

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

Draft Staff Report

Proposed Amended Regulation III – Fees

Including:

Proposed Amended Rule 301 - Permitting and Associated Fees
Proposed Amended Rule 303 - Hearing Board Fees
Proposed Amended Rule 304 - Equipment, Materials, and Ambient Air Analyses
Proposed Amended Rule 304.1 - Analyses Fees
Proposed Amended Rule 305 – Fees for Acid Deposition Research (Rescission)
Proposed Amended Rule 306 - Plan Fees
Proposed Amended Rule 307 – Fees for Air Toxics Emissions Inventory
Proposed Amended Rule 307.1 - Alternative Fees for Air Toxics Emissions Inventory
Proposed Amended Rule 308 - On-Road Motor Vehicle Mitigation Options Fees
Proposed Amended Rule 309 - Fees for Regulation XVI
Proposed Amended Rule 311 - Air Quality Investment Program (AQIP) Fees
Proposed Amended Rule 312 – Special Permitting Fees for Agricultural Sources (Rescission)
Proposed Rule 313 – Authority to Adjust Fees and Due Dates

May 5, 2006

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SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

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EXECUTIVE SUMMARY

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INTRODUCTION

Regulation III – Fees, establishes the fee rates and schedules associated with permitting, annual renewals, emissions and other activities that help fund most of AQMD's regulatory programs and services. These three fees provide approximately 60% of the AQMD budget. In the 1990's the AQMD began experiencing significant shortfalls in its budget due to declining revenues that threatened the continuity of many of its programs and services. Shortfalls exist despite the significant budget reductions adopted and continuous improvements in performance and efficiency. Also, as a result of poor stock market performance and litigation-required changes to the defined pension benefit obligation, expenditures for legally-mandated retirement-related contributions to the San Bernardino County Employees Retirement Association increased by \$5.5 million in FY 2003-2004. In FY 2004-2005 the retirement contribution expenditures decreased by \$0.7 million as a result of unfunding 44 positions and as a result of continuing savings resulting from AQMD issuing pension obligation bonds in June 2004, which lowered the retirement contribution rates by approximately 560 basis points. In FY 2005-2006 retirement contributions have increased \$3.0 million. However, as a result of recently-completed labor contracts with employees, a portion of the total retirement contribution costs will be shifted to the employees, with the employees paying, on an annualized basis, approximately \$1.9 million of the total retirement contribution costs. Retirement contribution rates for FY 06-07 will increase on average 9%.

To address the shortfall in revenues resulting from legally mandated funding requirements, staff prepared two separate proposals (options) for consideration by the Governing Board. Each option has the same amendments to more fully recover specific program costs and fee increases. Option 1 proposes a 3.65% fee increase (the change in the 2005 California Consumer Price Index) for all source categories for FY 06-07, except for permitting, annual renewal and emission fees which are proposed to be increased by a total of 10% annually for the next 3 years, to more fully recover program costs. Option 2 proposes to increase fees by 3.65% for FY 06-07 only, including permitting, annual renewal and emission fees, and will partially recover program costs.

Staff is recommending Option 1, which will more fully recover program costs.

AQMD BUDGET FOR FY 2006-2007

The AQMD is currently in the process of finalizing the Budget for FY 2006-2007. The proposed fee amendments were formulated to address cost recovery by better aligning program revenue with program costs that have typically never been fully recovered. Staff currently projects a \$13.2 million dollar deficit in programs supported by Annual Operating Renewal fees, Annual Operating Emissions fees, Permit fees, and a \$3.3 million shortfall in programs supported by Source Test/Lab Analyses fees, Hearing Board fees, Transportation Program fees, Subscription Services revenue, and Public Records Act revenue. Factors impacting program costs include legally mandated funding for the San Bernardino County Employee Retirement Association (SBCERA), decreasing annual operating emissions fees revenues, and revenues remaining generally flat from permit processing and annual permit

renewal fees. Also, revenues from CPI adjusted emission fees have declined by more than 50 percent over the last fifteen years and have remained flat over the last several years due to rapidly declining emission inventories at rates exceeding annual CPI rates. State subvention funding which had been as high as \$6 million in past years dropped to about \$4 million for FY 2004-2005, and is expected to remain at that same level for FY 06-07. The proposed Fiscal Year 2006-07 Budget and Work Program are hereby incorporated by reference in this report.

PROPOSED AMENDMENTS TO REGULATION III - FEES

The amendments being considered for Regulation III focus on better recovering the costs of the various source programs and clarifying existing language in the rule. Two options have been prepared. Both options incorporate proposals to better align program revenue with program costs and other amendments to clarify and streamline the rule. Both options also adjust fees to address current and projected changes to AQMD costs. Option 1 increases all fees by the CPI for the pending fiscal year, except fee rates for permitting, annual renewal and emissions are proposed to be increased by 10% for each of the next three years. Option 2 proposes a one year fee increase consistent with the CPI of 3.65%.

The paragraphs below summarize the proposed amendments and the anticipated cost recovery. Proposals with a cost recovery estimated indicated as non-applicable are anticipated to produce less than \$10,000 of cost recovery, however these fees are being aligned for equity purposes so that the same fees are charged for comparable work performed and also to streamline and simplify the overall permit fee structure. The estimated fiscal impacts, if any, of each of the proposed amendments shown below are exclusive. That is, each item's fiscal impact is for that item alone. The total changes would need to be aggregated to determine the overall fiscal impact as shown in Chapter 5. In both Option 1 and Option 2 alignment of fees for permitting activities are phased in over two years.

The major proposed amendments are listed below in sequential order (beginning with the rate increase, followed by Rule 301 and concluding with Rule 313 proposals):

1. PAR III Fee Increase

Option 1 Cost Recovery – A 3.65% rate increase in fees, reflecting the increase in the 2005 California consumer price index (CPI), where applicable except for permitting, annual renewal and emissions related fees which are increased by an additional 6.35% to a total 10% rate increase, annually for the next 3 years, which while not fully recovering program deficits will more closely recovers program costs, or

Option 2 Cost Recovery – A rate increase in fees, reflecting the increase in the 2005 California consumer price index (CPI), where applicable, which at a minimum would keep fees in pace with inflation.

Option 1 estimated cost recovery = \$6.8M FY 06-07, \$7.3M FY 07-08, \$8.1M

FY 08-09

Option 2 estimated cost recovery = \$2.5M FY 06-07

2. Collection of Unpaid Fees for Permit to Operate (PO) but No Permit to Construct Issued (PC) [301(c)(1)(D)] – For existing equipment where a Permit to Operate is issued without a Permit to Construct having previously been issued the applicant shall also remit annual operating fees for the source for three full years, or the actual years of operation if less than three years.

Option 1 estimated cost recovery = \$220,000 FY 06-07, \$242,000 FY 07-08, \$266,000 FY 08-09

Option 2 estimated cost recovery = \$207,000 FY 06-07

3. Standard Streamlined Permit Fee Alignment [(301(c)(1)(J))– The fee for a Standard Streamlined Permit is aligned with the new proposed Administrative Permit Change fee for schedule B and higher equipment categories to better recover costs.

Option 1 estimated cost recovery = \$N/A

Option 2 estimated cost recovery = \$N/A

4. Reissuance of Permit Prohibiting Use of Toxic Fee Alignment [301(c)(3)(A)] – Alignment of the fee for permits that must be reissued with conditions prohibiting the use of toxic materials and for which no evaluation is required, no physical modifications of equipment are made, and the use of substitute materials does not increase Volatile Organic Compounds (VOC) by more than 0.5 pound in any one day with the Administrative Permit Change fee for Schedule B and higher equipment categories to better recover costs.

Option 1 estimated cost recovery = \$N/A

Option 2 estimated cost recovery = \$N/A

5. Reissuance of Permits for Removed Standby Fuel Supply Not Requiring a NSR Evaluation [301(c)(3)(B)(ii)] – The fee for reissuing a permit indicating that a standby fuel supply has been removed or permanently disconnected is aligned with the Schedule A Alteration/Modification fee to better recover costs.

Option 1 estimated cost recovery = \$N/A

Option 2 estimated cost recovery = \$N/A

6. Administrative Change Fee Alignment [301(c)(3)(C)] – The fee for an administrative change to a permit condition(s), not requiring an engineering evaluation is realigned to better recover actual costs.

Option 1 estimated cost recovery = \$83,000 FY 06-07, \$182,000 FY 07-08, \$200,000 FY 08-09

Option 2 estimated cost recovery = \$78,000 FY 06-07, \$155,000 FY 07-08

7. EIR Addendum Fee Alignment [301(i)(1)] – The current fee of \$3,038.53 for an EIR addendum is reduced to a \$2,099.63 base fee which translates to staff time closer to 20 hours rather than 30 hours, which is a more accurate reflection of staff work on this type of document. In addition, clarification is provided regarding payment for CEQA document assistance.

Option 1 estimated cost recovery = N/A

Option 2 estimated cost recovery = N/A

8. RECLAIM Facilities:

- Permit Fee Alignment [301(o)(5)] – The RECLAIM facility permit amendment fee for an application that does not require an engineering evaluation is aligned with the facility permit amendment fee for an application that does require an engineering evaluation.
Option 1 estimated cost recovery = \$30,000 FY 06-07, \$65,000 FY 07-08, \$71,000 FY 08-09
Option 2 estimated cost recovery = \$28,000 FY 06-07, \$56,000 FY 07-08
- Change of Operator Fee Alignment [301(o)(7)] – The change of operator fee is standardized for all RECLAIM facilities that exceed a certain number of permit units based on the fee charged for Change of Operator for non-small business.
Option 1 estimated cost recovery = N/A
Option 2 estimated cost recovery = N/A

9. Title V Facilities:

- Administrative Permit Revision Fee Alignment [301(p)(6)] – The Title V Administrative Permit Revision fee is standardized and aligned with Facility Amendment Fee for all such applications to streamline and simplify the fee structure.
Option 1 estimated cost recovery = N/A
Option 2 estimated cost recovery = N/A
- Permit Revision Fee Alignment [301(p)(7)] – The Title V Permit Revision fee is standardized for all such applications to streamline and simplify the fee structure.
Option 1 estimated cost recovery = N/A
Option 2 estimated cost recovery = N/A
- Facility Permit Change of Operator Fee Alignment [301(q)(5)] – The facility permit change of operator fee is standardized for all such applications to streamline and simplify the fee structure.
Option 1 estimated cost recovery = N/A
Option 2 estimated cost recovery = N/A
- Renewal Initial Processing Fee Alignment [301(p)(8)] – The Title V initial processing fee for renewals is aligned to better recover costs with the final fee based on an hourly rate assessed for each hour after the first 8 (not the current 5) hours of processing.
Option 1 estimated cost recovery = \$34,000 FY 06-07, \$74,000 FY 07-08, \$81,000 FY 08-09
Option 2 estimated cost recovery = \$32,000 FY 06-07, \$63,000 FY 07-08

10. Schedule A and A1 Permit Change of Condition and Schedule F, G, and H Permit Processing Fee Alignment [301 Table: Summary Permit Fee Rates] – The Change of Condition fee for Schedule A and A1 equipment is aligned with the Administrative Permit Change fee for Schedule B and higher to better recover costs.
Schedule F, G and H Permit Fee Alignment [301 Table: Summary Permit Fee Rates] – The permit processing fee for Schedule F, G and H equipment is adjusted to better recover costs and the number of hours after which time and material charges are charged, on an hourly basis, is increased by 20 hours from the current threshold to better recover actual costs.
Option 1 estimated cost recovery = \$113,000 FY 06-07, \$248,000 FY 07-08, \$273,000 FY 08-09
Option 2 estimated cost recovery = \$106,000 FY 06-07, \$212,000 FY 07-08
11. Change of Operator Non-Small Business Fee Alignment [301 Table: Summary of Permit Fee Rates – Change of Operator] – The Change of Operator non-small business fee is aligned with the proposed new Administrative Permit Change fee for Schedule A and A1, to better recover costs.
Option 1 estimated cost recovery = \$26,000 FY 06-07, \$57,000 FY 07-08, \$63,000 FY 08-09
Option 2 estimated cost recovery = \$24,000 FY 06-07, \$49,000 FY 07-08
12. Addition of Equipment Categories [301 Table: IA] – The addition of two new control equipment categories to better reflect the amount of District resources required for permitting such equipment and to better recover costs.
Option 1 estimated cost recovery = \$40,000 FY 06-07, \$44,000 FY 07-08, \$48,000 FY 08-09
Option 2 estimated cost recovery = \$37,000 FY 06-07
13. Revision of Schedule for Certain Equipment [301 Table: IB] – Fee schedule for Dip Tank (< 3 gallons per day), Degreaser (< 1 lb VOC/day), Emergency IC Engine (51-500 hp), IC Engine Other (51-500 hp) and Sumps revised to a higher schedule to better recover costs of processing such equipment.
Option 1 estimated cost recovery = \$272,000 FY 06-07, \$299,000 FY 07-08, \$329,000 FY 08-09
Option 2 estimated cost recovery = \$256,000 FY 06-07
14. Compliance Plan Annual Renewal [306(h)] – An annual renewal fee for a compliance plan is established and aligned with the Schedule A annual renewal fee to better recover compliance costs and costs of administering such plans.
Estimated cost recovery = \$116,000 FY 06-07
15. Qualified Independent Consultant Fee [306(i)(2)] – In case the Executive Officer requires a qualified independent consultant, engaged by the District, to review a plan, the fees charged by the consultant will be in addition to all

other fees required to recover this cost.

