two more public workshops are planned for September 1998, during the 45-day comment period. Notices of each workshop were sent to over 7,000 facility operators and members of the public. Copies of the workshop announcements are contained in Appendix V.

In addition to the public workshops held in July and the public workshops planned for September, the staff held two conference calls with our Industry/Environmental Stakeholders group, which includes representatives from the affected industries and industry associations, and members of environmental organizations. A third teleconference call with the stakeholders group will be scheduled during the 45-day public comment period prior to the Board hearing. At each of these meetings, conference calls, and workshops, the staff received valuable input, comments, and suggestions that were considered for incorporation into the proposed Fee Regulation.

## C. CURRENT REGULATION

For fiscal year 1998-99, the staff proposes to continue to use the same method used for fiscal years 1996-97 and 1997-98 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 numbers 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 Health and Safety Code section 44380(a)(3)). This method also meets the requirements of Health and Safety Code 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 Health and Safety Code 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 Health and Safety Code 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 Health and Safety Code section 44380(a)(3). That mandate requires that fees be set, to the maximum extent practicable, commiserate 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 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 they do business in. A facility will qualify for an exemption from fees in three ways:

- a) Prioritization Score: A facility that has a prioritization scores (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 Health and Safety Code 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.
- c) 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:

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

- o 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.
- o Prioritization score greater than 10.0 - for facilities whose prioritization score is greater than 10, but for which no risk assessment results are available.
- o Risk of 10.0 to less than 50.0 cases per million, or a hazard index of greater than 1.0.
- o Risk of 50.0 to less than 100.0 cases per million
- o Risk of 100.0 cases per million or Greater
- o 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.
  - a) 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. Any operation that causes air pollution can be classified by one or more SCCs. 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

##### a. Cap on Fee For Small Businesses

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 six 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 Health and Safety Code 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.

### **D. PROPOSED CHANGES TO THE REGULATION**

The only changes proposed by staff are to update the table in the Fee Regulation based on the most current facility Program data submitted by the districts to the ARB by July 1, 1998.

#### 1. Update Table 1

Table 1 of the Fee Regulation has been revised to reflect the most current facility Program data submitted by the districts to the ARB.

## 2. 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 six districts which have requested that the ARB adopt fee schedules for them. The State portion of facility fees in Table 3 reflect facility counts from all districts. Table 4 of the proposed amended regulation has been revised to update district-specified flat fees. The districts specify and justify the fee for facilities in the Industrywide category.

## 3. Districts Requesting State Adoption of Fee Schedules

Health and Safety Code section 44380 allows the ARB to adopt fee schedules for only those districts that submit district program costs to the ARB by April 1 of the fiscal year preceding the year to which Fee Regulation applies. Six districts have requested that the Board adopt fees for them and have fulfilled the requirements of Health and Safety Code section 44380. Those districts are the Antelope Valley, Great Basin, Lassen County, Imperial 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.

Table 4 of the Staff Report lists the districts included in the State's Fee Regulation and the districts adopting local fee rules.

The six districts that requested that the ARB adopt district fee regulations for them have provided us with district costs for the fiscal year 1998-99. The method used to calculate the district portion of the fees for the six districts is identical to that used for the State portion of the fees except based on different resource indices as requested by the six 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 IV.

## 4. Industrywide Fee

Table 4 of the Fee Regulation will be revised to reflect a \$10 increase, to \$35, in the Program fee assessed industrywide facilities.

5. Appendix A

Appendix A has been revised to reflect the most current list of district toxics emission inventory lists, reports or surveys.

## **VI.**

### **ECONOMIC AND ENVIRONMENTAL IMPACTS**

#### **A. INTRODUCTION**

This chapter discusses the economic and environmental impacts from the fees assessed through this Fee Regulation. The Air Resources Board (ARB) evaluated the economic impacts from the fees assessed through the Air Toxics “Hot Spots” Fee Regulation for fiscal year 1998-99 (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 local air districts. In the last several fiscal years, fees for facility program categories increased due to the large decreases in facilities subject to the Fee Regulation. . However, for fiscal year 1998-99, the staff is proposing that the fee levels for each of the facility program categories remain at fiscal year 1997-98 levels. In other words, no fee increases for the core facilities. Staff is proposing a minor increase of \$10 in the fee assessed industrywide facilities. This would also be consistent with the current resources devoted to evaluating industrywide facilities. 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 an fiscal impact on any State or local government agency. The staff also 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 1998-99 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, 1998. 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 local air districts to develop and implement the Fee Regulation. There will be an overall reduction in both State and local Program costs from fiscal year 1997-98.

### 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 \$100 to \$5,503. The total cost estimate for State-owned facilities was \$18,312.

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 1998-99 is \$114,000. This is approximately 9 percent of the total State portion of Program costs, \$1,270,000, 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 \$125 to \$9,699. The total costs assessed to local governmental agencies, other than the districts, were estimated to be \$129,532.

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 XIII B 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 \$308,759.

The costs of six air pollution control 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 \$3.1 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 (Act). As described in Chapter II, 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 VI 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 242 types of industries currently subject to the Fee Regulation was created from the facility program category data submitted by the air 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 242 industries with a 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. In addition, we expect that the actual cost impact of the fees on the profitability of California businesses is most likely to be less than what we have estimated in this analysis. 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.

## VII.

### EVALUATION OF ALTERNATIVES

#### A. INTRODUCTION

This chapter discusses the various alternatives that were considered by the ARB staff in determining how to distribute State costs to the districts for 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 1998-99, 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 include basing a district's allocation of the State portion of Program costs on population and freezing the district's allocation for fiscal year 1998-99 at the same level as fiscal year 1997-98. 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.

#### 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 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 has recommended that the ARB not use this method to calculate the districts' allocations for fiscal year 1998-99.

Option 2: Keep district's share of State costs the same level as fiscal year 1997-98.

The California Air Pollution Control Officers Association (CAPCOA) has recommended that the ARB freeze the districts' allocations of the State's portion of Program costs at the levels calculated for fiscal year 1997-98. Freezing the districts' allocations at fiscal year 1997-98 levels

appears to be simple way to allocate the district portion of State program costs. However, it raises some unique issues. Last year, each district was allocated a share of the State's portion of Program costs based on the number of facilities and their relative health risk. Since last year, each district has included, or exempted, different numbers of facilities than other districts based on new facility risk and score data. Staff evaluated the effect on each district and found vast inequities in fees could arise for like facilities in different districts. It also raises the issue of what the ARB would do in fiscal year 1999-2000; whether to freeze district allocations for another year, go to a new method, or go back to the current method. For these reasons, this method alternative was found to be inferior to the current method.

Option 3: Keep the current method for distributing State Program costs, based on current data.

The Fee Regulation fulfills a very specific legal requirement under Health and Safety Code 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.

### **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. 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 alternatives fulfilled that requirement. We recommend that the ARB adopt the proposed amendments to the Fee Regulation for fiscal year 1998-99. These changes are described in more detail in Chapter V, and are contained in Appendix I to this report.

