State of California
AIR RESOURCES BOARD

STAFF REPORT

PUBLIC HEARING TO CONSIDER THE ADOPTION OF NEW SECTION 90800.6 AND AMENDMENTS TO SECTION 90803, TITLE 17, CALIFORNIA CODE OF REGULATIONS, REGARDING THE CALIFORNIA CLEAN AIR ACT NONVEHICULAR SOURCE FEE PROGRAM

Date of Release: March 10, 1995
Scheduled for Consideration: April 27, 1995

Prepared by:

Stationary Source Emission Inventory Branch
Technical Support Division

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.

ACKNOWLEDGMENTS

This report was prepared with the help of the staff from other divisions at the Air Resources Board. We particularly thank Artavia Edwards and Victoria Davis of the ARB's Office of Legal Affairs; Rich Bradley and Debora Popejoy of the ARB's Technical Support Division; Larry Morris of the ARB's Administrative Services Division; and Reza Mahdavi of the ARB's Research Division for their contributions.

Principal Author

Skip Campbell
Technical Support Division

Reviewed and Approved by

Terry McGuire, Chief, Technical Support Division
Gary Agid, Assistant Chief, Technical Support Division
Linda Murchison, Chief, Stationary Source Emission Inventory Branch
Dennis Goodenow, Manager, Emission Inventory Systems Section

TABLE OF CONTENTS

		Page
I.	INTRODUCTION AND BACKGROUND	1
II.	RECOMMENDATION	2
III.	RELATIONSHIP TO OTHER FEE PROGRAMS	3
IV.	DISCUSSION OF PROPOSED REGULATIONS	3
V.	POTENTIAL IMPACTS AND ISSUES	12

ATTACHMENTS

A. PROPOSED FEE REGULATIONS
B. SECTION 39612 OF THE HEALTH AND SAFETY CODE
C. NOTICE OF CONSULTATION MEETING
D. FACILITIES AND EMISSIONS SUBJECT TO THE PROPOSED FEE REGULATIONS
E. CALIFORNIA BUSINESS IMPACTS OF PERMIT FEE REGULATIONS FOR NONVEHICULAR SOURCES

State of California
AIR RESOURCES BOARD

Staff Report: Initial Statement of Reasons
for Proposed Rulemaking

PUBLIC HEARING TO CONSIDER THE ADOPTION OF PERMIT FEE REGULATIONS FOR NONVEHICULAR SOURCES PURSUANT TO THE CALIFORNIA CLEAN AIR ACT

Date of Release: March 10, 1995
Scheduled for Consideration: April 27, 1995

I. INTRODUCTION AND BACKGROUND

This report discusses a proposal of the staff of the Air Resources Board (ARB) to adopt a regulation that requires the air pollution control and air quality management districts to assess permit fees on nonvehicular sources of air pollution as authorized by the California Clean Air Act of 1988 (the "Act" or "CCAA", Stats. 1988, ch. 1568). The proposed regulation is contained in Attachment A to this report. Also in Attachment A is a proposed minor amendment to a support regulation.

Fees transmitted to the ARB will be used to help defray the costs to the ARB of implementing mandates of the Act related to nonvehicular sources during fiscal year 1995-96, the seventh year of the fee program. The fees are authorized by section 39612 of the Health and Safety Code (Attachment B).

At its June 9, 1989, meeting, the Board approved adoption of sections 90800-90803, Title 17, California Code of Regulations (CCR) for the first year of the program. These sections establish the CCAA Nonvehicular Source Fee Regulations, including the fee rate and the total amount to be remitted by each affected district for fiscal year 1989-90. The fees for the first year of the program were based on emissions for calendar year 1987.

The Board approved new and amended regulations at its May 1990, April 1991, April 1992, April 1993, and April 1994, meetings to provide continuing funding for fiscal years 1990-91, 1991-92, 1992-93, 1993-94, and 1994-95, respectively. The fees for the second, third, fourth, fifth, and sixth years of the program were based on emissions for calendar years 1988, 1989, 1990, 1991, and 1992, respectively.

To provide ongoing funding for the seventh year of the program, the staff recommends that the Board continue the existing permit fee program by adopting the proposed addition to the fee regulations to provide for the collection of fees for fiscal year 1995-96. The proposal, which is similar to regulations adopted by the Board for previous years of the fee program, was developed after consultation with affected districts and industries. A public consultation meeting was held on February 10, 1995. 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 the facilities emissions are listed in Attachment D.

The Act requires attainment of state ambient air quality standards by the earliest practicable date. As part of this mandate, the Act requires the ARB and the air pollution control and air quality management districts to take various actions to reduce air pollution from motor vehicles, industrial facilities, and other emission sources.

In order to recover some of the costs of the state programs required by the Act related to nonvehicular sources, the Act authorizes the Board to require the districts, beginning July 1, 1989, to collect additional permit fees for facilities which are located in designated nonattainment areas and which emit 500 tons or more per year of any nonattainment pollutant or its precursors from equipment authorized to operate by district permit.

The proposed fee amounts to be collected by districts for the seventh year of the program were calculated based on available emission data for calendar year 1993, which are the most recently available statewide emission data. Districts have established permit systems for nonvehicular sources of air pollution pursuant to Health and Safety Code sections 42300, 42301 and 42310.

The identification of nonattainment pollutants within each district for the purpose of this years's recommended amendments is based on the action taken by the Board on November 9, 1994, to designate areas of the state as nonattainment for certain pollutants (Reference: Sections 60200-60209, Title 17, CCR). Precursors of nonattainment pollutants are identified in section 90801, Title 17, CCR, approved by the Board on April 11, 1991.

By law, the total fee amount to cover program costs, exclusive of district administrative costs, may not exceed $3,000,000 in any fiscal year. The fees may be assessed annually through June 30, 1997. For fiscal year 1995-96, the proposed amount to be collected for nonvehicular Clean Air Act program expenditures is $2,726,916.

Existing regulations authorize districts to recover their administrative costs of collecting the fees by adding to the fees, amounts sufficient to cover those costs. As provided in Health and Safety Code section 39612(e), this additional fee amount is not included in the total fees subject to the $3,000,000 cap. The current regulations further require districts to transmit the fees provided for in the regulations to the ARB to be forwarded to the State Controller for deposit in the Air Pollution Control Fund. The staff is not proposing any changes to these provisions.

II. RECOMMENDATION

The existing regulations provide for fees for each of the first six years of the fee program, fiscal years 1989-90 through 1994-95. The staff is proposing the adoption of a new section 90800.6 which will provide for fees to be collected for the seventh year of the program, fiscal year 1995-96. Also, the staff recommends the Board adopt the amendment which will add the words, "or section 90800.6" to section 90803 - Failure of Facility to Pay Fees.

