

State of California
AIR RESOURCES BOARD

STAFF REPORT

PUBLIC HEARING TO CONSIDER THE ADOPTION OF AMENDMENTS TO ARTICLE 1, SECTIONS 90620-90623, TITLE 17, CALIFORNIA CODE OF REGULATIONS, REGARDING THE ATMOSPHERIC ACIDITY PROTECTION ACT FEE PROGRAM

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This report has been reviewed by the staff of the California Air Resources Board and approved for publication. Approval does not signify that the contents necessarily reflect the views and policies of the Air Resources Board, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.

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State of California
AIR RESOURCES BOARD

Staff Report: Initial Statement of Reasons
for Proposed Rulemaking

PUBLIC HEARING TO CONSIDER THE ADOPTION OF FEE REGULATIONS PURSUANT TO THE
ATMOSPHERIC ACIDITY PROTECTION ACT.

Date of Release: February 19, 1993
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I. BACKGROUND

In the Atmospheric Acidity Protection Act of 1988 ("Act"; Health and Safety Code sections 39900-39911; Stats. 1988, ch. 1518) (Attachment A), the Legislature declared that the deposition of atmospheric acidity resulting from other than natural sources is occurring in various regions of California. It further declared that the continued deposition of this acidity, alone or in combination with other man-made pollutants and naturally occurring phenomena, could have potentially significant adverse effects on public health, the environment, and the economy. The Legislature directed the Air Resources Board (the "Board" or "ARB") to adopt and implement the Atmospheric Acidity Protection Program (AAPP) to determine the nature and extent of potential damage to public health and the state's ecosystems which may be expected to result from atmospheric acidity, and to develop measures which may be needed for the protection of public health and sensitive ecosystems within the state.

To enable the Board to defray the costs of carrying out these activities, the Act authorized the Board to require the districts, beginning July 1, 1988, to impose additional variance and permit fees on nonvehicular sources which emit 500 tons or more per year of either sulfur oxides or nitrogen oxides. The fees may be assessed annually through December 31, 1993. The Legislature directed that the total amount of funds collected from additional fees, exclusive of district costs, shall not exceed \$1,500,000 for any fiscal year or the amount appropriated from state funds by the Legislature for the Atmospheric Acidity Protection Program, whichever is less. The AAPP budget for fiscal year 1993-94, the fifth and final year of the program, which has not yet been approved by the Legislature, is anticipated to be \$3,000,000, of which \$1,500,000 is to be funded through the proposed nonvehicular source permit fees. If the Legislature appropriates less than \$1,500,000 from state funds for the AAPP, then the total fees to be collected will also be reduced to that amount.

On June 9, 1989, the Board adopted sections 90620-90623, Title 17, California Code of Regulations (CCR) (Attachment B), establishing the Atmospheric Acidity Protection Act fee program. This program established the fee rate and the total amount to be remitted by each affected district to the ARB. The regulations, which were based on emissions data for calendar year 1987, were applicable for the first year (July 1, 1989 - June 30, 1990) of the Board's five-year research and monitoring effort. Subsequently, the Board at its May 10, 1990; April 11, 1991; and April 9, 1992 meetings amended the regulations to provide funding for fiscal years 1990-91, 1991-92 and 1992-93, the second through fourth years of the program. The fees for the second through fourth years were based on emissions for calendar years 1988, 1989 and 1990, respectively.

To provide ongoing funding for the fifth year of the program, the staff recommends that the Board continue the existing permit fee program by adopting the proposed fee regulations to provide for the collection of fees for fiscal year 1993-94. The proposal was developed after consultation with affected local districts and industries. A consultation meeting was held on February 4, 1993. Districts, representatives of all facilities that were identified as being potentially subject to the fees, and the public were notified of the meeting. A copy of the meeting notice is included as Attachment C. Facilities that would be subject to the proposed fees and their emissions are listed in Attachment D.

~~The Board will also consider at the April 8, 1993 Board meeting a companion proposal to require the air pollution control and air quality management districts to assess additional permit fees on nonvehicular sources which emit 500 tons or more per year of any nonattainment pollutants or their precursors within a district's jurisdiction. The fees assessed under this separate program would be used to defray the Board's costs in fiscal year 1993-94 to implement nonvehicular source-related programs authorized by the California Clean Air Act (AB 2595; Stats. 1988, ch. 1568). Many facilities that would be subject to the California Clean Air Act fees would also be subject to the fees that would be assessed by the proposal described in this report.~~

II. RECOMMENDATION

The staff recommends that the Board adopt the proposed fee regulations to provide funding for the AAPP as set forth in Attachment B.

III. SUMMARY OF RECOMMENDED ACTIONS

The proposed regulations contain the following provisions:

- o Applicability to the fiscal year 1993-94 (July 1, 1993 to June 30, 1994), the final year of the program.
- o A requirement that districts affected by the proposed fee regulations adopt regulations to implement the ARB's fee regulations.
- o A requirement that districts collect the fees for transmittal to the ARB.

- o A requirement that districts assess additional fees for facilities that fail to submit timely payment.
- o Provisions for the collection of fee revenues totaling \$1,500,000 to cover a portion of the costs of implementing the Act for fiscal year 1993-94.
- o Use of the most recent available calendar year emissions data (1991) as the basis for the fee assessment by districts.

In calculating the fees for fiscal year 1993-94, the program cost of \$1,500,000 was adjusted as follows:

- o Total fees for fiscal year 1993-94 were reduced by the amount of fees carried forward from the unexpended contingency (adjustment factor) collected in previous years.

IV. NEED FOR ATMOSPHERIC ACIDITY PROTECTION PROGRAM

Statutory Requirements: section 39904 of the Health and Safety Code directed the ARB to adopt and implement a comprehensive AAPP. As provided in the Atmospheric Acidity Protection Act, the program is to accomplish the following:

- (a) Determine the extent to which atmospheric acidity, alone or in combination with other pollutants, adversely affects public health, and the levels and duration of exposure at which those effects may be expected to occur.
- (b) Document the long-term trends of all forms of atmospheric acidity deposited in California, the trends in lake and stream chemistry of sensitive watersheds, the quantity and chemical composition of acidic deposition, and the cumulative potential for damage to aquatic and terrestrial ecosystems.
- (c) Develop techniques for the early detection of changes in aquatic and terrestrial ecosystems, including the chemistry of soils, which could be expected to precede ecosystem damage due to the deposition of atmospheric acidity, based on the latest scientific research, both in the United States as well as in other countries where the deposition of acidity has caused environmental damage.
- (d) Determine the relationship between ambient concentrations of acidity and particles, and variations in atmospheric deposition rates; the relationship between sources of acidic pollutants and the deposition of atmospheric acidity at receptor areas; and the extent of transport and deposition of acidic pollutants to mountainous areas and high-elevation watersheds.

- (e) Estimate potential economic losses which may be expected to result from the long-term effects of atmospheric acidity, including, but not limited to, impacts on health, worker productivity, materials, fisheries, forests, recreation, and agriculture.
- (f) Develop and adopt standards, to the extent supportable by scientific data, at levels which are necessary and appropriate to protect public health and sensitive ecosystems from adverse effects resulting from atmospheric acidity.

The ARB staff prepared a five-year research plan to accomplish the objectives of the Act. The research plan was approved by the Board at its May 1989 meeting.

The Scientific Advisory Committee on Acid Deposition has determined that full implementation of the Atmospheric Acidity Protection Act will require the maximum level of funding provided for under the Act. The Legislature, in Health and Safety Code section 39909, indicated its intent to appropriate up to \$1,500,000 for this program for any fiscal year. Assuming the Legislature funds the program according to its stated intent, the proposed revenues of \$1,500,000 from emission fee regulations would provide one-half of the funding required for fiscal year 1993-94.

V. DISCUSSION OF PROPOSED REGULATIONS

A. DISTRICT REQUIREMENTS

This proposal would require districts affected by the ARB's fee regulations to collect the fees and forward specified amounts to the ARB no later than 180 days after the effective date of the fee regulations (section 90621.4, Title 17, CCR). This deadline is necessary to assure availability of funds to cover the program costs, while providing districts with the sufficient time to adopt fee regulations, bill the affected sources, and transmit the fees to ARB.

B. POLLUTANTS AFFECTED

Health and Safety Code section 39908, and Title 17, CCR sections 90621, 90621.1 - 90621.4 require that the fees shall be collected from nonvehicular sources of sulfur oxides or nitrogen oxides which emit 500 tons or more per year of either pollutant.

C. EMISSIONS AS THE BASIS FOR FEES

The Act requires that the fees be based on emissions. The fee regulations adopted by the Board in 1989 were based on 1987 emissions (section 90621, Title 17, CCR); the regulations adopted in 1990 were based on 1988 emissions (section 90621.1, Title 17, CCR); the regulations adopted in 1991 were based on 1989 emissions (section 90621.2, Title 17, CCR); and the regulations adopted in 1992 were based on 1990 emissions (section 90621.3, Title 17, CCR). These emissions data were used as they were the most recently available data at the time and were considered to be the best estimate of actual emissions from the affected nonvehicular sources. The

staff is proposing that fees for fiscal year 1993-94 be based on 1991 emissions data for the same reasons.