## Appendix I

### Proposed Amendments to the Air Toxics Hot Spots Fee Regulation For Fiscal Year 1998-99

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

## 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 re-adoption 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	7,406	<u>3,182</u>
Antelope Valley	8,043	<u>9,328</u>
Bay Area	72,038	<u>104,999</u>
Butte	15,122	<u>10,080</u>
Calaveras	1,077	<u>542</u>
Colusa	5,982	<u>1,674</u>
El Dorado	8,728	<u>7,488</u>
Feather River	13,451	<u>13,332</u>
Glenn	3,432	<u>455</u>
Great Basin	10,994	<u>9,909</u>
Imperial	9,725	<u>10,775</u>
Kern	5,409	<u>735</u>
Lake	0	
Lassen	2,959	<u>3,129</u>
Mariposa	977	<u>507</u>
Mendocino	4,619	<u>4,519</u>
Modoc	375	<u>70</u>
Mojave Desert	36,980	<u>28,698</u>
Monterey	8,060	<u>7,020</u>
North Coast	10,292	<u>7,277</u>
Northern Sierra	9,186	<u>8,917</u>
Northern Sonoma	50	<u>70</u>
Placer	20,097	<u>20,616</u>
Sacramento	11,902	<u>9,232</u>
San Diego	189,401	<u>107,464</u>
San Joaquin Valley	128,052	<u>101,067</u>
San Luis Obispo	275	<u>350</u>
Santa Barbara	54,886	<u>54,838</u>
Shasta	30,225	<u>15,368</u>
Siskiyou	7,155	<u>6,275</u>
South Coast	672,864	<u>686,355</u>
Tehama	2,399	<u>1,674</u>
Tuolumne	1,609	<u>834</u>
Ventura	43,087	<u>43,901</u>
Yolo-Solano	20,648	<u>14,662</u>
<hr/>		
TOTAL	1,417,505	<u>1,295,342</u>

Table 2

District Costs to be Recovered Through the Fee Regulation

District	Anticipated Districts Costs*	
<u>Antelope Valley</u>		<u>8,000</u>
Great Basin	<del>6,790</del>	<u>7,105</u>
Imperial	1,232	
Lassen	<del>1,467</del>	<u>1,728</u>
Mojave Desert	<del>15,000</del>	<u>23,000</u>
Santa Barbara	<del>116,350</del>	<u>99,000</u>
<u>South Coast</u>	<u>1,599,702</u>	
Tuolumne	4,410	

\* 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)						
<u>Antelope Valley</u>					<u>455</u>	
Great Basin	<del>798</del> <u>816</u>	<del>1,197</del> <u>1,225</u>	<del>1,596</del> <u>1,633</u>			
Imperial				101		
Lassen						
Mojave Desert		<del>1,831</del> <u>1,352</u>		<del>203</del> <u>150</u>	<del>305</del> <u>225</u>	<del>407</del> <u>301</u>
Santa Barbara				<del>464</del> <u>405</u>	<del>695</del> <u>607</u>	<del>928</del> <u>810</u>
South Coast		<del>3,452</del>	<del>4,603</del>	<del>384</del>	<del>575</del>	<del>767</del>
Tuolumne						<del>5,384</del>

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)						
<u>Antelope Valley</u>		<u>5,558</u>				<u>8,180</u>
Great Basin	<del>2,598</del> <u>2,641</u>		<del>3,400</del> <u>3,449</u>			
Imperial					3,962	4,331
Lassen		<del>4,547</del> <u>4,999</u>				
Mojave Desert		<del>4,056</del>			<u>4,848</u>	<del>6,277</del> <u>5,266</u>
Santa Barbara				<u>8,764</u>	<del>10,494</del> <u>9,437</u>	<del>11,226</del> <u>10,110</u>
South Coast	6,106	6,758	7,409	8,396	9,047	9,699
<del>Fullumme</del>						

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)						
<u>Antelope Valley</u>						
Great Basin						
Imperial						
Lassen						
Mojave Desert			<del>8,025</del> <u>6,855</u>		<del>9,303</del>	<del>9,774</del>
Santa Barbara					<del>14,823</del> <u>13,472</u>	<del>15,555</del> <u>14,145</u>
South Coast	<del>10,685</del>	<del>11,336</del>	<del>11,988</del>	<del>12,974</del>	<del>13,626</del>	<del>14,278</del>
Tuolumne						

Table 4\*

Fees for Industrywide and District Update Facilities

<u>District</u>	<u>Industrywide Facilities</u>	<u>District Update Facilities</u>
<u>Antelope Valley</u>	<u>35</u>	<u>125</u>
Great Basin	<del>25</del> <u>35</u>	0
Imperial	<del>25</del> <u>35</u>	38.50
Lassen	0	0
Mojave Desert	<del>15</del> <u>85</u>	125
Santa Barbara	<del>85</del> <u>95</u>	125
<del>South Coast</del>	<del>121</del>	<del>517</del>
<del>Tuolumne</del>	<del>15</del>	<del>84</del>

- \* State cost per facility is consistent statewide as follows:  
 State Industrywide facilities: ~~\$25~~ \$35

## Appendix A

### District Air Toxic Inventories, Reports, and Surveys

## Appendix A

### Air Pollution Control District Air Toxic Inventories, Reports or Surveys

- ~~1.~~ ~~Mojave Desert Air Quality Management District "San Bernardino County Area Toxics Inventory List. June 27, 1990."~~
- ~~2.~~ 1. San Diego County Air Pollution Control District "List of Semiconductor Manufacturers Using Toxic Gases (Arsine or Phosphine). May 1988."
- ~~3.~~ 2. San Joaquin Valley Unified Air Pollution Control District "San Joaquin Valley Unified APCD Toxics List. February 25, 1994."
- ~~4.~~ 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

Air Toxics "Hot Spots" Information  
and Assessment Act

## **PART 6. AIR TOXICS "HOT SPOTS" INFORMATION AND ASSESSMENT**

(Part 6 added by Stats. 1987, Ch. 1252, Sec. 1. Operative July 1, 1988, by Section 44384.)

Note: Sections 44380 and 44384 became operative Jan. 1, 1988.)

### **Chapter 1. Legislative Findings and Definitions**

(Chapter 1 added by Stats. 1987, Ch. 1252, Sec. 1. Operative July 1, 1988, by Section 44384.)

44300. This part shall be known and may be cited as the Air Toxics "Hot Spots" Information and Assessment Act of 1987.

44301. The Legislature finds and declares all of the following:

- (a) In the wake of recent publicity surrounding planned and unplanned releases of toxic chemicals into the atmosphere, the public has become increasingly concerned about toxics in the air.
- (b) The Congressional Research Service of the Library of Congress has concluded that 75 percent of the United States population lives in proximity to at least one facility that manufactures chemicals. An incomplete 1985 survey of large chemical companies conducted by the Congressional Research Service documented that nearly every chemical plant studied routinely releases into the surrounding air significant levels of substances proven to be or potentially hazardous to public health.
- (c) Generalized emissions inventories compiled by air pollution control districts and air quality management districts in California confirm the findings of the Congressional Research Service survey as well as reveal that many other facilities and businesses which do not actually manufacture chemicals do use hazardous substances in sufficient quantities to expose, or in a manner that exposes, surrounding populations to toxic air releases.
- (d) These releases may create localized concentrations or air toxics "hot spots" where emissions from specific sources may expose individuals and population groups to elevated risks of adverse health effects, including, but not limited to, cancer and contribute to the cumulative health risks of emissions from other sources in the area. In some cases where large populations may not be significantly affected by adverse health risks, individuals may be exposed to significant risks.
- (e) Little data is currently available to accurately assess the amounts, types, and health impacts of routine toxic chemical releases into the air. As a result, there exists significant uncertainty about the amounts of potentially hazardous air pollutants which are released, the location of those releases, and the concentrations to which the public is exposed.
- (f) The State of California has begun to implement a long-term program to identify, assess, and control ambient levels of hazardous air pollutants, but additional legislation is needed to provide for the collection and evaluation of information concerning the amounts, exposures, and short- and long-term health effects of hazardous substances regularly released to the surrounding atmosphere from specific sources of hazardous releases.
- (g) In order to more effectively implement control strategies for those materials posing an unacceptable risk to the public health, additional information on the sources of potentially hazardous air pollutants is necessary.

- (h) It is in the public interest to ascertain and measure the amounts and types of hazardous releases and potentially hazardous releases from specific sources that may be exposing people to those releases, and to assess the health risks to those who are exposed.

44302. The definitions set forth in this chapter govern the construction of this part.

44303. "Air release" or "release" means any activity that may cause the issuance of air contaminants, including the actual or potential spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of a substance into the ambient air and that results from the routine operation of a facility or that is predictable, including, but not limited to, continuous and intermittent releases and predictable process upsets or leaks.

44304. "Facility" means 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.

44306. "Health risk assessment" means a detailed comprehensive analysis prepared pursuant to Section 44361 to evaluate and predict the dispersion of hazardous substances in the environment and the potential for exposure of human populations and to assess and quantify both the individual and populationwide health risks associated with those levels of exposure.

44307. "Operator" means the person who owns or operates a facility or part of a facility.

44308. "Plan" means the emissions inventory plan which meets the conditions specified in Section 44342.