The staff recommends that the Board adopt the proposed fee regulations discussed in this report and contained in Attachment A.

III. RELATIONSHIP TO OTHER FEE PROGRAMS

This report discusses a proposal for assessing fees on large, nonvehicular sources pursuant to the CCAA. In addition to the fees on nonvehicular sources, the Act provides the ARB with the authority to assess fees for the certification of motor vehicles and engines sold in the state. The motor vehicle fee program was the subject of a separate regulatory proposal, adopted by the Board in 1989, providing for the collection of fees from motor vehicle manufacturers on an annual basis in an amount sufficient to cover the costs of implementing the CCAA mandates relating to mobile sources (Reference: Health and Safety Code section 43019, Title 13, CCR, sections 1990-1992). The motor vehicle fee regulations do not need to be amended by the Board each year. The Board also assesses fees for facilities pursuant to AB 2588, the "Air Toxics Hot Spots Information and Assessment Act of 1987"; this fee regulation is also amended annually.

IV. DISCUSSION OF PROPOSED REGULATIONS

A. SUMMARY OF MAJOR PROVISIONS

The proposed regulations would require districts to collect from facilities subject to the regulations (listed in Attachment D), fees for transmittal to the ARB for fiscal year 1995-96. The following provisions are included in the proposed regulations:

- The regulations are applicable for the 1995-96 fiscal year (the seventh year of the program), July 1, 1995, to June 30, 1996;
- The affected districts are those which are designated as of July 1 of the year for which fees are being collected (1995) as being entirely or partially[1] nonattainment for state ambient air quality standards for ozone, sulfur dioxide, sulfates, nitrogen dioxide, carbon monoxide, suspended particulate matter (PM_{10}), visibility reducing particles, hydrogen sulfide or lead, except where the Board has found that the district is designated nonattainment for ozone because of overwhelming transport.
- Districts with facilities subject to the proposed fee regulations must collect additional permit fees from those facilities.

---

1. Fees are imposed only for sources of nonattainment pollutants or precursors within the area of a district designated as nonattainment for the corresponding substance listed in section 70200, Title 17, CCR.

- o The 1993 statewide emission data are to be used as the basis for the fees;

- o Districts must transmit the fees to the ARB no later than 180 days after the effective date of these fee regulations;

B. SUMMARY OF RELATED REGULATIONS

The following provisions are included in previously adopted support regulations:

- o Districts may recover their administrative costs associated with assessing and collecting the fees;

- o Districts must collect fees as set forth in these regulations;

- o In the event that excess revenue is collected for any fiscal year, this excess revenue shall be carried over for expenditure during future years.

In calculating the proposed fees for fiscal year 1995-96, the program cost of $3,000,000 was reduced by the amount of fees collected in excess of program costs for prior fiscal years pursuant to section 90802(c), Title 17, CCR.

In some years, an adjustment was added to the assessed fees for use as a reserve to cover possible nonpayment of fees resulting from the unanticipated closing of businesses or other reasons that might result in a shortfalls in fees collected. However, based on past history of the fee collections for this program, the staff anticipates that there will be sufficient reserves on hand to cover uncollectable fees in fiscal year 1995-96. Therefore, no upward adjustment of the fees will be necessary this year.

C. DEFINITIONS OF NONATTAINMENT POLLUTANTS AND PRECURSORS

The Board approved definitions of nonattainment pollutants and nonattainment precursors as part of the fee regulations at its June 9, 1989, hearing; these were changed in 1991. For purposes of the fee regulations, a "nonattainment pollutant" is any pollutant emitted in an area which is designated as nonattainment for that pollutant by sections 60200-60209, Title 17, CCR, for a state ambient air quality standard identified in section 70200, Title 17, CCR. A "nonattainment precursor" is any substance emitted in a nonattainment area known to react in the atmosphere that contributes to the production of a nonattainment pollutant or pollutants. Because area designations may change from year to year, the Board in 1991 amended the fee regulations to clarify which designations apply in each fiscal year. This is discussed further in subsection D.

A list of nonattainment pollutants and their precursors is provided in Table 1. Facilities in areas which are designated nonattainment for one or more of the substances listed in Table 1 may be subject to fees based on the amount of the pollutant or its precursor that is emitted. In 1994 the regulations were amended to provide that fees would not be assessed for

Table 1

NONATTAINMENT POLLUTANTS AND NONATTAINMENT PRECURSORS

Substance (as listed in section 70200 Title 17, CCR):	nonattainment pollutant/precursors:
Ozone	reactive organic gases oxides of nitrogen
Sulfur Dioxide	oxides of sulfur
Sulfates	oxides of sulfur
Nitrogen Dioxide	oxides of nitrogen
Carbon Monoxide	carbon monoxide
Suspended Particulate Matter (PM10)	suspended particulate matter (PM10) oxides of nitrogen oxides of sulfur reactive organic gases
Visibility Reducing Particles	suspended particulate matter (PM10) oxides of nitrogen oxides of sulfur reactive organic gases
Hydrogen Sulfide	hydrogen sulfide
Lead	lead

(Reference: section 90801(d), Title 17, CCR)

facilities located in areas that are designated nonattainment for ozone because of overwhelming transport. This is discussed further in subsection D.

Fees would be collected for emissions of only six of the nine substances for which state ambient air quality standards exist. Fees are not assessed for emissions of visibility reducing particles, hydrogen sulfide, and lead for the following reasons. In 1989 the Board adopted a new monitoring method for visibility reducing particles, but data are not yet available for most areas on which to base area designations. Consequently, all areas remain unclassified for this substance except Lake County, which has been designated as attainment. Hydrogen sulfide is not included in the fee process because there are no sources emitting 500 tons or more per year of that pollutant in the three nonattainment areas of the state. Finally, all areas of the state are currently designated attainment for lead; therefore, no fees have been assessed for this pollutant.

D. THE EFFECT OF REDESIGNATIONS

The initial designation of nonattainment areas was approved by the Board at its June 9, 1989, meeting. Those designations were used for establishing the CCAA fees for the first two years of the program, fiscal years 1989-90 and 1990-91. The Act requires the Board to review the designations annually and to update them as necessary. Pursuant to that requirement, the Board has annually considered amendments to the designations. For fiscal year 1994-95, those designations effective on July 1, 1994, were used.