The proposed fee schedule for fiscal year 1993-94, which was prepared by the ARB staff with information and assistance from local districts, is based upon a charge for the amount of sulfur oxides or nitrogen oxides emitted. Facilities subject to the fee schedule would be assessed a fee of \$8.03 per ton. For fiscal year 1993-94, this charge was calculated by dividing the total amount of funds to be collected by the total statewide emissions of sulfur oxides and nitrogen oxides from sources emitting 500 tons or more per year of sulfur oxides or nitrogen oxides in the calendar year 1991.

The staff established a cutoff date of January 29, 1993, for finalizing the emission inventory that is being used for calculating this fee. All permitted nonvehicular sources identified as emitting 500 tons or more per year of sulfur oxides or nitrogen oxides were included in the fee calculation for this proposal. The January 29 cutoff date was established to allow the staff to finalize the fee proposal before initiating the rulemaking process. The data presented in this report reflect the ARB staff's best estimates as of January 29, 1993, of 1991 emissions from sources that would be subject to the fees. These emission data are summarized in Table 1 of the report.

Districts have been asked to verify emissions from affected facilities. Any new information that would affect the emission estimates in Table 1 received after the publication of this report will be presented to the Board at the hearing. These new data may identify additional facilities that emitted 500 tons or more of sulfur oxides or nitrogen oxides in 1991 or revise emission data for previously identified sources. The proposed fee rate and amounts to be remitted by the districts may be revised at the time of the public hearing if updated emission data are available at that time.

TABLE 1

ATMOSPHERIC ACIDITY PROTECTION ACT
EMISSIONS FEES FOR 1993-94

1991 EMISSIONS FROM SOURCES EMITTING
500 TONS OR MORE PER YEAR
OF SULFUR OXIDES OR NITROGEN OXIDES

<u>DISTRICT</u>	<u>NO. OF SOURCES</u>	<u>EMISSIONS (TONS PER YEAR)</u>			<u>PROPOSED FEES ^{1/} (\$)</u>
		<u>SOx</u>	<u>NOx</u>	<u>Total</u>	
Bay Area	14	16,791	31,364	48,155	386,684
Imperial	2	-0-	1,299	1,299	10,431
Kern (SEDAB)	4	-0-	4,464	4,464	35,846
Monterey	3	-0-	5,978	5,978	48,003
North Coast	2	-0-	1,039	1,039	8,344
San Bernardino	11	-0-	22,770	22,770	182,842
San Diego	2	-0-	3,272	3,272	26,274
San Joaquin Unified	22	5,136	31,029	36,165	290,406
San Luis Obispo	3	4,088	3,439	7,527	60,441
South Coast	15	5,342	20,459	25,801	207,183
Ventura	2	-0-	1,519	1,519	12,198
TOTAL	80	31,357	126,632	157,989	1,268,652 ^{2/}

^{1/} Fee rate = \$8.03 per ton

^{2/} This amount is slightly less than \$1,269,000 (\$1,500,000 - \$231,000*) because of rounding of dollars.

* Carry-over revenues from previous collections

January 29, 1993

D. DETERMINATION OF FEES

For fiscal years 1989-1990 through 1992-1993, the proposed fees were based on a dollar-per-ton emission fee that was calculated by using the following formula:

$$\text{Fee per ton} = \frac{T + A}{E}$$

Where:

T = Total amount needed by the ARB in the specified fiscal year for implementing various provisions of the Act related to nonvehicular sources (dollars);

A = A 10 percent adjustment factor to cover unforeseen reductions in collections such as would occur from unanticipated closings of businesses or nonpayment (dollars); and

E = The total emissions from all permitted facilities in the state that emitted 500 tons or more per year of sulfur oxides or nitrogen oxides during a specified calendar year (tons).

As indicated by the formula, the adopted fee schedules for the first four years included an adjustment factor of 10 percent. The Board decided that such an adjustment was necessary to avoid a potential undercollection of funds that could occur from unanticipated events such as business closures. In approving the adjustment factor, the Board expressed concern that a shortfall in funds would seriously disrupt the programs that had been entrusted to the ARB for implementation. In the event, however, that the 10 percent adjustment results in excess revenues, section 90622(e) of the regulations requires that the excess amount shall be carried over by the state and applied to future year expenditures. This provision is part of the regulations to guarantee that no funds in excess of the statutory maximum will be collected and expended by the ARB for the AAPP. A similar carryover provision is included in the California Clean Air Act program (Title 17, CCR, section 90802(c)). Since this provision is not applicable to the proposed regulation for the final year of the fee program, the amendment being proposed deletes section 90622(e).

As of the date of this staff report, fees have been collected for the first three years of the program. Because of the regulatory steps required between the time of the Board's approval of the regulation and its ultimate effective date, and because districts have 180 days to submit fees after the regulation takes effect, the fees as of the date of this report have not been collected for the fourth year of the program.

As noted above, the regulations require that any excess shall be carried over to future years. The 1992-93 fees were adjusted downward by an amount equal to the excess collected during fiscal year 1990-91. The 1993-94 fees were adjusted downward by \$231,000, an amount equal to the excess collected through fiscal year 1991-92 and including an estimated excess amount for fiscal year 1992-93. The estimated amount is based on collections received for the first three years.

To account for both the excess revenue through the third year and the estimated excess revenue for the as yet uncollected fourth year, the staff is proposing that the fee schedule for fiscal year 1993-94 be based on the following formula:

$$\text{Fee per ton} = \frac{T - CR}{E}$$

Where T, and E represent the same definitions as set forth above, and CR represents Carry-over Revenues received in prior fiscal years.

For the fiscal year 1993-94 fee proposal:

T = \$1,500,000
CR = \$ 231,000
E = 157,989 tons

Using the above dollar-per-ton emission fee formula, a fee of \$8.03 per ton was calculated. The fee per ton was calculated by the ARB staff on the basis of information provided by districts with facilities that would be subject to the fees. Facilities that emitted more than 500 tons of sulfur oxides or nitrogen oxides will be assessed fees on the sum of the emissions of both of those pollutants. The calculation was based on 1991 emissions data. The emissions data and fees to be assessed each affected district are summarized in Table 1 (see page 6) of this report.

At the time this staff report was completed, one of the eleven districts with facilities potentially subject to the fee regulations had not verified emissions from the facilities. Validated data from these districts may require revision of the proposed fee schedule when the Board considers adoption of the proposed regulations.

The regulations provide that sources identified after the fee regulations inventory is established as having emitted at or above the cutoff levels in 1991 would also be subject to the fees pursuant to section 90621.4(b). This has been done so that all permitted nonvehicular sources which emit 500 tons or more per year of sulfur oxides or nitrogen oxides are equitably assessed. A similar provision for fees was adopted by the Board for the first through fourth years of the program.

E. RECOVERY OF DISTRICTS' ADMINISTRATIVE COSTS

The staff is not proposing changes to the portion of the regulations adopted in 1989 and continued in 1990 through 1992 which specify recovery of districts' administrative costs [section 90622(a)]. The regulations provide for collection by districts of additional fee amounts to cover their administrative costs for collecting the fees. Districts' costs are in addition to the fees mandated by this proposal, and are expected to add no more than five percent, based on past program experience. The regulations [section 90622(a)] require districts to substantiate the administrative costs and to provide related information to the ARB on request. The information must be provided within 30 days of the request. The 30 day period provides the districts with sufficient time to compile and submit the requested information. These requirements allow the ARB to ensure that the

fee collection program is effectively implemented and that funds necessary to implement the requirements of the Act are available to the ARB. The regulations [section 90622(d)] also require districts to impose late fees on facilities that do not submit assessed fees in a timely manner to cover the additional administrative costs the districts incur in collecting late fees.

VI. POTENTIAL IMPACTS AND ISSUES

A. POTENTIAL ENVIRONMENTAL IMPACT

The staff is not aware of any potential adverse impacts on the environment that would be attributable to the implementation of the proposed fee regulations. The activities undertaken for the Atmospheric Acidity Protection Act are expected to contribute to improved air quality.

B. POTENTIAL ECONOMIC IMPACTS

1. PUBLIC AGENCIES

The Board's Executive Officer has determined that local agencies will incur some costs as a result of the proposed regulations. Air pollution control districts and air quality management districts will incur administrative costs in collecting the fees. The Act authorizes the districts to recover these costs from facilities subject to the fees.

Local government agencies identified as being subject to the proposed fees are the Los Angeles Department of Water and Power and the Imperial Irrigation District. The aggregate cost to these local government agencies in complying with the regulations will be approximately \$12,000. These costs are not reimbursable state-mandated costs because the fees apply generally to all facilities in the state and do not impose any unique requirement on local governments. (County of Los Angeles v. State (1987) 43 Cal.3d 46.) Moreover, the affected local agencies can recover costs, such as the fees, through the assessment of service charges or fees.