44309. "Report" means the emissions inventory report specified in Section 44341.

## **Chapter 2. Facilities Subject to This Part**

(Chapter 2 added by Stats. 1987, Ch. 1252, Sec. 1. Operative July 1, 1988, by Section 44384.)

44320. This part applies to the following:

(a) Any facility which manufactures, formulates, uses, or releases any of the substances listed pursuant to Section 44321 or any other substance which reacts to form a substance listed in Section 44321 and which releases or has the potential to release total organic gases, particulates, or oxides of nitrogen or sulfur in the amounts specified in Section 44322.

(b) Except as provided in Section 44323, any facility which is listed in any current toxics use or toxics air emission survey, inventory, or report released or compiled by a district. A district may, with the concurrence of the state board, waive the application of this part pursuant to this subdivision for any facility which the district determines will not release any substance listed pursuant to Section 44321 due to a shutdown or a process change.

44321. For the purposes of Section 44320, the state board shall compile and maintain a list of substances that contains, but is not limited to, all of the following:

(a) Substances identified by reference in paragraph (1) of subdivision (b) of Section 6382 of the Labor Code and substances placed on the list prepared by the National

Toxicology Program issued by the United States Secretary of Health and Human Services pursuant to paragraph (4) of Section 262 of Public Law 95-622 of 1978. For the purposes of this subdivision, the state board may remove from the list any substance which meets both of the following criteria:

- (1) No evidence exists that it has been detected in air.
  - (2) The substance is not manufactured or used in California, or, if manufactured or used in California, because of the physical or chemical characteristics of the substance or the manner in which it is manufactured or used, there is no possibility that it will become airborne.
- (b) Carcinogens and reproductive toxins referenced in or compiled pursuant to Section 25249.8, except those which meet both of the criteria identified in subdivision (a).
  - (c) The candidate list of potential toxic air contaminants and the list of designated toxic air contaminants prepared by the state board pursuant to Article 2 (commencing with Section 39660) of Chapter 3.5 of Part 2, including, but not limited to, all substances currently under review and scheduled or nominated for review and substances identified and listed for which health effects information is limited.
  - (d) Substances for which an information or hazard alert has been issued by the repository of current data established pursuant to Section 147.2 of the Labor Code.
  - (e) Substances reviewed, under review, or scheduled for review as air toxics or potential air toxics by the Office of Air Quality Planning and Standards of the Environmental Protection Agency, including substances evaluated in all of the following categories or their equivalent: preliminary health and source screening, detailed assessment, intent to list, decision not to regulate, listed, standard proposed, and standard promulgated.
  - (f) Any additional substances recognized by the state board as presenting a chronic or acute threat to public health when present in the ambient air, including, but not limited to, any neurotoxins or chronic respiratory toxins not included within subdivision (a), (b),(c), (d), or (e).

44322. This part applies to facilities specified in subdivision (a) of Section 44320 in accordance with the following schedule:

- (a) For those facilities that release, or have the potential to release, 25 tons per year or greater of total organic gases, particulates, or oxides of nitrogen or sulfur, this part becomes effective on July 1, 1988.
- (b) For those facilities that release, or have the potential to release, more than 10 but less than 25 tons per year of total organic gases, particulates, or oxides of nitrogen or sulfur, this part becomes effective July 1, 1989.
- (c) For those facilities that release, or have the potential to release, less than 10 tons per year of total organic gases, particulates, or oxides of nitrogen or sulfur, the state board shall, on or before July 1, 1990, prepare and submit a report to the Legislature identifying the classes of those facilities to be included in this part and specifying a timetable for their inclusion.

44323. A district may prepare an industrywide emissions inventory and health risk assessment for facilities specified in subdivision (b) of Section 44320 and subdivisions (a) and (b) of Section 44322, and shall prepare an industrywide emissions inventory for the facilities specified in subdivision (c) of Section 44322, in compliance with this part for any class of facilities that the district finds and determines meets all of the following conditions:

- (a) All facilities in the class fall within one four-digit Standard Industrial Classification Code.
- (b) Individual compliance with this part would impose severe economic hardships on the majority of the facilities within the class.
- (c) The majority of the class is composed of small businesses.
- (d) Releases from individual facilities in the class can easily and generically be characterized and calculated.

44324. This part does not apply to any facility where economic poisons are employed in their pesticidal use, unless that facility was subject to district permit requirements on or before August 1, 1987. As used in this section, "pesticidal use" does not include the manufacture or formulation of pesticides.

44325. Any solid waste disposal facility in compliance with Section 41805.5 is in compliance with the emissions inventory requirements of this part.

### **Chapter 3. Air Toxics Emission Inventories**

(Chapter 3 added by Stats. 1987, Ch. 1252, Sec. 1. Operative July 1, 1988, by Section 44384.)

44340. (a) The operator of each facility subject to this part shall prepare and submit to the district a proposed comprehensive emissions inventory plan in accordance with the criteria and guidelines adopted by the state board pursuant to Section 44342.

(b) The proposed plan shall be submitted to the district on or before August 1, 1989, except that, for any facility to which subdivision (b) of Section 44322 applies, the proposed plan shall be submitted to the district on or before August 1, 1990. The district shall approve, modify, and approve as modified, or return for revision and resubmission, the plan within 120 days of receipt.

(c) The district shall not approve a plan unless all of the following conditions are met:

- (1) The plan meets the requirements established by the state board pursuant to Section 44342.
- (2) The plan is designed to produce, from the list compiled and maintained pursuant to Section 44321, a comprehensive characterization of the full range of hazardous materials that are released, or that may be released, to the surrounding air from the facility. Air release data shall be collected at, or calculated for, the primary locations of actual and potential release for each hazardous material. Data shall be collected or calculated for all continuous, intermittent, and predictable air releases.

- (3) The measurement technologies and estimation methods proposed provide state-of-the-art effectiveness and are sufficient to produce a true representation of the types and quantities of air releases from the facility.
- (4) Source testing or other measurement techniques are employed wherever necessary to verify emission estimates, as determined by the state board and to the extent technologically feasible. All testing devices shall be appropriately located, as determined by the state board.
- (5) Data are collected or calculated for the relevant exposure rate or rates of each hazardous material according to its characteristic toxicity and for the emission rate necessary to ensure a characterization of risk associated with exposure to releases of the hazardous material that meets the requirements of Section 44361. The source of all emissions shall be displayed or described.

44341. Within 180 days after approval of a plan by the district, the operator shall implement the plan and prepare and submit a report to the district in accordance with the plan. The district shall transmit all monitoring data contained in the approved report to the state board.

44342. The state board shall, on or before May 1, 1989, in consultation with the districts, develop criteria and guidelines for site-specific air toxics emissions inventory plans which shall be designed to comply with the conditions specified in Section 44340 and which shall include at least all of the following:

- (a) For each class of facility, a designation of the hazardous materials for which emissions are to be quantified and an identification of the likely source types within that class of facility. The hazardous materials for quantification shall be chosen from among, and may include all or part of, the list specified in Section 44321.
- (b) Requirements for a facility diagram identifying each actual or potential discrete emission point and the general locations where fugitive emissions may occur. The facility diagram shall include any nonpermitted and nonprocess sources of emissions and shall provide the necessary data to identify emission characteristics. An existing facility diagram which meets the requirements of this section may be submitted.
- (c) Requirements for source testing and measurement. The guidelines may specify appropriate uses of estimation techniques including, but not limited to, emissions factors, modeling, mass balance analysis, and projections, except that source testing shall be required wherever necessary to verify emission estimates to the extent technologically feasible. The guidelines shall specify conditions and locations where source testing, fence-line monitoring, or other measurement techniques are to be required and the frequency of that testing and measurement.
- (d) Appropriate testing methods, equipment, and procedures, including quality assurance criteria.
- (e) Specifications for acceptable emissions factors, including, but not limited to, those which are acceptable for substantially similar facilities or equipment, and specification of procedures for other estimation techniques and for the appropriate use of available data.