Although in 1993 the Mountain Counties Air Basin was designated nonattainment for the state ozone standard, the Board determined that overwhelming transport from the Broader Sacramento Area and from the San Joaquin Valley caused all the violations of the state ozone standard in the Mountain Counties Air Basin. This determination was based on airflow patterns, exceedance characteristics, and by the relative ozone precursor emissions within the Mountain Counties and the two upwind areas. Because of this determination, some districts in the Mountain Counties Air Basin are not subject to the planning requirements of the CCAA. As a result of this determination, the regulations approved last year included a provision that excludes from this fee program, emissions from facilities that would be subject to the regulations solely because the facility is in a district which is designated in section 60201 as not having attained the state ambient air quality standard for ozone solely as a result of ozone transport identified in section 70500, Title 17, California Code of Regulations.

The Board amended the regulations for fiscal year 1991-92 to base the fees on the nonattainment area designations in effect as of July 1 of the fiscal year to which the fee regulations apply (subsections 90801(b) and (c) of the regulations). The Office of Administrative Law (OAL) may not have approved the amendments adopted by the Board at its November 9, 1994, hearing, by the time of the Board hearing on these proposed fee regulations. However, if the new redesignations are not approved by OAL no more or fewer facilities are expected to be subject to the proposed regulations this year.

E. EMISSION DATA FOR 1993 AS THE BASIS FOR THE FEES

The fee regulations approved for adoption by the Board in 1989 included a provision specifying that the fees would be based on 1987 emissions because these data were the most recently available statewide and were considered the best estimate of actual emissions from the affected facilities. For the second through the sixth years, fees were based on 1988 through 1992 emissions, respectively. The staff is proposing that fees for fiscal year 1995-96 be based on 1993 emissions for the same reasons.

The staff established a cutoff date of February 10, 1995, for finalizing the 1993 emission estimates to be used in this staff report. Those permitted facilities identified as emitting 500 tons or more of nonattainment pollutants or their precursors during calendar year 1993 were included in the fee calculation for this proposal. This cutoff date was established to allow the staff time to finalize the fees proposed in this report before initiating the rulemaking process. The data presented in Table 2 of this report were the best available data as of February 10, 1995, for 1993 emissions from facilities subject to the fees. Subsequent to February 10, 1995, updated emissions data have been received, and are included in this report. The data presented in Table 3 of this report are the best available data as of March 9, 1995, for 1993 emissions from facilities subject to the fees. The determination of fees is discussed in subsection F of this report.

The districts have been asked to verify emissions from affected facilities and to indicate which of the facilities meet the definition of "small business" as specified in the Government Code section 11342 (h)(1). The latter information will be used to determine whether the proposed regulations will affect any small businesses. To date, no facilities that would be subject to the proposed fees have been identified as a "small business." Any new information that would affect the emission estimates in Table 3 that is received after publication of this report will be presented to the Board at the hearing. The proposed fee rate and amounts to be remitted may be revised at the time of the public hearing if updated emission data are available at that time. New data may include the identification of additional facilities which emitted 500 tons or more of any nonattainment pollutant or precursor in 1993 or revised emission data for previously identified sources. The final inventory upon which the fee rate is established will reflect such additions and changes.

TABLE 2
CALIFORNIA CLEAN AIR ACT
NONVEHICULAR SOURCE FEE PROGRAM

EMISSIONS OF NONATTAINMENT POLLUTANTS OR PRECURSORS*
FROM FACILITIES THAT EMITTED 500 OR MORE TONS IN
CALENDAR YEAR 1993

DISTRICT	NO. OF FACILITIES	EMISSIONS OF NONATTAINMENT POLLUTANTS OR PRECURSORS (TONS IN 1993)					PROPOSED FEES ($) (**)
		ROG	NOx	SOx	PM10	CO	
Bay Area	14	11,558	27,590	16,249			$854,042
Imperial	2		1,297				19,996
Kern (SEDAB)	3		4,313	570	5,524		160,442
Mojave Desert	11		22,603				348,465
Monterey Bay	2		5,965				91,961
Sacramento	1					1,435	22,123
San Diego	3	2,146	2,981				79,042
San Joaquin Unified	19	1,650	18,919				317,107
San Luis Obispo	3		3,440	4,087			116,042
Santa Barbara	1		523				8,063
South Coast	25	9,711	23,333	4,799	1,114	4,837	675,161
Ventura	2		2,236				34,472
TOTAL	86	25,065	113,200	25,705	6,638	6,272	2,726,916

* Based on designations of areas as "nonattainment" in sections 60200-60209, Title 17, CCR

** The values in this column are calculated by dividing $2,726,916 by the total statewide emissions subject to this regulation, and multiplying that value by the total emissions subject to this regulation in a district. Because the per-ton fee of $15.42 has been rounded off, the proposed fee for an individual district will not be exactly equal to the total emissions in the district multiplied by $15.42.

(January 27, 1995)

TABLE 3
CALIFORNIA CLEAN AIR ACT
NONVEHICULAR SOURCE FEE PROGRAM

EMISSIONS OF NONATTAINMENT POLLUTANTS OR PRECURSORS*
FROM FACILITIES THAT EMITTED 500 OR MORE TONS IN
CALENDAR YEAR 1993

DISTRICT	NO. OF FACILITIES	EMISSIONS OF NONATTAINMENT POLLUTANTS OR PRECURSORS (TONS IN 1993)					PROPOSED FEES ($) (**)
		ROG	NOx	SOx	PM10	CO	
Bay Area	14	11,558	27,590	16,249			$944,067
Imperial	2		1,297				22,103
Kern (SEDAB)	3		4,313	570	5,524		177,354
Mojave Desert	11		19,308				329,044
Monterey Bay	2		5,965				101,655
Sacramento	1					1,435	24,455
San Diego	3	1,488	3,436	1,487			109,255
San Joaquin Unified	19	1,650	18,919				350,534
San Luis Obispo	3		3,440	4,087			128,274
Santa Barbara	1		523				8,913
South Coast	13	4,790	14,779	5,154	511	3,704	493,157
Ventura	2		2,236				38,106
TOTAL	74	19,486	101,806	27,547	6,035	5,139	2,726,916

* Based on designations of areas as "nonattainment" in sections 60200-60209, Title 17, CCR

** The values in this column are calculated by dividing $2,726,916 by the total statewide emissions subject to this regulation, and multiplying that value by the total emissions subject to this regulation in a district. Because the per-ton fee of $17.04 has been rounded off, the proposed fee for an individual district will not be exactly equal to the total emissions in the district multiplied by $17.04.

(March 9, 1995)

In order to assess fees equitably for all permitted facilities which emitted 500 tons or more per year of any nonattainment pollutants or their precursors, facilities identified after the fee regulation inventory is established as having emitted 500 or more tons of nonattainment pollutants or precursors in 1993 would also be subject to the fees pursuant to section 90800.6(c). A similar provision was adopted by the Board for the first six years of the program (sections 90800(c), 90800.1(c), 90800.2(c), 90800.3(c), 90800.5(c), and 90800.6(c), Title 17, CCR).

