

State of California
AIR RESOURCES BOARD

Resolution 84-38

June 21, 1984

Agenda Item No.: 84-10-1

WHEREAS, Sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (the "Board") to adopt standards, rules and regulations necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, in the Kapiloff Acid Deposition Act (Stats 1982, ch 1473; Health and Safety Code Sections 39900-39915), the Legislature declared that acid deposition from anthropogenic sources in California may have significant adverse effects on the environment, on the economy and the public health and directed the Board to design and implement a comprehensive research and monitoring program with regard to acid deposition;

WHEREAS, Section 39910 of the Health and Safety Code authorizes the Board to require districts to impose additional permit and variance fees on non-vehicular sources within their jurisdictions to supplement funds which may be appropriated by the Legislature for acid deposition monitoring and research;

WHEREAS, acid deposition research and monitoring program objectives and priorities have been established and reported to the Governor and the Legislature in December 1983 in accordance with the Kapiloff Acid Deposition Act;

WHEREAS, in approving the report to the Governor and the Legislature, the Acid Deposition Scientific Advisory Committee appointed pursuant to Section 39905 specified that full implementation of the Board's research and monitoring program will require the maximum level of funding provided for under the Kapiloff Acid Deposition Act;

WHEREAS, the Board has adopted Resolution 83-22, dated July 29, 1983, the provisions of which are incorporated by reference herein, in which it approved a fee program for fiscal year 1983-84 and stated its intention to consider in 1984 the renewal and modification of the fee program;

WHEREAS, the Air Resources Board staff, in consultation with representatives of local air pollution control districts, have developed a proposed fee program for fiscal year 1984-85;

WHEREAS, in accordance with Health and Safety Code Section 39914 and consistent with the Air Resources Board's request that four million dollars (\$4,000,000) be appropriated for acid deposition research, of which up to two million dollars (\$2,000,000) may be provided from the fees to be collected by the districts, the proposed fee program has been designed to provide to the

Air Pollution Control Fund net revenues in fiscal year 1984-85 in an amount which is the lesser of either two million dollars (\$2,000,000), or the amount that is appropriated for acid deposition research and monitoring by the Legislature;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project having significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the provisions of Chapter 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code;

WHEREAS, the Board finds that:

The funds which would be collected pursuant to the proposed fee program are needed to implement the research program established pursuant to the Kapiloff Acid Deposition Act;

The proposed regulations and sample fee schedule are based on the most current data available for annual emissions of sulfur or nitrogen oxides from sources emitting 1000 tons or more per year of either pollutant; and

The economic impact of the fee program on the affected sources of sulfur or nitrogen oxides will not be significant; and

WHEREAS, the Board has determined, pursuant to the requirements of the California Environmental Quality Act and Air Resources Board regulations, that this regulatory action will have no significant adverse impact on the environment.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves Sections 90604-90607, Title 17, California Administrative Code, as set forth in Attachment A, with modifications to the fees specified in Section 90605 and to Section 90606(a) as presented at the Board's hearing, establishing a fee program for fiscal year 1984-85.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt the amendments set forth in Attachment A, as modified, provided that the Executive Officer shall further modify the fees specified for collection by the districts pursuant to Section 90605 if he determines, based on information provided before September 1, 1984, by any district, that such modification is warranted.

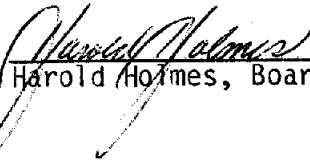
BE IT FURTHER RESOLVED that prior to adoption by the Executive Officer, the regulations shall be made available for a period of 15 days, provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make such modifications as he deems necessary in light of the comments received, and shall present the regulations to the Board for further consideration if he determines that this is warranted.

BE IT FURTHER RESOLVED that the Board approves the sample fee schedule set forth in Attachment B for consideration by those local air pollution control districts and air quality management districts which are required to collect fees pursuant to Sections 90604-90607, Title 17, California Administrative Code.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to forward the attached regulations and sample fee schedule to the specified districts for appropriate action, and to the Department of Finance, the Legislative Analyst and the State Controller, for information and for appropriate action.