- (f) Specification of the reporting period required for each hazardous material for which emissions will be inventoried.
- (g) Specifications for the collection of useful data to identify toxic air contaminants pursuant to Article 2 (commencing with Section 39660) of Chapter 3.5 of Part 2.
- (h) Standardized format for preparation of reports and presentation of data.
- (i) A program to coordinate and eliminate any possible overlap between the requirements of this chapter and the requirements of Section 313 of the Superfund Amendment and Reauthorization Act of 1986 ( Public Law 99-499).

The state board shall design the guidelines and criteria to ensure that, in collecting data to be used for emissions inventories, actual measurement is utilized whenever necessary to verify the accuracy of emission estimates, to the extent technologically feasible.

44343. The district shall review the reports submitted pursuant to Section 44341 and shall, within 90 days, review each report, obtain corrections and clarifications of the data, and notify the State Department of Health Services, the Department of Industrial Relations, and the city or county health department of its findings and determinations as a result of its review of the report.

44344. Except as provided in Section 44391, emissions inventories developed pursuant to this chapter shall be updated every four years, in accordance with the procedures established by the state board. Those updates shall take into consideration improvements in measurement techniques and advancing knowledge concerning the types and toxicity of hazardous material released or potentially released.

44344.4. (a) Except as provided in subdivision (d) and in Section 44344.7, a facility shall be exempt from further compliance with this part if the facility's prioritization scores for cancer and noncancer health effects are both equal to or less than one, based on the results of the most recent emissions inventory or emissions inventory update. An exempt facility shall no longer be required to pay any fee or submit any report to the district or the state board pursuant to this part.

(b) Except for facilities that are exempt from this part pursuant to subdivision (a), a facility for which the prioritization scores for cancer and noncancer health effects are both equal to or less than 10, based on the results of the most recent emissions inventory or emissions inventory update, shall not be required to pay any fee or submit any report to the district or the state board pursuant to this part, except for the quadrennial emissions inventory update required pursuant to Section 44344. A district may, by regulation, establish a fee to be paid by a facility operator in connection with the operator's submission to the district of a quadrennial emissions inventory update pursuant to this subdivision. The fee shall not be greater than one hundred twenty-five dollars (\$125). A district may increase the fee above that amount upon the adoption of written findings that the costs of processing the emission inventory update exceed one hundred twenty-five dollars (\$125). However, the district shall not adopt a fee greater than that supported by the written findings.

(c) For the purposes of this part, "prioritization score" means a facility's numerical score for cancer health effects or noncancer health effects, as determined by the district pursuant to Section 44360 in a manner consistent with facility prioritization guidelines prepared by the California Air Pollution Control Officers Association and approved by the state board.

- (d) Notwithstanding subdivision (a) and Section 44344.7, if a district has good cause to believe that a facility may pose a potential threat to public health and that the facility therefore does not qualify for an exemption claimed by the facility pursuant to subdivision (a), the district may require the facility to document the facility's emissions and health impacts, or the changes in emissions expected to occur as a result of a particular physical change, a change in activities or operations at the facility, or a change in other factors. The district may deny the exemption if the documentation does not support the claim for the exemption.

44344.5. (a) The operator of any new facility that previously has not been subject to this part shall prepare and submit an emissions inventory plan and report.

- (b) Notwithstanding subdivision (a), a new facility shall not be required to submit an emissions inventory plan and report if all of the following conditions are met:
- (1) The facility is subject to a district permit program established pursuant to Section 42300.
  - (2) The district conducts an assessment of the potential emissions or their associated risks, whichever the district determines to be appropriate, attributable to the new facility and finds that the emissions will not result in a significant risk. A risk assessment conducted pursuant to this paragraph shall comply with paragraph (2) of subdivision (b) of Section 44360.
  - (3) The district issues a permit authorizing construction or operation of the new facility.

44344.6. A district shall redetermine a facility's prioritization score, or evaluate the prioritization score as calculated and submitted by the facility, within 90 days from the date of receipt of a quadrennial emissions inventory update pursuant to Section 44344 or subdivision (b) of Section 44344.4, within 90 days from the date of receipt of an emissions inventory update submitted pursuant to Section 44344.7, or within 90 days from the date of receiving notice that a facility has completed the implementation of a plan prepared pursuant to Section 44392.

44344.7. (a) A facility exempted from this part pursuant to subdivision (a) of Section 44344.4 shall, upon receipt of a notice from the district, again be subject to this part and the operator shall submit an emissions inventory update for those sources and substances for which a physical change in the facility or a change in activities or operations has occurred, as follows:

- (1) The facility emits a substance newly listed pursuant to Section 44321.
  - (2) A sensitive receptor has been established or constructed within 500 meters of the facility after the facility became exempt.
  - (3) The facility emits a substance for which the potency factor has increased.
- (b) The operator of a facility exempted from this part pursuant to subdivision (a) of Section 44344.4 shall submit an emissions inventory update for those sources and substances for which a particular physical change in the facility or a change in activities or operations occurs if, as a result of the particular change, either of the following has occurred:

- (1) The facility has begun emitting a listed substance not included in the previous emissions inventory.
  - (2) The facility has increased its emissions of a listed substance to a level greater than the level previously reported for that substance, and the increase in emissions exceeds 100 percent of the previously reported level.
- (c) Notwithstanding subdivision (b), a physical change or change in activities or operations at a facility shall not cause the facility to again be subject to this part if all of the following conditions are met:
- (1) The physical change or change in activities or operations is subject to a district permit program established pursuant to Section 42300.
  - (2) The district conducts an assessment of the potential changes in emissions or their associated risks, whichever the district determines to be appropriate, attributable to the physical change or change in activities or operations and finds that the changes in emissions will not result in a significant risk. A risk assessment conducted pursuant to this paragraph shall comply with paragraph (2) of subdivision (b) of Section 44360.
  - (3) The district issues a permit for the physical change or change in activities or operations.

44345. (a) On or before July 1, 1989, the state board shall develop a program to compile and make available to other state and local public agencies and the public all data collected pursuant to this chapter.

(b) In addition, the state board, on or before March 1, 1990, shall compile, by district, emissions inventory data for mobile sources and area sources not subject to district permit requirements, and data on natural source emissions, and shall incorporate these data into data compiled and released pursuant to this chapter.

44346. (a) If an operator believes that any information required in the facility diagram specified pursuant to subdivision (b) of Section 44342 involves the release of a trade secret, the operator shall nevertheless make the disclosure to the district, and shall notify the district in writing of that belief in the report.

(b) Subject to this section, the district shall protect from disclosure any trade secret designated as such by the operator, if that trade secret is not a public record.

(c) Upon receipt of a request for the release of information to the public which includes information which the operator has notified the district is a trade secret and which is not a public record, the following procedure applies:

- (1) The district shall notify the operator of the request in writing by certified mail, return receipt requested.
- (2) The district shall release the information to the public, but not earlier than 30 days after the date of mailing the notice of the request for information, unless, prior to the expiration of the 30-day period, the operator obtains an action in an appropriate court for a declaratory judgment that the information is subject to protection under this section or for a preliminary

injunction prohibiting disclosure of the information to the public and promptly notifies the district of that action.

- (d) This section does not permit an operator to refuse to disclose the information required pursuant to this part to the district.
- (e) Any information determined by a court to be a trade secret, and not a public record pursuant to this section, shall not be disclosed to anyone except an officer or employee of the district, the state, or the United States, in connection with the official duties of that officer or employee under any law for the protection of health, or to contractors with the district or the state and its employees if, in the opinion of the district or the state, disclosure is necessary and required for the satisfactory performance of a contract, for performance of work, or to protect the health and safety of the employees of the contractor.
- (f) Any officer or employee of the district or former officer or employee who, by virtue of that employment or official position, has possession of, or has access to, any trade secret subject to this section, and who, knowing that disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses the information in any manner to any person not entitled to receive it is guilty of a misdemeanor. Any contractor of the district and any employee of the contractor, who has been furnished information as authorized by this section, shall be considered an employee of the district for purposes of this section.
- (g) Information certified by appropriate officials of the United States as necessary to be kept secret for national defense purposes shall be accorded the full protections against disclosure as specified by those officials or in accordance with the laws of the United States.
- (h) As used in this section, "trade secret" and "public record" have the meanings and protections given to them by Section 6254.7 of the Government Code and Section 1060 of the Evidence Code. All information collected pursuant to this chapter, except for data used to calculate emissions data required in the facility diagram, shall be considered "air pollution emission data," for the purposes of this section.