F. DETERMINATION OF FEES

For the fiscal years 1989-1990 and 1990-1991, 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 = An adjustment factor to cover unforeseen reductions in collections such as would occur from bankruptcies or unanticipated closings of businesses (dollars); and

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

The adopted fee schedules for the first five years included an adjustment factor of 10 percent. It was believed 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 was concerned that a shortfall in funds would seriously disrupt the programs that had been entrusted to the ARB to implement. In the event, however, that the 10 percent adjustment results in excess revenues, section 90802(c) of the regulations require that the excess amount shall be carried over by the state and applied to future year expenditures.

Because the regulations require that any excess funds collected be carried over and applied to reduce fees in future years, the staff adjusted the fees for fiscal year 1991-92 downward by an amount equal to the excess collected during fiscal year 1989-90. Similarly, the staff adjusted the fees for fiscal year 1992-93 through 1994-1995 downward by an amount equal to the excess collected respectively during fiscal years 1990-91 through 1992-1993. For fiscal year 1993-1994, nearly all assessments have been paid.

To account for both the revenue carried over from a prior fiscal year and the possibility of undercollection in the future, the staff based the fee schedule for fiscal years 1991-92, 1992-93, 1993-94, and 1994-1995 on the following formula:

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

Where T, A and E represent the same definitions as set forth above and C represents Carry-Over Revenues received in prior fiscal years. A total of $273,084 is being carried forward from previous years and being applied to fiscal year 1995-96. Therefore, proposed fees for fiscal year 1995-96 are adjusted downward by that amount.

For the fiscal year 1995-96 fee proposal the staff proposes using the same formula with the following dollar amounts:

T = $3,000,000 program costs for fiscal year 1995-96
A = $0 (zero) adjustment factor*
C = ($273,084) carry-over revenue collected from previous years
E = Emissions in the 1993 calendar year subject to the fees

Using the above dollar-per-ton emission fee formula, a fee of $17.04 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 500 or more tons of more than one nonattainment pollutant or precursor will be assessed fees on the sum of the emissions of each of those pollutants or precursors. The calculation is based on 1993 emission data. The emission data and fees to be assessed each affected district are summarized in Table 3 of this report.

* There will be adequate reserves to cover any uncollectable fees in 1995-96. Therefore, no upward adjustment of the fees will be necessary this year.

G. RECOVERY OF DISTRICTS' ADMINISTRATIVE COSTS

The staff is not proposing changes to the portion of the regulations, adopted in 1989 and continued through 1994, which specify recovery of districts' administrative costs [section 90802 (d)]. 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 5% based on past experience. The regulations [section 90802 (b)] 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 data. 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 90802 (b)] 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.

H. IMPACT ON DISTRICT OF FAILURE OF FACILITIES TO PAY FEES

The regulations adopted in 1989 and continued through 1994 also provide a mechanism that releases a district from the responsibility for remitting fees that are for demonstrated good cause not collectible. In addition, section 90803 was amended to include emission quantification errors as one of the possible bases for districts to be relieved from a portion of the fees. As in the past, a district must still demonstrate good cause before relief from fees may be granted. Examples of situations for which these provisions would apply include such events as facility closure or refusal of the facility operator to pay the fees despite reasonable efforts by the district to collect the fees, and instances of emission quantification errors.

V. POTENTIAL IMPACTS AND ISSUES

A. POTENTIAL ENVIRONMENTAL IMPACTS

The staff is not aware of any potential adverse impacts on the environment that would be attributable to the implementation of proposed revisions to the fee program. Resources obtained through this fee program will fund tasks which are expected to contribute to or result in 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 and air quality management districts will incur administrative costs in collecting fees. The Act authorizes the districts to recover these costs from facilities subject to the fees.

Local government agencies which have been identified that would be 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 $30,000. 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 costs requirement on local governments. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.) Moreover, the affected local agencies 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 described 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.

One federal agency has been identified that would be subject to the proposed fees: the Naval Petroleum Reserve, located in the San Joaquin Valley portion of Kern County. The cost to this federal government agency in complying with the regulations will be approximately $15,000. 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 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 (1990) 748 F.Supp. 732; State of Maine v. Department of the Navy (1988) 702 F.Supp. 322.)

2. BUSINESSES

The proposed regulations would require the collection of fees from specified facilities. The proposed fee rate is $17.04 per ton of nonattainment pollutants or their precursors as determined based on the amount of these pollutants emitted in 1993. The cost to affected businesses will therefore vary according to the magnitude of facilities' emissions. The cost to an individual business is estimated to range from a minimum of approximately $9,000 to approximately $383,000 for a multi-facility business.

The staff believes that the adoption of the fee program will have an insignificant adverse economic impact on businesses subject to the fees. The affected industries are among the largest in the state, both in size and financial

strength. A detailed analysis of the economic impact of the proposed regulations on businesses is included in Attachment E: California Business Impacts of Permit Fee Regulations for Nonvehicular Sources.

The staff believes that adoption of these regulations will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. The staff also believes that the potential cost impact on private persons or businesses directly affected by the proposed regulations will be insignificant. A review of the facilities listed in the inventory used for the fiscal year 1995-96 fees show that they are major oil and gas producers, utilities, and major manufacturing enterprises, none of which qualify as small businesses under Government Code section 11342(h)(1). See Attachment D: Facilities and Emissions Subject to the Proposed Fee Regulations.

The staff believes that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing businesses within California, or the expansion of businesses currently doing business within California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in Attachment E.

The Executive Officer has determined that the regulations will not affect any small businesses.

C. EVALUATION OF ALTERNATIVES

Government Code section 11346.14(b) in part requires a description of the alternatives to the proposed regulations considered by the ARB. The following alternatives were identified by the ARB staff:

Alternative 1: Do not adopt revised fee regulations.

Tasks legislatively mandated for completion by the ARB can be completed only with additional resources. The Legislature intended that districts be required to collect fees from nonvehicular sources. This fee is the only alternative provided for in the Act to obtain the needed additional resources. The staff therefore recommends that this alternative be rejected.

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

The ARB staff considered allowing districts to assess fees based on a range of emissions (such as facilities that emitted 500 to 999 tons per year would be assessed one fee,

facilities that emitted 1000 to 1499 tons per year would be assessed a higher fee, etc.).

The "per-ton" based fee in the staff's proposal is consistent with that of the Atmospheric Acidity Protection Act, for which fees were collected in previous fiscal years. The Atmospheric Acidity Protection Act program fees were legislatively mandated to be on a per-pound basis.