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

The federal agencies which have been identified that would be subject to the proposed fees are the Elk Hills Production Plant and the Elk Hills Gas Plant, located in Kern County. The aggregate cost to these federal government agencies in complying with the regulations will be approximately \$23,000. Federal facilities are required to comply with all state and local requirements relating to the control and abatement of air pollution to the same extent as private persons. (Clean Air Act section 118, 42 U.S.C. section 4218. This includes the payment of permit fees.) (United States of America v. South Coast Air Quality Management District [C.D. Ca., 1990, 748 F. Supp. 732].); State of Maine v. Department of the Navy [D. Me., 1988, 702 F. Supp. 322].)

2. BUSINESSES

The proposed regulations would require the collection of fees from specified facilities. The proposed fee rate is \$8.03 per ton of sulfur oxides or nitrogen oxides as determined based on the amount of these pollutants that were emitted in 1991. The cost to affected businesses will therefore vary according to the magnitude of facility emissions. The cost to an individual business is estimated to range from a minimum of \$4,000 to approximately \$200,000 for a multi-facility business.

The staff believes that adoption of the fee program will have a relatively insignificant economic impact on companies subject to the fees. While the fees that would be assessed by the proposed fee regulations may appear to be substantial, the affected industries are among the largest in the state, both in size and financial strength.

Because there are no facilities that would be subject to the proposed fees that have been identified as small businesses, the Executive Officer has determined that adoption of these regulations will not have a significant adverse impact on small businesses. The detailed analysis of the economic impact on businesses is included as Attachment E - California Business Impacts of Permit Fee Regulations for Nonvehicular Sources.

C. EVALUATION OF OPTIONS

Government Code section 11346.14 requires a description of the alternatives to the proposed regulations which are considered by the ARB. The following options were identified by the ARB staff:

Option 1: Do not adopt fees regulations.

The ARB staff considered this option but believes that legislatively-mandated tasks cannot be completed without the additional funding provided by the fee program. Moreover, the requirement that districts assess fees on nonvehicular sources is the only option provided for in the Act to obtain the needed additional resources. The staff therefore recommends that this option be rejected.

Option 2: Assess fees on a basis other than per ton of emissions.

The ARB staff considered requiring districts to assess fees based on a range of emissions (e.g., sources emitting 500 to 999 tons per year would be assessed one fee, sources emitting 1000 to 1499 tons per year would be assessed a higher fee, etc.). This is an option that is available to districts assessing fees on sources subject to the provisions of the Air Toxics "Hot Spots" Information and Assessment Act. However, the Atmospheric Acidity Protection Act requires assessment of fees on a per-pound (or per-ton) basis. Moreover, districts have expressed general support for the method of assessing fees as proposed under this program.

Assembly Bill No. 2930

CHAPTER 1518

An act to repeal and add Chapter 6 (commencing with Section 39900) of Part 2 of Division 26 of, and to repeal Sections 39906, 39907, 39908, 39909, 39910, and 39911 of, the Health and Safety Code, relating to acid deposition, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1988. Filed with Secretary of State September 29, 1988.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2930, Sher. Air pollution: acid deposition.

(1) Under the existing Kapiloff Acid Deposition Act, in effect until December 31, 1988, the State Air Resources Board is designated the state agency to implement the act, and is prohibited from adopting any rules or regulations to control acid deposition without further statutory authorization.

This bill would repeal that act and would enact the Atmospheric Acidity Protection Act of 1988, which would require the state board to adopt and implement an Atmospheric Acidity Protection Program, as specified, to determine damage to, and develop ways to protect, public health from atmospheric acidity.

(2) Under the existing act, the state board requires air pollution control districts and air quality management districts to impose additional variance and permit fees through the 1987-88 fiscal year on nonvehicular sources of sulfur and nitrogen oxides which are authorized by district permits to emit 1,000 tons or more per year of either sulfur or nitrogen oxides of $\frac{1}{4}$ ¢ per pound thereof emitted.

This bill would require these additional fees to be imposed through December 31, 1993, on sources which emit 500 tons or more per year and would require the state board to set the fees on a per pound basis, as specified.

(3) Under the existing act, the total additional fees collected by districts, less district administrative costs, may not exceed the amount appropriated by the Legislature for acid deposition research from the Motor Vehicle Account in the State Transportation Fund and the California Environmental License Plate Fund, but not to exceed \$2,000,000 for the 1988-89 fiscal year.

This bill would limit the total amount of funds appropriated from the Motor Vehicle Account and the California Environmental License Plate Fund for purposes of the bill to \$1,500,000 for any fiscal year, as required to reflect the level of funding necessary for progress in accomplishing the purposes of these provisions, as specified. The bill would specify that the total amount of funds collected from additional fees shall be \$1,500,000 for any fiscal year, except that, if

a lesser amount is appropriated for these purposes, the amount of the additional fees shall be reduced proportionately.

The bill would direct the state board, with the advice and participation of the scientific advisory committee, to prepare and submit an annual report to the Governor and Legislature, including specified information.

(4) By imposing these requirements on districts, the bill would impose a state-mandated local program.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(6) The bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Chapter 6 (commencing with Section 39900) of Part 2 of Division 26 of the Health and Safety Code is repealed.

SEC. 2. Chapter 6 (commencing with Section 39900) is added to Part 2 of Division 26 of the Health and Safety Code, to read:

CHAPTER 6. ATMOSPHERIC ACIDITY

39900. This chapter shall be known and may be cited as the **Atmospheric Acidity Protection Act of 1988.**

39901. The Legislature finds and declares that the deposition of atmospheric acidity resulting from other than natural sources is occurring in various regions of California, and that the continued deposition of this acidity, alone or in combination with other man-made pollutants and naturally occurring phenomena, could have potentially significant adverse effects on public health, the environment, and the economy.

39902. The Legislature further finds and declares that the State Air Resources Board has recently completed a multiyear acid deposition research and monitoring program under the Kapiloff Acid Deposition Act and that the research findings of the state board support the following conclusions with respect to the nature of the problem of deposition of acidity from the atmosphere in California.

(a) Acid atmospheres, in the form of fogs, and dry gases and particles, are found in areas where large numbers of people live and work, and, in many heavily populated areas of California, fogs typically contain acids and acidifying substances that aggravate asthmatic symptoms and may have other adverse health effects.

(b) Acid rain occurs in California in a pattern which generally reflects the spatial distribution of man-made sources of sulfur and

nitrogen precursors of acid deposition throughout the state, and can be as much as 100 to 300 times as acidic as rain that falls in unpolluted locations. The acidity of rainfall in the spring and summer can be as high in California as in the eastern United States.

(c) Dry acid deposition due to fog, gases, and particles produced in the atmosphere is relatively more important than wet deposition due to rain or snow in California. While nitric acid, formed in the atmosphere from emissions of nitrogen oxides and hydrocarbons, is a major constituent of atmospheric acidity in California, sulfuric acid accounts for a significant fraction of acidity within the state.

(d) Organisms in the food chain that supports sport fisheries in Sierra lakes and streams could be diminished by temporary exposures to highly acidic "pulses" during summer storms or snow melt.

(e) Forests adjacent to southern California and on the western slope of the Sierras receive significant exposure to acidity deposited from the atmosphere, and may be adversely affected by the acidity alone, or in combination with other pollutants. Forests may also be damaged indirectly through changes in soil chemistry and by increased susceptibility to insects and disease, as a result of stress on the forest ecosystem caused by the deposition of acidity.

(f) Agricultural crops, which are already known to suffer significant economic damage due to exposure to ozone, may suffer additional damage from exposure to highly acidic fogs and other forms of acid deposition.

(g) Damage to materials such as painted surfaces and treated metals from exposure to high levels of acidity causes significant economic losses in parts of the state.

39903. The Legislature declares that it is the purpose of the program established by this chapter to do all of the following:

(a) Determine the extent to which atmospheric acidity, alone or in combination with other pollutants, adversely affects public health, and the levels and duration of exposure at which those effects may be expected to occur.

(b) Document the long-term trends of all forms of atmospheric acidity deposited in California, the trends in lake and stream chemistry of sensitive watersheds, the quantity and chemical composition of acidic deposition, and the cumulative potential for damage to aquatic and terrestrial ecosystems.

(c) Develop techniques for the early detection of changes in aquatic and terrestrial ecosystems, including the chemistry of soils, which could be expected to precede ecosystem damage due to the deposition of atmospheric acidity, based on the latest scientific research, both in the United States as well as in other countries where the deposition of acidity has caused environmental damage.

(d) Determine the relationship between ambient concentrations of acidity and particles, and variations in atmospheric deposition rates; the relationship between sources of acidic pollutants and the

deposition of atmospheric acidity at receptor areas; and the extent of transport and deposition of acid pollutants to mountainous areas and high-elevation watersheds.

(e) Estimate potential economic losses which may be expected to result from the long-term effects of atmospheric acidity, including, but not limited to, impacts on health, worker productivity, materials, fisheries, forests, recreation, and agriculture.

(f) Develop and adopt standards, to the extent supportable by scientific data, at levels which are necessary and appropriate to protect public health and sensitive ecosystems from adverse effects resulting from atmospheric acidity.

39904. (a) The state board shall adopt and implement an Atmospheric Acidity Protection Program (AAPP), to determine the nature and extent of potential damage to public health and the state's ecosystem which may be expected to result from atmospheric acidity, and to develop measures which may be needed for the protection of public health and sensitive ecosystems within the state.