#### **Chapter 4. Risk Assessment**

(Chapter 4 added by Stats. 1987, Ch. 1252, Sec. 1. Operative July 1, 1988, by Section 44384.)

44360. (a) Within 90 days of completion of the review of all emissions inventory data for facilities specified in subdivision (a) of Section 44322, but not later than December 1, 1990, the district shall, based on examination of the emissions inventory data and in consultation with the state board and the State Department of Health Services, prioritize and then categorize those facilities for the purposes of health risk assessment. The district shall designate high, intermediate, and low priority categories and shall include each facility within the appropriate category based on its individual priority. In establishing priorities pursuant to this section, the district shall consider 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, day care centers, worksites, and residences, and any other factors that the district finds and determines may indicate that the facility may pose a significant risk to receptors. The district shall hold a public hearing prior to the final establishment of priorities and categories pursuant to this section.

- (b) (1) Within 150 days of the designation of priorities and categories pursuant to subdivision (a), the operator of every facility that has been included within the highest priority category shall prepare and submit to the district a health risk assessment pursuant to Section 44361. The district may, at its discretion, grant a 30-day extension for submittal of the health risk assessment.
- (2) Health risk assessments required by this chapter shall be prepared in accordance with guidelines established by the Office of Environmental Health Hazard Assessment. The office shall prepare draft guidelines which shall be circulated to the public and the regulated community and shall adopt risk assessment guidelines after consulting with the state board and the Risk Assessment Committee of the California Air Pollution Control Officers Association and after conducting at least two public workshops, one in the northern and one in the southern part of the state. The adoption of the guidelines is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The scientific review panel established pursuant to Section 39670 shall evaluate the guidelines adopted under this paragraph and shall recommend changes and additional criteria to reflect new scientific data or empirical studies.
- (3) The guidelines established pursuant to paragraph (2) shall impose only those requirements on facilities subject to this subdivision that are necessary to ensure that a required risk assessment is accurate and complete and shall specify the type of site-specific factors that districts may take into account in determining when a single health risk assessment may be allowed under subdivision (d). The guidelines shall, in addition, allow the operator of a facility, at the operator's option, and to the extent that valid and reliable data are available, to include for consideration by the district in the health risk assessment any or all of the following supplemental information:
- (A) Information concerning the scientific basis for selecting risk parameter values that are different than those required by the guidelines and the likelihood distributions that result when alternative values are used.
  - (B) Data from dispersion models, microenvironment characteristics, and population distributions that may be used to estimate maximum actual exposure.
  - (C) Risk expressions that show the likelihood that any given risk estimate is the correct risk value.
  - (D) A description of the incremental reductions in risk that occur when exposure is reduced.
- (4) To ensure consistency in the use of the supplemental information authorized by subparagraphs (A), (B), (C), and (D) of paragraph (3), the guidelines established pursuant to paragraph (2) shall include guidance for use by the districts in considering the supplemental information when it is included in the health risk assessment.

- (c) Upon submission of emissions inventory data for facilities specified in subdivisions (b) and (c) of Section 44322, the district shall designate facilities for inclusion within the highest priority category, as appropriate, and any facility so designated shall be subject to subdivision (b). In addition, the district may require the operator of any facility to prepare and submit health risk assessments, in accordance with the priorities developed pursuant to subdivision (a).
- (d) The district shall, except where site specific factors may affect the results, allow the use of a single health risk assessment for two or more substantially identical facilities operated by the same person.
- (e) Nothing contained in this section, Section 44380.5, or Chapter 6 (commencing with Section 44390) shall be interpreted as requiring a facility operator to prepare a new or revised health risk assessment using the guidelines established pursuant to paragraph (2) of subdivision (a) of this section if the facility operator is required by the district to begin the preparation of a health risk assessment before those guidelines are established.

44361. (a) Each health risk assessment shall be submitted to the district. The district shall make the health risk assessment available for public review, upon request. After preliminary review of the emissions impact and modeling data, the district shall submit the health risk assessment to the State Department of Health Services for review and, within 180 days of receiving the health risk assessment, the State Department of Health Services shall submit to the district its comments on the data and findings relating to health effects. The district shall consult with the state board as necessary to adequately evaluate the emissions impact and modeling data contained within the risk assessment.

- (b) For the purposes of complying with this section, the State Department of Health Services may select a qualified independent contractor to review the data and findings relating to health effects. The State Department of Health Services shall not select an independent contractor to review a specific health risk assessment who may have a conflict of interest with regard to the review of that health risk assessment. Any review by an independent contractor shall comply with the following requirements:
  - (1) Be performed in a manner consistent with guidelines provided by the State Department of Health Services.
  - (2) Be reviewed by the State Department of Health Services for accuracy and completeness.
  - (3) Be submitted by the State Department of Health Services to the district in accordance with this section.
- (c) The district shall reimburse the State Department of Health Services or the qualified independent contractor designated by the State Department of Health Services pursuant to subdivision (b), within 45 days of its request, for its actual costs incurred in reviewing a health risk assessment pursuant to this section.
- (d) If a district requests the State Department of Health Services to consult with the district concerning any requirement of this part, the district shall reimburse the State Department of Health Services, within 45 days of its request, for the costs incurred in the consultation.

- (e) Upon designation of the high priority facilities, as specified in subdivision (a) of Section 44360, the State Department of Health Services shall evaluate the staffing requirements of this section and may submit recommendations to the Legislature, as appropriate, concerning the maximum number of health risk assessments to be reviewed each year pursuant to this section.

44362. (a) Taking the comments of the Office of Environmental Health Hazard Assessment into account, the district shall approve or return for revision and resubmission and then approve, the health risk assessment within one year of receipt. If the health risk assessment has not been revised and resubmitted within 60 days of the district's request of the operator to do so, the district may modify the health risk assessment and approve it as modified.

- (b) Upon approval of the health risk assessment, the operator of the facility shall provide notice to all exposed persons regarding the results of the health risk assessment prepared pursuant to Section 44361 if, in the judgment of the district, the health risk assessment indicates there is a significant health risk associated with emissions from the facility. If notice is required under this subdivision, the notice shall include only information concerning significant health risks attributable to the specific facility for which the notice is required. Any notice shall be made in accordance with procedures specified by the district.

44363. (a) Commencing July 1, 1991, each district shall prepare and publish an annual report which does all of the following:

- (1) Describes the priorities and categories designated pursuant to Section 44360 and summarizes the results and progress of the health risk assessment program undertaken pursuant to this part.
- (2) Ranks and identifies facilities according to the degree of cancer risk posed both to individuals and to the exposed population.
- (3) Identifies facilities which expose individuals or populations to any noncancer health risks.
- (4) Describes the status of the development of control measures to reduce emissions of toxic air contaminants, if any.

- (b) The district shall disseminate the annual report to county boards of supervisors, city councils, and local health officers and the district board shall hold one or more public hearings to present the report and discuss its content and significance.

44364. The state board shall utilize the reports and assessments developed pursuant to this part for the purposes of identifying, establishing priorities for, and controlling toxic air contaminants pursuant to Chapter 3.5 (commencing with Section 39650) of Part 2.

44365. (a) If the state board finds and determines that a district's actions pursuant to this part do not meet the requirements of this part, the state board may exercise the authority of the district pursuant to this part to approve emissions inventory plans and require the preparation of health risk assessments.

- (b) This part does not prevent any district from establishing more stringent criteria and requirements than are specified in this part for approval of emissions inventories and

requiring the preparation and submission of health risk assessments. Nothing in this part limits the authority of a district under any other provision of law to assess and regulate releases of hazardous substances.

44366. (a) In order to verify the accuracy of any information submitted by facilities pursuant to this part, a district or the state board may proceed in accordance with Section 41510.

### **Chapter 5. Fees and Regulations**

(Chapter 5 added by Stats. 1987, Ch. 1252, Sec. 1. Operative July 1, 1988, by Section 44384.)