BE IT FURTHER RESOLVED that the Board intends to review in 1985 the status of the acid deposition research and monitoring program, and to reconsider at that time the renewal and modification, as necessary, of the fee program in order to reflect changes in program needs and capabilities, base-year emissions, and such other factors as may influence acid deposition research and funding requirements.

I certify that the above is a true and correct copy of Resolution 84-38, as adopted by the Air Resources Board.



Harold Holmes, Board Secretary

Public Hearing to Consider the Adoption of Sections 90604-90607, Title 17, California Administrative Code, Regarding the Acid Deposition Fee Program for 1984-1985

Public Hearing Date: June 21, 1984
Public Availability Date: July 31, 1984

On June 21, 1984, the Air Resources Board (the "Board") considered the adoption of proposed Sections 90604-90607, Title 17, California Administrative Code, regarding the collection of fees by air pollution control districts for acid deposition research and monitoring.

Attached is a copy of the Board's Resolution 84-38, approving the proposed regulations with certain modifications. Appended to the Resolution is the approved language showing additions to the originally proposed language by double underline and deletions by slashes. The regulations as approved by the Board are set forth in Attachment A. Attachment B contains the sample fee schedule as approved by the Board.

The Board's Resolution directed the Executive Officer to adopt the regulations as modified, provided that the Executive Officer shall further modify the fees specified for collection by the districts if he determines, based on information provided before September 1, 1984, by any district, that further modifications are warranted. The Resolution further provided that, prior to adoption by the Executive Officer, the regulations shall be made available for public comment for 15 days, and that the Executive Officer shall consider such written comments as may be received during that period, shall make such modifications as he deems necessary in light of the comments received, and shall present the regulations to the Board for further consideration if he determines that this is warranted.

With the exception of information regarding the specified fees, which must be provided by September 1, 1984, all comments must be received by August 15, 1984, in order to be considered. If further modifications, including modifications to the fee schedule, are made to the regulations, other than modifications which are nonsubstantial or solely grammatical in nature, the regulations will be made available for an additional 15 days after any such modifications are made.

Attachments

Adopt Sections 90604-90607, Article 2, Subchapter 3.5, Chapter 1, Part III, Title 17, California Administrative Code, to read as follows:

Article 2. Fee Program to be Implemented by
Air Pollution Control Districts and Air Quality Management Districts
for Fiscal Year 1984-1985 and ~~Subsequent Years~~

90604. General Requirements.

(a) To provide revenue for acid deposition research and monitoring for fiscal year 1984-85, each district identified in Section 90605 shall adopt regulations, with an effective date no later than November 15, 1984, which provide for the collection of fees from the holders of permits for sources which emitted 1,000 tons per year or more of either sulfur oxides or nitrogen oxides during the period from January 1, 1983 through December 31, 1983. The fees collected shall be in addition to permit and other fees already authorized to be collected from such sources.

(b) Such fees, including fees collected to cover the administrative costs to the district of collecting the fees, shall not exceed twenty-five one-hundredths of one cent (\$.0025) per pound of sulfur oxides or nitrogen oxides emitted. With respect to sources identified on or before June 21, 1984 as emitting 1,000 tons per year or more of sulfur oxides or nitrogen oxides during the period from January 1, 1983 through December 31, 1983, the amount of emissions as determined by the executive officer of the state board on June 21, 1984 shall be used to determine compliance with this limitation and with the fee requirements of Section 90605(a). In determining the amount of emissions, the executive officer shall utilize data provided by the districts, where available.

NOTE: Authority cited: Sections 39600, 39601, and 39910, Health and Safety Code. Reference: Sections 39002, 39500, 39600, and 39910-39914, Health and Safety Code.