(b) The program shall commence upon the final compilation of information obtained pursuant to the former Kapiloff Acid Deposition Act, shall incorporate the research results and assessments undertaken pursuant to that act, and shall endeavor to acquire the latest available information on the chemical and biological processes in sensitive ecosystems which preceded the acidification of lakes and streams in other parts of the world.

(c) The Scientific Advisory Committee on Acid Deposition, appointed pursuant to the Kapiloff Acid Deposition Act is continued in existence, and shall actively assist the state board in the development and implementation of the Atmospheric Acidity Protection Program.

39905. In developing the health and ecosystem protection program the state board shall, at a minimum:

(a) Determine the effects of acidic atmospheres on sensitive populations, and the health consequences of prolonged exposure to acidic atmospheres.

(b) Conduct clinical and epidemiological studies to assess the effects on human health of acidic aerosols and fogs in combination with other pollutants.

(c) Analyze data from ongoing acid deposition monitoring programs operated by the state board and the local air pollution control districts, and relate the data to monitored changes in the chemistry of sensitive soils and bodies of water, and results from field exposure studies of economically significant materials.

(d) Characterize major source-receptor links for the deposition of atmospheric acidity using the best available scientific analysis and techniques, and the potential effects on long-term acid deposition trends of current and future air pollution control measures within the state.

(e) Conduct other studies or assessments as needed to carry out

the purposes of this chapter.

39906. The state board may require districts, beginning July 1, 1988, and continuing through December 31, 1993, to impose additional variance and permit fees on nonvehicular sources within their jurisdiction.

39907. The additional fees imposed pursuant to Section 39906 may be expended only for the purpose of recovering the costs of acid deposition monitoring and research which is required to provide districts and the state board with the necessary scientific basis for evaluating the public health and environmental impacts of issuing variances and of issuing and renewing permits for large sources of acid deposition precursors and for determining the feasibility and cost of control measures and air quality management strategies to mitigate the potential adverse effects of existing and increased levels of emissions of acid deposition precursors by large nonvehicular sources of sulfur and nitrogen oxides.

39908. The additional fees imposed pursuant to Section 39906 shall be collected from nonvehicular sources of sulfur and nitrogen oxides which emit 500 tons or more per year of either sulfur or nitrogen oxides.

The additional fees for the issuance of permits shall be set by the state board on a per pound basis at a level which most closely approximates, but does not exceed, the limits established by Section 39909.

In the case of additional fees imposed for the issuance of variances, the fees shall be based on the amount of excess emissions authorized by the variance and the length of time the variance is to remain in effect.

39909. (a) The total amount of funds appropriated by the Legislature from the Motor Vehicle Account in the State Transportation Fund and the California Environmental License Plate Fund to carry out the purposes of this chapter shall not exceed one million five hundred thousand dollars (\$1,500,000) for any fiscal year, and shall reflect the level of funding deemed necessary after considering the annual report submitted pursuant to Section 39910.

(b) The total amount of funds collected from additional fees, exclusive of district administrative costs, shall be one million five hundred thousand dollars (\$1,500,000) for any fiscal year. However, if the Legislature appropriates a lesser amount in any fiscal year to carry out the purposes of this chapter, the amount of the additional fees shall be reduced to an amount equal to the amount appropriated by the Legislature.

39910. (a) The state board, with the advice and participation of the scientific advisory committee, shall prepare and submit a report to the Legislature and the Governor on an annual basis. The report shall include a description of the activities undertaken pursuant to this chapter, the progress made in accomplishing the purposes of this chapter, as specified in section 39903, and the level of funding

necessary to accomplish additional progress; the findings to date of the atmospheric acidity protection program; future trends in acid deposition in California; and further actions, if any are required, in addition to existing laws, adopted regulations, and ongoing research programs, to control acid deposition and its potential adverse effects.

(b) The state board shall publish and make available to the public the annual report at least 30 days in advance of holding any hearings to consider adoption of the report.

39911. Sections 39906, 39907, 39908, 39909, 39910, and this section, shall remain in effect only until January 1, 1994, and as of that date are repealed, unless a later enacted statute, which is chaptered before January 1, 1994, deletes or extends that date.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to continue without interruption the state's efforts to assess the threat of atmospheric acidity to public health and the state's ecosystems, it is necessary that this act take effect immediately.

Proposed Regulations

Adopt new Section 90621.4 and amend section 90622, Article 1, Subchapter 3.6, Chapter 1, Part III, Title 17, California Code of Regulations, to read as follows:

Article 1. Fee Requirements to be implemented by
Air Pollution Control Districts and Air Quality Management
Districts for the Atmospheric Acidity Protection Act Program

90620. General Requirements.

To provide revenue for the Atmospheric Acidity Protection Act program, each district identified in this article shall adopt regulations, which provide for collection of fees as required by this article.

Note: Authority cited: Sections 39600, 39601, 39904, and 39906, Health and Safety Code. Reference: Sections 39002, 39500, 39600, and 39904-39910, Health and Safety Code.

90621. Fee Requirements for Fiscal Year 1989-90.

(a) No later than 180 days after effective date of sections 90620-90623, each district specified in this section shall transmit the amount specified below to the state board. The fees shall be collected from the holders of permits for sources which emitted 500 tons per year or more of either sulfur oxides or nitrogen oxides from January 1, 1987 through December 31, 1987. The fees collected shall be in addition to permit and other fees already authorized to be collected from such sources. The fees shall not exceed eight dollars twenty-eight cents (\$8.28) per ton of sulfur oxides or nitrogen oxides emitted. With respect to sources identified on or before June 9, 1989, as having emitted 500 tons per year or more of sulfur oxides or nitrogen oxides during the period from January 1, 1987 through December 31, 1987, the amount of emissions as determined by the executive officer of the state board on June 9, 1989 shall be used to determine compliance with this limitation and with the fee requirements of this subsection.

(1) Bay Area Air Quality Management District: three hundred seventy-nine thousand nine hundred three dollars (\$379,903);

(2) Fresno County Air Pollution Control District: twenty-eight thousand five hundred eight dollars (\$28,508);

(3) Kern County Air Pollution Control District: three hundred seventy thousand six hundred forty-six dollars (\$370,646);

(4) Kings County Air Pollution Control District: five thousand two hundred fifty-eight dollars (\$5,258);

(5) Monterey Bay Unified Air Pollution Control District: sixty-three thousand seven hundred fifteen dollars (\$63,715);

(6) North Coast Unified Air Quality Management District: twenty-six thousand four hundred sixty-three dollars (\$26,463);

- (7) San Bernardino County Air Pollution Control District: one hundred sixty-seven thousand two hundred fifteen dollars (\$167,215);
- (8) San Diego County Air Pollution Control District: twenty-eight thousand eight hundred seventy-two dollars (\$28,872);
- (9) San Joaquin County Air Pollution Control District: twenty-seven thousand seven hundred twenty-one dollars (\$27,721);
- (10) San Luis Obispo County Air Pollution Control District: seventy-four thousand four hundred seventy-nine dollars (\$74,479);
- (11) Santa Barbara County Air Pollution Control District: sixteen thousand five hundred eighty-five dollars (\$16,585);
- (12) Shasta County Air Pollution Control District: eleven thousand six hundred forty-two dollars (\$11,642);
- (13) South Coast Air Quality Management District: four hundred thousand six hundred sixty-one dollars (\$400,661);
- (14) Stanislaus County Air Pollution Control District: eight thousand one hundred thirty-nine dollars (\$8,139); and
- (15) Ventura County Air Pollution Control District: forty thousand six hundred sixty-three dollars (\$40,663).

(b) In addition to the fees specified in subsection (a) above, a district shall, for any source identified after June 9, 1989 as having emitted 500 tons per year or more of sulfur oxides or nitrogen oxides during the period from January 1, 1987 through December 31, 1987, transmit to the state board eight dollars twenty-eight cents (\$8.28) per ton of such pollutant.

Note: Authority cited: Sections 39600, 39601, 39904 and 39906, Health and Safety Code. Reference: Sections 39002, 39500, 39600, and 39904-39910, Health and Safety Code.

90621.1 Fee Requirements for Fiscal Year 1990-91.

(a) No later than 180 days after the operative date of this section, each district identified in this section shall transmit the amount specified below to the state board. The fees shall be collected from the holders of permits for sources which emitted 500 tons per year or more of either sulfur oxides or nitrogen oxides from January 1, 1988 through December 31, 1988. The fees collected shall be in addition to permit and other fees already authorized to be collected from such sources. The fee to be charged shall be seven dollars and seventy-six cents (\$7.76) per ton of sulfur oxides or nitrogen oxides emitted for the pollutant or pollutants emitted at the 500 ton per year or more level. With respect to sources identified by the state board on or before March 5, 1990, as having emitted 500 tons per year or more of sulfur oxides or nitrogen oxides during the period from January 1, 1988 through December 31, 1988, the amount of emissions as determined by the executive officer of the state board on November 28, 1990 shall be used to determine compliance with the fee requirements of this subsection.

