

Updated Informative Digest

In the Atmospheric Acidity Protection Act of 1988 (Health and Safety Code sections 39900-39912), the Legislature made a finding 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. The Legislature directed the Board 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 carry 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 of either sulfur oxides or nitrogen oxides. The total amount of funds collected from additional fees, exclusive of district costs, will be \$1,500,000 for any fiscal year or the amount appropriated from state funds by the Legislature for the AAPP, whichever is less.

During the first year of the program, the Board adopted sections 90620-90623, Title 17, CCR, establishing the Atmospheric Acidity Protection Act fee program including the fee rate and amounts to be remitted to the ARB by the districts. 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. In each subsequent year, 1990 through 1992, the Board amended the regulations to provide funding for fiscal years 1990-91 through 1992-93. The fees for the second through fourth years were based on emissions from calendar years 1988 through 1990, respectively.

New section 90621.4, Title 17, CCR, applies to fiscal year 1993-94. As with the fee regulations for the first four years, this section provides for the collection of emission fees by districts on a dollar-per-ton basis and the forwarding of collected fees to the ARB. The regulations specify that permit fees will be collected from sources that have 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 fees to be collected by districts are based upon emissions data for calendar year 1991, the most recent statewide emissions data available. The adopted regulations specify that emissions will be estimated from data as determined on or before April 8, 1993. The regulations also require the collection of fees from sources identified after April 8, 1993 as having emitted 500 tons or more per year of sulfur oxides or nitrogen oxides during 1991.

The specific dollar-per-ton value will be calculated by dividing the total amount to be collected, by the total estimated emissions of sulfur oxides and nitrogen oxides from sources emitting 500 tons or more per year of sulfur oxides or nitrogen oxides. The maximum amount of fees that will be collected for fiscal year 1993-94 is \$1,500,000. To assure collection of \$1,500,000 the fee rate was adjusted upward by ten percent the first four years, to avoid a

shortfall in collections as a result of nonpayment of assessed fees due to unanticipated closing of businesses or other reasons. Since the 1993-94 fees are for the final year of the program no adjustment was proposed; therefore, the Board approved deletion of section 90622(e) of the regulations that provided for carryover of excess funds to future year expenditures.

Existing regulations authorize districts to recover their administrative costs of collecting fees by adding to the fees an amount sufficient to cover those costs. As provided in Health and Safety Code section 39099 this additional fee amount is not included in the total fees subject to the maximum \$1,500,000 that may be collected.