Estimated cost recovery = \$250,000 FY 06-07

16. “Diesel Engine Only” Facility Program Category Flat Fee [307.1(d)(2)(C)] – For facilities with an Emergency Standby Diesel Engine a flat fee is assessed to recover the cost of mandatory staff review, emissions estimation, prioritization, risk calculation and public notification in compliance with AB 2588 and Rule 1470 requirements.
Estimated cost recovery = \$708,000 FY 06-07
17. Special Health Risk Assessment Fee [307.1(d)(3)] – Recovers the cost of preparation of a revised AB 2588 Health Risk Assessment (HRA), in addition to review and verification by qualified District personnel or contractor. The fee is for the actual cost of review or preparation charged at an hourly rate for staff and at the consultants actual cost.
Estimated cost recovery = \$22,000 FY 06-07
18. AB2588 Air Toxics Surcharge [307.1 Table 1] – The AB2588 Air Toxics Surcharge fee better recovers program costs associated with expanded AB2588 activities.
Estimated cost recovery = \$218,000 FY 06-07
19. Rule 308 Failure to Notify fee [308(o)] – The Failure to Notify fee is applicable to facilities that fail to notify the District that they are subject to the commute reduction reductions of Rule 308. The fee seeks to recover the cost to the District of identifying facilities that have failed to notify the District and are therefore not in compliance with Rule 308.
Estimated cost recovery = \$62,000 FY 06-07
20. Rule 309 – Fees for Regulation XVI [309(d) & (e)] – This fee will recover the cost of staff time necessary for inspection and verification of car scrapping plans.
Estimated cost recovery = \$70,000 FY 06-07
21. Rule 313 - Authority to Adjust Fees and Due Dates [313] – Existing Regulation III language and current practice regarding items such as due dates, surcharges, fee adjustments and other administrative fiscal procedures common to most Regulation III rules is clarified and consolidated in a single new Rule 313.
Estimated cost recovery = none; administrative
22. Terminology change in Rules 301, 307, 307.1 – The terms “penalty”, “payment penalty” and “late fee” are changed to surcharge to reflect the actual nature of the terms.

Further detail on these proposals is provided in Chapter 2 of this report. Other minor proposed administrative amendments are for correction and clarification of current rule text that have minor or no fiscal impact (and listed sequentially in Chapter 3 of this report).

CHAPTER 1 - BACKGROUND

- **LEGISLATIVE HISTORY**
- **RULEMAKING HISTORY**

LEGISLATIVE HISTORY

California Health and Safety (H&S) Code § 40500 et. seq. establishes the authority of the District to “adopt fee schedules for the issuance of variances and permits to cover the cost of planning, inspections, and monitoring related thereto” and to assess fees for the approval of plans for the control of air contaminants and regulatory programs affecting indirect and area sources (H&S Code §§ 40522 and 40522.5).

With the enactment of SB 802 (Lewis) in October 1993, total fees collected by AQMD in successive years was limited to an amount equivalent to the amount of fees collected in FY 1993-94, adjusted annually to reflect any subsequent increase in the California Consumer Price Index (CPI). This bill also prohibited increasing individual permit fees by more than the CPI. In 1994, SB 1853 (Polanco) revised the CPI baseline range from January 1 of the previous year to January 1 of the current year. In 1995, SB 962 (Russell) restored some of the flexibility to adjust fees that SB 802 removed. Under SB 962, AQMD can increase individual permit fees in excess of the California CPI based on the Governing Board’s findings supported by relevant information that a fee increase is necessary and will be equitably apportioned. However, the increase must be phased in over a two-year period. This evidence must appear in the rulemaking record, and must include a written explanation of how a fee increase meets these requirements, set forth in California H&S Code §§§ 40510, 40510.5, and 40523, as follows:

- § 40510: (a) The Legislature finds and declares as follows:
- (1) Total fees collected by the south coast district must continue to be capped in order to prevent the imposition of undue financial burden upon regulated sources.
 - (2) There is a need to provide for greater flexibility in establishing and amending fees within the total fee cap to ensure a fair apportionment of fee payment responsibilities.
 - (3) Fees based solely on the quantity of emissions created by a source should not be indexed to the emission potential, or to a percentage of emissions trading units, as that term is used in Sections 39616 and 40440.1, held by that source so as to prevent payments of those fees from decreasing if emissions decline.
 - (4) Before making any individual fee increases in excess of the percentage increase of the California Consumer Price Index for the preceding calendar year, findings of fact should be made, supported by relevant information in the public record, that the fee increase is necessary and will provide an equitable apportionment of fee payment responsibilities, and the increase should be

phased in to void sudden adverse impacts on regulated sources.

- (b) The south coast district board may adopt a fee schedule for the issuance of variances and permits to cover the reasonable cost of permitting, planning, enforcement, and monitoring related hereto. Every person applying for a variance or a permit, notwithstanding Section 6103 of the Government Code, shall pay the fees required by the schedule.
- (c)
 - (1) The fees may be varied in accordance with the quantity of emissions and the effect of those emissions on the ambient air quality within the south coast district.
 - (2) The fees shall not be indexed to the potential emissions from, or to a percentage of the emissions trading units, as that term is used in Sections 39616 and 40440.1, held by, any source.
- (d) Subject to the limits established by this section and Sections 40500.1 and 40523 and the requirements of Section 40510.5, this section shall not prevent the district from establishing or amending an individual permit renewal or operating permit fee applicable to a class of sources to recover the reasonable district costs of permitting, planning, enforcement, and monitoring which that class will cause to district programs. In establishing the fee applicable to a class of sources, the district may consider the impact on air quality of the emissions from that class.

§ 40510.5: In addition to the limits on total fee collections established by Sections 40500.1 and 40523, the south coast district board shall not increase any existing permit fee by a percentage greater than any percentage increase in the California Consumer Price Index for the preceding calendar year, unless the board complies with both of the following requirements:

- (a) The district board shall make a finding, based upon relevant information in a rulemaking record, that the fee increase is necessary and will result in an apportionment of fees that is equitable. This finding shall include an explanation of why the fee increase meets the requirements of this section and Section 40510.
- (b) The fee increase shall be phased in over a period of at least two years.

§ 40523: The total amount of fees collected by the south coast district in any fiscal year shall not exceed the amount of fees collected by the district in the 1993-1994 fiscal year, except that the amount may be adjusted annually in the 1994-1995 fiscal year and subsequent fiscal years to reflect any increase in the California Consumer Price Index, for the preceding calendar year, from January 1 of the prior year to January 1 of the current year, as determined by the Department of Industrial Relations. This limitation shall not affect or limit the fees, which may be imposed and collected pursuant to a state, or a federal mandate imposed on or after January 1, 1994.

Additional statutes authorize the collection of fees to cover the costs of regulation of indirect and area-wide sources (H&S Code § 40522.5); and to recover costs for the approval of plans for the control of emissions of air contaminants, to cover the costs of related review, planning, inspection, and monitoring (H&S Code § 40522).

RULEMAKING HISTORY

AQMD Regulation III – Fees, describes activities for which fees are required and sets rates and schedules for the amount of fees to be charged. Regulation III is amended each year in support of AQMD’s annual budget. California H&S Code §§ 40510, 40510.5, and 40523 authorize AQMD to increase fees consistent with an annual increase in the California CPI and allow increasing individual fees by a greater amount if the Board makes the required findings of necessity and equitable apportionment. For a more detailed history of prior fiscal year amendments already approved and adopted by the Governing Board see Appendix A at the end of this staff report.

CHAPTER 2 – SUMMARY OF PROPOSED AMENDMENTS (Description and Equity/Necessity)

The following are the specific major proposals for both Option 1 and 2 amendments to Regulation III – Fees for FY 2006-2007. An explanation of the necessity/equity of the each proposal is given. Other proposed amendments are minor in nature and administrative changes or corrections for clarification of current rule text.

1. PAR III Fee Increase

Rule(s)	All Regulation III Rules.
Description	Option 1: All Rule 301 permitting, annual renewal & emissions fees are increased 10% annually over 3 years (FY 06-07 through FY 08-09) and all other fees are increased by the 2005 California consumer Price Index (CPI) of 3.65%; <u>or</u> Option 2: all Regulation III rules are increased by the 2005 CPI of 3.65%.
Necessity/Equity	A total \$13.2 million revenue shortfall is projected in FY 06-07 for programs supported by annual operating permit renewal fees, annual operating emissions fees, and permit processing fees. Additionally, there is a projected \$3.3 million shortfall in FY 06-07 for programs supported by source test/lab analysis fees, Hearing Board fees, transportation program fees, subscription services revenue, and Public Records Act revenue. The shortfalls were identified during initial development of the FY 06-07 Draft Budget and Work Program. The Work Program was developed over 20 years ago and tracks, by program category, the number of hours AQMD employees spend on each activity and tracks costs associated with those activities. In addition, to determine fully burdened costs, overhead costs such as utilities, debt service, insurance, and payroll which benefit all programs, are allocated to each activity based on the number of Full Time Equivalent positions for that activity. Program categories tracked by the Work Program include policy support, monitoring air quality, developing programs to achieve clean air, developing Rules to achieve clean air, advancing clean air technology, timely review of permits, ensuring compliance with clean air rules, operational support, and customer service. Every General Fund expenditure made by AQMD, including expenditures for employee salaries and benefits, are tracked in the Work Program.

Annual operating permit renewal fees and annual operating emissions fees are intended to cover the costs of AQMD's compliance program, planning, rule making, air monitoring and testing, source education, civil enforcement cases, stationary source research projects, and can be used to offset shortfalls in permit processing. Beginning in FY 91-92 and up to the current time, annual operating emissions fees have substantially decreased and are projected to decline further based on new emissions limits placed on RECLAIM facilities. Emissions fees revenue in FY 90-91 was \$45.2 million, and even with periodic fee increases since then, current FY 05-06 emissions fees revenue is expected to be \$20.2 million, which is a decrease over time of \$25 million. The total projected FY 06-07 cost of programs supported by annual operating permit renewal fees and annual operating emissions fees is \$49.6 million dollars and revenues from these programs are projected to be \$45.3 million dollars, leaving a shortfall of \$4.3 million dollars.

Permit processing fees are intended to cover the costs associated with evaluating permit applications and issuing permits. The total projected FY 06-07 cost of the permit processing program is \$24.4 million and permit processing fees revenue is projected to be \$15.5 million, leaving a shortfall of \$8.9 million.

Source test/lab analysis fees, Hearing Board fees, transportation program fees, subscription services revenue, and Public Records Act revenue are intended to cover the costs of these programs and activities. The total FY 06-07 projected cost of these programs and activities is \$6.6 million and revenue is projected to be \$3.3 million, leaving a shortfall of \$3.3 million.

Both the 1993 Assessment of Alternative Long-Term Funding Options study conducted by KPMG Peat Marwick, management consultants, and the 1999 Fee Structure Study, conducted by Thompson, Cobb, Bazilio & Associates, Certified Public Accounts and management consultants, contained findings that AQMD was not recovering its program costs and should raise fees to cover program costs. Since 1993, AQMD has, in all but two fiscal years, limited fee

increases to the change in the California Consumer Price Index (CPI). However, during this same time period, program costs increased at rates that far exceeded the change in the CPI. The program costs increases were, to a large extent, attributable to significant increases in legally-mandated retirement contributions. To reduce program costs yet continue its program commitments, despite new federal and state air quality mandates and increased workload complexity, AQMD has continued to streamline many of our operations. In June 2004 the AQMD issued pension obligation bonds to finance a portion of its outstanding retirement obligation, over time saving more than \$20 million in interest costs. Recently, the AQMD negotiated changes to its labor contracts, shifting a portion of retirement burden to current employees and reducing retirement benefits for new employees. Compared to FY 91-92, the FY 06-07 proposed budget reflects staffing levels that are 32% (377 Full Time Equivalent positions) below FY 91-92 and expenditures that will, for the first time in 15 years, exceed, by \$5.6 million, the FY 91-92 budget. Adjusted for inflation, the FY 06-07 budget request is 36.3% less than FY 91-92. To further reduce expenditures, staff is proposing to begin, in FY 06-07, using a one-time penalty and settlements to reduce long-term debt.

The fee increases proposed for FY 06-07 will allow AQMD to maintain the current level of services without cuts and will move the agency toward more closely, but not fully, recovering program costs. AQMD regulates approximately 26,000 facilities in its jurisdiction. The agency's fees structures reflects varying levels of effort, based on equipment type and level of complexity. Of the approximate 26,000 facilities regulated by AQMD, 80% of the facilities have only one or two Permits to Operate, for equipment at the lowest fee schedules. For a typical facility, such as a dry cleaner, with only one Permit to Operate at the lowest fee schedule, the FY 06-07 annual operating renewal fee would increase by \$22. This facility would also pay a FY 06-07 annual flat emissions fee for emissions up to 4 tons of emissions, and the proposed increase for this fee would be just over \$8. The total fee increase for this facility would be \$30, which is an average of less than \$2.50 per month.

Without cost recovery, resources and associated programs will have to be significantly reduced, therefore the proposed Option 1 Increases are necessary to maintain existing levels of programs. Option 1 also equitably apportions the proposed fee increases. Currently, permit and annual renewal fees are structured for stationary sources based on actual AQMD staff level of effort and actual costs. Emission fees are based on actual costs of the programs supported and are apportioned based on emissions. These programs are currently experiencing a significant shortfall. By uniformly increasing these fees, the equitable apportionment to sources will remain, while the amount each will pay will now more closely recover actual costs to administer these programs.

2. Collection of Unpaid Fees PO Issued No PC

Rule(s) 301(c)(1)(D).