- (1) Bay Area Air Quality Management District: four hundred fifteen thousand nine hundred thirty-six dollars (\$415,936);
- (2) Fresno County Air Pollution Control District: twenty-nine thousand three hundred forty-one dollars (\$29,341);

- (3) Imperial County Air Pollution Control District: six thousand two hundred sixty-two dollars (\$6,262);
- (4) Kern County Air Pollution Control District: three hundred thirty-three thousand two hundred sixty-nine dollars (\$333,269);
- (5) Kings County Air Pollution Control District: five thousand two hundred eighty-five dollars (\$5,285);
- (6) Monterey Bay Unified Air Pollution Control District: ninety-two thousand three hundred seventy-five dollars (\$92,375);
- (7) North Coast Unified Air Quality Management District: twenty-seven thousand nine hundred thirty-six dollars (\$27,936);
- (8) Sacramento Metropolitan Air Quality Management District: four thousand three hundred twenty-two dollars (\$4,322);
- (9) San Bernardino County Air Pollution Control District: two hundred two thousand three hundred eighty-nine dollars (\$202,389);
- (10) San Diego County Air Pollution Control District: forty-two thousand nine hundred ninety-eight dollars (\$42,998);
- (11) San Joaquin County Air Pollution Control District: twenty-nine thousand six hundred seventy-four dollars (\$29,674);
- (12) San Luis Obispo County Air Pollution Control District: eighty-eight thousand one hundred fifteen dollars (\$88,115);
- (13) Santa Barbara County Air Pollution Control District: eleven thousand four hundred thirty dollars (\$11,430);
- (14) Shasta County Air Pollution Control District: ten thousand six hundred eighty-six dollars (\$10,686);
- (15) South Coast Air Quality Management District: three hundred seven thousand one hundred eighty-seven dollars (\$307,187);
- (16) Stanislaus County Air Pollution Control District: eight thousand seven hundred sixty-nine dollars (\$8,769); and
- (17) Ventura County Air Pollution Control District: thirty-four thousand three hundred seventy-seven dollars (\$34,377).

(b) In addition to the fees specified in subsection (a) above, a district shall, for any source identified after November 28, 1990 as having emitted 500 tons per year or more of sulfur oxides or nitrogen oxides during the period from January 1, 1988 through December 31, 1988, transmit to the state board seven dollars seventy-six cents (\$7.76) per ton of such pollutant.

Note: Authority cited: Sections 39600, 39601, 39904 and 39906, Health and Safety Code. Reference: Sections 39002, 39500, 39600, and 39904-39910, Health and Safety Code.

90621.2 Fee Requirements for Fiscal Year 1991-92.

(a) No later than 180 days after the operative date of this section, each district identified in this section shall transmit the amount specified below to the state board. The fees shall be collected from the holders of permits for sources which emitted 500 tons per year or more of either sulfur oxides or nitrogen oxides from January 1, 1989 through December 31, 1989. The fees collected shall be in addition to permit and other fees already authorized to be collected from such sources. The fee to be charged shall be seven dollars and eighteen cents (\$7.18) per ton of sulfur oxides or nitrogen oxides emitted for the pollutant or pollutants emitted at the 500 ton per

year or more level. With respect to sources identified by the state board on or before January 31, 1991, as having emitted 500 tons per year or more of sulfur oxides or nitrogen oxides during the period from January 1, 1989 through December 31, 1989, the amount of emissions as determined by the executive officer of the state board on April 11, 1991 shall be used to determine compliance with the fee requirements of this subsection.

(1) Bay Area Air Quality Management District: three hundred eighty-three thousand seven hundred seventy-one dollars (\$383,771);

(2) Imperial County Air Pollution Control District: nine thousand fifty-four dollars (\$9,054);

(3) Kern County Air Pollution Control District (SEDAB); forty-two thousand five hundred thirteen dollars (\$42,513);

(4) Monterey Bay Unified Air Pollution Control District: seventy-four thousand six hundred seventy-three dollars (\$74,673);

(5) North Coast Unified Air Quality Management District: twenty-one thousand eighty-one dollars (\$21,081);

(6) Sacramento Metropolitan Air Quality Management District: three thousand seven hundred thirty-four dollars (\$3,734);

(7) San Bernardino County Air Pollution Control District: one hundred eighty thousand seven hundred twenty-nine (\$180,729);

(8) San Diego County Air Pollution Control District: forty-five thousand two hundred thirty-five (\$45,235);

(9) San Joaquin Valley Unified Air Pollution Control District:

Fresno County Zone: forty-six thousand five hundred forty-one dollars (\$46,541);

Kern County Zone: two hundred sixteen thousand two hundred eleven dollars (\$216,211);

Kings County Zone: six thousand one hundred thirty-two dollars (\$6,132);

Madera County Zone: five thousand three hundred thirteen dollars (\$5,313);

San Joaquin County Zone: twenty-four thousand one hundred forty-seven dollars (\$24,147);

Stanislaus County Zone: eight thousand five hundred sixty-six dollars (\$8,566);

(10) San Luis Obispo County Air Pollution Control District: seventy-six thousand seven hundred thirty-nine dollars (\$76,739);

(11) Santa Barbara County Air Pollution Control District: ten thousand three hundred three dollars (\$10,303);

(12) Shasta County Air Pollution Control District: four thousand eight hundred twenty-five dollars (\$4,825);

(13) South Coast Air Quality Management District: three hundred twelve thousand five hundred eighty-two (\$312,582); and

(14) Ventura County Air Pollution Control District: twenty-seven thousand four hundred twenty dollars (\$27,420);

(b) In addition to the fees specified in subsection (a) above, a district shall, for any source identified after January 31, 1991 as having emitted 500 tons per year or more of sulfur oxides or nitrogen oxides during the period from January 1, 1989 through December 31, 1989, transmit to the

state board seven dollars and eighteen cents (\$7.18) per ton of such pollutant.

Note: Authority cited: Sections 39600, 39601, 39904 and 39906, Health and Safety Code. Reference: Sections 39002, 39500, 39600, and 39904-39910, Health and Safety Code.

90621.3 Fee Requirements for Fiscal Year 1992-93.

(a) No later than 180 days after the operative date of this section, each district identified in this section shall transmit the amount specified below to the state board. The fees shall be collected from the holders of permits for sources which emitted 500 tons per year or more of either sulfur oxides or nitrogen oxides from January 1, 1990 through December 31, 1990. The fees collected shall be in addition to permit and other fees already authorized to be collected from such sources. The fee to be charged shall be eight dollars and twenty-three cents (\$8.23) per ton of sulfur oxides or nitrogen oxides emitted for the pollutant or pollutants emitted at the 500 ton per year or more level. With respect to sources identified by the state board on or before April 9, 1992, as having emitted 500 tons per year or more of sulfur oxides or nitrogen oxides during the period from January 1, 1990 through December 31, 1990, the amount of emissions as determined by the executive officer of the state board on April 9, 1992 shall be used to determine compliance with the fee requirements of this subsection.

- (1) Bay Area Air Quality Management District: three hundred ninety-seven thousand fifty-seven dollars (\$397,057);
- (2) Imperial County Air Pollution Control District: sixteen thousand nine hundred four dollars (\$16,904);
- (3) Kern County Air Pollution Control District (SEDAB): fifty-nine thousand seventy-four dollars (\$59,074);
- (4) Monterey Bay Unified Air Pollution Control District: seventy-five thousand six hundred eighteen dollars (\$75,618);
- (5) North Coast Unified Air Quality Management District: seventeen thousand two hundred forty-two dollars (\$17,242);
- (6) San Bernardino County Air Pollution Control District: two hundred ten thousand sixty-four dollars (\$210,064);
- (7) San Diego County Air Pollution Control District: thirty-six thousand nine hundred four dollars (\$36,904);
- (8) San Joaquin Valley Unified Air Pollution Control District:
 - Fresno County Zone: Fifty-one thousand nine hundred ninety dollars (\$51,990);
 - Kern County Zone: two hundred forty-nine thousand two hundred eighty-six dollars (\$249,286);
 - Kings County Zone: ten thousand one hundred ninety-seven dollars (\$10,197);
 - Madera County Zone: six thousand seven hundred forty-nine dollars (\$6,749);
 - San Joaquin County Zone: twenty-four thousand eight hundred sixty-three dollars (\$24,863);
 - Stanislaus County Zone: eight thousand ninety dollars (\$8,090).
- (9) San Luis Obispo County Air Pollution Control District: seventy-one thousand five hundred thirty-five dollars (\$71,535);

(10) South Coast Air Quality Management District: two hundred forty-three thousand seven hundred sixty-three dollars (\$243,763); and

(11) Ventura County Air Pollution Control District: seventeen thousand six hundred twenty-one dollars (\$17,621).

(b) In addition to the fees specified in subsection (a) above, a district shall, for any source identified after April 9, 1992 as having emitted 500 tons per year or more of sulfur oxides or nitrogen oxides during the period from January 1, 1990 through December 31, 1990, transmit to the state board eight dollars and twenty-three cents (\$8.23) per ton of such pollutant.

