

Updated Informative Digest

The Air Toxics "Hot Spots" Information and Assessment Act of 1987 (Act) (Health and Safety Code section 44300 et seq.) established a program to inventory air toxic emissions, to assess the potential risk to public health these emissions pose, and to notify the exposed public of potential significant health risks associated with the emissions from a facility. The Act specifies activities which must be carried out by the Air Resources Board (ARB), the Office of Environmental Health Hazard Assessment (OEHHA), and local air pollution control districts and air quality management districts (districts), to implement the Act.

In accordance with the Health and Safety Code section 44380, the ARB annually adopts a fee regulation to ensure that all costs incurred by the State in implementing the Hot Spots Program (Program) are defrayed by assessing fees on facilities subject to the requirements of the Act. Districts may request to have the ARB adopt fee schedules for them, provided they submit District Board approved Program costs to the ARB by April 1, prior to the applicable fiscal year. Other districts must adopt district fee rules to recover their portion of the State's cost and their district's cost of implementing the Program.

The Air Toxics "Hot Spots" Fee Regulation (Fee Regulation), including the List of Substances, was first adopted in 1988. The List of Substances is used to determine whether a facility is subject to the emission reporting and fee requirements of the Act. The ARB staff, in consultation with districts and the Fee Regulation Committee, annually prepares amendments to the Fee Regulation for the Board's consideration. These revisions have been necessary to ensure that the State's and districts' costs of implementing the Air Toxics "Hot Spots" Program will be recovered. Sections 90700-90705, Titles 17 and 26, California Code of Regulations (CCR), the Air Toxics "Hot Spots" Fee Regulation, and Appendices A and B to the Fee Regulation, are affected by adoption of these amendments.

At a public hearing on August 14, 1992 the ARB adopted Resolution 92-57, the Fee Regulation for fiscal year 1992-93. These amendments established facility fees for ten districts that met the criteria for ARB adoption of district Hot Spots fee schedules. The fiscal year 1992-93 Fee Regulation reflected changes in the State's and districts' costs to be recovered, changes in district preferences regarding the adoption of fees, and changes in the emission inventories which determine the applicability of the Act and set fees. No changes were made to the List of Substances.

The Act was amended in 1992 by Senate Bill 1378 (McCorquodale; Statutes of 1992, Chapter 375) and Senate Bill 1731 (Calderon; Statutes of 1992, Chapter 1162). Senate Bill 1378 requires that Hot Spots fees be based on toxic emissions and risk priority to the extent practicable. Senate Bill 1731 requires facilities, determined by the district to pose a potential

significant health risk, to audit their emissions and develop a plan to reduce their toxic emissions, within five years, below the significance level. Senate Bill 1731 also requires the OEHHA to develop new risk assessment guidelines and requires the ARB to provide assistance to smaller businesses that are required to reduce their toxic emissions below the level of significance.

In previous years, the State's cost of implementing the Program was divided among districts according to each district's contribution to a statewide criteria pollutant inventory. A flat cost was assessed for each ton of criteria pollutants emitted. This same approach was used to calculate facility fees for those districts included in the ARB's regulation.

Because a statewide, approved toxics emission inventory was not yet complete, we could not consider the option of basing fees solely on air toxic emissions for fiscal year 1993-94. To comply with Senate Bill 1378, the ARB staff developed a new basis for calculating the distribution of the State's cost based on facility risk priority. This same basis was used to calculate facility fees for the twelve districts which requested the ARB to adopt their fee schedules. Assessments to the districts to recover the State's cost and the calculation of facility fees were based on the number of facilities each district has in specific Hot Spots Program categories. Resource indexes relate costs to toxic emissions and were developed to account for risk priority, workload (facility complexity), and potential economic impact.

The amendments to the Air Toxics "Hot Spots" Fee Regulation for fiscal year 1993-94, approved by the Board at the July 8, 1993 hearing, are summarized below.

Recovery of the State's Cost: The amendments to the Fee Regulation updated the amount that each of the State's 34 districts must remit to the State to recover the reasonably anticipated costs of the ARB and the OEHHA to implement the Air Toxics Hot Spots Program for fiscal year 1993-94.

The State's Program budget for fiscal year 1993-94 is \$5,170,000. This amount is a reduction from the originally proposed budget of \$5,627,000, contained in the Governor's Budget for fiscal year 1993-94. The Governor's Budget included an increase of \$1,920,000 for implementation of Senate Bill 1731. In response to public comments and the State's current economic climate, Senate Bill 1731 expenditures were reduced by \$457,000. This budget reduction will slow planned Program activities, but the State is able to begin implementing the mandates of Senate Bill 1731. The State's cost represents a 49 percent increase, or \$1,698,000, over fiscal year 1992-93 expenditures. Of this increase, \$1,463,000 is due to implementation of Senate Bill 1731.

