

***Proposed Amendments to the
Nonvehicular Source,
Consumer Products,
and Architectural Coatings
Fee Regulations***

November 18, 2004

Basis for Today's Proposal

- **Implement Legislature's further direction to shift portion of Stationary Source Program budget from General Fund to fee-based program**
- **Comply with requirement to relate fees to the activities of those paying fees**

Presentation Outline

- **Background**
- **Staff Proposal**
- **Economic and Other Impacts**
- **Public Outreach**
- **Summary and Recommendation**

BACKGROUND

California Clean Air Act of 1988

- **From FY 1989/90 to FY 2002/03, ARB collected \$3 million/year in fees**
- **Fees assessed on about 60 large facilities emitting 500 or more tons/year of specified pollutants**
- **Fees used to help recover costs of programs related to nonvehicular sources**

Fiscal Year 2003/04 Changes

- **In July 2003, the Board adopted regulations to implement AB 10X**
- **Fees to offset reductions in general fund support of ARB's stationary source program**
- **For FY 2003/04, the Legislature authorized ARB to collect a total of \$17.4 million in fees**

Facility Provisions

- **Lowered applicable threshold levels from 500 to 250 tons per year**
- **Provided three fee collection options, including allowing the Board to collect fees directly**
- **Included statutory cap on facility fees at \$13 million**

Other Source Provisions

- **Fees to be assessed on manufacturers of consumer products and architectural coatings whose products emit 250 tons per year or more of VOCs**
- **Required the Board to collect fees**
- **Fees used solely to mitigate or reduce air pollution created by consumer products and architectural coatings**

General Provisions

- **Specifies procedures to identify and assess fees, including calculations for a uniform emissions-based fee**
- **Provides opportunity for comment on preliminary estimates of emissions**
- **Allows fees to be adjusted for inflation**

FY 2003/04 Cost Impacts

- **Uniform fee of \$84/ton of emissions**
- **79 Facilities**
 - 128,000 tons \$10.8 million
- **68 Consumer Products and Architectural Coating Manufacturers**
 - 79,000 tons \$ 6.6 million

FY 2004/05 Budget Changes

- **The adopted FY 2004/05 Budget shifts an additional \$2.6 million to fees to provide further savings in general funding**
- **Total fee assessment raised to \$20 million**
- **Represents about half of the stationary source budget, and 15% of ARB's total budget**

Staff Proposal

Proposed Amendments

- **Apply only in fiscal years where the ARB is authorized to collect fees in excess of \$17.4 million**
- **Recover fees in excess of \$17.4 million from permitted facilities**
- **Other procedures generally remain unchanged from existing regulations**

Rationale for Proposal

- **Fees can only be used to recover program costs**
- **Program costs for consumer products and architectural coatings can be estimated different ways:**
 - **Emissions-based is \$6.9 million**
 - **Program based allocation is \$8.9 million**
- **Keeping fees at current levels avoids potential “nexus” problems relative to amount that can be recovered**

Rationale for Proposal

- **Facility cap is \$13 million plus inflation each year**
- **Estimated fees for facilities to collect the entire \$2.6 million supplemental fee plus their share of \$17.4 million is about \$13 million**
- **Proposal meets statutory provisions and avoids nexus issues**

District Collection Option

- **Districts may collect supplemental fees**
- **Same process as specified in existing regulations**
- **Does not apply in FY 2004-2005 due to limited time frame**

Two New Provisions

- **Allows compliance with Legislative direction if particular amounts or percentages to be collected change**
- **Directs ARB to use any modified emissions threshold enacted by the Legislature**

Economic and Other Impacts

Cost Impacts for FY 2004/05

- **Supplemental fee is about \$23/ton of emissions**
- **Per facility fees range from \$6,000 to \$225,000**
- **Facilities pay \$1 million more than under existing regulations**
- **Facilities pay about 7% more than under existing regulations**

Potential Impacts

- **No significant environmental impacts**
- **No significant impact on the creation, elimination, or expansion of affected businesses, or jobs**
- **No adverse environmental justice impacts**

Public Outreach

Public Outreach

- **Public workshop held on September 14**
- **All affected facilities notified of staff proposal**
- **Discussions with affected facilities and associations**

Issues

Issue

- **Applying the entire supplemental fees only to facilities**

Summary and Recommendation

Summary

- **Amendments enable us to recover amount authorized by the Legislature**
- **Applies if ARB authorized to collect fees in excess of \$17.4 million**
- **Meets nexus requirements**
- **New provisions allow compliance with future legislative direction**

Recommendation

Adopt the proposed amendments