Because of the large amount of emissions generated by the facilities that would be subject to the proposed regulations, the staff also believes that it would be more equitable to the affected facilities to assess fees on a cost-per-ton basis. A facility that emits more will always be subject to higher fees than one which emits less.

For the reasons listed above, the staff recommends that this alternative be rejected.

Attachment A

Proposed Fee Regulations

NOTE: The following regulations are not being repealed:
90800 Fee Requirements for Fiscal Year 1989-90
90800.1 Fee Requirements for Fiscal Year 1990-91
90800.2 Fee Requirements for Fiscal Year 1991-92
90800.3 Fee Requirements for Fiscal Year 1992-93
90800.4 Fee Requirements for Fiscal Year 1993-94
90800.5 Fee Requirements for Fiscal Year 1994-95
90801 Definitions
90802 Fee Payment and Collection
90803 Failure of Facility to Pay Fees

The proposed new section 90800.6 and amendment to existing section 90803 are shown in underline to indicate additions to existing regulations.

PROPOSED

CALIFORNIA CLEAN AIR ACT
NONVEHICULAR SOURCE FEE REGULATIONS

Adopt New Section 90800.6
and Amend Section 90803
Subchapter 3.8, California Clean Air Act
Nonvehicular Source Fee Regulations,
as follows:

90800.6 Fee Requirements for Fiscal Year 1995-96.

(a) No later than 180 days after the operative date of this section, each district identified below shall transmit the dollar amount specified below to the Board for deposit into the Air Pollution Control Fund. The amount transmitted shall be collected from facilities which are the holders of permits for sources which emitted 500 tons or more per year of any nonattainment pollutant or precursors during the period from January 1, 1993, through December 31, 1993, inclusive. The fees shall be in addition to permit and other fees already authorized to be collected from such sources. The fee to be charged shall be $17.04 per ton.

(1) Bay Area Air Quality Management District: nine hundred forty-four thousand and sixty-seven dollars ($944,067);

(2) Imperial County Air Pollution Control District: twenty-two thousand one hundred three dollars ($22,103);

(3) Kern County Air Pollution Control District (SEDAB): one hundred seventy-seven thousand three hundred fifty-four dollars ($177,354);

(4) Mojave Desert Air Quality Management District:
three hundred twenty-nine thousand fourty-four dollars ($329,044);

(5) Monterey Bay Unified Air Pollution Control District:
one hundred one thousand six hundred fifty-five dollars ($101,655);

(6) Sacramento Metropolitan Air Quality Management District:
twenty-four thousand four hundred fifty-five dollars ($24,455);

(7) San Diego County Air Pollution Control District:
one hundred nine thousand two hundred fifty-five dollars ($109,255);

(8) San Joaquin Valley Unified Air Pollution Control District:
three hundred fifty thousand five hundred thirty-four dollars ($350,534);

(9) San Luis Obispo County Air Pollution Control District:
one hundred twenty-eight thousand two hundred seventy-four dollars ($128,274);

(10) Santa Barbara Air Pollution Control District:
eight thousand nine hundred thirteen dollars ($8,913);

(11) South Coast Air Quality Management District:
four hundred ninety-three thousand one hundred fifty-seven dollars ($493,157);

(12) Ventura County Air Pollution Control District:
thirty-eight thousand one hundred six dollars ($38,106);

(13) Amador County Air Pollution Control District,
Butte County Air Pollution Control District,
Calaveras County Air Pollution Control District,
Colusa County Air Pollution Control District,
El Dorado County Air Pollution Control District,
Feather River Air Quality Management District,
Glenn County Air Pollution Control District,
Great Basin Unified Air Pollution Control District,
Mariposa County Air Pollution Control District,
Mendocino County Air Pollution Control District,
Modoc County Air Pollution Control District,
North Coast Unified Air Quality Management District,
Northern Sierra Air Quality Management District,
Northern Sonoma County Air Pollution Control District,
Placer County Air Pollution Control District,
Shasta County Air Quality Management District,
Siskiyou County Air Pollution Control District,
Tehama County Air Pollution Control District,
Tuolumne County Air Pollution Control District,
Yolo-Solano Air Pollution Control District:
zero dollars ($0).

(b) Emissions from facilities identified by the Air Resources Board on or before April 27, 1995, as having emitted 500 tons or more per year of any nonattainment pollutant or precursors during the period January 1, 1993, through December 31, 1993, shall be used to determine compliance with this regulation. Emissions from a facility are excluded from compliance with this regulation if the emissions from the facility would be subject to this regulation solely because the facility is in a district which is designated in section 60201 as not having attained the state ambient air quality standard for ozone solely as a result of ozone transport identified in section 70500, Title 17, California Code of Regulations.

(c) In addition to the amount cited in subsection (a) above, a district shall, for any facility identified after April 27, 1995, as having emitted 500 tons or more per year of any nonattainment pollutant or its precursors during the period from January 1, 1993, through December 31, 1993, transmit to the Board for deposit into the Air Pollution Control Fund seventeen dollars and four cents ($17.04) per ton of such pollutant or precursor.

NOTE: Authority cited: Sections 39600, 39601 and 39612, Health and Safety Code. Reference: Sections 39002, 39500, 39600 and 39612, Health and Safety Code.

90803. Failure of Facility to Pay Fees.

In the event any district is unable to collect the assessed fee from any source due to circumstances beyond the control of the district, including but not limited to facility closure, emission quantification errors, or refusal of the operator to pay despite permit revocation and/or other enforcement action, such district shall notify the Executive Officer of the State Board. For demonstrated good cause, the district may be relieved from that portion of the fees the district is required to collect and remit to the state as set forth in section 90800 or section 90800.1 or section 90800.2 or section 90800.3 or section 90800.4 or section 90800.5 or section 90800.6. Nothing herein shall relieve the operator from any obligation to pay any fees assessed pursuant to these regulations.

NOTE: Authority cited: Sections 39600, 39601 and 39612, Health and Safety Code. Reference: Sections 39002, 39500, 39600 and 39612, Health and Safety Code.

Attachment B

Section 39612
of the Health and Safety Code

Section 39612 of the Health and Safety Code

39612. (a) In addition to funds which may be appropriated by the Legislature to the state board to carry out the additional responsibilities and to undertake necessary technical studies required by this chapter, the state board, beginning July 1, 1989, may require districts to impose additional permit fees on nonvehicular sources within their jurisdiction.

(b) The permit fees imposed pursuant to this section shall be expended only for the purposes of recovering costs of additional state programs related to nonvehicular sources.

(c) The permit fees imposed pursuant to this section shall be collected from nonvehicular sources which are authorized by district permits to emit 500 tons or more per year of any nonattainment pollutant or its precursors.