44380. (a) The state board shall adopt a regulation which does all of the following:

- (1) Sets forth the amount of revenue which the district must collect to recover the reasonable anticipated cost which will be incurred by the state board and the Office of Environmental Health Hazard Assessment to implement and administer this part.
  - (2) Requires each district to adopt a fee schedule which recovers the costs of the district and which assesses a fee upon the operator of every facility subject to this part, except as specified in subdivision (b) of Section 44344.4. A district may request the state board to adopt a fee schedule for the district if the district's program costs are approved by the district board and transmitted to the state board by April 1 of the year in which the request is made.
  - (3) Requires any district that has an approved toxics emissions inventory compiled pursuant to this part by August 1 of the preceding year to adopt a fee schedule, as described in paragraph (2), which imposes on facility operators fees which are, to the maximum extent practicable, proportionate to the extent of the releases identified in the toxics emissions inventory and the level of priority assigned to that source by the district pursuant to Section 44360.
- (b) Commencing August 1, 1992, and annually thereafter, the state board shall review and may amend the fee regulation.
- (c) The district shall notify each person who is subject to the fee of the obligation to pay the fee. If a person fails to pay the fee within 60 days after receipt of this notice, the district, unless otherwise provided by district rules, shall require the person to pay an additional administrative civil penalty. The district shall fix the penalty at not more than 100 percent of the assessed fee, but in an amount sufficient in its determination, to pay the district's additional expenses incurred by the person's noncompliance. If a person 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) Each district shall collect the fees assessed pursuant to subdivision (a). After deducting the costs to the district to implement and administer this part, the district shall transmit the remainder to the Controller for deposit in the Air Toxics Inventory and Assessment Account, which is hereby created in the General Fund. The money in the account is available, upon appropriation by the Legislature, to the state board and

the Office of Environmental Health Hazard Assessment for the purposes of administering this part.

- (e) For the 1997-98 fiscal year, air toxics program revenues for the state board and the Office of Environmental Health Hazard Assessment shall not exceed two million dollars (\$2,000,000), and for each fiscal year thereafter, shall not exceed one million three hundred fifty thousand dollars (\$1,350,000). Funding for the Office of Environmental Health Hazard Assessment for conducting risk assessment reviews shall be on a fee-for-service basis.

44380.1. A facility shall be granted an exemption by a district from paying a fee in accordance with Section 44380 if all of the following criteria are met:

- (a) The facility primarily handles, processes, stores, or distributes bulk agricultural commodities or handles, feeds, or rears livestock.
- (b) The facility was required to comply with this part only as a result of its particulate matter emissions.
- (c) The fee schedule adopted by the district or the state board for these types of facilities is not solely based on toxic emissions weighted for potency or toxicity.

44380.5. In addition to the fee assessed pursuant to Section 44380, a supplemental fee may be assessed by the district, the state board, or the Office of Environmental Health Hazard Assessment upon the operator of a facility that, at the operator's option, includes supplemental information authorized by paragraph (3) of subdivision (b) of Section 44360 in a health risk assessment, if the review of that supplemental information substantially increases the costs of reviewing the health risk assessment by the district, the state board, or the office. The supplemental fee shall be set by the state board in the regulation required by subdivision (a) of Section 44380 and shall be set in an amount sufficient to cover the direct costs to review the information supplied by an operator pursuant to paragraph (3) of subdivision (b) of Section 44360.

44381. (a) Any person who fails to submit any information, reports, or statements required by this part, or who fails to comply with this part or with any permit, rule, regulation, or requirement issued or adopted pursuant to this part, is subject to a civil penalty of not less than five hundred dollars (\$500) or more than ten thousand dollars (\$10,000) for each day that the information, report, or statement is not submitted, or that the violation continues.

- (b) Any person who knowingly submits any false statement or representation in any application, report, statement, or other document filed, maintained, or used for the purposes of compliance with this part is subject to a civil penalty of not less than one thousand dollars (\$1,000) or more than twenty-five thousand dollars (\$25,000) per day for each day that the information remains uncorrected.

44382. Every district shall, by regulation, adopt the requirements of this part as a condition of every permit issued pursuant to Chapter 4 (commencing with Section 42300) of Part 4 for all new and modified facilities.

44384. Except for Section 44380 and this section, all provisions of this part shall become operative on July 1, 1988.

## Chapter 6. Facility Toxic Air Contaminant Risk Reduction Audit and Plan

(Chapter 6 added by Stats. 1992, Ch. 1162, Sec. 3.)

44390. For purposes of this chapter, the following definitions apply:

- (a) "Airborne toxic risk reduction measure" or "ATRRM" means those in-plant changes in production processes or feedstocks that reduce or eliminate toxic air emissions subject to this part. ATRRM's may include:
  - (1) Feedstock modification.
  - (2) Product reformulations.
  - (3) Production system modifications.
  - (4) System enclosure, emissions control, capture, or conversion.
  - (5) Operational standards and practices modification.
- (b) Airborne toxic risk reduction measures do not include measures that will increase risk from exposure to the chemical in another media or that increase the risk to workers or consumers.
- (c) "Airborne toxic risk reduction audit and plan" or "audit and plan" means the audit and plan specified in Section 44392.

44391. (a) Whenever a health risk assessment approved pursuant to Chapter 4 (commencing with Section 44360) indicates, in the judgment of the district, that there is a significant risk associated with the emissions from a facility, the facility operator shall conduct an airborne toxic risk reduction audit and develop a plan to implement airborne toxic risk reduction measures that will result in the reduction of emissions from the facility to a level below the significant risk level within five years of the date the plan is submitted to the district. The facility operator shall implement measures set forth in the plan in accordance with this chapter.

- (b) The period to implement the plan required by subdivision (a) may be shortened by the district if it finds that it is technically feasible and economically practicable to implement the plan to reduce emissions below the significant risk level more quickly or if it finds that the emissions from the facility pose an unreasonable health risk.
- (c) A district may lengthen the period to implement the plan required by subdivision (a) by up to an additional five years if it finds that a period longer than five years will not result in an unreasonable risk to public health and that requiring implementation of the plan within five years places an unreasonable economic burden on the facility operator or is not technically feasible.
- (d)
  - (1) The state board and districts shall provide assistance to smaller businesses that have inadequate technical and financial resources for obtaining information, assessing risk reduction methods, and developing and applying risk reduction techniques.
  - (2) Risk reduction audits and plans for any industry subject to this chapter which is comprised mainly of small businesses using substantially similar technology may be completed by a self-conducted audit and checklist developed by the state board. The state board, in coordination with the districts, shall provide a copy of the audit and checklist to small businesses

within those industries to assist them to meet the requirements of this chapter.

- (e) The audit and plan shall contain all the information required by Section 44392.
- (f) The plan shall be submitted to the district, within six months of a district's determination of significant risk, for review of completeness. Operators of facilities that have been notified prior to January 1, 1993, that there is a significant risk associated with emissions from the facility shall submit the plan by July 1, 1993. The district's review of completeness shall include a substantive analysis of the emission reduction measures included in the plan, and the ability of those measures to achieve emission reduction goals as quickly as feasible as provided in subdivisions (a) and (b).
- (g) The district shall find the audit and plan to be satisfactory within three months if it meets the requirements of this chapter, including, but not limited to, subdivision (f). If the district determines that the audit and plan does not meet those requirements, the district shall remand the audit and plan to the facility specifying the deficiencies identified by the district. A facility operator shall submit a revised audit and plan addressing the deficiencies identified by the district within 90 days of receipt of a deficiency notice.
- (h) Progress on the emission reductions achieved by the plan shall be reported to the district in emissions inventory updates. Emissions inventory updates shall be prepared as required by the audit and plan found to be satisfactory by the district pursuant to subdivision (g).
- (i) If new information becomes available after the initial risk reduction audit and plan, on air toxics risks posed by a facility, or emission reduction technologies that may be used by a facility that would significantly impact risks to exposed persons, the district may require the plan to be updated and resubmitted to the district.
- (j) This section does not authorize the emission of a toxic air contaminant in violation of an airborne toxic control measure adopted pursuant to Chapter 3.5 (commencing with Section 39650) or in violation of Section 41700.