Description Facilities that were operating without first obtaining a District Permit to Construct are required to remit annual operating fees for a full 3 years (or the actual years of operation if less than 3 years).

Necessity/Equity All sources subject to AQMD permit are required to pay annual operating fees for their permits. These fees fund programs for compliance, planning, rulemaking, air monitoring and testing, source education, civil enforcement cases, and stationary source research. It is necessary to recover the cost of these programs from all operating sources. These sources subject to this fee have been operating without payment of annual operating fees. The fee establishes equity with permit holders that have been operating with valid permits and is paid by applicants that were operating without valid permits. In addition, the sources assessed this fee have received the benefits from implementation of the AQMD's stationary source program.

Typically, these are sources that filed applications either due to a Notice to Comply, or filed the application voluntarily after an internal audit, or after the construction has been completed. The applications are filed as Permit to Operate Without Prior Permit and are assessed a 50% higher permit processing fee. The

higher permit processing fee recovers the cost of the additional processing work required for this type of permit. The applications filed in this manner have a temporary Permit to Operate. Sources that are issued Notices of Violation are dealt with by the Chief Prosecutor's Office and the penalties assessed are on a case-by-case basis. Annual Operating fees support all of the Compliance activities and support other functions at the agency, such as permitting, planning and rule development. Sources that are subject to AQMD programs, but have failed to pay fees or obtain permits, should not be allowed to avoid contributing a fair share to the program's operating costs. This fee is necessary to recoup these sources' share of operating costs. It is equitable because it is based on the annual renewal fee, which is proportionate to labor costs.

3. Standard Streamlined Permit Fee Alignment

Rule(s)	301(c)(1)(J).
Description	Standard Streamlined Permit fee is aligned with the Administrative Permit Change fee in Rule 301(c)(3)(C) Schedule B and higher. The fee amendment increases the fee from \$403.44 to \$506.49 for Option 1 and to \$462.79 for Option 2 (first year of a two year phase-in).
Necessity/Equity	This fee alignment more closely recovers the cost of processing Standard Streamlined Permits. Staff estimates that the resources required for this effort are consistent with Administrative Permit Change for Schedule B and higher. This fee is necessary to more closely recover the costs of processing Standard Streamlined Permits and is equitable because it is the same as previously established as appropriate for comparable permit processing work and is paid by the applicant receiving the service.

4. Reissuance of Permit Prohibiting Use of Toxic Fee Alignment

Rule(s)	301(c)(3)(A).
Description	An alignment is proposed on the fee charged for permits that must be reissued with conditions prohibiting the use of toxic materials and for which no evaluation is required, no physical modifications of

equipment are made, and the use of substitute materials does not increase Volatile Organic Compounds (VOC) by more than 0.5 pound in any one day with the Administrative Permit Change fee for Schedule B and higher. The fee amendment increases the fee from \$201.47 to \$405.50 For Option 1 and to \$361.80 for Option 2 (first year of a two year phase-in).

Necessity/Equity

This fee adjustment more closely recovers the cost of processing permits that must be reissued again. Staff estimates that the resources necessary to effect this change requires a minimum 5 hours which is similar to the time taken to process an application for Administrative Permit Change. Therefore, the recommendation is to increase the fee from the current fee of \$201.47 (which is equivalent to approximately 2 hours processing time) to the Administrative Permit Change fee for Schedule B equipment and higher (the total fee increase will be phased in over two fiscal years). This fee is necessary to recover the costs of processing permits that must be reissued again and is equitable because it is the same as previously established as appropriate for comparable permit processing work and is paid by the applicant receiving the service.

5. Reissuance of Permits for Removed Standby Fuel Supply Requiring a NSR Evaluation

Rule(s)

301(c)(3)(B)(ii).

Description

An adjustment of the fee charged for permits that require reissuance that involves NSR evaluation to indicate a standby fuel supply has been removed or permanently disconnected is being proposed. The fee alignment is from the current fee of \$398.39 to the Schedule A Alteration/Modification fee of \$784.30 for Option 1 and to \$700.40 for Option 2 (first year of a two year phase in).

Necessity/Equity

This fee adjustment more closely recovers the cost of processing permits that involve New Source Review. There are currently two tiers of fees for this category: one involving no NSR review evaluation and the other that requires NSR evaluation. The fee that requires no NSR evaluation is based on the reissuance fee in Rule

301(f) (2) and no fee adjustment is proposed beyond the Option 1 and Option 2 CPI adjustments. However, for those applications that may require NSR review, staff experience is that at a minimum, it takes 8 hours to process, based on previous time tracking study data. Therefore the recommendation is to change the fee to the Schedule A Alteration/Modification fee which is equivalent to the time spent. The evaluation required is comparable to that of an alteration/modification of permits rather than a typical permit reissuance. The fee is necessary because it is needed to recover the actual cost of work performed and equitable because it is the same as previously established as appropriate for comparable permit processing work and is paid by the applicant receiving that service.

6. Administrative Change Fee Alignment

Rule(s)	301(c)(3)(C).
Description	An adjustment is proposed for the fee charged for permits that require changes that are administrative in nature. The fee amendment increases the fee for schedule A and A1 equipment from \$134.31 to \$290.32 for Option 1 and to \$258.32 for Option 2, and for all other equipment schedules from \$368.86 to \$489.20 for Option 1 and to \$445.50 (first year of a two year phase-in).
Necessity/Equity	This fee adjustment more closely recovers the cost of processing permits that require changes that are administrative in nature. For Schedule A & A1 this fee is based on a average time of 3.7 staff hours and for Schedule B and higher on an average time 5 staff hours. Staff estimates that this time is consistent with the work effort to process these applications. This is based on time tracking data that was collected during the Fee Study that applications for administrative change requires a minimum of 5 hours. This fee is necessary to recover the costs of processing administrative changes and is equitable because it is the same as previously established as appropriate for comparable permit processing work and is paid by the applicant receiving the service.

7. EIR Addendum Fee Alignment

Rule(s)	301(i)(1)(A).
Description	The current fee of \$3,038.53 for an EIR Addendum is reduced to \$2,099.63 for both Option 1 and Option 2. In addition, clarification is provided regarding payment for CEQA document assistance.
Necessity/Equity	This fee alignment translates to a staff processing time closer to 20 hours rather than 30 hours, which is a more accurate reflection of staff work required. It is equitable because the fee is paid by the applicant receiving the service.

8. RECLAIM Facilities:

• Facility Permit Fee Alignment

Rule(s)	301(o)(5) changes to 301(k)(5).
Description	RECLAIM Facility Permit Amendment fee is standardized for all such applications.
Necessity/Equity	<p>There are currently two fee structures for RECLAIM Facility Permit Amendment fee in Rule 301 (k)(5) based on whether the facility permit amendment was due to applications submitted that require or do not require engineering evaluation. The Facility Amendment Application is a separate application that is required to modify the Facility Permit in addition to the individual applications that are submitted for either a new construction, change of condition, alteration/modification, or administrative change. The fee charged for the Facility Amendment covers the cost of revising and reissuing the Facility Permit.</p>

The current fee for an amendment requiring an engineering evaluation is \$633.96 (\$1,267.94 if both RECLAIM and Title V facility) and \$249.20 (\$368.86 if both RECLAIM and Title V facility) for an application not requiring an engineering evaluation.

The proposal is to change the fee of the Facility Amendment Fee for applications that do not require engineering evaluation to be the same as one that requires an engineering evaluation. Based on staff

experience in amending the Facility Permit, the time taken is essentially the same regardless of whether the amendment is due to applications that require engineering evaluation or not. For applications that do not require an engineering evaluation, the applications are submitted at reduced fee as compared to the applications that require engineering evaluation. The former permit processing fee is based on the Administrative Permit Fees.

The fee for FY 06-07 is \$508.15 for Option 1 and \$453.15 for Option 2 for RECLAIM only facilities and \$951.53 for Option 1 and \$841.54 for Option 2 for facilities that are both RECLAIM and Title V (first year of a two year phase-in).

The fee is necessary to recover the actual cost of work performed and equitable because it is the same as previously established as appropriate for comparable permit processing work and is paid by the applicant receiving the service.

• **Change of Operator Fee Alignment**

Rule(s)	301(o)(7) changes to 301(k)(7).
Description	Change of Operator fee for individual applications for RECLAIM facilities when they exceed a certain number of permit units shall be based on the fee for Change of Operator for non-small business.
Necessity/Equity	The current fee for Change of Operator limits the maximum fee to \$8,730.59 if the number of permit units at the facility is at 65 or below. However, if the number exceeds 65, then the fee is based on the number of permit units multiplied by \$134.31 (based on Change of Operator fee for small business). The limit of 65 applications was based on \$8,730.59 divided by \$134.31 per application. The new fee proposal is to change the fee rate for the Change of Operator for a RECLAIM facility to be consistent with the rate for a Change of Operator for a non-small business. (i.e., \$368.86, if the number of applications exceeds the revised limit).

In Option 1, the change of Operator fee for a RECLAIM facility increases from the current fee of \$8,730.59 to \$9,603.65. This coupled with the new fee rate of \$368.86 limits the fee cap if the RECLAIM facility has (\$9,603.65 divided by \$368.86 per application) up to 26 applications. Therefore, if the RECLAIM facility has more than 26 permit units, the fee for the Change of Operator will be based on the number of permit units multiplied by the non-small business Change of Operator fee of \$368.86. The level of effort to process a change of Operator application for a RECLAIM facility which is a non-small business is the same as processing a permit application for a non-small business and a non-RECLAIM facility.

In FY 06-07, this fee will change from \$134.31 per application to \$290.32 for Option 1 and to \$258.32 for Option 2. This fee is necessary because the cost for these facilities is the same as for non-small businesses and is equitable because it is the same as a non-small business pays and corresponds to the actual labor costs.

9. Title V Facilities:

- **Administrative Permit Revision Fee Alignment**
- **Title V Permit Revision Fee Alignment**
- **Facility Permit Change of Operator Fee Alignment**

Rule(s)	301(p)(6) changes to 301(l)(6), 301(p)(7) changes to 301(l)(7) & 301(q)(5) changes to 301(m)(5).
Description	The Title V Administrative Permit Revision fee, Title V Permit Revision fee and Facility Permit Change of Operator fee are aligned with Facility Permit Amendment Fee for RECLAIM facilities, per Rule 301.
Necessity/Equity	This amendment will align the fee for Title V Permit Revisions fee which is currently at \$627.05 to the current fee for RECLAIM Permit Amendment Fee which is at \$633.96. This will streamline and simplify administration of the permit system for Title V Facilities by consolidating fees for similar activities under a uniform fee. This fee is necessary to make similar activities recover a similar fee. This fee is equitable as it applies equally to all Title V permit

holders. The fee will change from \$627.05 to \$697.07 for Option 1 and to \$642.07 for Option 2 (first year of a two year phase-in).

• **Renewal Initial Processing Fee Alignment**

Rule(s)	301(p)(8) changes to 301(l)(8).
Description	The Title V annual renewal initial fee is proposed to be based on an hourly rate assessed for each hour after the first 8 (as opposed to 5) hours of processing and changes from \$705.15 to \$1,223.75 for Option 1 and to \$1,098.83 for Option 2 (first year of a two year phase-in).
Necessity/Equity	<p>Title V Renewal Applications are submitted to renew the Initial Title V permit issued. The permit application renewal is due 5 years after the initial Title V issue date. As part of the renewal process, staff has to research reported emissions, evaluate if a Continuous Assurance Monitoring (CAM) plan is necessary, add a Statement of Basis, check for Federal enforceability and for any changes to rules and regulations, specifically to National Emissions Standards for Hazardous Air Pollutants (NESHAP), prepare a Title V Public Notice, and issue the final notice after EPA and public comments, if any are received. The current fee base rate of \$705.15 for a Title V renewal is based on two parts: a Time and Material hourly rate of \$100.75 for 5 hours of work, plus \$201.40 for a Permit Revision fee. A Time and Material rate of \$100.75 per hour would also be charged for each hour the permit processing time exceeded 5 hours. The new base rate fee is based on 8 hours of staff time, plus the Permit Amendment fee of \$633.96. Additional Time and Material will be charged only after the first 8 hours of staff time.</p> <p>Based on staff experience in issuing the Title V renewal permits, the average time taken is 12 hours which is equivalent to \$1,209. This amendment will streamline and simplify administration of the permit system for Title V Facilities and will reduce the number of additional invoices to be generated and paid for at a later date for most of the facilities. This fee is necessary to reflect the average staff time worked, and</p>

is equitable because it is based on actual labor costs and is paid by the fee payer receiving the service.