(d) The permit fees collected by a district pursuant to this section, after deducting the administrative costs to the district of collecting the fees, shall be transmitted to the Controller for deposit in the Air Pollution Control Fund.

(e) The total amount of funds collected by fees imposed pursuant to this section, exclusive of district administrative costs, shall not exceed three million dollars ($3,000,000) in any fiscal year.

(f) On or before January 1, 1993, the state board shall prepare and submit to the Legislature a report on the amounts of fees collected and the purposes for which the fees were expended.

(g) This section shall become inoperative on July 1, 1997, and as of January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

Attachment C

Notice of Consultation Meeting

January 11, 1995

Public Consultation Meeting:
California Clean Air 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) for fiscal year 1995-96. The fee provisions of the CCAA 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 six years of the program.

The amendments we will propose will be based on the best estimate of emissions during calendar year 1993 from facilities subject to the fees. It is crucial that both districts and affected sources make every effort to ensure that the emission data to be used for the fee regulations are as accurate as possible.

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 10, 1995
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 staff of the ARB's Technical Support Division. Comments received at the consultation meeting will be used to assist the ARB staff in preparing the proposal for consideration by the ARB. The proposal is scheduled for consideration at the ARB's April 1995 meeting.

If you have any questions, please contact Skip Campbell at (916) 327-0301.

Attachment D

Facilities and Emissions
Subject to the Proposed
Fee Regulations

Emissions of Nonattainment Pollutants or Precursors Tons per Year 1993

3/8/95

	A	B	C	D	E	F	G	H
1	Air District/Facility Name	ROG	NOx	SOx	PM10	CO	Totals	Fees
2	S.F. Bay Area							
3								
4	Owens-Brockway Glass							
5	Facility ID 30		864				864	$14,724
6	Oakland							
7								
8	New United Motor							
9	Manufacturing							
10	Facility ID 1438	839					839	$14,298
11	Fremont							
12								
13	Chevron USA							
14	Facility ID 10	3617	4616	2297			10530	$179,451
15	Richmond							
16								
17	Shell Oil Co.							
18	Facility ID 11	1801	4215	2294			8310	$141,618
19	Martinez							
20								
21	PG&E							
22	Facility ID 12		3859	805			4664	$79,483
23	Pittsburg							
24								
25	Tosco Corp.							
26	Facility ID 13	3220	2739	4649			10608	$180,780
27	Martinez							
28								
29	Unocal Corp.							
30	Facility ID 16	896	1662	599			3157	$53,801
31	Rodeo							
32								
33	Union Chemicals							
34	Facility ID 22		515	1395			1910	$32,550
35	Rodeo							

Emissions of Nonattainment Pollutants or Precursors Tons per Year 1993

3/8/95

	A	B	C	D	E	F	G	H
1	**Air District/Facility Name**	**ROG**	**NOx**	**SOx**	**PM10**	**CO**	**Totals**	**Fees**
36								
37	Dow Chemical Co.							
38	Facility ID 31		890				890	$15,167
39	Pittsburg							
40								
41	PG&E, Evans Ave.							
42	Facility ID 24		1079				1079	$18,388
43	San Francisco							
44								
45	PG&E, Illinois St.							
46	Facility ID 26		1152				1152	$19,632
47	San Francisco							
48								
49	Kaiser Cement and Gypsum							
50	Facility ID 17		1337				1337	$22,785
51	Cupertino							
52								
53	Exxon Corp.							
54	Facility ID 15	1185	2260	4210			7655	$130,455
55	Benecia							
56								
57	PG&E, Antioch							
58	Facility ID 18		2402				2402	$40,935
59	Antioch							
60								
61	**Total Bay Area**	**11558**	**27590**	**16249**			**55397**	**$944,067**

Emissions of Nonattainment Pollutants or Precursors Tons per Year 1993

3/8/95

	A	B	C	D	E	F	G	H
1	**Air District/Facility Name**	**ROG**	**NOx**	**SOx**	**PM10**	**CO**	**Totals**	**Fees**
62	**Imperial**							
63								
64	Imperial Irrigation District							
65	Facility ID 15		503				503	$8,572
66	El Centro							
67								
68	Gold Fields Co. Mesquite							
69	Facility ID 46		794				794	$13,531
70	Brawley							
71								
72	**Total Imperial**		**1297**				**1297**	**$22,103**
73								
74	**Kern (SEDAB)**							
75								
76	Cal. Portland Cement							
77	Facility ID 9		1473	570	3193		5236	$89,231
78	Mojave							
79								
80	Calaveras Cement Co.							
81	Facility ID 20		1562		670		2232	$38,037
82	Monolith							
83								
84	National Cement Co.							
85	Facility ID 21		1278		1661		2939	$50,086
86	Lebec							
87								
88	**Total Kern (SEDAB)**		**4313**	**570**	**5524**		**10407**	**$177,354**
89								
90	**Mojave Desert**							
91								
92	Mitsubishi Cement							
93	Fac. ID 11800001		1590				1590	$27,097
94	Lucerne Valley							
95								
96								

Emissions of Nonattainment Pollutants or Precursors Tons per Year 1993

3/8/95

	A	B	C	D	E	F	G	H
1	Air District/Facility Name	ROG	NOx	SOx	PM10	CO	Totals	Fees
97	North American Chemical							
98	Fac. ID 900002		2009				2009	$34,237
99	Trona							
100								
101	Riverside Cement							
102	Fac. ID 1200003		2827				2827	$48,177
103	Oro Grande							
104								
105	So. Cal. Edison-Coolwater							
106	Fac. ID 6900004		789				789	$13,446
107	Daggett							
108								
109	S'western Ptld. Cement							
110	Fac. ID 100005		3252				3252	$55,420
111	Victorville							
112								
113	PG&E							
114	Fac. ID 1500535		1970				1970	$33,572
115	Hinkley							
116								
117	PG&E							
118	Fac. ID 1500039		1031				1031	$17,570
119	Needles							
120								
121	So. Cal. Gas							
122	Fac. ID 3100065		1122				1122	$19,121
123	Newberry Springs							
124								
125	So. Cal. Gas - Hwy 95							
126	Fac. ID 3100068		1372				1372	$23,381
127	So. Needles							
128								
129	AFG Industries							
130	Fac. ID 27000935		671				671	$11,435
131	Victorville							