Methodology for Distribution of the State's Cost: Based on information supplied by the districts, the facilities in the State were separated into eleven categories according to Program requirements and the number of Source Classification Codes that define a facility's processes. The State's cost

was apportioned into Core Program and Risk Assessment costs. Each of these costs was distributed by dividing the cost by the weighted number of facilities, to determine a unit cost. This unit cost is the cost for the simplest facility. To calculate the State's cost in the other categories, the unit cost was multiplied by each resource index to arrive at a fixed cost for each category. This calculation was used for distributing both the State's core Program costs and the risk assessment costs. The cost for all facilities in a district were summed to determine each district's portion of the State's cost. All calculations for distributing the State's cost are explained further, with examples, in Appendix V of the Staff Report.

The Board directed the staff to update the facility counts and district costs, brought to the staff's attention, through the July 8, 1993 close of the public comment period. Tables 1-4 of the Fee Regulation include these facility updates.

District Fee Schedules: The amendments deleted fee schedules for Tehama and Shasta County Air Pollution Control Districts (APCDs). Tehama and Shasta County APCDs, as well as 20 other districts, are required by law to adopt district fee rules for fiscal year 1993-94. The amendments added fee schedules for the Calaveras, Placer, and Tuolumne County APCDs, and the Sacramento Air Quality Management District (AQMD). The Fee Regulation updated fee schedules for the following eight districts: the Kern, Lassen, Mendocino, and Santa Barbara County APCDs; the Great Basin and San Joaquin Valley Unified APCDs; the Mojave Desert (formerly the San Bernardino APCD) and the South Coast AQMD.

The methodology used to calculate facility fees, for the above twelve districts, was the same that was used to calculate the distribution of the State's cost. As in past years, an adjustment factor of five percent was added to each district's cost to be recovered before calculating facility fees. The same program categories were used but different resource indexes were applied. Each district's cost to be recovered was divided by the weighted number of district facilities to arrive at a unit cost for a Plan and Report (Simple) facility. This district unit cost was multiplied by the other program category indexes to arrive at a district cost per facility. Facility fees in Table 3 of the Fee Regulation are the sum of the district cost and state cost for each program category.

Table 4 of the Fee Regulation lists the facility fees, specified by each local district, for facilities emitting less than ten tons per year of any criteria pollutant. The Survey, (facilities required to complete a one-time survey of emissions), and the Industrywide facilities (facilities whose emission inventory was completed by the district as part of an industrywide emission inventory) will pay a fee between \$25 and \$250, as specified by their district.

District Fee Rule Adoption: Twenty-two districts chose to adopt district rules to recover their state and district Program costs in fiscal year 1993-94. These districts are the following: the Amador, Butte, Colusa,

El Dorado, Feather River, Glenn, Imperial, Lake, Mariposa, Modoc, San Diego, San Luis Obispo, Shasta, Siskiyou, Tehama, Ventura, and Yolo-Solano APCDs, the Monterey Bay Unified and Northern Sonoma Unified APCDs, and the Bay Area, North Coast Unified and the Northern Sierra AQMDs.

Supplemental Risk Assessment Fee: Senate Bill 1731 required the ARB to establish, in the Fee Regulation, a fee to recover costs of reviewing supplemental health risk assessment information. The State will not impose this fee for review of this information this year, but a fee of \$2,000 may be assessed by the districts to review this information.

Fee Waiver for Industrywide Facilities: A fee waiver provision was added for industrywide facilities for fiscal year 1993-94. An industrywide facility's fee shall be waived by the district, provided the facility has paid a Hot Spots fee once, and the district determines that there are insignificant costs with respect to the facility.

Small Business Facility Fee Cap: An amendment established a \$700 cap on fees for facilities, in any program category, that are defined as "small business". For calculating fees, a facility is a "small business" if the facility is independently owned and operated and has met the following criteria in the preceeding year: 1) the facility has 10 or fewer employees; 2) the facility's total annual gross receipts are less than \$1,000,000; and 3) the total annual gross receipts for the California operations of the business the facility is part of are less than \$5,000,000. All oil producers in the San Joaquin Valley Unified APCD will be judged by the criteria of the San Joaquin Valley Unified APCD Rule 2201, subsections 3.29.1-3.29.3 to determine overall facility size and boundaries for purposes of qualifying as a small business.

Annual Fee Rule Adoption: An amendment to the Fee Regulation deletes the requirement for annual adoption of a district fee rule, provided the rule is automatically readopted by operation of law, and provides for recovery of all state and district costs.

Deletion of the List of Substances: The List of Substances (Appendix A) was deleted and, instead, reference is made to the same list entitled "Substances To Be Inventoried" contained in Appendix A of the Emission Inventory Criteria and Guidelines Regulation (Title 17, CCR, sections 93300-93355).