10. Schedule A, A1, Change of Condition and Schedule F, G and H Permit Processing

Rule(s)	301 Table “Summary Permit Fee Rates – Permit Processing, Change of Conditions, Alteration/Modification
Description	This fee amendment adjusts the Change of Condition fee for Schedule A and A1 equipment to reflect the time spent in processing these permits. Staff estimates the effort is consistent with the Administrative Permit Change fee in Rule 301(c)(3)(C) Schedule B and higher. The fee increases from \$322.48 to \$466.01 for Option 1 and to \$422.31 for Option 2 for FY 06-07 (first year of a two year phase in). For Schedule F, G and H, 20 additional hours are added to the base hours of the permit processing application fee to better align and more closely recover the cost of processing such permits (first year of a two year phase-in).
Necessity/Equity	This fee adjustment is necessary to more closely recover the cost of processing a permit application for a Change of Condition based on the time tracking study. It is equitable because it is at least the same amount of work as previously established as appropriate for an Administrative Permit Change in Schedule B and is paid by the applicant receiving the service. For Schedule F, G, and H, the equivalent of 20 additional hours reflects staff experience on the time currently spent on these types of applications in these fee schedules. The 20 additional hours are added to the base hours before the T&M rate would apply. Based on recent permit activities for equipment in Schedules F, G, and H, it was found that the time taken exceeds the current minimum hours of 79, 97 and 162 respectively for these schedules. Therefore, the hours when the T&M fees would be applied have been increased by 20 hours for each of the schedules and the dollar equivalent to the 20 hours for each of the schedules are added to base fees. This also reduces the back-end billing for these applications in most cases unless the hours exceed the new base hours for each of the schedules. The fee is equitably apportioned because it is based on actual labor costs. The fees for Schedule F,

G and H for FY 1999/2000 were \$15,843.41, \$27,143.48 and \$34,512.87 respectively without any T&M fees. When the Fee Study was conducted that year, there was limited data on applications for these fee schedules and the fees were significantly reduced to \$7,706.70, \$9,459.62 and \$15,766.01 for Schedules F, G & H respectively, plus T&M rates when the permit processing time exceeded 79, 97 and 162 hours respectively for these schedules. The Time & Material component was added because there was no adequate data to determine the appropriate fees. This adjustment more closely aligns the required processing times with the base rate.

11. Change of Operator Non-Small Business

Rule(s)	301 Table “Summary of Permit Fee Rates – Change of Operator”
Description	Aligns the Change of Operator fee for all permit categories that are not a small business. Fee change is from \$335.91 to \$391.12 for Option 1 and to \$359.12 for Option 2 (first year of a two year phase-in).
Necessity/Equity	This fee adjustment is necessary to simplify and streamline the rule by grouping similar activities with similar resource requirements under a single fee. It is equitable because it is at least the same as amount of work as previously established as appropriate for comparable Administrative Permit Change work on Schedule A and A1 and is paid by the applicant receiving the service.

12. Addition of Equipment Categories

Rule(s)	301 Table 1A
Description	Permit Schedules are added for the equipment categories in the Table below to better recover the costs associated with processing the type of equipment. The proposed changes are due to the fact that it takes longer to process applications for the equipment categories specified in the Table below. The current fee structure does not address the additional time spent in evaluating multiple control systems (two or more). With the proposed changes, the additional time spent in

processing different multiple control systems can be equitably assessed. An example of this type of multiple control system would be the control of emissions from various fuel burning equipment including boilers and diesel fired engines. The various stacks are combined into one effluent stream and treated in this combination of NOx, SOx, HC and particulate controls.

Equipment Description	Current Fee Schedule	Proposed Fee Schedule
Control Systems, two in series	C	C
Control Systems, three in series	-	D
Control Systems, four or more in series	-	E

Necessity/Equity

This fee alignment is necessary to more closely recover the cost of processing applications for the equipment types specified. Staff estimates that each additional control systems beyond two require additional review comparable with an increase in fee schedule. The fee is equitable because multiple control systems require additional application evaluation. The proposed fees are the same as previously established as appropriate for comparable permit processing work and is paid by the applicant receiving the service.

13. Revision of Equipment Categories

Rule(s)

301 Table 1B

Description

Permit Schedules are realigned for the equipment categories in the Table below to better recover the costs associated with processing the type of equipment. The proposed changes are based on staff estimates that it takes longer to process applications for the equipment categories specified. For instance, staff estimates show that for Internal Combustion Engines (ICE), with the adoption of Rule 1470 in 2005, it now takes additional time to process such permit applications. This also includes the additional time in explaining to the permit applicant the reasons for the additional permit conditions. For the degreaser (less than 1 pound

VOC/day and the dip tank (less than 3 gallons/day), the time spent in processing a degreaser application regardless of the emission output is about the same. The same calculations are performed to determine emissions and rule compliance. The only difference being that with the category of emissions less than 1 pound a day, Best Available Control Technology (BACT) is not required. For the sump that is covered and controlled, it is normally vented to a carbon adsorber. This requires evaluation of the carbon adsorption system in addition to calculation of the emissions from the sump. The evaluation time is equivalent to the evaluation of an application of a carbon adsorber venting a toxic source, which is currently Schedule C.

Equipment Description	Current Fee Schedule	Proposed Fee Schedule
Dip tank <3 gallons/day	A	B
Degreaser, (< 1 lb VOC/day)	A	B
IC Engine, Emergency, 51 - 500 HP	A	B
IC Engine, Other, 51-500 HP	A	B
Sump, Covered & Controlled	B	C

Necessity/Equity

This fee alignment is necessary to more closely recover the cost of processing applications for the equipment types specified. It is equitable because the fee seeks to better recover the staff cost of processing applications involving the specified equipment types based on staff experience in processing applications for these types of equipment.

14. Compliance Plan Annual Renewal

Rule(s) 306(h)

Description As per Rule 221, a plan shall have all the rights delineated in Regulation II for permits including the right of appeal. As such the approved plans are treated as permits and currently the District staff time spent conducting compliance inspections is not recovered. The plan types included in the proposed amendment are listed in the following Table, along with the estimated number of each plan type that will be subject to annual renewal:

Plan type	Typical Annual Number
Rule 1166 - Volatile Organic Compound Emissions from Decontamination of Soil - Various locations	190
Rule 1166 - Volatile Organic Compound Emissions from Decontamination of Soil – Fixed Site	30
Rule 1407 - Non Ferrous Metal Melting	139
Rule 1420 - Emissions of Lead	100
Rule 1176 - VOC Emissions Waste Water System	13
Rule 1469.1 - Spray Coating Chromium	1
Rule 1169 - Chrome Plating Operations	94
Rule 1470 - Compliance Plan	91
Compliance Assurance Monitoring Plan	38
Rule 1150 - Excavation Management Plan	14
Rule 1150.1 - Active Landfill Control of Gaseous Emissions	75
Rule 431.1 - Sulfur Content of Gaseous Fuels	31
Rule 463 (e)(1)(A) - Organic Liquid Storage - Self-Inspection of Floating Roof Tanks	49
Rule 462 - Organic Liquid Loading Continuous Monitoring System (CMS) Plan	25
Rule 1118 - Control of Emissions from Refinery Flares - Flare Minimization Plan	20
Rule 1173 - Control of Volatile Organic Compound Leaks and Releases from Components at Petroleum Facilities and Chemical Plants (h)(2)	14
Rule 1176 - VOC Emissions from Wastewater Systems (d)(2)	13
Rule 1158 - Storage, Handling, and Transport of Coke, Coal and Sulfur - Open Pile Control Plan	32
Rule 1132 - Further Control of VOC Emissions from High-Emitting Spray Booth Facilities	8

Currently, an hourly rate is charged for a plan that requires renewal. For most of these plans, inspection staff must audit records that are designed to demonstrate compliance with the conditions in the

approved compliance plans. Staff estimates that about 2 ½ hours of required resources are needed for this effort, which is comparable to the annual renewal fee for equipment permitted under Schedule A. The proposal is to charge an annual renewal fee equivalent to the Schedule A annual renewal fee amount, as specified in Rule 301 paragraph (d)(2) of \$228.33 for FY 06/07. If the Annual Renewal is not paid, the plan expires. Expired plans can be reinstated under the same guidelines for permits as set forth in Rule 301(g).

Necessity/Equity

This fee adjustment is necessary and equitable to more closely recover the actual cost to District staff incurred in administering compliance plans.

15. Qualified Independent Consultant Fee

Rule(s)

306(i)(2)

Description

Adds language regarding fee payments to clarify the applicability of existing fees to cover the charges incurred by qualified independent consultants engaged by the District to review plan or health risk assessment submittals.

Necessity/Equity

This fee clarification is necessary and equitable to more closely recover the cost of a qualified independent consultant, engaged by the District for mandatory programs including review of plans and health risk assessments by outside consultants. This proposal seeks to add new language to clarify related fees, amounts, and payment of fees. This fee is equitable because it recovers the actual cost charged by the outside consultant, and paid by the applicant receiving the service.

16. “Diesel Engine Only” Facility Program Category Flat Fee

Rule(s)

307.1(d)(2)(C)

Description

The proposed amendment adds AB2588 fees and definitions related to emergency standby diesel engines. In August 1998, the California Air Resources Board (CARB) identified particulate matter (PM) emissions from diesel-fueled engines as a Toxic Air Contaminant (TAC). As a result, the Airborne Toxics Control

Measure (ATCM) for Diesel Stationary Compression Ignition Engines was approved by CARB in February 2004 (CARB ATCM). AQMD also adopted Rule 1470 in April 2004, and then amended it on March 2005 to implement the CARB ATCM. The proposed additions would allow for the collection of fees for these sources where emergency standby diesel engines are the only source of emissions at the facility to cover staff time for review, emissions estimation, prioritization, risk calculation and public notification (when needed) in addition to providing assistance and guidance to facilities with diesel engines. The amount of work required is the same as is required for industry-wide sources, and therefore the proposed fee is the same at \$136.60 per facility.

Necessity/Equity

This fee is necessary and equitable to more closely recover the cost of mandatory programs as incurred by District staff. The proposal is necessary to recover the actual costs of review, emissions estimation, prioritization, risk calculation and public notification for facilities with emergency standby diesel engines and other related resource expenditures directly incurred by the AB 2588 program as a result of the adoption of the CARB ATCM and SCAQMD Rule 1470. The fee recovers costs which accurately apportions costs and resources given the large number of facilities with diesel internal combustion engines (approximately 5,000 facilities). The fee is similar to industry-wide category fee, but more appropriately is in a separate category in Table 1 of Rule 307.1.

17. Special Health Risk Assessment Fee

Rule(s) 307.1(d)(3)

Description Add AB2588 special Health Risk Assessment (HRA) fee for HRA facilities to cover the cost of preparation of a revised HRA in addition to review and verification by qualified District personnel or a qualified consultant, as determined by the Executive Officer, engaged by the District under contract. The fee is for the actual cost of review or preparation charged at an hourly rate for staff of \$104.43 and at the actual cost of the consultant's fee.

Necessity/Equity	This fee recovers costs of the qualified District personnel or a qualified consultant, as determined by the Executive Officer (EO), engaged by the District under contract, in situations where the EO determines that an existing Health Risk Assessment (HRA) should be revised and the source can not perform this task without errors or delays. The fee represents total actual and reasonable time incurred by the District staff or a District approved independent consultant, assessed at the District's composite hourly staff rate per person per hour of \$104.43 or prorated portion thereof. When the Health Risk Assessment is conducted or is evaluated and verified by a consultant engaged by the District, the fees charged will be in addition to all other fees required. This fee is necessary to recover actual costs incurred and is equitable because it is based on actual labor costs and paid for by the fee payer receiving the actual services.
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18. AB 2588 Air Toxics Surcharge

Rule(s)	307.1 Table 1
Description	Add AB2588 toxic surcharge of \$16.00 to all facilities in the program (approximately 13,100) in addition to any general increase in fees to help recover program costs and additional responsibilities due to highlighted emphasis on air toxics issues surrounding air toxic emitting sources.
Necessity/Equity	This proposal is necessary to help recover AB2588 program costs associated with expanded AB288 activities related to air toxics issues. The Air Toxics "Hot Spots" Information and Assessment Act is a statewide program with three objectives: identifying significant toxic sources, informing the public of health impacts, and requiring toxic emission reductions when health impacts potentially affect the community. In addition, facilities have prepared HRAs to assess risk and ultimately reduce the risk to their surrounding community as required by District Rule 1402. The cost for HRA, source testing review and verification for facilities subject to Rule 1402 is not currently supported by the affected sources in addition to costs for community air monitoring, laboratory analysis and translation services for public notification meetings in

the areas where the majority of the affected population are non-English speaking. Over the past few years, there have been a few projects to address community concerns with services performed by District staff. For example, on a couple of projects, the District dedicated approximately 1,940 hours of staff time ranging from engineers and inspectors to assistant deputy executive officers in addition to \$10,000 of contract money to a qualified consultant, as determined by the Executive Officer (EO), engaged by the District under contract. Since this work affects all sources in the AB2588 program, a uniform surcharge on all facilities is considered equitable. The surcharge fee was calculated using the actual time spent on these projects multiplied by the District's FY 05-06 composite hourly staff rate (\$100.75) per person per hour to obtain a dollar amount representing District staff cost in addition to translation service charge of \$5,000. This amount was then added to the \$10,000 of contract expenditure to obtain a grand total expenditure of \$210,455. To distribute the cost evenly between all AB2588 sources, the grand total was divided by the total number of sources in the AB2588 Program (approximately 13,100) to obtain the toxic surcharge fee of \$16.00 per facility. This fee is necessary to recover the costs of toxics related programs not currently recovered and is equitable because it evenly allocates the costs over all sources which contribute to the costs.

19. Rule 308 Failure to Notify fee

Rule(s)	308(o)
Description	Rule 2202 subparagraph (b) – Applicability, requires employers to notify the District within thirty (30) calendar days when they become subject to this Rule and to annually register with the District to implement an emission reductions program. The Rule applies to any employer who employs 250 or more employees at a worksite for a consecutive six month period. Staff proposes the creation of a fee surcharge for those employers who have attained the minimum compliance threshold and failed to notify the District during the required timeframe. The proposed surcharge for failure to notify the District is as follows: 1) If, the District notifies employer then, \$1,000 for every worksite. 2) If,

the employer notifies District then, \$700 for every worksite.