44392. A facility operator subject to this chapter shall conduct an airborne toxic risk reduction audit and develop a plan which shall include at a minimum all of the following:

- (a) The name and location of the facility.
- (b) The SIC code for the facility.
- (c) The chemical name and the generic classification of the chemical.
- (d) An evaluation of the ATRRM's available to the operator.
- (e) The specification of, and rationale for, the ATRRMs that will be implemented by the operator. The audit and plan shall document the rationale for rejecting ATRRMs that are identified as infeasible or too costly.
- (f) A schedule for implementing the ATRRMs. The schedule shall meet the time requirements of subdivision (a) of Section 44391 or the time period for implementing

the plan set by the district pursuant to subdivision (b) or (c) of Section 44391, whichever is applicable.

- (g) The audit and plan shall be reviewed and certified as meeting this chapter by an engineer who is registered as a professional engineer pursuant to Section 6762 of the Business and Professions Code, by an individual who is responsible for the processes and operations of the site, or by an environmental assessor registered pursuant to Section 25570.3.

44393. The plan prepared pursuant to Section 44391 shall not be considered to be the equivalent of a pollution prevention program or a source reduction program, except insofar as the audit and plan elements are consistent with source reduction, as defined in Section 25244.14, or subsequent statutory definitions of pollution prevention.

44394. Any facility operator who does not submit a complete airborne toxic risk reduction audit and plan or fails to implement the measures set forth in the plan as set forth in this chapter is subject to the civil penalty specified in subdivision (a) of Section 44381, and any facility operator who, in connection with the audit or plan, knowingly submits any false statement or representation is subject to the civil penalty specified in subdivision (b) of Section 44381.

Appendix III

Fiscal Year 1998-99 Proposed State Costs  
for the Air Toxics Hot Spots Program

PROPOSED STATE COSTS FOR FISCAL YEAR 1998-99  
AIR TOXICS HOT SPOTS PROGRAM

		PYs*	Staff Cost	Contract Cost	Total
<b>Methods Development/Emission Inventory/Regulation Development and Implementation</b>					
ARB	Regulation Development and Implementation	1.5	\$114,000	\$0	\$114,000
OEHHA	Regulation Development, Implementation, and Consultation	0.0	\$0	\$0	\$0
ARB	Methods Development and Review	0.0	\$0	\$0	\$0
ARB	Air Toxics Emission Database Maintenance	1.0	\$76,000	\$126,000	\$202,000
ARB	Emission Data Collection and Validation	1.5	\$114,000	\$39,000	\$153,000
Subtotal		4.0	\$304,000	\$165,000	\$469,000
<b>Guideline Maintenance and Update</b>					
OEHHA	Health Effects Value Evaluation and Update	1.4	\$125,000	\$0	\$125,000
OEHHA	Risk Assessment Guideline Update	1.4	\$125,000	\$0	\$125,000
OEHHA	Exposure Assessment/Uncertainty Methods Development and Update	2.9	\$287,000	\$0	\$287,000
Subtotal		5.7	\$537,000	\$0	\$537,000
<b>Health Risk Assessment</b>					
OEHHA	Health Risk Assessment Tracking	0.8	\$75,000	\$0	\$75,000
ARB	Risk Assessment/Public Notification Assistance	0.5	\$38,000	\$0	\$38,000
OEHHA	District/Board Assistance	1.5	\$143,000	\$0	\$143,000
Subtotal		2.8	\$256,000	\$0	\$256,000
<b>Risk Reduction</b>					
ARB	Risk Reduction Guidelines and Checklists Assistance	0.5	\$38,000	\$0	\$38,000
Subtotal		0.5	\$38,000	\$0	\$38,000
ARB Subtotal		5	\$380,000	\$165,000	\$545,000
OEHHA Subtotal		8	\$755,000	\$0	\$755,000
State Total		13.0	\$1,135,000	\$165,000	\$1,300,000

\* PY is equal to a position.

## Appendix IV

### Fee Basis and Calculations

## **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 Air Resources Board (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 and 1997-98. 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 local air pollution control and air quality management district (districts) 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 (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 1998-99, 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 Health and Safety Code 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 and 1997-98 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 air 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 1998-99.

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 1998-99, 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. Chapter III of this report contains a detailed description of the State's activities. 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 1998-99 are shown in Table IV-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 IV-1.

3. State Industrywide Facilities

For fiscal year 1998-99, the staff is proposing to retain a flat fee of \$35 for State Industrywide facilities.

**Table IV-1**  
**Category Indexes**

<u>Program Category</u>	<u>State Core Program Index</u>	<u>District Index</u>
State Industrywide	Flat	Flat
Unprioritized		
Simple	6	6
Medium	9	9
Complex	12	12
Tracking		
Simple	1	1
Medium	1.5	1.5
Complex	2	2
Priority Score >10		
Simple	25	14
Medium	30	15
Complex	35	16
Risk $\geq 10 < 50$ /million, Hazard Index $> 1$		
Simple	45	17
Medium	50	18
Complex	55	19
Risk $\geq 50 < 100$ /million		
Simple	65	20
Medium	70	21
Complex	75	22
Risk $\geq 100$ /million		
Simple	85	23
Medium	90	24
Complex	95	25

#### 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 a modification to the method to distribute the State's cost. 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 air districts in July, 1998. 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 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 air districts staffs. 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. The Health and Safety Code requires that the Fee Regulation provide for the recovery of these costs.

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, 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 4 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.

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 \$1,270,000 for fiscal year 1998-99.

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 \$1,300,000 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) State Program Cost X 1.05 = Adjusted State Program Cost
- b) Adjusted State Program Cost minus Industrywide cost = State Program Costs recovered from core facilities.
- c) # Facilities in Program Category X Index = Product

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

- d) Weighted Sum =  
  
$$\begin{aligned} & (\# U_s \times U_s \text{ S Index}) + (\# U_m \times U_m \text{ S Index}) + (\# U_c \times U_c \text{ S Index}) + \\ & (\# T_s \times T_s \text{ S Index}) + (\# T_m \times T_m \text{ S Index}) + (\# T_c \times T_c \text{ S Index}) + \\ & (\# P_{Ss} \times P_{Ss} \text{ S Index}) + (\# P_{Sm} \times P_{Sm} \text{ S Index}) + (\# P_{Sc} \times P_{Sc} \text{ S Index}) + \\ & (\# R_{1s} \times R_{1s} \text{ S Index}) + (\# R_{1m} \times R_{1m} \text{ S Index}) + (\# R_{1c} \times R_{1c} \text{ S Index}) + \\ & (\# R_{5s} \times R_{5s} \text{ S Index}) + (\# R_{5m} \times R_{5m} \text{ S Index}) + (\# R_{5c} \times R_{5c} \text{ S Index}) + \\ & (\# R_{10s} \times R_{10s} \text{ S Index}) + (\# R_{10m} \times R_{10m} \text{ S Index}) + \\ & (\# R_{10c} \times R_{10c} \text{ S Index}) \end{aligned}$$
- e) Adjusted State Program Cost / Weighted Sum from equation (1d) = Program Unit Cost
- f) 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.

b) 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:

$$\begin{aligned} & (\# \text{ SIW} \times \$35) + (\# \text{ Us} \times \text{Us uc}) + (\# \text{ Um} \times \text{Um uc}) + (\# \text{ Uc} \times \text{Uc uc}) + \\ & (\# \text{ Tm} \times \text{Tm uc}) + (\# \text{ Tm} \times \text{Tm uc}) + (\# \text{ Tc} \times \text{Tc uc}) + (\# \text{ PSs} \times \text{PSs uc}) + \\ & (\# \text{ PSm} \times \text{PSm uc}) + (\# \text{ PSc} \times \text{PSc uc}) + (\# \text{ R1s} \times \text{R1s uc}) + \\ & (\# \text{ R1m} \times \text{R1m uc}) + (\# \text{ R1c} \times \text{R1c uc}) + (\# \text{ R5s} \times \text{R5s uc}) + \\ & (\# \text{ R5m} \times \text{R5m uc}) + (\# \text{ R5c} \times \text{R5c uc}) + (\# \text{ R10s} \times \text{R10s uc}) + \\ & (\# \text{ R10m} \times \text{R10m uc}) + (\# \text{ R10c} \times \text{R10c uc}) \end{aligned}$$

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. The amounts shown in Table 2 do not include the portion of the districts' costs that are to be recovered from Industrywide facilities. A five percent adjustment factor is added by the ARB to the districts' costs shown in Table 2 of the Fee Regulation.

