SCENARIO 3 (7.5%)

(Adopted May 10, 1996)(Amended May 14, 1999)(Amended May 19, 2000)
(Amended May 11, 2001)(Amended May 3, 2002) (Amended June 6, 2003)
(Amended July 9, 2004)(Amended June 3, 2005)

PROPOSED AMENDED RULE 307.1 ALTERNATIVE FEES FOR AIR TOXICS EMISSIONS INVENTORY

(a) Purpose

California Health and Safety Code Section 44300 et seq. provides authority for the District to adopt a fee schedule to recover the cost of implementing and administering the Air Toxics "Hot Spots" Information and Assessment Act of 1987. The District will annually collect from the owner/operator of each facility meeting the criteria set forth in paragraph (b)(1), (b)(2), and (b)(3), and each owner/operator shall pay, fees which shall provide for the following:

(1) Recovery of anticipated costs to be incurred by the California Air Resources Board (CARB) and Office of Environmental Health Hazard Assessment (OEHHA) to implement and administer the Act, and any costs incurred by OEHHA or its independent contractor for review of facility risk assessments submitted to the State after March 31, 1995 under Health and Safety Code Section 44361(c).

(2) Recovery of anticipated costs to be incurred by the District to implement and administer the Act, including but not limited to the cost incurred to review emission inventory plans, emission inventory data, risk assessments, to verify plans and data, and to administer this rule and the Air Toxics "Hot Spots" program.

(b) Applicability

Except for facilities exempted by Health and Safety Code Sections 44324, 44344.4(a), or 44380.1, this rule applies to any facility that operates in any portion of the fiscal year for which the fee is assessed and which:

(1) Manufactures, formulates, uses, or releases any of the substances listed by the State Board pursuant to Health and Safety Code Section 44321 and contained in Appendix A of the Guidelines Report, or any other substance which reacts to form a substance so listed, and releases ten (10) tons per year or greater of any criteria pollutant; or

(2) Manufactures, formulates, uses or releases any listed substance or any other substance which reacts to form any listed substance, and which releases less than ten (10) tons per year of any criteria pollutant and falls in any class listed in Appendix E of the Guidelines Report; or

(3) is reinstated under Health and Safety Code Section 44344.7.

(c) Definitions

For the purpose of this rule, the following definitions shall apply:

(1) COMPLEX FACILITY means a facility that has more than five (5) processes as determined by six-digit Source Classification Codes (SCC).

(2) CRITERIA POLLUTANT means total organic gases, particulate matter, nitrogen oxides or sulfur oxides.

(3) DISTRICT means South Coast Air Quality Management District.

(4) DISTRICT TRACKING FACILITY means a facility:

(A) that has been prioritized by the District in accordance with Health and Safety Code Section 44360(a) using procedures that have undergone public review and that are consistent with the procedures presented in the California Air Pollution Control Officers Association (CAPCOA) "Air Toxics 'Hot Spots' Program Facility Prioritization Guidelines, July 1990", which has been approved by the State Board and which is incorporated by reference herein, and

(B) that is required by the District to submit a quadrennial emissions inventory update pursuant to Health and Safety Code Section 44344 during the applicable fiscal year, and

(C) whose prioritization scores for cancer and non-cancer health effects are both greater than 1.0 and equal to or less than 10.0.

(5) FACILITY has the same meaning as defined in Section 44304 of the Health and Safety Code.

(6) FACILITY PROGRAM CATEGORY means a grouping of facilities, meeting the definitions in paragraphs (c)(4), (c)(8), (c)(13), (c)(14), (c)(15), (c)(16), (c)(22), or (c)(25) of this rule.

(7) GUIDELINES REPORT (Air Toxics Hot Spots Emission Inventory Criteria and Guidelines Report) is the report incorporated by reference under Section 93300.5 of this title that contains regulatory requirements for the Air Toxics Hot Spots Emission Inventory Program.