Emissions of Nonattainment Pollutants or Precursors Tons per Year 1993

3/8/95

	A	B	C	D	E	F	G	H
1	**Air District/Facility Name**	**ROG**	**NOx**	**SOx**	**PM10**	**CO**	**Totals**	**Fees**
132								
133	So. Cal. Gas							
134	Facility ID 18869		2675				2675	$45,587
135	Blythe							
136								
137	**Total Mojave**		**19308**				**19308**	**$329,044**
138								
139	**Monterey Bay**							
140								
141	PG&E							
142	Facility ID 25		5191				5191	$88,464
143	Moss Landing							
144								
145	Lone Star Industrial Cement							
146	Facility ID 11		774				774	$13,190
147	Davenport							
148								
149	**Total Monterey Bay**		**5965**				**5965**	**$101,655**
150								
151	**Sacramento**							
152	Blue Diamond Growers							
153	Facility ID 67					1435	1435	$24,455
154	Sacramento							
155								
156	**Total Sacramento**					**1435**	**1435**	**$24,455**
157								
158	**San Diego**							
159								
160	SDG&E Co.							
161	Facility ID 72		1596				1596	$27,199
162	Chula Vista							
163								
164	SDG&E Co.							
165	Facility ID 73		1840	1487			3327	$56,698
166	Carlsbad							

Emissions of Nonattainment Pollutants or Precursors Tons per Year 1993

3/8/95

	A	B	C	D	E	F	G	H
1	**Air District/Facility Name**	**ROG**	**NOx**	**SOx**	**PM10**	**CO**	**Totals**	**Fees**
167								
168	Kelco Div., Merck & Co.							
169	Facility ID 118	1488					1488	$25,358
170	San Diego							
171								
172	**Total San Diego**	**1488**	**3436**	**1487**			**6411**	**$109,255**
173								
174	**San Joaquin Valley**							
175								
176	Union Oil Co.							
177	Facility ID 1659		1730				1730	$29,482
178	Coalinga							
179								
180	PPG Industries							
181	Facility ID 948		748				748	$12,747
182	Fresno							
183								
184	Guardian Industries							
185	Facility ID 598		922				922	$15,713
186	Kingsburg							
187								
188	Texaco Refining							
189	Facility ID 33	760	622				1382	$23,552
190	Bakersfield							
191								
192	Kern River Cogen.							
193	Facility ID 88		1958				1958	$33,368
194	Oildale							
195								
196	Sycamore Cogen. Co.							
197	Facility ID 511		2081				2081	$35,464
198	Oildale							
199								
200								
201								

Emissions of Nonattainment Pollutants or Precursors Tons per Year 1993

3/8/95

	A	B	C	D	E	F	G	H
1	Air District/Facility Name	ROG	NOx	SOx	PM10	CO	Totals	Fees
202	Chevron U.S.A., Inc.							
203	Facility ID 311		589				589	$10,038
204	Fresno							
205								
206	PG&E							
207	Facility ID 904		1546				1546	$26,347
208	Avenal							
209								
210	Madera Glass Co.							
211	Facility ID 801		1059				1059	$18,047
212	Madera							
213								
214	Libbey Owens Ford							
215	Facility ID 8		690				690	$11,759
216	Lathrop							
217								
218	Owens Brockaway							
219	Facility ID 17		707				707	$12,049
220	Tracy							
221								
222	Chevron U.S.A., Inc.		596				596	$10,157
223	Facility ID 1127							
224								
225	Chevron U.S.A., Inc.		639				639	$10,890
226	Facility ID 1128							
227								
228	Arco Western Energy							
229	Facility ID 1135		999				999	$17,025
230								
231	Arco Western Energy		1149				1149	$19,581
232	Facility ID 1136							
233								
234	Shell West. E&P Inc. Kern							
235	Facility ID 1547		1707				1707	$29,090
236	Kern Western							

Emissions of Nonattainment Pollutants or Precursors Tons per Year 1993

3/8/95

	A	B	C	D	E	F	G	H
1	**Air District/Facility Name**	**ROG**	**NOx**	**SOx**	**PM10**	**CO**	**Totals**	**Fees**
237								
238	Vintage Petroleum, Inc.		629				629	$10,719
239	Facility 1738							
240								
241	Chevron - Warren GP							
242	Facility 2199		548				548	$9,339
243	Lost Hills							
244								
245	Naval Petroleum Reserve							
246	Facility ID 2234	890					890	$15,167
247								
248	**Total San Joaquin Vly.**	**1650**	**18919**				**20569**	**$350,534**

Emissions of Nonattainment Pollutants or Precursors Tons per Year 1993

3/8/95

	A	B	C	D	E	F	G	H
1	**Air District/Facility Name**	**ROG**	**NOx**	**SOx**	**PM10**	**CO**	**Totals**	**Fees**
249	**San Luis Obispo**							
250								
251	Unocal Chemical							
252	Facility ID 4			3247			3247	$55,335
253	Arroyo Grande							
254								
255	PG&E							
256	Facility ID 8		3440				3440	$58,624
257	Morro Bay							
258								
259	Unocal SMR							
260	Facility ID 13			840			840	$14,315
261	Arroyo Grande							
262								
263	**Total San Luis Obispo**		**3440**	**4087**			**7527**	**$128,274**
264								
265	**Santa Barbara**							
266								
267	Orcutt Hill IC Engines							
268	Facility ID 4214		523				523	$8,913
269	Orcutt Hill							
270								
271	**Total Santa Barbara**		**523**				**523**	**$8,913**
272								

Emissions of Nonattainment Pollutants or Precursors Tons per Year 1993

3/8/95

	A	B	C	D	E	F	G	H
1	Air District/Facility Name	ROG	NOx	SOx	PM10	CO	Totals	Fees
273	South Coast, Los Angeles Co.							
274	So. Cal. Edison							
275	Facility ID 14052		991				991	$16,888
276	Redondo Beach							
277								
278	So. Cal. Edison							
279	Facility ID 18763		646				646	$11,009
280	El Segundo							
281								
282	ARCO Unit No. 1							
283	Facility ID 800012	1597	1712	1734		1422	6465	$110,175
284	Carson							
285								
286	Chevron USA, Unit N							
287	Facility ID 800030	1569	1921	1154	511	1723	6878	$117,214
288	El Segundo							
289								
290	LA Dept. Water & Power							
291	Facility ID 800074		1105				1105	$18,831
292	Long Beach							
293								
294	LA Dept. Water & Power							
295	Facility ID 800075		529				529	$9,015
296	Los Angeles							
297								
298	Mobil Oil							
299	Facility ID 800089		2730	1053		559	4342	$73,996
300	Torrance							
301								
302	So. Cal. Edison							
303	Facility ID 800125		1186				1186	$20,212
304	Alamitos							
305								
306								
307	Union Oil Co.							