Necessity/Equity

Failure to notify the District within 30 days when an employer reaches a minimum of 250 employees at a worksite for a consecutive six-month period calculated as a monthly average is a violation of Rule 2202 (b) - Applicability. The Rule requires employers subject to this rule to annually register with the District to submit and implement an emission reductions program (Rule 2202 (e)). Based on information collected during a new worksites identification project conducted by Transportation Programs staff last year, it was found that approximately 1,100 hours were spent by the staff of various units (Compliance, Information Management, Legal, and Transportation), at a total staff time cost of \$59,702. Approximately 64 worksites that had not registered were identified by staff last year. The estimated average cost per worksite identified was approximately \$933, with some sites requiring more staff time and resources. Staff proposes to maintain an active program to identify non-registered worksites and proposes a \$1,000 surcharge on these facilities to cover the District's cost of the program, which is expected to be higher in FY 06-07. In addition, a lower surcharge is proposed for worksites that fail to register on time, but notify the District before the district identifies the worksite for notification. A precedent for a District surcharge to recover the costs associated with late submissions is found in Rule 301(c)(1)(D), which contains a requirement that a facility operating equipment without first obtaining a District permit (or having an application for such permit on file) is subject to surcharge of 150% of the original filing amount. This fee is necessary to recover the costs of handling facilities that fail to notify the District on time and it is equitable because it is based on the total costs of this extra work divided by the total number of facilities not reporting on time. Finally, in addition to the surcharge District inspection staff can issue a Notice to Comply, which would trigger a program submittal along with the applicable filing fees and surcharges. If an employer still fails to submit a program, then a Notice of Violation would be issued. Staff believes that this is a straightforward, simplified approach to bring employers

into compliance versus issuing a Notice of Violation upfront.

20. Rule 309 – Fees for Regulation XVI

Rule(s)	309(d) & (e)
Description	These fee amendments add a fee for staff time necessary for inspection and verification of car scrapping plans. Language is added to clarify the requirements for fee payments.
Necessity/Equity	This fee recovers the actual costs necessary to inspect and verify scrapping plans under Rule 1610. It is equitable in that the costs are only for actual services and assessed against those utilizing the service.

21. New Rule 313 – Authority to Adjust Fees and Due Dates

Rule(s)	313
Description	This new proposed rule consolidates and clarifies surcharges and adds language for the fee review committee, reactivations, and other administrative fee functions of the Executive Officer.
Necessity/Equity	This rule is a compilation of the various provisions currently included within Regulation III that provide the Executive Officer limited discretion to make certain adjustments to fees and/or due dates. Many of the discretionary actions provided for in this proposed rule are currently performed on behalf of the Executive Officer by the Fee Review Committee, which is comprised of various department heads or their designees. The Fee Review Committee members currently must review scattered provisions of Regulation III to evaluate the scope of the Executive Officers authority, if any, to make fee or due date adjustments. By consolidating these requirements into a single rule, the scope of the Executive Officer's authority is more apparent to the Fee Review Committee, District Staff, and the public. This should streamline the work of the Committee, and the Executive Officer's review, of requests for fee adjustments from permit holders.

- 22. Rules** 301(c)(1)(B), (d)(8), (e)(10), (e)(10)(A), (e)(10)(B), (e)(10)(C), (e)(11)(C), (e)(15), (g), (o)(10)(B)(iv), (o)(12), (x)(5), and (z); Rule 307(d) and (e); Rule 307.1(d)(4); and Rule 311(d)

Description

Terms “penalty,” “payment penalty,” and “late fee,” are changed to “surcharge” to reflect the actual nature of these fees. These fees are not punitive in nature, but intended to ensure that the District’s added direct and indirect costs associated with review and processing of late submissions of required documentation are fully recovered. For example, the processing of an application for equipment that has already been installed without a Permit to Construct/Permit to Operate generally requires additional engineering assessment resulting in more length and costly evaluation process. Similarly, reactivating permits that have expired due to non-payment of fees requires additional staff time in Engineering & Compliance, Customer Service, and Finance. Also, several federal agencies have concluded because of the use of the term “penalty” in Regulation III that they are immune from paying this additional fee under federal law. Thus, this proposed change also seeks to clarify that the additional surcharge is imposed solely to “defray the [additional] cost of the [District’s] air pollution program” associated with the late submission of material by permit holders and this fee is payable by federal agencies. See Sacramento Metropolitan AQMD v. United States, 26 F.Supp.2d 652 (E.D. Cal. 1998). Of course, the District has separate authority to enforce Rules 201 and 203 to assess actual penalties for constructing or operating equipment in the District without a valid permit. This authority is not exercised, however, under Regulation III.

Necessity/Equity

These amendments are administrative in nature and have no fiscal impact. It is necessary and equitable for or clarification and consolidation for existing rule language and current practice.

CHAPTER 3 – SEQUENTIAL LISTING OF PROPOSED AMENDMENTS

PROPOSED AMENDED RULES	301
	303
	304
	304.1
	305
	306
	307
	307.1
	308
	309
	311
	312
	313

A summary of all the proposed amendments to Regulation III in sequential rule number order, based on the current numbering before any proposed amendments. Items denoted with an asterisk are anticipated to have a fiscal impact and/or to generate revenues to better recover program costs or are a fee reduction better aligning fees with costs. Other amendments are being proposed to provide emphasis and clarification for existing language and/or for administrative updates, with minimal or no fiscal impact.

PROPOSED AMENDED RULE 301 - PERMITTING AND ASSOCIATED FEES

- **All***
 - Option 1: 3.65% rate increase in fees, reflecting the increase in the 2005 California consumer price index (CPI); where applicable except for permitting, annual renewal and emissions related fees which are increased by an additional 6.35% to a total 10% rate increase, annually for the next 3 years, to further better recover program costs; OR
 - Option 2: 3.65% rate increase in fees, reflecting the increase in the 2005 California consumer price index (CPI); where applicable.
- **(a)(1)**
(a)(4)
(a)(8)
(a)(9)
(a)(11)
(a)(12)
(a)(13)
(a)(14)

References to other paragraphs in the rule have changed due to deletions and addition of text.
- **(b)(13)**

References to other paragraphs in the rule have changed due to deletions and addition of text.
- **(c)(1)(B)**

Clarification: Subparagraph title “Notice of Amount Due and Nonpayment Penalties” amended to “Notice of Amount Due and Effect of Nonpayment”.
- **(c)(1)(D)**

Subparagraph is split into new (c)(1)(D)(i), and (c)(1)(D)(ii) clauses and the existing (c)(1)(D)(i) and (c)(1)(D)(ii) clauses are renumbered as (c)(1)(D)(i)(A), (c)(1)(D)(ii)(B) and (c)(1)(D)(ii)(C) subclauses, respectively. Twelve months is changed to one year. Reinstatement of a permit is referenced to 301(g).
- **(c)(1)(D)***

For equipment that is issued a Permit to Operate without a prior Permit to Construct the applicant shall also remit annual operating

fees for the source for 3 full years, or the actual years of operation if less than three years.

- **(c)(1)(J)*** Standard Streamlined Permit fee is aligned with the Administrative Change fee for schedule B and higher equipment categories to better recover costs.
- **(c)(3)(A)*** Alignment of fee for permits that must be reissued with conditions prohibiting the use of toxic materials and for which no evaluation is required, no physical modifications of equipment are made, and the use of substitute materials does not increase Volatile Organic Compounds (VOC) by more than 0.5 pound in any one day with the Administrative Permit Change fee for Schedule B equipment and higher equipment categories to better recover costs.
- **(c)(3)(C)*** Administrative Change fee for Schedule A and A1 is aligned with the fee for all other schedules to better recover costs.
- **(c)(3)(D)** Clarification: For permits reissued because of Rule 109 or Rule 109.1, which do not result in Best Available Control Technology (BACT) determination, the permit processing fee shall be 50% of the amount set forth in the Summary Permit Fee Rules tables.
- **(c)(5)** Deletion: Language regarding fee waiver due to a state of emergency in this rule is consolidated in and superseded by similar language in PR 313.
- **(d)(8)** Clarification: “Notice of Amount Due and Nonpayment Penalties” amended to “Notice of Amount Due and Effect of Nonpayment”. Furthermore, that for RECLAIM facilities, if the individual device fee(s) are not paid, the application(s) associated with the device(s) shall expire and no longer be valid and that for a Title V facility, if the Title V facility fee, which is not based on any specific equipment but applies to the whole facility, is not paid, the Title V facility permit shall expire or be revoked.
- **(e)(10)**
(e)(10)(A) Clarification: “Notice to Pay and Late Filing Penalties” amended to “Notice to Pay and Late Filing Surcharge.” All air contaminants must be reported and “penalties” are amended to “surcharges”.
- **(e)(10)(B)** Clarification: “payment penalty” amended to “filing surcharge”.
- **(e)(10)(C)** Clarification: “penalty” amended to “surcharge” and “penalties” amend to “surcharges.”
- **(e)(10)(E)** Clarification: “penalty” amended to “surcharge.”

- **(e)(11)(A)** Clarification: semi-annual emissions fee payment is for any air contaminant emissions exceeding threshold amounts in the associated table.
- **(e)(11)(C)** Clarification: “payment penalty” amended to “filing surcharge.”
- **(e)(14)** Clarification: reporting emissions and payment schedule updated.
- **(e)(15)** Clarification: “penalty” amended to “surcharge” and reporting emissions and payment schedule updated.
- **(g)** Clarification: “surcharge” is added to the subdivision title. Reinstatement fee is amended to reinstatement surcharge. Language regarding permit reinstatement, in this rule, is consolidated in and superseded by similar language in PR 313.
- **(h)** Clarification: “late fees” amended to “surcharge”.
- **(i)** Subdivision title change from “document preparation” to “assistance.”
- **(i)(1)*** Paragraph (i)(1) split into two subparagraphs (1)(A) CEQA Document Preparation with a reduction in the existing addendum to EIR fee and (1)(B) CEQA Document Assistance and a proposed hourly fee for assistance provided, except for review of CEQA documents created by other agencies.
- **(j)** Deletion: Language regarding requests for time extension of payments due in this rule is consolidated in and superseded by similar language in PR 313.
- **(k)** Deletion: Language regarding adjustments of fees in this rule is consolidated in and superseded by similar language in PR 313.
- **(l)** Deletion: Language regarding refunds in this rule is consolidated in and superseded by similar language in PR 313.
- **(m)** Deletion: Language regarding fee waivers and reductions in this rule is consolidated in and superseded by similar language in PR 313.
- **(o)(5)*** RECLAIM Facility Permit Amendment fee for an application that does not require an engineering evaluation aligned with such applications that do require an engineering evaluation.
- **(o)(7)*** RECLAIM Change of Operator fee alignment.

- **(o)(10)(B)(iv)** Clarification: “penalty” amended to “surcharge.”
- **(o)(10)(C)** Paragraph (o) in the rule has changed to paragraph (k).
- **(o)(12)** Clarification: “penalty” amended to “surcharge.”
- **(p)(3)(C)** Paragraph (p) in the rule has changed to paragraph (l).
- **(p)(6)*** Title V Administrative Permit Revision Fee is aligned with the non-small business Change of Operator fee as specified in the “Summary of Permit Fee Rates Change of Operator” to better recover costs.
- **(p)(7)*** Title V Permit Revision fee is aligned with the non-small business Change of Operator fee as specified in the “Summary of Permit Fee Rates Change of Operator” to better recover costs.
- **(p)(8)*** The Title V renewal initial processing fee is a base rate determined from the hourly permit processing rate and the number of hours estimated to complete processing the typical Title V permit revision. The final fee is based on an hourly permit processing rate and is assessed for each hour the actual processing exceeds the base rate. The base rate is proposed to be changed from 5 hours to 8 hours to reflect the time required to process the typical Title V renewal.
- **(p)(12)** Clarification: “Penalties” deleted; “Effect” added.
- **(q)(3)** Paragraph (p) in the rule has changed to paragraph (l).
- **(q)(5)*** Facility Permit Change of Operator fee is aligned with the non-small business Change of Operator fee as specified in the “Summary of Permit Fee Rates Change of Operator” to better recover costs.
- **(w)** Deletion: Language regarding a service charge for a returned check in this rule is consolidated in and superceded by similar language in Proposed Rule 313.
- **(x)(5)** Clarification: “fee” amended to “surcharge”.
- **(y)(4)** Deletion: Language regarding plan processing fees in this rule is moved to PAR 306.
- **(z)** Clarification: “penalty” amended to “surcharge”.

- **Table:
Summary
Permit Fee
Rates*** Increase Schedule A and A1 Change of Condition fee to more appropriately align it the with Administrative Permit Change fee.
- **Table:
Summary
Permit Fee
Rates*** Increase Schedule F, G and H base fees and also increase by an additional 20 hours the minimum time thresholds for charging T&M.
- **Table:
Summary of
Permit Fee
Rates –
Change of
Operator*** Align the Change of Operator Non-Small Business fee with the Administrative Permit Change fee. Correspondingly increase the maximum per facility fee cap.
- **Table IA*** Equipment/Process item “Control Systems, Multiple, two in series”, schedule C is amended to “Control Systems, two in series” and two new categories added: “Control Systems, three in series” as schedule D and “Control Systems, four or more in series” as schedule E equipment.
- **Table IB*** Revise the schedule for certain equipment types to better recover costs.
- **Table III** Correction: footnote reference corrected.

PROPOSED AMENDED RULE 303 - HEARING BOARD FEES

- **All*** 3.65% rate increase in fees, reflecting the increase in the 2005 California consumer price index (CPI); where applicable.
- **(f)** Correction: Minimum Excess Emission Fees amount is increased to also correctly reflect the adopted increase in 2005.
- **(q)** Correction: Service charge for a returned check is corrected to the maximum allowable amount under state law of \$25.00 from the current \$31.25.