(8) HRA TRACKING FACILITY means a facility that has been prioritized by the District in accordance with Health and Safety Code Section 44360(a) using procedures that have undergone public review and that are consistent with the procedures presented in the CAPCOA "Air Toxics 'Hot Spots' Program Facility Prioritization Guidelines, July 1990", which has been approved by the State Board and which is incorporated by reference herein, and the greater of the facility's prioritization scores for cancer and non-cancer health effects is greater than 10.0, and meets either one of the following criteria:

(A) the facility has had its health risk assessment approved by the District in accordance with Health and Safety Code Section 44362 and the risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, of equal to or greater than 1.0 and less than ten (10) cases per million persons and a total hazard index for each toxicological endpoint, both acute and chronic, of less than or equal to 1.0; or

(B) the facility has had its health risk assessment approved by the District in accordance with Health and Safety Code Section 44362 and the risk assessment results show a total hazard index for each toxicological endpoint, either acute or chronic, of greater than or equal to 0.1, but less than or equal to 1.0, and a total potential cancer risk, summed across all pathways of exposure and all compounds, of less than ten (10) cases per million persons.

(9) INDUSTRY-WIDE FACILITY means a facility that qualifies to be included in an industry-wide emission inventory prepared by the District pursuant to Health and Safety Code Section 44232, or an individual facility which emits less than ten (10) tons per year of each criteria pollutant, falls within a class composed of primarily small businesses, and whose emissions inventory report was prepared by the District.

(10) MEDIUM FACILITY means a facility that has three (3) to five (5) processes as determined by six-digit Source Classification Codes (SCC).

(11) OEHHA means the Office of Environmental Health Hazard Assessment, California Environmental Protection Agency.

(12) OPERATOR means the person who owns or operates a facility or part of a facility.

(13) PRIORITIZATION SCORE GREATER THAN TEN (10.0) FACILITY means a facility that does not have an approved health risk assessment and has been prioritized by the District in accordance with Health and Safety Code Section 44360(a) using procedures that have undergone public review and that are consistent with the procedures presented in the CAPCOA "Air Toxics 'Hot Spots' Program Facility Prioritization Guidelines, July 1990", which has been approved by the CARB and is incorporated by reference herein, and the greater of the facility's prioritization scores for cancer and non-cancer effects is greater than 10.0.

(14) RISK OF 10.0 TO LESS THAN 50.0 PER MILLION FACILITY means a facility that has had its health risk assessment approved by the District in accordance with Health and Safety Code Section 44362 and whose risk assessment results meet either of the following criteria:

(A) a total potential cancer risk, summed across all pathways of exposure and all compounds, of greater than or equal to 10.0, but less than 50.0 cases per million persons or,

(B) a total hazard index for each toxicological endpoint, either acute or chronic, of greater than 1.0 and a total potential cancer risk, summed across all pathways of exposure and all compounds, of less than 50.0.

(15) RISK OF 50.0 TO LESS THAN 100.0 PER MILLION FACILITY means a facility that has had its health risk assessment approved by the District in accordance with Health and Safety Code Section 44362 and whose risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, of greater than or equal to 50.0, but less than 100.0 cases per million persons.

(16) RISK OF 100.0 PER MILLION OR GREATER FACILITY means a facility that has had its health risk assessment approved by the District in accordance with Health and Safety Code Section 44362 and whose risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, of greater than or equal to 100.0 cases per million persons.

(17) SIMPLE FACILITY means a facility that has one (1) or two (2) processes as determined by six-digit Source Classification Codes (SCC).

(18) SMALL BUSINESS for the purpose of subparagraph (d)(2)(C) of this rule, means a facility which is independently owned and operated and has met all of the following criteria in the preceding year:

(A) The facility has ten (10) or fewer (annual full-time equivalence) employees;

(B) The facility's total annual gross receipts are less than $1,000,000; and

(C) The total annual gross receipts of the facility's California operations are less than $5,000,000.

(19) SOURCE CLASSIFICATION CODES (SCC) means number codes created by the United States Environmental Protection Agency used to identify processes associated with point sources that contribute emissions to the atmosphere.

(20) STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE means the Standard Industrial Classification Code which classifies establishments by the type of business activity in which they are engaged, as defined by the Standard Industrial Classification Manual, 1987, published by the Executive Office of the President, Office of Management and Budget, 1987, which is herein incorporated by reference.

(21) STATE COSTS means the reasonable anticipated cost which will be incurred by the CARB and OEHHA to implement and administer the Act, as shown in the District staff report.