Note: Authority cited: Sections 39600, 39601, 39904 and 39906, Health and Safety Code. Reference: Sections 39002, 39500, 39600, and 39904-39910, Health and Safety Code.

90621.4 Fee Requirements for Fiscal Year 1993-94.

(a) No later than 180 days after the operative date of this section, each district identified in this section shall transmit the amount specified below to the state board. The fees shall be collected from the holders of permits for sources which emitted 500 tons per year or more of either sulfur oxides or nitrogen oxides from January 1, 1991 through December 31, 1991. The fees collected shall be in addition to permit and other fees already authorized to be collected from such sources. The fee to be charged shall be eight dollars and three cents (\$8.03) per ton of sulfur oxides or nitrogen oxides emitted for the pollutant or pollutants emitted at the 500 ton per year or more level. With respect to sources identified by the state board on or before April 8, 1993, as having emitted 500 tons per year or more of sulfur oxides or nitrogen oxides during the period from January 1, 1991 through December 31, 1991, the amount of emissions as determined by the executive officer of the state board on April 8, 1993 shall be used to determine compliance with the fee requirements of this subsection.

(1) Bay Area Air Quality Management District: three hundred eighty-six thousand six hundred eighty-four dollars (\$386,684);

(2) Imperial County Air Pollution Control District: ten thousand four hundred thirty-one dollars (\$10,431);

(3) Kern County Air Pollution Control District (SEDAB): thirty-five thousand eight hundred forty-six dollars (\$35,846);

(4) Monterey Bay Unified Air Pollution Control District: forty-eight thousand three dollars (\$48,003);

(5) North Coast Unified Air Quality Management District: eight thousand three hundred forty-four dollars (\$8,344);

(6) San Bernardino County Air Pollution Control District: one hundred eighty-two thousand eight hundred forty-two dollars (\$182,842);

(7) San Diego County Air Pollution Control District: twenty-six thousand two hundred seventy-four dollars (\$26,274);

(8) San Joaquin Valley Unified Air Pollution Control District: two hundred ninety thousand four hundred six dollars (\$290,406);

(9) San Luis Obispo County Air Pollution Control District: sixty thousand four hundred forty-one dollars (\$60,441);

(10) South Coast Air Quality Management District: two hundred seven thousand one hundred eighty-three dollars (\$207,183); and

(11) Ventura County Air Pollution Control District: twelve thousand one hundred ninety-eight dollars (\$12,198).

(b) In addition to the fees specified in subsection (a) above, a district shall, for any source identified after April 8, 1993 as having emitted 500 tons per year or more of sulfur oxides or nitrogen oxides during the period from January 1, 1991 through December 31, 1991, transmit to the state board eight dollars and three cents (\$8.03) per ton of such pollutant.

Note: Authority cited: Sections 39600, 39601, 39904 and 39906, Health and Safety Code. Reference: Sections 39002, 39500, 39600, and 39904-39910, Health and Safety Code.

90622. Fee Payment and Collection.

(a) To pay for the administrative costs of collecting the fees required by this article, each district may collect additional fees in an amount equal to the costs incurred by the district in establishing the program, and collecting and transmitting the fees. These fees to cover districts' administrative costs shall be in addition to the fees collected by each district for transmittal to the state board as specified in this article. Each district shall submit to the state board, within 30 days of request, documentation to substantiate such administrative costs.

(b) Each district shall submit to the state board, within 30 days of request, information relating to the assessed total tons of nitrogen oxides and sulfur oxides, the amount of fees per pollutant from each major nonvehicular source, and the additional fees charged by the district as its administrative costs.

(c) Each district shall notify and assess the operator of each facility subject to the permit fees, as provided for in these regulations, in writing of the fee due. The fee shall be past due 60 days after receipt by the operator of the fee assessment notice.

(d) Each district shall assess an additional fee, to be paid to the district, on operators failing to pay the fee within 60 days of receipt of the fee assessment notice. The district shall set the late fee in an amount sufficient to pay the district's additional expenses incurred by the operator's untimely payment.

(e) Any fees submitted to the state which exceed costs to the state of additional state programs authorized or required by the Atmospheric Acidity Protection Act related to nonvehicular sources, shall be carried over by the state for expenditure for these purposes.

Note: Authority cited: Sections 39600, 39601, 39904 and 39906, Health and Safety Code. Reference: Sections 39002, 39500, 39600, and 39904-39910, Health and Safety Code.

90623. Exemption.

In the event that any district is unable to collect the acid deposition fees assessed pursuant to district rules and regulations from any source due to circumstances beyond the control of the district, including but not limited to plant closure or refusal of the source owner or operator to pay despite permit revocation and/or other enforcement action, such district shall notify the executive officer of the state board, and for demonstrated good cause may be relieved, on a prorated basis, from that portion of the fee collection requirement for the district, as set forth in this article. Nothing herein shall relieve the owner or operator from any legal obligation to pay any fees assessed pursuant to district rules and regulations.

Note: Authority cited: Sections 39600, 39601, 39904 and 39906, Health and Safety Code. Reference: Sections 39002, 39500, 39600, and 39904-39910, Health and Safety Code.

AIR RESOURCES BOARD

2020 L STREET
P.O. BOX 2815
SACRAMENTO, CA 95812



January 19, 1993

Public Consultation Meeting:
California Clean Air Act and Atmospheric Acidity Protection Act
Fee Regulations

The staff of the Air Resources Board (ARB) will be holding a public consultation meeting concerning regulations which are being proposed to implement fee provisions of the California Clean Air Act (CCAA) and the Atmospheric Acidity Protection Act (AAPA) for fiscal year 1993-94. The fee provisions of the CCAA and AAPA give the ARB the authority to require air pollution control and air quality management districts to impose additional permit fees on nonvehicular sources within their jurisdictions. We expect that the proposed regulations will be very similar to those approved for the first four years of the program.

The amendments we will propose will be based on the best estimate of emissions during calendar year 1991 from facilities subject to the fees. It is crucial that both districts and affected sources make every effort to ensure that the emissions data to be used for the fee regulations are as accurate as possible. Failure to provide accurate emissions information within the rulemaking process is not an adequate justification for the districts or affected sources to decrease the invoice amount to be paid to the state once the fee regulations have been adopted.

District staff and representatives from facilities that have been identified as being potentially subject to the proposed regulations are invited to participate in the meeting.

The public consultation meeting will be held at the time and place listed below:

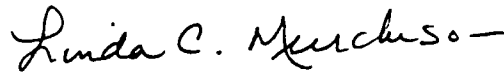
Date: February 4, 1993
Time: 10:00 a.m.
Place: Air Resources Board
2nd Floor Conference Room
2020 L Street
Sacramento, California

This meeting will be conducted by the staffs of the ARB's Technical Support Division and Research Division. Comments received at the consultation meeting will be used to assist the ARB staff in preparing the proposals for consideration by the Board. The proposals are scheduled for consideration at the Board's April 1993 meeting.

January 19, 1993

If you have any questions regarding the CCAA fee regulations, please contact Andy Delao of the ARB's Technical Support Division at (916) 324-7169. Questions regarding the AAPA fee regulations should be directed to Noni Weir of the ARB's Research Division at (916) 324-6696.

Sincerely,

A handwritten signature in cursive script that reads "Linda C. Murchison".

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

cc: Andy Delao
Noni Weir

ATTACHMENT D

**FACILITIES AND EMISSIONS SUBJECT TO THE PROPOSED
FEE REGULATIONS**

ATTACHMENT D

JANUARY 29, 1993

EMISSIONS OF NONATTAINMENT
POLLUTANTS OR PRECURSORS
TONS PER YEAR IN 1991

FACILITY NAME	ROG	NOX	SOX	PM10	CO
OWENS-BROCKWAY GLASS FACILITY ID 30 OAKLAND		870			
NEW UNITED MOTOR MANUFACTURING FACILITY ID 1438 FREMONT	1230				
CHEVRON USA, INC. FACILITY ID 10 RICHMOND	3920	3910	1150		
SHELL OIL CO. FACILITY ID 11 MARTINEZ	2040	5038	2321		
PG & E FACILITY ID 12 PITTSBURG		4594			
TOSCO CORP. FACILITY ID 13 MARTINEZ	2670	3590	5380		
UNOCAL CORP. FACILITY ID 16 RODEO	990	1640	670		
PG & E FACILITY ID 18 ANTIOCH		2608			
UNION CHEMICALS FACILITY ID 22 RODEO		614	1650		

DISTRICT

BAY AREA

EMISSIONS OF NONATTAINMENT
POLLUTANTS OR PRECURSORS
TONS PER YEAR IN 1991

DISTRICT	FACILITY NAME	ROG	NOx	SOx	PM10	CO
BAY AREA (CONT.)						
	DOW CHEMICAL CO. FACILITY ID 31 PITTSBURG		784			
	GAYLORD CONTAINER CORP. FACILITY ID 3257 ANTIOCH		561			
	PG & E, EVANS AVE. FACILITY ID 24 SAN FRANCISCO		1147			
	PG & E, ILLINOIS ST. FACILITY ID 26 SAN FRANCISCO		1234			
	KAISER CEMENT & GYPSUM FACILITY ID 17 CUPERTINO		1614			
	EXXON CORP. FACILITY ID 15 BENICIA	1330	3160	5620		
TOTAL BAY AREA		12180	31364	16791		