PROPOSED AMENDED RULE 304 - EQUIPMENT MATERIALS AND AMBIENT AIR ANALYSES

- **All*** 3.65% rate increase in fees, reflecting the increase in the 2005 California consumer price index (CPI), where applicable.

- (e) Clarification: That any test/analysis that shows a facility is not in compliance will be charged for the test/analysis.
- (n) Deletion: Language regarding a service charge for a returned check in this rule is consolidated in and superseded by similar language in PR 313.

PROPOSED AMENDED RULE 304.1 - ANALYSES FEES

- All* 3.65% rate increase in fees, reflecting the increase in the 2005 California consumer price index (CPI), where applicable.
- (d) Deletion: Language regarding a service charge for a returned check in this rule is consolidated in and superseded by similar language in PR 313.

PROPOSED AMENDED RULE 305 - FEES FOR ACID DEPOSITION RESEARCH

- All Rescind Rule.

PROPOSED AMENDED RULE 306 - PLAN FEES

- All* 3.65% rate increase in fees, reflecting the increase in the 2005 California consumer price index (CPI), where applicable.
- (f) Clarification: Paragraph is not applicable to section (h) plans. Applicants for the plans specified in Rule 306 paragraph (h) do not pay a filing fee.
- (h)* Annual plan review/renewal fees to be assessed at a flat Rule 301(d) Schedule A Annual Renewal rate as opposed to the current hourly rate basis. Also, establishes that fee to be paid annually on a date set by the EO.
- (i)(1) Clarification: In addition to payment of the filing fee, the initial payment for plan evaluation fees shall be 3.5 times the District's composite hourly staff rate for staff time, not \$335.91.
- (i)(2)* In case the Executive Officer requires a qualified independent consultant, engaged by the District, to review the plan, the fees charged by the consultant will be in addition to all other fees required.

- **(i)(3)& (i)(4)** Clarification: Subparagraph (i)(2) is split up into two subparagraphs for emphasis. No text change.
- **(i)(5)** Clarification: Fees for expedited processing of plan evaluation will be an additional fifty percent (50%) of the applicable plan evaluation fee, and shall be submitted at the time that the expedited processing is requested.
- **(n)** Deletion: Language regarding requests for time extension of payments due in this rule is consolidated in and superseded by similar language in PR 313.
- **(o)** Deletion: Language regarding adjustments of erroneously assessed fees, in this rule, is consolidated in and superseded by similar language in PR 313.
- **(t)** Deletion: Language regarding a service charge for a returned check in this rule is consolidated in and superseded by similar language in PR 313.

PROPOSED AMENDED RULE 307 - FEES FOR AIR TOXICS EMISSIONS INVENTORY

- **(d)** Clarification: “penalty” amended to “surcharge.”
- **(e)** Clarification: “penalties” amend to “surcharges.”

PROPOSED AMENDED RULE 307.1 - ALTERNATIVE FEES FOR AIR TOXICS EMISSIONS INVENTORY

- **All*** 3.65% rate increase in fees, reflecting the increase in the 2005 California consumer price index (CPI); where applicable. “State Fee” amounts in Table I and the maximum small business fee of \$300 are not increased.
- **(c)** New definitions:
 - Diesel-Fueled
 - Diesel Particulate Matter (PM)
 - Emergency Standby Diesel Engine
 - Emergency Standby “Diesel Engine-Only” Facility
 - Flat Fee
 - Special Risk Assessment Fee
- **(d)(2)(A) &** References to other paragraphs in the rule have changed due to

- (d)(2)(B) deletions and addition of text.
- (d)(2)(C)* A facility in the Emergency Standby “Diesel Engine-Only” Facility Program Category as defined in this rule shall be assessed the “Flat Fee” annually.
- (d)(3)* “Special Health Risk Assessment Fee”, charged at an hourly rate, to recover the cost incurred by District staff or contractor to prepare or revise a Health Risk Assessment.
- (d)(4) Clarification: “penalty” changed to “surcharge” and addition of “Effect of Failure to Pay” to section heading.
- Table I Addition of new fee category for “Emergency Standby “Diesel Engine-Only.”
- Table I* Surcharge on all Table 1 fees to recover the additional cost of administering AB2588 air toxics programs.

**PROPOSED AMENDED RULE 308 - ON-ROAD MOTOR VEHICLE
MITIGATION OPTIONS FEES**

- All* 3.65% rate increase in fees, reflecting the increase in the 2005 California consumer price index (CPI), where applicable.
- (c)(2)(G) Deletion: Language regarding requests for time extension of payments due in this rule is consolidated in and superseded by similar language in PR 313.
- (c)(3) Clarification: “penalty” amended to “surcharge.”
- (h) Deletion: Language regarding requests for time extension of payments due in this rule is consolidated in and superseded by similar language in PR 313.
- (i) Deletion: Language regarding adjustments of erroneously assessed fees in this rule is consolidated in and superseded by similar language in PR 313.
- (k) Correction: Fee for returned check is \$25.00.
- (o) Rule 2202 subparagraph (b) requires employers to notify the District within thirty calendar days when they become subject to this Rule and to annually register with the District to implement an emission reductions program. This amendment recovers the cost of on-going staff resources expended to identify such facilities. In addition any person requesting a time extension to submit a Rule

2202 registration is referred to Rule 313 for the procedure to do so.

- (p) Correction: Any person requesting a time extension to submit a Rule 2202 registration shall refer to Rule 313.

PROPOSED AMENDED RULE 309 - FEES FOR REGULATION XVI

- All* 3.65% rate increase in fees, reflecting the increase in the 2005 California consumer price index (CPI), where applicable.
- (d) Clarification: Rule 1610 Scrapping Plan verification inspection fee.
- (e) Clarification: Procedures governing the payment of fees.
- (f) Deletion: Language regarding a service charge for a returned check in this rule is consolidated in and superceded by similar language in PR 313.

PROPOSED AMENDED RULE 311 - AIR QUALITY INVESTMENT PROGRAM (AQIP) FEES

- All* 3.65% rate increase in fees, reflecting the increase in the 2005 California consumer price index (CPI), where applicable.
- (d) Clarification: Subdivision title changed from “Late Fee” to “Late Surcharge.”
- (e) Deletion: Language regarding a service charge for a returned check in this rule is consolidated in and superseded by similar language in PR 313.

PROPOSED AMENDED RULE 312 - SPECIAL PERMITTING FEES FOR AGRICULTURAL SOURCES

- All Rescind Rule.

PROPOSED RULE 313 - AUTHORITY TO ADJUST FEES AND DUE DATES

- All This rule is a compilation of the various provisions currently included within Regulation III that provide the Executive Officer

limited discretion to make certain adjustments to fees and/or due dates. Many of the discretionary actions provided for in this proposed rule are currently performed on behalf of the Executive Officer by the Fee Review Committee, which is comprised of various department heads or their designees. The Fee Review Committee members currently must review scattered provisions of Regulation III to evaluate the scope of the Executive Officer's authority, if any, to make fee or due date adjustments. By consolidating these requirements into a single rule, the scope of the Executive Officer's authority is more apparent to the Fee Review Committee, District Staff, and the public. This should streamline the Committee, and the Executive Officer's review, of requests for fee adjustments from permit holders. There are two options for Rule 313. Option 1 provides that application cancellation fee will be \$147.74 for FY 06-07, \$162.52 for FY 07-08 and \$178.77 for FY 08-09, or the permit fee set forth in the Summary Permit Fee Rates tables in Rule 301, whichever is less. Option 2 provides that the application cancellation fee will be \$139.21, or the permit fee set forth in the Summary Permit Fee Rates tables in Rule 301, whichever is less.

- (a) Summary: This rule provides limited discretion to the Executive Officer to adjust fees or reinstate permits where there has been an administrative error by the District, to extend the due date for payment of certain fees for good cause, and to waive or refund fees under circumstances set forth in this rule. The Executive Officer may delegate all or some of the discretion granted under this rule to a Fee Review Committee comprised of the Chief Financial Officer, the Deputy Executive Officer for Engineering and Compliance, the Public Advisor, and the District Counsel, or their designees. This rule does not provide the Executive Officer authority to alter the substantive requirements contained in AQMD rules and regulations.
- (b) Process: for seeking relief under this rule from the EO/fee review committee.
- (c) Decision: time frames including time frames for appealing initial decisions.
- (d) Reinstatement: of permits, applications, plans, registrations, and other district approvals where a finding of administrative error by District staff/Hearing Board is made.
- (e) Adjustment of Fees: upon a finding of administrative error by District staff, except that the EO may not reduce the amount of excess emission fees below that specified in Rule 306(f), unless

otherwise ordered by the hearing board.

- (f) Time Extension of Payment Due Dates: This subdivision authorizes the Executive Officer to grant a fee payment extension of up to 180 days and may require partial payments in installments. When requests are made due to financial hardship, the requestor must substantiate the request with documentation and make the request before the final due date of the fee. Requestors pay a \$68.71 per facility surcharge for requests for an extension or change in the permanent due date under Rule 308. Fees incurred under Rules 307 or 307.1 are not eligible under this subdivision.
- (g) Specific Fee Waivers and Reductions: This subdivision sets the conditions under which the Executive Officer can grant a fee waiver. Two years of annual renewals may be waived for a new manufacturing facility that creates at least 500 new full time jobs and has a specified low emissions to employee ratio provided the waiver request is made before the final fee is due and the facility operates in a manner consistent with all applicable District rules. The permit processing fee may be waived due to a declared “state of emergency” where permitted equipment is destroyed or located in a condemned building also provided the waiver request is made before the final fee due date and the equipment is operated in a manner consistent with applicable District rules. In addition, upon annual written request and approval, a fee waiver may be granted to a facility operating pursuant to a license issued by the Department of Rehabilitation under the State of California’s Business Enterprise Program provided an agreement is maintained to operate the facility under the supervision of the State of California Department of Rehabilitation.
- (h) Refunds: If an applicant cancels a permit to construct application prior to the AQMD initiating permit processing, the permit processing fees will be refunded less the applicable cancellation fee or the permit processing fee, whichever is less. Processing fees requested in error by the AQMD will be refunded in full. However, a refund will not be granted if the facility or equipment was in violation of District rules during any of the period for which the fee was assessed.
- (i) Service Charge for Returned Checks: The service charge for a returned check is set at \$25.00, the allowable limit under state law.

CHAPTER 4 - LEGAL ISSUES

LEGAL FRAMEWORK

COSTS SUPPORTED BY PERMIT RELATED FEES

NECESSITY FINDING

EQUITY FINDING

LEGAL FRAMEWORK

State law authorizes the AQMD to establish fees for permits to cover “the reasonable cost of permitting, planning, enforcement, and monitoring related thereto.” (Health & Safety Code §40510(b)). Related AQMD programs connected with stationary sources, such as rule development and outreach are also paid for by these fees. There are three basic types of permit-related fees: permit processing fees, annual renewal operating fees, and emissions-based fees. Traditionally, the AQMD has endeavored to recover its costs of permit processing from permit processing fees, its costs of inspection and enforcement from annual renewal operating fees, and its costs of planning, monitoring, rule development and outreach programs from emissions-based fees. Mobile source fees also contribute a proportionate share for planning, rule development, monitoring, and outreach activities. Pursuant to state law, fee increases for individual permit fees are limited to the yearly change in California Consumer Price Index (CPI) unless specific findings are made.

Health and Safety Code section 40510.5 adopted in 1995, specifies that a permit fee may be raised by more than the change in the California CPI if the Governing Board makes a finding, based on evidence in the rulemaking record, that the fee increase “is necessary and will result in an apportionment of fees that is equitable” and that the fee increase will be “phased in over a period of at least two years.”

COSTS SUPPORTED BY PERMIT RELATED FEES

1. **Emission Fees.** The District has traditionally used emissions-based fees to pay for the stationary source share of its programs in the areas of planning, rule development, air monitoring, and outreach activities.
2. **Permit Fees.** Permit fees are used to support all permit and permit related activities including legal analysis and operational support.
3. **Annual Operating Fees.** These fees are used to cover the costs of inspection, enforcement and related activities. These fees are also used to cover some permitting as well as planning and other functions related to permitting.
4. **Other Costs.** In addition, certain indirect costs of operating the District are allocated proportionately over all District programs. Many of these programs are identified in the work program as “operational support” and “policy support.” These costs include personnel, finance/payroll, information management, contracts administration, building maintenance, Governing Board and committee support, etc. The proportionate share of these costs to be borne by each program is determined by taking each program’s share of the total non-operational support budget and using that same share to determine apportioned costs of operational and policy support. A proportionate share of these costs is also borne by mobile source fees obtained by the AQMD from the State as a result of vehicle registrations within the District.

NECESSITY FINDING

The large majority of the District's air quality programs are mandated by statute. Legal mandates for each item in the District's work program are discussed and identified in the supporting documentation for the work program. Even programs not expressly mandated by statute are programs adopted to improve air quality and reduce exposure to unhealthful levels of air pollution, which is the District's primary purpose as expressly stated in the Health and Safety Code, and hence are reasonably necessary. Ample opportunity is provided through the Budget Advisory Committee, Board committee meetings and public workshops for the Board to receive public input concerning whether any of the budgeted programs are not reasonably necessary. The Board's finding of necessity will be based on the final budget and facts in the record.

