

Appendix III

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 IV

Fiscal Year 2000-2001 Proposed State Costs
for the Air Toxics Hot Spots Program

**PROPOSED STATE COSTS FOR FISCAL YEAR 2000-2001
AIR TOXICS HOT SPOTS PROGRAM**

		Pys*	Staff Cost	Contract Cost	Total
ARB	Regulation Development and Implementation	1.5	\$114,000	\$0	\$114,000
ARB	Methods Development and Review	0.0	\$0	\$0	\$0
ARB	Air Toxics Emission Database Maintenance	1.0	\$76,000	\$60,000	\$136,000
ARB	Emission Data Collection and Validation	1.5	\$114,000	\$0	\$114,000
	<u>subtotal</u>	<u>4</u>	<u>\$304,000</u>	<u>\$60,000</u>	<u>\$364,000</u>
ARB	Risk Assessment & Notification Assistance	0.5	\$38,000	\$0	\$38,000
ARB	Risk Assessment Assistance	0.0	\$0	\$0	\$0
ARB	Develop Risk Reduction Guidelines, Checklists	0.5	\$38,000	\$0	\$38,000
	<u>subtotal</u>	<u>1.0</u>	<u>\$76,000</u>	<u>\$0</u>	<u>\$76,000</u>
OEHHA	Health Effects Value Update	0.0	\$0	\$24,000	\$24,000
OEHHA	Risk Assessment Guideline Update	3.4	\$310,000	\$0	\$310,000
OEHHA	Exposure Assessment/ Uncertainty Methods Update	0.5	\$46,000	\$0	\$46,000
OEHHA	Health Risk Assessment Tracking	0.8	\$75,000	\$0	\$75,000
OEHHA	District/Board Assistance	1.5	\$143,000	\$0	\$143,000
	<u>subtotal</u>	<u>6.2</u>	<u>\$574,000</u>	<u>\$24,000</u>	<u>\$598,000</u>
	OEHHA subtotal	6.2	\$574,000	\$24,000	\$598,000
	ARB subtotal	5	\$380,000	\$60,000	\$440,000
	<u>TOTAL</u>	<u>11.2</u>	<u>\$954,000</u>	<u>\$84,000</u>	<u>\$1,038,000</u>

* PY is equal to a position.

Appendix V
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 through 1999-2000. 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 facility's 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 2000-2001, 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 through 1999-2000 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 2000-2001.

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 2000-2001, 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 2000-2001 are shown in Table V-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 V-1.

3. State Industrywide Facilities

For fiscal year 2000-2001, the staff is proposing to retain a flat fee of \$35 for State Industrywide facilities.

Table V-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 >=10<50/million, Hazard Index >1		
Simple	45	17
Medium	50	18
Complex	55	19
Risk >=50<100/million		
Simple	65	20
Medium	70	21
Complex	75	22
Risk >=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 2000. 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 \$1,193,000 for fiscal year 2000-2001.

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 \$1,193,000 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 V-I and the total number of facilities reported in each Program category by the districts:

- d) Weighted Sum =
- $$\begin{aligned}
 & (\# \text{ Us X Us S Index}) + (\# \text{ Um X Um S Index}) + (\# \text{ Uc X Uc S Index}) + \\
 & (\# \text{ Ts X Ts S Index}) + (\# \text{ Tm X Tm S Index}) + (\# \text{ Tc X Tc S Index}) + \\
 & (\# \text{ PSs X PSs S Index}) + (\# \text{ PSm X PSm S Index}) + (\# \text{ PSc X PSc S Index}) + \\
 & (\# \text{ R1s X R1s S Index}) + (\# \text{ R1m X R1m S Index}) + (\# \text{ R1c X R1c S Index}) + \\
 & (\# \text{ R5s X R5s S Index}) + (\# \text{ R5m X R5m S Index}) + (\# \text{ R5c X R5c S Index}) + \\
 & (\# \text{ R10s X R10s S Index}) + (\# \text{ R10m X R10m S Index}) + \\
 & (\# \text{ R10c X R10c S Index})
 \end{aligned}$$
- 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:
- $$\begin{aligned}
 & (\# \text{ SIW X \$35}) + (\# \text{ Us X Us uc}) + (\# \text{ Um X Um uc}) + (\# \text{ Uc X Uc uc}) + \\
 & (\# \text{ Tm X Tm uc}) + (\# \text{ Tm X Tm uc}) + (\# \text{ Tc X Tc uc}) + (\# \text{ PSs X PSs uc}) + \\
 & (\# \text{ PSm X PSm uc}) + (\# \text{ PSc X PSc uc}) + (\# \text{ R1s X R1s uc}) + \\
 & (\# \text{ R1m X R1m uc}) + (\# \text{ R1c X R1c uc}) + (\# \text{ R5s X R5s uc}) + \\
 & (\# \text{ R5m X R5m uc}) + (\# \text{ R5c X R5c uc}) + (\# \text{ R10s X R10s uc}) + \\
 & (\# \text{ R10m X R10m uc}) + (\# \text{ R10c X R10c uc})
 \end{aligned}$$