(22) STATE INDUSTRY-WIDE FACILITY means a facility that (1) qualifies to be included in an industry-wide emission inventory prepared by the District pursuant to Health and Safety Code Section 44323, (2) releases, or has the potential to release, less than ten tons per year of each criteria pollutant, and (3) is either of the following:

(A) a facility in one of the following four classes of facilities: autobody shops, as described by SIC Codes 5511-5521 or 7532; gasoline stations, as described by SIC Code 5541; dry cleaners, as described by SIC Code 7216; and printing and publishing, as described by SIC Codes 2711-2771 or 2782; or

(B) a facility that has not prepared an Individual Plan and Report in accordance with sections 44340, 44341, and 44344 of the Health and Safety Code and for which the District submits documentation for approval by the Executive Officer of the CARB, verifying that the facility meets the requirements of Health and Safety Code Section 44323(a)-(d).

(23) SUPPLEMENTAL FEE means the fee charged, pursuant to Section 44380.5 of the Health and Safety Code, to cover the costs of the District to review a health risk assessment containing supplemental information which was prepared in accordance with the provisions of Section 44360(b)(3) of the Health and Safety Code.

(24) TOTAL ORGANIC GASES (TOG) means all gases containing carbon, except carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.

(25) UNPRIORITIZED FACILITY means a facility that has not been prioritized by the District in accordance with Health and Safety Code Section 44360(a) using procedures that have undergone public review and that are consistent with the procedures presented in the CAPCOA "Air Toxics 'Hot Spots' Program Facility Prioritization Guidelines, July 1990", which has been approved by the State Board and is incorporated by reference herein.

(d) Fees

All sources subject to this rule shall be assessed an annual fee pursuant to Table I of this rule.

(1) Calculation of Fees

(A) The District will establish the fee applicable to each facility for the recovery of State and District costs. The District will use State costs and District costs to calculate fees, and will take into account and allow for the unanticipated closing of businesses, nonpayment of fees, and other circumstances which would result in a shortfall in anticipated revenue; and

(B) The District will calculate fees on the basis of the Facility Program Category as set forth by July 1 of the applicable fiscal year, except for facilities excluded under subparagraph (d)(6) of this rule.

(2) Flat Fees

(A) A facility in the State Industry-wide Facility Program Category, as defined by paragraph (c)(22) of this rule, shall be assessed the fee specified in Table I.

(B) A facility in the District Tracking Program Category, as defined by paragraph (c)(4) of this rule, will be assessed the annual fee specified in Table I to cover the cost to the District to review the facility's quadrennial emission inventory update.

(C) The maximum fee that a small business as defined in paragraph (c)(18) of this rule shall pay is $300.00.

(D) The supplemental fee as defined in paragraph (c)(23) of this rule, which may be assessed upon the operator of a facility, shall be no higher than $2,337.96~~2,174.85 for FY 04-05 and $2,174.85 for FY 05-06~~.

(3) Fee Payment and Collection

(A) The District will notify and assess the operator of each facility subject to this rule in writing of the fee due. The operator shall remit the fee to the District within sixty (60) days after the receipt of the fee assessment notice or the fee will be considered past due. For the purpose of this rule, the fee payment will be considered received by the District if it is postmarked by the United States Postal Service on or before the due date stated on the billing notice. If the due date falls on a Saturday, Sunday, or a state holiday, the fee payment may be postmarked on the next business

day following the Saturday, Sunday, or state holiday with the same effect as if it had been postmarked on the due date.

(B) If an operator fails to pay the fee within sixty (60) days of this notice pursuant to subparagraph (d)(4)(A) of this rule, the District may assess a penalty of not more than one hundred percent (100%) of the assessed fee, but in an amount sufficient, in the District's determination, to pay the District's additional expenses incurred by the operator's non-compliance. If an operator fails to pay the fee within 120 days after receipt of this notice, the District may initiate permit revocation proceedings. If any permit is revoked it shall be reinstated only upon full payment of the overdue fees plus any late penalty as specified in this subparagraph.

(4) Payment to the State

The District will collect the fees assessed by or required to be assessed by this rule. After deducting the costs to the District to implement and administer the program, the District will transmit to the State Board the amount the District is required to collect for recovery of state costs as specified in Table I.