A total \$13.2 million revenue shortfall is projected in FY 06-07 for programs supported by annual operating permit renewal fees, annual operating emissions fees, and permit processing fees. Additionally, there is a projected \$3.3 million shortfall in FY 06-07 for programs supported by source test/lab analysis fees, Hearing Board fees, transportation program fees, subscription services revenue, and Public Records Act revenue. The shortfalls were identified during initial development of the FY 06-07 Draft Budget and Work Program. The Work Program was developed over 20 years ago and tracks, by program category, the number of hours AQMD employees spend on each activity and tracks costs associated with those activities. In addition, to determine fully burdened costs, overhead costs such as utilities, debt service, insurance, and payroll which benefit all programs, are allocated to each activity based on the number of Full Time Equivalent positions for that activity. Program categories tracked by the Work Program include policy support, monitoring air quality, developing programs to achieve clean air, developing Rules to achieve clean air, advancing clean air technology, timely review of permits, ensuring compliance with clean air rules, operational support, and customer service. Every expenditure made by AQMD, including expenditures for employee salaries and benefits, are tracked in the Work Program.

Annual operating permit renewal fees and annual operating emissions fees are intended to cover the costs of AQMD's compliance program, planning, rule making, air monitoring and testing, source education, civil enforcement cases, stationary source research projects, and can be used to offset shortfalls in permit processing. Beginning in FY 91-92 and up to the current time, annual operating emissions fees have substantially decreased and are projected to decline further based on new emissions limits placed on RECLAIM facilities. Emissions fees revenue in FY 90-91 was \$45.2 million, and even with periodic fee increases since then, current FY 05-06 emissions fees revenue is expected to be \$20.2 million, which is a decrease over time of \$25 million. The total projected FY 06-07 cost of programs supported by annual operating permit renewal fees and annual operating emissions fees is \$49.6 million dollars and revenues from these programs are projected to be \$45.3 million dollars, leaving a shortfall of \$4.3 million dollars.

Permit processing fees are intended to cover the costs associated with evaluating permit applications and issuing permits. The total projected FY 06-07 cost of the permit processing program is \$24.4 million and permit processing fees revenue is projected to be \$15.5 million, leaving a shortfall of \$8.9 million.

Source test/lab analysis fees, Hearing Board fees, transportation program fees, subscription services revenue, and Public Records Act revenue are intended to cover the costs of these programs and activities. The total FY 06-07 projected cost of these programs and activities is \$6.6 million and revenue is projected to be \$3.3 million, leaving a shortfall of \$3.3 million.

Both the 1993 Assessment of Alternative Long-Term Funding Options study conducted by KPMG Peat Marwick, management consultants, and the 1999 Fee Structure Study, conducted by Thompson, Cobb, Bazilio & Associates, Certified Public Accounts and management consultants, contained findings that AQMD was not recovering its program costs and should raise fees to cover program costs. Since 1993, AQMD has, in all but two fiscal years, limited fee increases to the change in the California Consumer Price Index (CPI). However, during this same time period, program costs increased at rates that far exceeded the change in the CPI. The program costs increases were, to a large extent, attributable to significant increases in legally-mandated retirement contributions. To reduce program costs yet continue its program commitments, despite new federal and state air quality mandates and increased workload complexity, AQMD has continued to streamline many of our operations. In June 2004 the AQMD issued pension obligation bonds to finance a portion of its outstanding retirement obligation, over time saving more than \$20 million in interest costs. Recently, the AQMD negotiated changes to its labor contracts, shifting a portion of retirement burden to current employees and reducing retirement benefits for new employees. Compared to FY 91-92, the FY 06-07 proposed budget reflects staffing levels that are 32% (377 Full Time Equivalent positions) below FY 91-92 and expenditures that will, for the first time in 15 years, exceed, by \$5.6 million, the FY 91-92 budget. Adjusted for inflation, the FY 06-07 budget request is 36.3% less than FY 91-92. To further reduce expenditures, staff is proposing to begin, in FY 06-07, using a portion of undesignated Fund Balance to reduce long-term debt.

The fee increases proposed for FY 06-07 will allow AQMD to maintain the current level of services without cuts and will move the agency toward more closely, but not fully, recovering program costs. AQMD regulates approximately 26,000 facilities in its jurisdiction. The agency's fees structures reflects varying levels of effort, based on equipment type and level of complexity. Of the approximate 26,000 facilities regulated by AQMD, 80% of the facilities have only one or two Permits to Operate, for equipment at the lowest fee schedules. For a typical facility, such as a dry cleaner, with only one Permit to Operate at the lowest fee schedule, the FY 06-07 annual operating renewal fee would increase by \$22. This facility would also pay a FY 06-07 annual flat emissions fee for emissions up to 4 tons of emissions, and the proposed increase for this fee would be just over \$8. The total fee increase for this facility would be \$30, which is an average of less than \$2.50 per month.

It is necessary and reasonable to increase fees as proposed to address the increased funding requirements for SBCERA. The AQMD has a legal obligation to pay these fees. These fees are applicable to all AQMD programs. It is appropriate and equitable to increase fees on all categories to partially address this funding requirement.

EQUITY FINDING

Health and Safety Code section 40510.5(b) requires the Board to find that an increased fee will result in an equitable apportionment of fees when increasing fees beyond the CPI. It is reasonable to use emission-based and permit-related fees to apportion certain indirect costs. Such a system is reasonably related to the fee payers' benefits from and burdens on the regulatory system. Staff believes that this conclusion, which has been upheld by the courts, is sufficient to support a finding that the fee results in an equitable apportionment of fees for permit processing and the specific fee increases imposed this year since the increase is based on the estimated labor costs of performing the work which also demonstrates that the fee increase is necessary. Such apportionment, based on labor costs, is equitable because each fee-payer pays the actual cost of services related to its permit. Annual operating fees are based upon three broad fee schedules which are roughly proportional to the amount of work related to compliance activities for such sources. Thus, the fee apportionment is equitable. It is necessary to increase the fees to assist in recovering the additional costs experienced for labor cost largely due to the significant increases in mandated retirement contribution rates.

The fees are designed to align program costs and revenues. Fees adjustments address situations where sources are either not paying anything or not paying an equitable share of their program costs. The adjustments more appropriately and equitably align program costs and revenue. Fee increases are supported by staff estimates that indicate a current undercollection in their respective categories. An explanation of why each fee is equitably apportioned is found as part of the individual fee description in Chapter 2.

Without cost recovery, resources and associated programs will have to be significantly reduced. Option 1 also equitably apportions the proposed fee increases. Currently, permit, annual renewal and emissions fees are structured for stationary sources based on actual AQMD staff level of effort and actual costs. These programs are currently experiencing a significant shortfall. By uniformly increasing these fees, the equitable apportionment sources will remain, while the amount each will pay will now more closely recover actual costs to administer these programs.

CHAPTER 5 - IMPACT ASSESSMENT

AQMD

INDUSTRY

CEQA

SUMMARY OF SOCIOECONOMIC ASSESSMENT

AQMD

Cost recovery estimates for major proposed amendments are shown in the two tables below:

<u>OPTION 1:</u> <u>Proposed Amendment^(a)</u>	<u>Estimated Incremental</u> <u>Program Cost Recovery (nearest \$1,000)</u>		
	<u>FY 06-07</u> <u>1st Year</u>	<u>FY 07-08</u> <u>2nd Year</u>	<u>FY 07-08</u> <u>3rd Year</u>
2. Collection of 3 Years unpaid Fees [301c1D]	220,000	22,000	24,000
6. Administrative Change Fee [301c3C] ^(b)	83,000	99,000	18,000
8. RECLAIM Facility Permit [301o5] ^(b)	30,000	35,000	6,000
9. Title V Renewal Initial Processing [301p8] ^(b)	34,000	40,000	7,000
10. Schedule A, A1, F, G & H [301 Permit Table] ^(b)	113,000	135,000	25,000
11. Change of Operator NSB [301 CO Table] ^(b)	26,000	31,000	6,000
12. Additional Equipment Categories [301 Table IA]	40,000	4,000	4,000
13. Equipment Schedule Revision [301 Table IB]	272,000	27,000	30,000
14. Compliance Plan Annual Renewal [306h]	116,000	0	0
15. Qualified Independent Consultant [306i2]	250,000	0	0
16. Diesel Engine Only Flat Fee [307.1d2C]	708,000	0	0
17. Special Health Risk Assessment [307.1d3]	22,000	0	0
18. AB 2588 Toxics Surcharge [307.1 Table]	218,000	0	0
19. Rule 308 Failure to Notify [308o]	62,000	0	0
20. Rule 309 Car Scrapping [309d&e]	70,000	0	0
10% Permits, Renewals & Emissions [301]	6,677,000	7,345,000	8,079,000
3.65% CPI Increase Other Programs [Reg III]	140,000	0	0
Total	9,081,000	7,738,000	8,199,000

(a) 'Proposed Amendment' numbering correspond to numbered proposals in the Executive Summary and Chapter 2

(b) phased in over two (2) fiscal years; FY 06-07 through FY 07-08

<u>OPTION 2:</u> <u>Proposed Amendment^(a)</u>	<u>Estimated Incremental</u> <u>Program Cost Recovery (nearest \$1,000)</u>		
	<u>FY 06-07</u>	<u>FY 07-08</u>	<u>FY 07-08</u>
	<u>1st Year</u>	<u>2nd Year</u>	<u>3rd Year</u>
2. Collection of 3 Years unpaid Fees [301c1D]	207,000	0	0
6. Administrative Change Fee [301c3C] ^(b)	78,000	77,000	0
8. RECLAIM Facility Permit [301o5] ^(b)	28,000	24,000	0
9. Title V Renewal Initial Processing [301p8] ^(b)	32,000	61,000	0
10. Schedule A, A1, F, G & H [301 Permit Table] ^(b)	106,000	106,000	0
11. Change of Operator NSB [301 CO Table] ^(b)	24,000	25,000	0
12. Additional Equipment Categories [301 Table IA]	37,000	0	0
13. Equipment Schedule Revision [301 Table IB]	256,000	0	0
14. Compliance Plan Annual Renewal [306h]	116,000	0	0
15. Qualified Independent Consultant [306i2]	250,000	0	0
16. Diesel Engine Only Flat Fee [307.1d2C]	708,000	0	0
17. Special Health Risk Assessment [307.1d3]	22,000	0	0
18. AB 2588 Toxics Surcharge [307.1 Table]	218,000	0	0
19. Rule 308 Failure to Notify [308o]	62,000	0	0
20. Rule 309 Car Scrapping [309d&e]	70,000	0	0
3.65% Permits, Renewals & Emissions [301]	2,437,000	0	0
3.65% CPI Increase Other Programs [Reg III]	140,000	0	0
Total	4,724,000	293,000	0

(a) 'Proposed Amendment' numbering correspond to numbered proposals in the Executive Summary and Chapter 2

(b) phased in over two (2) fiscal years; FY 06-07 through FY 07-08

Overall, for a number of years, AQMD has reduced staffing, contracts and capital expenditures for fixed assets to reduce operating expenses. Staff reductions and expenditure limitations, however, must cope with the requirement for attainment of federal, state and local clean air program goals and objectives.

INDUSTRY

A draft socioeconomic assessment has been prepared as a separate report and provides an analysis of the impacts on industry of the proposed rule amendments to Rules 301, 303, 304, 304.1, 306, 307.1, 308, 309, 311 and Proposed Rule 313.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

The AQMD has reviewed the proposed amendments to Regulation III – Fees (Rules 301, 303, 304, 304.1, 306, 307.1, 308, 309 and 311) and because the proposed project involves the modification and structuring of changes by public agencies for the purpose of meeting operating expenses and financial reserve requirements, it is statutorily exempt from CEQA, pursuant to CEQA Guidelines § 15273 – Rates, Tolls, Fares, and Charges. A Notice of Exemption will be filed with the county clerks of Los Angeles, Orange, Riverside and San Bernardino counties immediately following adoption of the proposed amended rules.

FINDINGS OF NECESSITY & EQUITY

Before adopting, amending or repealing a rule, the AQMD Governing Board shall make findings of necessity, authority, clarity, consistency, non-duplication, and reference, as defined in Health and Safety Code Section 40727. The draft findings are as follows:

Necessity – The AQMD Governing Board has determined that a need exists to amend Regulation III – Fees, including Rules 301, 303, 304, 304.1, 306, 307.1, 308, 309, and 311 to fund the Fiscal Year 2004-05 Budget.

Authority – The AQMD Governing Board obtains its authority to adopt, amend, or repeal rules and regulations from Sections 40000, 40001, 40440, 40500, 40501.3, 40506, 40510, 40510.5, 40512, 40522, 40522.5, 40523, 40702, and 44380 of the California Health and Safety Code.

Clarity – The AQMD Governing Board has determined that Regulation III – Fees, including Rules 301, 303, 304, 304.1, 306, 307.1, 308, 309, and 311, as proposed to be amended, are written or displayed so that their meaning can be easily understood by the persons directly affected by them.

Consistency – The AQMD Governing Board has determined that Regulation III – Fees, including Rules 301, 303, 304, 304.1, 306, 307.1, 308, 309, and 311, as proposed to be amended, are in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations.

Non-Duplication – The AQMD Governing Board has determined that Regulation III – Fees, including Rules 301, 303, 304, 304.1, 306, 307.1, 308, 309, and 311, as proposed to be amended, do not impose the same requirements as any existing state or federal regulation and are necessary and proper to execute the power and duties granted to, and imposed upon, the District.

Reference – The AQMD Governing Board, in amending these rules, references the following statutes which the AQMD hereby implements, interprets, or makes specific: Health and Safety Code Sections 40500, 40500.1, 40510, 40510.5, 40512, 40522, 40522.5, 40523, 41512, and 44380.

COMMENTS and RESPONSE TO COMMENTS

Comment: A 10% increase in permit and emissions related fees, which is 6.35% more than the current consumer price index of 3.65%, seems high. The District should increase operational efficiency in order to reduce costs rather than raising fees to recover costs.