Emissions of Nonattainment Pollutants or Precursors Tons per Year 1993

3/8/95

	A	B	C	D	E	F	G	H
1	Air District/Facility Name	ROG	NOx	SOx	PM10	CO	Totals	Fees
308	Facility ID 800144	587	642	652			1881	$32,056
309	Wilmington							
310								
311	Texaco							
312	Facility ID 800223	1037	1411	561			3009	$51,279
313	Wilmington							
314								
315	**South Coast, Orange Co.**							
316								
317	So. Cal. Edison							
318	Facility ID 800126		513				513	$8,742
319	Huntington Beach							
320								
321	**South Coast, San Bernardino**							
322								
323	Cal. Portland Cement							
324	Facility ID 800181		865				865	$14,741
325	Colton							
326								
327	So. Cal. Edison							
328	Facility ID 800224		528				528	$8,998
329	Etiwanda							
330								
331	**Total South Coast**	**4790**	**14779**	**5154**	**511**	**3704**	**28938**	**$493,157**
332								
333	**Ventura**							
334	SCE-Mandalay Gen. Station							
335	Facility ID 13		867				867	$14,775
336	Oxnard							
337								
338	SCE-Ormond Beach Gen. Station							
339	Facility ID 65		1369				1369	$23,330
340	Oxnard							
341								
342	**Total Ventura**		**2236**				**2236**	**$38,106**

Emissions of Nonattainment Pollutants or Precursors Tons per Year 1993

3/8/95

	A	B	C	D	E	F	G	H
1	Air District/Facility Name	ROG	NOx	SOx	PM10	CO	Totals	Fees
343	**Summary**							
344	Bay Area	11558	27590	16249			55397	$944,067
345	Imperial		1297				1297	$22,103
346	Kern (SEDAB)		4313	570	5524		10407	$177,354
347	Mojave Desert		19308				19308	$329,044
348	Monterey Bay		5965				5965	$101,655
349	Sacramento					1435	1435	$24,455
350	San Diego	1488	3436	1487			6411	$109,255
351	San Joaquin Valley	1650	18919				20569	$350,534
352	Santa Barbara		523				523	$8,913
353	San Luis Obispo		3440	4087			7527	$128,274
354	South Coast	4790	14779	5154	511	3704	28938	$493,157
355	Ventura		2236				2236	$38,106
356								
357					**Total Emissions**	160013		
358					**Total Fees**	$2,726,916.00		
359								
360					**Rate ($/Ton)**	$17.04		
361								

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 economic impact of permit fee regulations for nonvehicular sources on business enterprises in California pursuant to the California Clean Air Act (CCAA). A recent amendment to Section 11346.5 of the Government Code requires that, in proposing to adopt or amend any administrative regulation, state agencies shall assess not only the potential for adverse economic impact on California business enterprises and individuals, but also the ability of California businesses to compete with businesses in other states. Also a new section to the Government Code (Section 11346.3) requires state agencies to assess the potential impact of their regulations on California jobs and business expansion, elimination, or creation.

This analysis is based on a comparison of the return on owner's equity (ROE) for affected businesses before and after the inclusion of the fees. The analysis also uses publicly available information to assess the impacts on competitiveness; jobs; and business expansion, elimination, or creation. The purpose of this analysis is to indicate whether or not the permit fee regulations would have significant adverse impacts on California businesses and individuals.

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 1993 are affected by the CCAA nonvehicular source fees. The affected businesses fall into different industry classifications. A list of these industries which we have been able to identify is provided in Table 1.

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 1993 emission inventory list. Standard Industrial Classification (SIC) codes reported by these businesses are listed in Table 1.

(2) Annual permit fees for the CCAA program are estimated for each of these facilities based on the fee rates adopted by the Board for the fiscal year 1995-96. Total fees are calculated for the program for each business. A business might own several facilities.

Table 1

List of Industries with Affected Businesses

SIC CODE	INDUSTRY
1041	Gold Ores
1311	Crude Petroleum and Natural Gas
1321	Natural Gas Liquids
2065	Candy and Other Confectionery Products
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
3711	Motor Vehicles and Passenger Car Bodies
4911	Electric Services
4922	Natural Gas Transmission
4924	Natural Gas Distribution
4931	Electric and Other Services Combined

(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. This threshold is consistent with the thresholds used by the U.S. EPA and others.

Assumptions

Financial data for 1993 were available for only 21 of the estimated 36 affected businesses and three government agencies. Using these financial data, the ROEs before and after the subtraction of the adjusted fees were calculated for those 21 businesses. These calculations were based on the following assumptions.

(1) All affected businesses are subject to federal and state tax rates of 35 percent and 9.3 percent respectively.

(2) Affected businesses neither increase the prices of their products nor lower their costs of doing business through cost-cutting measures because of the fee regulations.

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

Potential Impact On Business

California businesses are affected by the proposed 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 affected businesses for which financial data were available declined by less than 0.1 percent. This represents a miniscule decline in the average profitability of the affected businesses.

All businesses, however, would not be affected equally by the proposed fee regulations. For the 21 businesses for which financial data were available, the reduction in profitability ranged from almost zero to a high of less than 0.5 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, for the proposed CCAA fees for fiscal year 1995-96, the estimated annual fees for

businesses in the industries listed in Table 1 range from a high of about $383,000 to a low of less than $9,000. Second, the performance of businesses may vary from year to year. Hence, the 1993 financial data used may not be representative of a typical-year performance for some businesses.

The potential impacts estimated here might be high for the following reasons. First, because 1993 data were used, generally a poor year for most businesses due to a sluggish national economy, the impact of the regulations 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 would be able to either pass some of the cost on to consumers in the form of higher prices, reduce their costs, or both.

Potential impact on Consumers

No noticeable change in consumer prices is expected from the proposed CCAA fees for fiscal year 1995-96. This is because the proposed fees would have only a miniscule impact on the profitability of affected businesses. The impact would have been less if we had used the incremental change in fees rather than the total fees in our analysis. As a matter of fact, most affected businesses would experience a reduction in their total fee payment for emissions of nonattainment pollutants in this fiscal year.

Potential Impact on Employment

Since the proposed fees impose no noticeable cost squeeze on businesses, we expect no significant change in employment due to the imposition of the fees.

Impact on Business Creation, Elimination, or Expansion

No change is expected to occur in the status of California businesses as a result of the proposed CCAA fees. This is because the fees have no significant impact on the profitability of businesses in California.

Impact on Business Competitiveness

The proposed CCAA fees would have no material impact on the ability of California businesses to compete with businesses in other states. This is because the proposed CCAA fees do not impose a noticeable cost squeeze on California businesses. In addition, most affected businesses are local and are not subject to competition from businesses in other states.

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 miniscule.

Since the proposed fees impose no noticeable cost squeeze on businesses, we expect no significant change in employment; business creation, elimination, or expansion; and business competitiveness.