EMISSIONS OF NONATTAINMENT
POLLUTANTS OR PRECURSORS
TONS PER YEAR IN 1991

DISTRICT	FACILITY NAME	ROG	NOx	SOx	PM10	CO
IMPERIAL	IMPERIAL IRRIG. DIST. FACILITY ID 15 EL CENTRO		690			
	GOLD FIELDS CO. MESQUITE FACILITY ID 46 BRAWLEY		609		720	
TOTAL IMPERIAL			1299		720	

EMISSIONS OF NONATTAINMENT
POLLUTANTS OR PRECURSORS
TONS PER YEAR IN 1991

DISTRICT	FACILITY NAME	ROG	NOx	SOx	PM10	CO
KERN (SEDAB)	CAL PORTLAND CEMENT FACILITY ID 9 MOJAVE		1452		1700	
	CALAVERAS CEMENT CO. FACILITY ID 20 MONOLITH		706		1125	
	NATIONAL CEMENT CO. FACILITY ID 21 LEBEC		1349		1661	
	U.S. BOROX FACILITY ID 28 BORON		957			
TOTAL KERN (SEDAB)			4464		4486	

DISTRICT	FACILITY NAME	EMISSIONS OF NONATTAINMENT POLLUTANTS OR PRECURSORS TONS PER YEAR IN 1991				
		ROG	NOx	SOx	PM10	CO
MONTEREY	NATIONAL REFRACTORIES AND MINERALS FACILITY ID 13		571			
	MOSS LANDING					
	PG & E FACILITY ID 25		4579			
	MOSS LANDING					
	LONE STAR IND CEMENT FACILITY ID 11		828			
	DAVENPORT					
			5978			
TOTAL MONTEREY						

DISTRICT	FACILITY NAME	EMISSIONS OF NONATTAINMENT POLLUTANTS OR PRECURSORS TONS PER YEAR IN 1991				
		ROG	NOx	SOx	PM10	CO
NO. COAST	SIMPSON PAPER CO. FACILITY ID 21		517		720	
	FAIRHAVEN					
	LOUISIANA-PACIFIC FACILITY ID 37		522			
	SAMOA		1039			
					720	
TOTAL NO. COAST						

		EMISSIONS OF NONATTAINMENT POLLUTANTS OR PRECURSORS TONS PER YEAR IN 1991				
DISTRICT	FACILITY NAME	ROG	NOx	SOx	PM10	CO
SACRAMENTO	BLUE DIAMOND GROWERS FACILITY ID 67 SACRAMENTO					5965
TOTAL SACRAMENTO						5965

		EMISSIONS OF NONATTAINMENT POLLUTANTS OR PRECURSORS TONS PER YEAR IN 1991				
DISTRICT	FACILITY NAME	ROG	NOx	SOx	PM10	CO
SAN BERNARDINO	MITSUBISHI CEMENT FAC. ID 700000001 LUCERNE VALLEY		2953			
	NORTH AMERICAN CHEMICAL FAC. ID 700000002 TRONA		2100			
	RIVERSIDE CEMENT CO. FAC. ID 700000003 ORO GRANDE		3174			
	SO. CAL. EDISON-COOLWATER FAC. ID 700000004 DAGGETT			634		
	S'WESTERN PTLD CEMENT FAC. ID 700000005 VICTORVILLE		2978			

DISTRICT SAN BERNARDINO (CONT.)	FACILITY NAME	ROG	NOX	SOX	PM10	CO
	AFG INDUSTRIES, INC. FAC. ID 700000935 VICTORVILLE		748			
	SO. CAL. GAS FAC. ID 700000065 NEWBERRY SPRINGS		1533			
	SO. CAL. GAS HWY 95 FAC. ID 700000068 SOUTH NEEDLES		1736			
	SO. CAL. GAS RIVER RD. FAC. ID 700000069 NORTH NEEDLES		932			
	PG & E FAC. ID 700000035 HINKLEY		3466			
	PG & E FAC. ID 700000039 NEEDLES		2516			
	TOTAL SAN BERNARDINO		22770			

DISTRICT	FACILITY NAME	EMISSIONS OF NONATTAINMENT POLLUTANTS OR PRECURSORS TONS PER YEAR IN 1991				
		ROG	NOx	SOx	PM10	CO
SAN DIEGO	SDG & E CO. FACILITY ID 72 CHULA VISTA		1776			
	SDG & E CO. FACILITY ID 73 CARLSBAD		1496			
	KELCO-DIV, MERCK & CO. FACILITY ID 118 SAN DIEGO	2687				
	TOTAL SAN DIEGO	2687	3272			

DISTRICT	FACILITY NAME	EMISSIONS OF NONATTAINMENT POLLUTANTS OR PRECURSORS TONS PER YEAR IN 1991				
		ROG	NOx	SOx	PM10	CO
SAN JOAQUIN UNIFIED: FRESNO	UNION OIL CO. FACILITY ID 68 COALINGA		2616			
	CHEVRON USA FACILITY ID 71 COALINGA		996	820		
	GUARDIAN INDUSTRIES FACILITY ID 77 KINGSBURG		838	622		
	TOTAL FRESNO		4450	1442		

DISTRICT	FACILITY NAME	EMISSIONS OF NONATTAINMENT POLLUTANTS OR PRECURSORS TONS PER YEAR IN 1991				
		ROG	NOx	SOx	PM10	CO
SAN JOAQUIN UNIFIED: KERN	TEXACO REFINING & MKTG FACILITY ID 19 BAKERSFIELD		1364	930		
	SANTA FE ENERGY FACILITY ID 211 BAKERSFIELD		1560	2764		

EMISSIONS OF NONATTAINMENT
POLLUTANTS OR PRECURSORS
TONS PER YEAR IN 1991

FACILITY NAME	ROG	NOx	SOx	PM10	CO
MOBIL OIL CORP. FACILITY ID 247 BAKERSFIELD	1337	942			
CHEVRON USA, INC. FACILITY ID 257 BAKERSFIELD		1424			
ARCO OIL AND GAS CO. FACILITY ID 201 WESTERN DISTRICT		2688			
SWEPI- WEST COAST DIV. FACILITY ID 331 BAKERSFIELD		622			
BELRIDGE NAT. GAS PLANT FACILITY ID 390 BAKERSFIELD		862			
CHEVRON USA, INC. FACILITY ID 395 TAFT		1625			
SHELL KERNRIDGE FACILITY ID 204 MISSOURI TRIANGLE		2699			
KERN RIVER COGEN FACILITY ID 496 OILDALE		2088			
ELK HILLS GAS PLANTS FACILITY ID 419	1742	1993			
ELK HILLS PRODUCTION FACILITY ID 441 TUPMAN		905			

DISTRICT

SAN JOAQUIN
UNIFIED:

KERN (CONT.)

EMISSIONS OF NONATTAINMENT
POLLUTANTS OR PRECURSORS
TONS PER YEAR IN 1991

DISTRICT	FACILITY NAME	EMISSIONS OF NONATTAINMENT POLLUTANTS OR PRECURSORS TONS PER YEAR IN 1991				
		ROG	NOX	SOX	PM10	CO
SAN JOAQUIN UNIFIED: KERN (CONT.)	SYCAMORE COGEN CO. FACILITY ID 497 OILDALE		2367			
	TEXACO WEST FACILITY ID 332 MCKITTRICK		692			
	TOTAL KERN	3079	21831	3694		

EMISSIONS OF NONATTAINMENT
POLLUTANTS OR PRECURSORS
TONS PER YEAR IN 1991

DISTRICT	FACILITY NAME	EMISSIONS OF NONATTAINMENT POLLUTANTS OR PRECURSORS TONS PER YEAR IN 1991				
		ROG	NOX	SOX	PM10	CO
SAN JOAQUIN UNIFIED: KINGS	PG & E FACILITY ID 63 AVENAL		1239			
	TOTAL KINGS		1239			

DISTRICT	EMISSIONS OF NONATTAINMENT POLLUTANTS OR PRECURSORS TONS PER YEAR IN 1991				
	FACILITY NAME	ROG	NOx	SOx	PM10
SAN JOAQUIN UNIFIED:					
MADERA	MADERA GLASS CO. FACILITY ID 18 MADERA		855		
TOTAL MADERA			855		

DISTRICT	EMISSIONS OF NONATTAINMENT POLLUTANTS OR PRECURSORS TONS PER YEAR IN 1991				
	FACILITY NAME	ROG	NOx	SOx	PM10 CO
SAN JOAQUIN UNIFIED:					
SAN JOAQUIN	LIBBEY OWENS FORD FACILITY ID 8 LATHROP		768		
	OWENS ILLINOIS FACILITY ID 17 TRACY		716		
TOTAL SAN JOAQUIN			1484		