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 IV-I.

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 IV-I and the total number of facilities reported in each Program category by the district:

b) Weighted Sum =

$$\begin{aligned} & (\# U_s \times U_s \text{ D Index}) + (\# U_m \times U_m \text{ D Index}) + (\# U_c \times U_c \text{ D Index}) + \\ & (\# T_s \times T_s \text{ D Index}) + (\# T_m \times T_m \text{ D Index}) + (\# T_c \times T_c \text{ D Index}) + \\ & (\# P_s \times P_s \text{ D Index}) + (\# P_m \times P_m \text{ D Index}) + (\# P_c \times P_c \text{ D Index}) + \\ & (\# R_{1s} \times R_{1s} \text{ D Index}) + (\# R_{1m} \times R_{1m} \text{ D Index}) + (\# R_{1c} \times R_{1c} \text{ D Index}) + \\ & (\# R_{5s} \times R_{5s} \text{ D Index}) + (\# R_{5m} \times R_{5m} \text{ D Index}) + (\# R_{5c} \times R_{5c} \text{ D Index}) + \\ & (\# R_{10s} \times R_{10s} \text{ D Index}) + (\# R_{10m} \times R_{10m} \text{ D Index}) + \\ & (\# R_{10c} \times R_{10c} \text{ D Index}) \end{aligned}$$

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:

$$\begin{aligned} \text{Unit Cost} = & \text{District Cost} + \text{Small Business Exemption Cost} / (\# \text{ Us X Us Index}) + \\ & (\# \text{ Um X Um Index}) + (\# \text{ Uc X Uc Index}) + (\# \text{ Ts X Ts Index}) + \\ & (\# \text{ Tm X Tm Index}) + (\# \text{ Tc X Tc Index}) + (\# \text{ PSs X PSs Index}) + \\ & (\# \text{ PSm X PSm Index}) + (\# \text{ PSc X PSc Index}) + (\# \text{ R1s X R1s Index}) + \\ & (\# \text{ R1m X R1m Index}) + (\# \text{ R1c X R1c Index}) + (\# \text{ R5s X R5s Index}) + \\ & (\# \text{ R5m X R5m Index}) + (\# \text{ R5c X R5c Index}) + (\# \text{ R10s X R10s Index}) + \\ & (\# \text{ R10m X R10m Index}) + (\# \text{ R10c X R10c Index}) \end{aligned}$$

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 the Unprioritized (Simple) Fee Cap:

- a)  $\$800 - U_s \text{ Cost} = \text{Amount of District Cost to be Collected from each } U_s.$
- b)  $\# U_s \times \text{Amount from equation (5a)} = \text{Amount to Subtract from District Cost Total.}$
- c) 
$$\begin{aligned} \text{Unit Cost} = & \text{District Cost} - \text{Amount from equation (5b)} / (\# U_m \times U_m \text{ Index}) + \\ & (\# U_c \times U_c \text{ Index}) + (\# T_s \times T_s \text{ Index}) + (\# T_m \times T_m \text{ Index}) + \\ & (\# T_c \times T_c \text{ Index}) + (\# P S_s \times P S_s \text{ Index}) + (\# P S_m \times P S_m \text{ Index}) + \\ & (\# P S_c \times P S_c \text{ Index}) + (\# R1_s \times R1_s \text{ Index}) + (\# R1_m \times R1_m \text{ Index}) + \\ & (\# R1_c \times R1_c \text{ Index}) + (\# R5_s \times R5_s \text{ Index}) + (\# R5_m \times R5_m \text{ Index}) + \\ & (\# R5_c \times R5_c \text{ Index}) + (\# R10_s \times R10_s \text{ Index}) + \\ & (\# R10_m \times R10_m \text{ Index}) + (\# R10_c \times R10_c \text{ Index}) \end{aligned}$$

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 V

Announcement of Public Consultation Meetings

(Enclosures to the Public Workshop Announcements are available upon  
request from ARB Staff)

June 19, 1998

Dear Sir/Madam:

**Public Workshops to Discuss the AB 2588  
Air Toxics Hot Spots Program 1998-99 Fee Regulation**

The staff of the Air Resources Board (ARB or Board) will be holding a public workshop to discuss the development of an Air Toxics "Hot Spots" Fee Regulation (Fee Regulation) for fiscal year 1998-99. The Air Toxics "Hot Spots" Information and Assessment Act of 1987 (AB 2588) requires the ARB to annually review and, if necessary, amend the Fee Regulation. The Fee Regulation provides for recovery of State and local agencies costs to comply with the AB 2588 requirements.

The workshops will be held at the following times and locations:

**Tuesday, July 21, 1998**

10:00 a.m. - 12 Noon

Board Hearing Room

Air Resources Board

2020 L Street

Sacramento, California

**Thursday, July 23, 1998**

10:00 a.m. - 12 Noon

Annex 3

Air Resources Board

9528 Telstar Avenue

El Monte, California

The Fee Regulation allocates the State's Program costs to the 35 local air pollution control, and air quality management, districts (districts), which they must collect. It also adopts district fee schedules for those districts that have requested the ARB by April 1, 1998, to adopt for them. For fiscal year 1998-99, six districts have requested the ARB to adopt their fee schedule.

The ARB staff is currently proposing to continue to base the Fee Regulation on the same method as used in fiscal year 1997-98. That method bases fees on facilities' prioritization scores and risk assessment results. However, ARB staff will also discuss, and would like to receive comments on alternate methods for allocating fees to the districts. Districts are now updating facilities' scores and risks and submitting that data to the ARB. ARB staff will be discussing the schedule and process for developing the fiscal year 1998-99 Fee Regulation. ARB staff will also be presenting preliminary fee ranges based on facility data submitted by local air districts.

Persons with disabilities who require reasonable accommodations are requested to contact Kirk Rosenkranz at (916) 322-7673 by July 1, 1998. Telecommunications Device for the Deaf (TDD), reachable only from phones equipped with a TDD Device: (916) 324-9531. California Relay Service (telephone service for the deaf or hearing impaired):

From TDD Phone: 1-800-735-2929  
From Voice Phone: 1-800-735-2922

If you have questions regarding the Hot Spots 1998-1999 Fee Regulation, please call Mr. Kirk Rosenkranz at (916) 322-7673.

Sincerely,

Linda C. Murchison, Chief  
Emission Inventory Branch  
Technical Support Division

cc: Kirk Rosenkranz, TSD  
Jim Schoning, Ombudsman, ARB

## Appendix VI

### Economic Impact Analysis

## **Economic Impact Analysis**

### **Introduction**

Section 44380(a)(2) of the Health and Safety Code allows the districts to either adopt district Air Toxics Hot Spots fee rules or request the ARB to adopt a fee schedule for them. Twenty-nine of the 35 districts have elected to adopt district fee rules. For the twenty-nine districts adopting their own fee schedules, fees were estimated using their draft or adopted fee rules. For the six 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 not only 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 1 provides a list of industries with affected businesses. 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 240 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 businesses 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.

Table 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	PLASTICS PLUMBING FIXTURES
3089	PLASTICS PRODUCTS, NEC

SIC Code	Industry
-----	-----
3211	FLAT GLASS
3221	GLASS CONTAINERS
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

SIC Code	Industry
-----	-----
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
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

SIC Code	Industry
-----	-----
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
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

SIC Code	Industry
-----	-----
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

### Assumptions

Since financial data for individual businesses were not available, this study used 1997 Dun and Bradstreet financial data for a nationwide typical business in each industry. Using the 1997 nationwide financial data, the ROEs before and after the subtraction of the adjusted fees were calculated for industries listed in Table 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 9.3 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 1 changed by less than 3.34 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 1, for example, the change in profitability ranged from a high of 24.1 percent to a low of 0.00079 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 1 ranged from a high of \$17,568 to a low of \$101. Second, the performance of businesses may differ from year to year. Hence, the 1997 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 reduction 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.