(5) Exemptions

A facility shall be exempt from paying fees if, by July 1 of the applicable Fiscal Year, any one or more of the following criteria are met:

(A) The facility has been prioritized by the District in accordance with Health and Safety Code Section 44360(a) using procedures that have undergone public review, and the facility's prioritization score is less than or equal to 1.0 for both cancer and non-cancer health effects. The procedure for estimating priority of facilities were developed based on the California Air Pollution Control Officers' Association (CAPCOA) "Air Toxics "Hot Spots" Program Facility Prioritization Guidelines, July 1990", and was adopted by the District Board on September 24, 1990.

(B) The facility had its health risk assessment approved by the District in accordance with Health and Safety Code Section 44362 and the risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, of less than

one case per one million persons and a total hazard index for each toxicological endpoint, both acute and chronic, of less than 0.1. Some appropriate procedures for determining potential cancer risk and total hazard index are presented in the CAPCOA "Air Toxics "Hot Spots" Program Revised 1992 Risk Assessment Guidelines, October 1993", which is incorporated by reference herein.

(C) The facility primarily performs printing as described by SIC Codes 2711 through 2771 or 2782, and the facility uses an annualized average of two (2) gallons per day or less [or seventeen (17) pounds per day or less] of all graphic arts materials (deducting the amount of any water or acetone) unless the District required a health risk assessment and results show the facility would not qualify under subparagraph (d)(6)(A) of this rule.

(D) The facility is a wastewater treatment plant as described by SIC Code 4952, the facility does not have a sludge incinerator and the maximum throughput at the facility does not exceed 10,000,000 gallons per day of effluent unless the District required a health risk assessment and results show the facility would not qualify under subparagraph (d)(6)(A) of this rule.

(E) The facility is a crematorium for humans, animals, or pets as described by SIC Code 7261 or any SIC Code that describes a facility using an incinerator to burn biomedical waste (animal), the facility uses propane or natural gas as fuel, and the facility annually cremates no more than 300 cases (human) or 43,200 pounds (human or animal) unless the District required a health risk assessment and results show the facility would not qualify under subparagraph (d)(6)(A) of this rule. Facilities using incinerators that burn biomedical waste other than cremating animals do not qualify for this exemption.

(F) The facility is primarily a boat building and repair facility or primarily a ship building and repair facility as described by SIC Codes 3731 or 3732, and the facility uses twenty (20) gallons per year or less of coatings or is a coating operation using hand held non-refillable aerosol cans only unless the District required a health risk assessment and results show the facility would not

qualify under subparagraph (d)(6)(A) of this rule.

(G) The facility is a hospital or veterinary clinic building that is in compliance with the control requirements specified in the Ethylene Oxide Control Measure for Sterilizes and Aerators, section 93108 of this title and has an annual usage of ethylene oxide of less than 100 pounds per year if it is housed in a single story building, or has an annual usage of ethylene oxide of less than 600 pounds per year if it is housed in a multi-story building unless the District required a health risk assessment and results show the facility would not qualify under subparagraph (d)(6)(A) of this rule.

(H) The facility was not required to conduct a risk assessment under Health and Safety Code Section 44360(b), and the District, or the facility with the concurrence of the District, has conducted a worst-case, health conservative risk assessment using screening air dispersion modeling criteria set forth in Appendix F of the Guidelines Report and has demonstrated to the satisfaction of the District that the facility's screening risk levels meet the criteria set forth in subparagraph (d)(6)(A) of this rule.