DISTRICT	FACILITY NAME	EMISSIONS OF NONATTAINMENT POLLUTANTS OR PRECURSORS TONS PER YEAR IN 1991			
		ROG	NOX	SOX	PM10 CO
SAN JOAQUIN UNIFIED:					
STANISLAUS	GALLO GLASS CO. FACILITY ID 9 MODESTO		1170		
TOTAL STANISLAUS			1170		
TOTAL SAN JOAQUIN VALLEY UNIFIED		3079	31029	5136	

DISTRICT	FACILITY NAME	EMISSIONS OF NONATTAINMENT POLLUTANTS OR PRECURSORS TONS PER YEAR IN 1991			
		ROG	NOX	SOX	PM10 CO
SAN LUIS OBISPO	UNOCAL CHEMICAL FACILITY ID 4 ARROYO GRANDE			3247	
	PG & E FACILITY ID 8 MORRO BAY		3439		
	UNOCAL SMR FACILITY ID 13 ARROYO GRANDE			841	
TOTAL SAN LUIS OBISPO			3439	4088	

DISTRICT	FACILITY NAME	EMISSIONS OF NONATTAINMENT POLLUTANTS OR PRECURSORS TONS PER YEAR IN 1991				
		ROG	NOx	SOx	PM10	CO
SOUTH COAST	OWENS-ILLINOIS FAC. ID 7427 VERNON		672			
	SO CAL. EDISON FAC. ID 14052 REDONDO BEACH		1196			
	DELTA AIRLINES FAC. ID 74795 LOS ANGELES					565
	SO. CAL. GAS FAC. ID 18869 BLYTHE		2319			
	ARCO UNIT NO. 1 FAC. ID 800012 CARSON	1702	1866	1929	633	
	CHEVRON USA, UNIT N FAC. ID 800030 EL SEGUNDO	2189	2497	845	649	1952
	LA DEPT WATER & POWER FAC. ID 800074 LONG BEACH		800			
	MOBIL OIL FAC. ID 800089 TORRANCE		2172	594		
	SHELL OIL FAC. ID 800115 CARSON	937	1838	837		
	SO. CAL. EDISON FAC. ID 800125 LONG BEACH		1001			

DISTRICT	FACILITY NAME	EMISSIONS OF NONATTAINMENT POLLUTANTS OR PRECURSORS TONS PER YEAR IN 1991				
		ROG	NOX	SOX	PM10	CO
SOUTH COAST (CONT.)	UNION OIL CO. FAC. ID 800144 WILMINGTON		1671	517		
	GOLDEN WEST REFINERY FAC. ID 800184 SANTA FE SPRINGS	503	519			
	TEXACO FAC. ID 800223 WILMINGTON	1233	1611	620		
	ORANGE CO. SANITATION FAC. ID 29110 HUNTINGTON BEACH					1045
	CAL PORTLAND CEMENT FAC. ID 800181 COLTON		1025			
	SO. CAL. EDISON FAC. ID 800126 HUNTINGTON BEACH		529			
	DOUGLAS AIRCRAFT FAC. ID 800038 LONG BEACH					777
	MCP FOODS, INC. FAC. ID 2825 ANAHEIM	562				
	C.W. POSS INC. FAC. ID 72890		743			
	ULTRAMAR REFINING FAC. ID 800026 WILMINGTON	777				
		7903	20459	5342	1282	4339
	TOTAL SOUTH COAST					

		EMISSIONS OF NONATTAINMENT POLLUTANTS OR PRECURSORS TONS PER YEAR IN 1991				
DISTRICT	FACILITY NAME	ROG	NOx	SOx	PM10	CO
VENTURA	SCE MANDALAY GEN STATION FACILITY ID 13 OXNARD		796			
	SCE - ORMOND BEACH GEN STATION FACILITY ID 65 OXNARD		723			
TOTAL VENTURA			1519			

ATTACHMENT E

**CALIFORNIA BUSINESS IMPACTS OF PERMIT FEE REGULATIONS
FOR NONVEHICULAR SOURCES**

CALIFORNIA BUSINESS IMPACTS OF PERMIT FEE REGULATIONS FOR NONVEHICULAR SOURCES

Introduction

This section evaluates the potential cumulative economic impact of the fee regulations pursuant to the California Clean Air Act (CCAA) for nonvehicular sources and the Atmospheric Acidity Protection Act (AAPA) on business enterprises in California. A recent amendment to Section 11346.53 of the Government Code requires that, in proposing to adopt or amend any administrative regulation, state agencies shall assess the potential for adverse economic impact on California business enterprises and individuals.

Our impact evaluation is based on a comparison of the return on owner's equity (ROE) for affected businesses before and after the inclusion of the cumulative fees. The results are intended to provide an indication of the potential economic impact of the fee regulations on businesses in California.

Affected Businesses

All permitted facilities which are located in nonattainment areas and identified as having emitted 500 tons or more per year of any nonattainment pollutant or its precursors in 1991 are affected by the CCAA nonvehicular source fees. The affected facilities which also emit 500 tons or more per year of either sulfur oxides or nitrogen oxides are subject to additional fees authorized by the Atmospheric Acidity Protection Act. Table E-1 provides a list of industries with affected businesses.

Table E-1

List of Industries with Affected Businesses

<u>SIC CODE</u>	<u>INDUSTRY</u>
1041	Gold Ores
1311	Crude Petroleum and Natural Gas
1321	Natural Gas Liquids
1474	Potash, Soda, and Borate Minerals
2033	Canned Fruits, Vegetables, Preserves, Jams, and Jellies
2065	Candy and Other Confectionery Products
2611	Pulp Mills
2631	Paperboard Mills
2812	Alkalies and Chlorine
2819	Industrial Inorganic Chemicals, Not Elsewhere Classified
2833	Medicinal Chemicals and Botanical Products
2911	Petroleum Refining
2999	Products of Petroleum and Coal, Not Elsewhere Classified
3211	Flat Glass
3221	Glass Containers
3241	Cement, Hydraulic
3297	Nonclay Refractories
3711	Motor Vehicles and Passenger Car Bodies
3721	Aircraft
3761	Guided Missiles and Space Vehicles
4511	Certified Air Transportation
4911	Electric Services
4922	Natural Gas Transmission
4923	Natural Gas Transmission and Distribution
4924	Natural Gas Distribution
4931	Electric and Other Services Combined
7996	Amusement Parks
9511	Air and Water Resource and Solid Waste Management

Study Approach

The approach used in evaluating the potential economic impact of the proposed fee regulations on California businesses is as follows:

- (1) All affected facilities are identified from responses to the ARB's 1991 emission inventory list. Standard Industrial Classification (SIC) codes reported by these businesses are listed in Table E-1.
- (2) Annual permit fees for the CCAA and AAPA programs are estimated for each of these facilities based on the fee rates adopted by the Board for fiscal year 1992-93. A business might own several facilities.
- (3) The total annual permit fee for each business is adjusted for both federal and state taxes.
- (4) These adjusted fees are subtracted from net profit data and the results used to calculate the Return on Owners' Equity (ROE). The resulting ROE is 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.

Assumptions

Financial data for 1991 were not available for all affected businesses. For an estimated 54 affected businesses, we only had financial data for 25. Using these financial data, the ROEs before and after the subtraction of the adjusted fees were calculated for those 25 businesses. The calculation was based on the following assumptions:

- (1) All affected businesses are subject to federal and state tax rates of 34 percent and 9.3 percent respectively.
- (2) Affected businesses do not increase the prices of their products or lower their costs of doing business through cost-cutting measures.

These assumptions, though reasonable, might not be applicable to all affected businesses.

Potential Impact On Business

California businesses are affected by the proposed fee regulations to the extent that the implementation of the proposed fees reduces their profitability. Using ROE to measure profitability, we found that the average ROE for all the affected businesses for which we had financial data declined by less than 0.1 percent from an average of 42.20 percent to 42.19 percent. This represents a minuscule decline in the average profitability of the affected businesses.

All businesses, however, will not be affected equally by the proposed fee regulations. For the 25 businesses for which we had financial data, the reduction in profitability ranged from a low of less than 0.001 percent to a high of about 1 percent. This variation in the impact of the fee regulations can be attributed mainly to two factors. First, some businesses are subject to higher fees than others due to the type of industry in which they are involved, the number of facilities which they operate, and the type and number of their devices and emitting processes. For example, the estimated annual fees for businesses in the industries listed in Table E-1 range from a high of about \$200,000 to a low of about \$4,000 based on the estimated AAPA fee rate for 1993-94. Second, the performance of businesses may vary from year to year. Hence, the 1991 financial data used may not be representative of a typical-year performance for some businesses.

The potential impacts estimated here might be on the high side for the following reasons. First, because we used 1991 data, a generally a poor year for most businesses due to the nationwide recession, the impact of the regulation as estimated here is likely to be more severe than what it would be in a more typical 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 both.

Conclusion

Overall, all affected facilities are owned and operated by large businesses. These businesses would appear to be able to absorb the costs of the proposed fee regulations without a significant adverse impact on their profitability. Although some businesses would potentially experience a greater reduction in their profitability than others, the impact of the proposed fee regulations appears to be minor. Moreover, the actual cost impacts of the proposed control measure on the profitability of California businesses are most likely to be less than those estimated in this analysis for the reasons described above.