Response: The District has an aggressive, ongoing program for improved efficiency. The Permit Streamlining Task Force is part of this effort. In FY 91-92 the District had 1,163 full time employees on staff. The number of full time employees for the current fiscal year stands at 785. This represents an almost one-third reduction in staffing. During the same time period however the number of programs and staff work load has increased. Furthermore, when annual budgets are adjusted for inflation there has been an effective 36.3% reduction in the AQMD budget. The District has in fact been able to achieve these reductions while at the same time providing increased services by improving efficiency, and will continue to work to do so.

Comment: Businesses, and especially small businesses, should be given sufficient notice that they may be charged for the preparation of an AB 2588 Health Risk Assessment (HRA).

Response: The AB2588 timeline for the preparation of a health risk assessment is an extended one, typically lasting more than a year. The facility is given six months to prepare an air toxics inventory report (ATIR). Staff may take two to three months to review the ATIR. After the ATIR is approved, the facility is given five months to prepare a health risk assessment (HRA).

Typically, the AB2588 staff has permitted several attempts by the facility to prepare and correct the HRA, providing detailed comments and instructions regarding the corrections needed. To date, nearly 300 HRAs have been approved with only one instance where the HRA remained unacceptable despite several attempts by the facility to make the necessary corrections. In this specific instance, facility risks were fairly high and further delay was unacceptable so SCAQMD staff assumed the responsibility for finalizing the HRA. The staff time spent on this effort is currently unrecoverable. The purpose of the proposed “special risk assessment fee” is to put in place a cost recovery mechanism for the rare but possible situation described above.

Comment: Will the Expedited Permit Processing fees also increase?

Response: Yes. Under Option 1, all permit, renewal and emissions fees will increase by 10% in FY 06-07 (unless the fee is a permit fee that is already being increased to better recover costs, in which case the increase will be phased in over 2 years) and all other fees unless prohibited by law will increase 3.65%. Under Option 2, all fees will increase by 3.65% (unless the fee is a permit fee that is already being increased

to better recover costs, in which case the increase will be phased in over 2 years). Expedited permit processing is a permit related fee and additionally it is a fee for an optional service. No additional increase in this fee is being proposed for cost recovery, so it will only be increased by the rate in either Option 1 (10%) or Option 2 (3.65%) depending on the version adopted by the Board.

Comment: Why does the charge for Rule 309 (car scrapping) compliance verification inspections vary from inspection to inspection for what appears to be the same service?

Response: For Rule 309, staff is required by Board directive to verify on-site, compliance at facilities conducting car scrapping. These on-site verifications may be conducted on weekends, on an overtime basis, and billed to the facility on an hourly basis strictly to recover the cost incurred by the District of sending staff to the facility. Overtime for an inspector on non-scheduled work days is billed, by the current labor agreement, on actual time portal-to-portal. Variations can result due to differences in travel time. Staff will consider opportunities to normalize charges associated with differing travel times in an effort to minimize variability in the billing.

APPENDIX A

Summary of Previous Amendments

APPENDIX A – SUMMARY OF PREVIOUS AMENDMENTS

During FY 1989-90, an independent study conducted by KPMG Peat Marwick resulted in the basic structure of Rule 301, including:

- assessment of permit procedures based on complexity of review required and the emission potential of the equipment/process to be permitted;
- assessment of operating fees based on equipment complexity and level of source which correlates to the average level of effort; and
- assessment of emission fees based on a reduced threshold of four tons.

This study, subsequent studies referenced herein, and the staff reports for the 1990 amendments and all subsequent amendments to Regulation III are incorporated by reference in this staff report.¹

During 1994, a second independent fee study was conducted by KPMG Peat Marwick to evaluate the following fee-related issues:

1. AQMD's existing fee structure, including a full cost and revenue analysis of AQMD programs;
2. RTC allocation fees;
3. Fees for toxic air contaminants;
4. Feasibility of converting the current permit and operating fee system (BCAT/CCAT-based system) to a process classification system based on Source Classification Code (SCC); and
5. AQMD's long-term funding options.

The results of this study were presented to the AQMD Governing Board on March 10, 1995. Recommendations from this study were reviewed and the recommendation relating to toxic air contaminants was incorporated into amended Rule 301. However, this study also recommended an increase in fees to make permit program fees recover the full costs of the associated programs. This proposal was not implemented because AQMD staff recommended efforts to lower the costs of permit processing before seeking increases in permit fees.

In FY 1995-96, the change in the California CPI was 1.5%. In recognition that other governmental agencies, industrial entities, small businesses, and individual citizens had been adversely affected by the recent economic recession, a broad-based fee increase was not

¹ These documents are available by contacting the District at (909) 396-2000.

proposed for FY 1995-96. In addition, in FY 1995-96 the Board adopted and implemented a 4% rebate for annual operating fees, thus actually reducing the impact of these fees on a one-time basis.

To maintain a level of revenues necessary to support AQMD's legally-mandated functions of achieving and maintaining health-based state and federal air quality standards, the Board adopted an across-the-board increase in Regulation III fees for FY 1996-97 equal to the 1.2% change in the California CPI for 1995.

For FY 1997-98, the Board adopted an across-the-board increase in Regulation III fees equal to the 2.4% change in the California CPI for 1996. Because AQMD revenue sources, including emission fees, were decreasing as significant progress towards air quality attainment was made, the aggregate effect of this increase did not exceed the fee cap on revenue generated. Additionally, several other changes to the fee structure that more equitably aligned fees with the levels of effort required to accomplish these responsibilities were adopted.

For FY 1998-99, fees were increased by 2.2%, corresponding to the change in the California CPI for 1997, to offset the decline in income to AQMD from emission fees and to provide more equitable recovery of labor and other costs to process permits and perform field inspections. Also during this year, the Board adopted increases in fees for Title V permits processing and for gasoline fuel dispensing nozzles, to reflect increased services in these areas.

In July 1998 the California State Auditor published the results of their review of the AQMD budget. As part of their overall review of the AQMD budget and operations, the State Auditor recommended, in part, that the permit fees be set to cover the cost of processing; and that all facilities pay annual emissions fees including facilities smaller than the existing emissions fee threshold or 4 TPY. The auditor further recommended that the AQMD undertake efforts to streamline the permit process.

Meanwhile, two projects having bearing on the AQMD's fee structure and business practices were completed. The first major effort was the formation of a Permit Streamlining Task Force, an initiative from Dr. Burke, then Chairman of the AQMD Governing Board. The task force consisted of Board members, environmental professionals, and industry representatives. The group brought concrete recommendations to the Board, indicating how to expedite processing conventional, Title V and RECLAIM permits. Additionally, AQMD selected a contractor to study the permitting system and provide an independent set of recommendations directed to permit streamlining. Based on input from the contractor, industry, permit applicants, and AQMD staff, the Permit Streamlining Task Force proposed a set of recommendations to the Board at the March 12, 1999 meeting. Most of the recommendations have been implemented.

The other major effort was the fee structure study conducted by the independent management firm of Thompson, Cobb, Bazilio & Associates, PC (March 1999). Their report included the following recommendations:

1. The AQMD needs a cost information system to determine the cost of specific permit processes;
2. Fees be changed for different BCAT/CCAT items to align costs with fees, since the study found that permit fees significantly under-recover actual costs of permitting;
3. Adjustments be made to the annual operating and annual emissions fee such as a minimum annual emissions fee;
4. Adjustments be made for Title V fees; and
5. Eliminate small business discounts for permits.

The proposals for amending Regulation III adopted in May 2001 addressed several recommendations made by the independent consultant and the state auditor. The AQMD implemented the first item with the creation and implementation of the time tracking study. Items 2, 3, and 4 were adopted as part of the 2001 amendments. Staff continues to look at item 5 but has not recommended any changes to small business discounts.

As part of the adoption of the Fiscal Year 2000-2001 AQMD Budget and Regulation III, the Governing Board directed staff to establish a special Revenue Committee to assist the AQMD in developing revisions to its fee rule for FY 2001-2002 to help stabilize revenues. The major focus of this committee's effort was the identification and assessment of several short- and long-term potential funding sources in support of AQMD programs as well as the review of staff proposed amendments to Regulation III that were designed to recover program costs. The Revenue Committee made several important recommendations that were included in the rule amendments approved by the Governing Board in May 2001. Those recommendations were:

1. A minimum emissions fee for all permitted sources (emissions flat fee);
2. "Non-permitted" emissions, including Rule 219 – exempt equipment and other area sources; and
3. A fee on area sources, which is being partially implemented by the non-permitted emissions fees, which covers area sources such as solvents.

The Committee also recommended a manufacturers' fee for area sources, a pre-application consultation fee, and a dollar penalty in lieu of missing data provisions in RECLAIM. These suggestions will continue to be evaluated by Regulation III and RECLAIM staff.

The Governing Board adopted amendments in May 2001 to address many of these issues. The amendments included:

1. Emissions fee of \$75.00 for all facilities with at least one written permit (phased in over two years);
2. An alignment of permit processing fees with actual costs based on the tracking data. Categories A, A1, and B were increased and D – H were decreased (phased in over two years); and

3. Emissions fees for equipment or processes not requiring a written permit. Emissions fees were assessed for facilities with a total of permitted and non-permitted emissions over threshold standards described in current Rule 301(e)(5). (phased in over three years).

In May 2002, the Governing Board adopted amendments that adjusted for the California CPI, amended selected special processing fees to better reflect actual costs and implemented the second year phase-in of the fee amendments adopted in 2001.

In June 2003, the following major proposed amendments were adopted by the Governing Board: an across the board CPI rate fee increase of 2%, extending the “Applicability” of ERCs to include Short Term ERCs, defining “Alternative Operating Condition”, payment of all delinquent facility, including toxic “Hot Spots”, fees prior to acceptance of any application for a change to a permit/facility permit condition(s), setting the fee for conversion of permanent ERCs to Short Term ERCs, granting the Executive Officer discretion to reinstate any permits canceled due to error on the part of the District, recovery of mileage expenses for employees commuting during overtime hours to work on optional expedited permit processing applications and other administrative amendments.

In June 2004, the following major proposed amendments were adopted by the Governing Board: an across the board rate fee increase of 3% to be implemented over two fiscal years (3% in FY 04-05 and 0% in FY 05-06), clarification of whether an application to amend a permit is processed as a Change of Condition or an Alteration/Modification, recovering the costs associated with Administrative permit changes for Schedule B and higher equipment, an increase in fees for asbestos/lead project notifications and tracking and the addition of two categories for projects >50,000 square feet and >100,000 square feet, conversion to a flat up-front fee for optional expedited permit processing, optional expedited processing of Continuous Emissions Monitoring System (CEMS), Fuel Sulfur Monitoring System (FSMS) and Alternative Continuous Emissions Monitoring System (ACEMS) and Protocol/Report Evaluation submittals, recovery of costs associated with notification and tracking of Rule 1149 – Storage Tank Degassing and Rule 1166 – Volatile Organic Compound Emissions from Decontamination of Soil projects, recovery of costs associated with laboratory analysis of non-compliant samples taken in the field for compliance verification, recovery of Plan Audit, Verification, Evaluation, Inspection and Tracking Costs for area source rules such as: Rules 444 – Open Burning, 1113 – Architectural Coatings, and 1610 – Old Vehicle Scrapping, an across the board increase of \$17 in addition to the approved rate increase for all facilities subject to the AB 2588, overall increase in revenues in order to better recover program costs, and revisions to Rule 308 that maintain the rule language current with changes to Rule 2202 including an adjustment to better align the fee charged for MSERC transactions with processing costs which are comparable to Reclaim Trading Credit transaction processing costs.

In June 2005, the following major proposed amendments were adopted by the Governing Board: 1) to partially address significant under-recovery of consistent program costs, exacerbated by cost increases beyond AQMD’s control and exceeding the California

Consumer Price Index (CPI), an across the board partial cost recovery fee adjustment of 6.0%; 2) Recovering Hearing Board Costs by increasing fees to recover all costs; 3) Compliance Cost Recovery for RECLAIM / Title V Facilities through a per device based fee to recover the increased costs of compliance activities at RECLAIM facilities. A per device fee of \$500 for Major, \$100 for Large and \$100 for Process units/devices is assessed per facility. Title V facilities pay an annual flat fee of \$300; 4) Recovering the Cost of Permitting “Crude Oil/Gas/Water Separation System (< 30 BPD)” by revising the source category from Schedule B to Schedule C equipment to reflect existing practice which recognizes the correct cost of processing; 5) Recovering the Cost of Certification of Certain Equipment Subject to Rule(s) 1111, 1121 and 1146.2 which recovers the cost of processing applications and issuing certifications/certified permits for certain equipment under the provisions of these rules to be grouped into families of similar units for compliance determination purposes. Certification is a voluntary program that benefits the applicant by having their equipment certified; 6) Recovering the Cost of Preparing Public Notices for Compliance with ERC/STC Issuance which recovers the cost to the District of preparing mandatory notices in compliance with the requirements for issuance of ERC and STC credits; 7) a “No Show” Cost Recovery Fee for Rule 461 – Gasoline Dispensing Equipment Scheduled Testing which recovers the resource cost of lost assigned inspector time when testing companies do not show up for or do not conduct Reverification, Performance and Pre-Backfill inspections as scheduled, and do not give prior notification to the District if the appointment is to be cancelled; 8) Recovering the Cost of Re-Issuance of Short Term Credits (STC’s) which recovers the cost of processing Short Term Credit applications which require the same resources to process as any other emission reduction credit application; 9) and other minor proposed administrative amendments are for correction and clarification.