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 V-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 =

$$\begin{aligned} & (\# Us X Us D Index) + (\# Um X Um D Index) + (\# Uc X Uc D Index) + \\ & (\# Ts X Ts D Index) + (\# Tm X Tm D Index) + (\# Tc X Tc D Index) + \\ & (\# PSs X PSs D Index) + (\# PSm X PSm D Index) + (\# PSc X PSc D Index) + \\ & (\# R1s X R1s D Index) + (\# R1m X R1m D Index) + (\# R1c X R1c D Index) + \\ & (\# R5s X R5s D Index) + (\# R5m X R5m D Index) + (\# R5c X R5c D Index) + \\ & (\# R10s X R10s D Index) + (\# R10m X R10m D Index) + \\ & (\# R10c X R10c D Index) \end{aligned}$$

- 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)
$$\begin{aligned} \text{Unit Cost} = & \text{District Cost} - \text{Amount from equation (5b)} / (\# U_m \times U_m \text{ Index}) + \\ & (\# U_c \times U_c \text{ Index}) + (\# T_s \times T_s \text{ Index}) + (\# T_m \times T_m \text{ Index}) + \\ & (\# T_c \times T_c \text{ Index}) + (\# P S_s \times P S_s \text{ Index}) + (\# P S_m \times P S_m \text{ Index}) + \\ & (\# P S_c \times P S_c \text{ Index}) + (\# R 1_s \times R 1_s \text{ Index}) + (\# R 1_m \times R 1_m \text{ Index}) + \\ & (\# R 1_c \times R 1_c \text{ Index}) + (\# R 5_s \times R 5_s \text{ Index}) + (\# R 5_m + R 5_m \text{ Index}) + \\ & (\# R 5_c \times R 5_c \text{ Index}) + (\# R 10_s \times R 10_s \text{ Index}) + \\ & (\# R 10_m \times R 10_m \text{ Index}) + (\# R 10_c \times R 10_c \text{ Index}) \end{aligned}$$

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 VI

Announcement of Public Consultation Meetings

Dear Sir/Madam:

**Public Workshop to Discuss the AB 2588
Air Toxics Hot Spots Program 2000-2001 Fee Regulation**

The staff of the Air Resources Board (ARB or Board) will be holding a public workshop to discuss proposed amendments to the Air Toxics "Hot Spots" Fee Regulation (Fee Regulation) for fiscal year 2000-2001. 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 recovers the costs of State and local agencies to implement the AB 2588 requirements.

The workshop will be held at the following time and location:

Tuesday, September 19, 2000
10:00 a.m. - 12 Noon
Second Floor Conference Room
Air Resources Board
2020 L Street
Sacramento, California

The ARB staff is proposing to continue to base the Fee Regulation on the same method as used in fiscal year 1999-2000, and to keep the fee amounts per facility fee category at the same levels as last year. Changes are proposed for the fee tables to reflect changes in the program status of facilities in the Program. The result is fewer facilities will be paying fees in fiscal year 2000-2001.

A staff report describing proposed amendments is being released to the public on September 8, 2000, and will be considered by the Board at their October 26, 2000 meeting. A copy of the hearing notice and the staff report can be found on the ARB's website at www.arb.ca.gov/regact/hotspots/00-01/00-01.htm.

The Fee Regulation determines the amount of fees which need to be collected by the 35 local air pollution control, and air quality management, districts (districts), to recover the State's Program costs. It also adopts district fee schedules for those districts that have requested the ARB by April 1, 2000, to adopt for them. For fiscal year 2000-2001, six districts have requested the ARB to adopt their fee schedule.

The Fee Regulation is based on the health impacts of facilities subject to the Hot Spots Program as determined by their health risk assessment results and prioritization scores. Districts have updated facilities' scores and risks and submitted that data to the ARB by July 1, 2000. The amendments to the Fee Regulation for fiscal year 2000-2001 will be based on this updated facility data.

Persons with disabilities who require reasonable accommodations are requested to contact Ms.

Helen Brockenbrough at (916) 322-6021. Telecommunications Device for the Deaf (TDD), reachable only from phones equipped with a TDD Device: (916) 324-9531 or 1-(800) 700-8326.

If you have any questions regarding the Hot Spots 2000-2001 Fee Regulation or the Workshop, please call Richard Bode at (916) 322-3807.

Sincerely,

Linda C. Murchison, Assistant Chief
Planning and Technical Support Division

Appendix VII

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 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 business 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
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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 1998 Dun and Bradstreet financial data for a nationwide typical business in each industry. Using the 1998 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 8.835 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 3.00 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 10.2 percent to a low of 0.00200 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 \$15,715 to a low of \$25. Second, the

performance of businesses may differ from year to year. Hence, the 1998 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 reductions 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.