~~FY 04-05~~

TABLE I

FACILITY FEES BY PROGRAM CATEGORY

FACILITY PROGRAM CATEGORY	COMPLEXITY	DISTRICT FEE	STATE FEE	TOTAL FACILITY FEE
HRA Tracking*	Simple	$315.77~~293.74~~	$67	$382.77~~360.74~~
	Medium	$463.37~~431.04~~	$100	$563.37~~531.04~~
	Complex	$610.97~~568.34~~	$134	$744.97~~702.34~~
Unprioritized	Simple	$477.20~~443.91~~	$402	$879.20~~845.91~~
	Medium	$2,687.69~~2,500.18~~	$603	$3,290.69~~3,103.18~~
	Complex	$3,577.88~~3,328.26~~	$804	$4,381.88~~4,132.26~~
PS>10, No HRA	Simple	$4,170.56~~3,879.59~~	$1,674	$5,844.56~~5,553.59~~
	Medium	$4,468.05~~4,156.33~~	$2,009	$6,477.05~~6,165.33~~
	Complex	$4,763.25~~4,430.93~~	$2,344	$7,107.25~~6,774.93~~
Risk ≥10 <50 in a million or HI>1	Simple	$5,060.75~~4,707.67~~	$3,014	$8,074.75~~7,721.67~~
	Medium	$5,357.08~~4,983.33~~	$3,349	$8,706.08~~8,332.33~~
	Complex	$5,653.44~~5,259.01~~	$3,684	$9,337.44~~8,943.01~~
Risk ≥50 <100 in a million	Simple	$5,950.93~~5,535.75~~	$4,353	$10,303.93~~9,888.75~~
	Medium	$6,246.12~~5,810.34~~	$4,688	$10,934.12~~10,498.34~~
	Complex	$6,543.61~~6,087.08~~	$5,023	$11,566.61~~11,110.08~~
Risk ≥100 in a million	Simple	$6,841.12~~6,363.83~~	$5,693	$12,534.12~~12,056.83~~

	Medium	$7,136.30~~6,638.42~~	$6,028	$13,164.30~~12,666.42~~
	Complex	$7,433.80~~6,915.16~~	$6,363	$13,796.80~~13,278.16~~
District Tracking*		$167.31~~155.64~~		$167.31~~155.64~~
State Industry-wide		$117.43~~109.24~~	$35	$152.43~~144.24~~

~~FY 05-06 and thereafter~~

~~TABLE I~~

~~FACILITY FEES BY PROGRAM CATEGORY~~

~~FACILITY PROGRAM CATEGORY~~	~~COMPLEXITY~~	~~DISTRICT FEE~~	~~STATE FEE~~	~~TOTAL FACILITY FEE~~
~~*HRA Tracking**~~	~~Simple~~	~~$293.74~~	~~$67~~	~~$360.74~~
	~~Medium~~	~~$431.04~~	~~$100~~	~~$531.04~~
	~~Complex~~	~~$568.34~~	~~$134~~	~~$702.34~~
~~*Unprioritized*~~	~~Simple~~	~~$443.91~~	~~$402~~	~~$845.91~~
	~~Medium~~	~~$2,500.18~~	~~$603~~	~~$3,103.18~~
	~~Complex~~	~~$3,328.26~~	~~$804~~	~~$4,132.26~~
~~*PS>10, No HRA*~~	~~Simple~~	~~$3,879.59~~	~~$1,674~~	~~$5,553.59~~
	~~Medium~~	~~$4,156.33~~	~~$2,009~~	~~$6,165.33~~
	~~Complex~~	~~$4,430.93~~	~~$2,344~~	~~$6,774.93~~
~~*Risk ≥10 <50 in a million or HI>1*~~	~~Simple~~	~~$4,707.67~~	~~$3,014~~	~~$7,721.67~~
	~~Medium~~	~~$4,983.33~~	~~$3,349~~	~~$8,332.33~~
	~~Complex~~	~~$5,259.01~~	~~$3,684~~	~~$8,943.01~~
~~*Risk ≥50 <100 in a million*~~	~~Simple~~	~~$5,535.75~~	~~$4,353~~	~~$9,888.75~~
	~~Medium~~	~~$5,810.34~~	~~$4,688~~	~~$10,498.34~~
	~~Complex~~	~~$6,087.08~~	~~$5,023~~	~~$11,110.08~~
~~*Risk ≥100 in a million*~~	~~Simple~~	~~$6,363.83~~	~~$5,693~~	~~$12,056.83~~
	~~Medium~~	~~$6,638.42~~	~~$6,028~~	~~$12,666.42~~
	~~Complex~~	~~$6,915.16~~	~~$6,363~~	~~$13,278.16~~
~~*District Tracking***~~		~~$155.64~~		~~$155.64~~
~~*State Industry-wide*~~		~~$109.24~~	~~$35~~	~~$144.24~~

*HRA Tracking --- (PS>10 with HRA) Risk≥1, <10 in a million, or HI≥0.1, ≤1
**District Tracking --- Priority Score greater than 1, and equal to or less than 10
HRA --- Health Risk Assessment
HI --- Hazard Index, Acute or Chronic