90605. Fee Revenues.

(a) No later than March 1, 1985, each district specified in this section shall transmit the amount specified below, less the district's actual administrative costs, to the state board for deposit into the Air Pollution Control Fund:

(1) Bay Area Air Quality Management District: two hundred sixty thousand one hundred dollars (\$260,100);

(2) South Coast Air Quality Management District: two hundred ~~\$177,740~~ sixty-three thousand ~~\$77~~ four hundred ~~thirty~~ ~~\$77~~ sixty-five dollars ~~(\$282,825)~~ (\$263,465);

(3) Kern County Air Pollution Control District: three hundred thirty-two thousand seventy-five dollars (\$332,075);

(4) San Bernardino County Air Pollution Control District: ~~eighty~~ seventy-four thousand ~~four~~ seven hundred ~~\$177~~ forty-five dollars ~~(\$80,480)~~ (\$74,745);

(5) Monterey Bay Unified Air Pollution Control District: forty-nine thousand seven hundred seventy-five dollars (\$49,775);

(6) San Diego County Air Pollution Control District: fifty-nine thousand three hundred sixty-five dollars (\$59,365);

(7) Fresno County Air Pollution Control District: ~~\$177~~ ~~\$77~~ fifteen thousand ~~one/hundred/thirty~~ ~~\$77~~ ten dollars ~~(\$86,135)~~ (\$15,010);

(8) San Luis Obispo County Air Pollution Control District: ~~fifty~~ ~~\$77~~ thousand ~~\$77~~ two hundred ~~thirty~~ twenty dollars ~~(\$55,890)~~ (\$50,220);

(9) Ventura County Air Pollution Control District: eight thousand fifty-five dollars (\$8,055);

(10) Stanislaus County Air Pollution Control District: six thousand six hundred seventy-five dollars (\$6,675);

(11) North Coast Unified Air Quality Management District: seven thousand ten dollars (\$7,010);

(b) In addition to the fees specified in subsection (a) above, a district shall, no later than March 1, 1985:

(1) For any source identified after June 21, 1984 as having emitted 1,000 tons per year or more of sulfur oxides or nitrogen oxides during the period from January 1, 1983 through December 31, 1983, transmit to the state board for deposit into the Air Pollution Control Fund five dollars (\$5.00) per ton of such pollutant, less the district's actual administrative costs; and

(2) For any source identified after July 29, 1983 as having emitted 1,000 tons per year or more of sulfur oxides or nitrogen oxides during the period from January 1, 1982 through December 31, 1982, transmit to the state board for deposit into the Air Pollution Control Fund three dollars and sixty-nine cents (\$3.69) per ton of such pollutant.

NOTE: Authority cited: Sections 39600, 39601, and 39910, Health and Safety Code. Reference: Sections 39002, 39500, 39600, and 39910-39914, Health and Safety Code.

90606. Administrative Costs and Billing Information.

(a) To pay for the administrative costs of collecting the fees required by this article, each district may, in accordance with Section 90605, retain fees in an amount equal to the best estimate of or actual costs incurred by the district in establishing the program, and/of collecting and transmitting the fees. Each district shall, upon request, submit to the the state board within 30 days documentation to substantiate the administrative costs of collecting the fees required by this article.

(b) Each district shall submit to the state board, within 30 days of request, information relating to the assessed total tons of nitrogen oxides and sulfur oxides, the amount of fees per pollutant collected from each major nonvehicular source, including fees to cover administrative costs, and the net amount of fees transmitted to the state board pursuant to Section 90605.

NOTE: Authority cited: Sections 39600, 39601, and 39910, Health and Safety Code. Reference: Sections 39002, 39500, 39600, and 39910-39914, Health and Safety Code.

90607. Exemption.

In the event that any district is unable to collect the assessed acid deposition fee required by district rules and regulations from any source due to circumstances beyond the control of the district, including but not limited to plant closure or refusal of the source owner or operator to pay despite permit revocation and/or other enforcement action, such district shall notify the executive officer of the state board, and for demonstrated good cause may be relieved, on a prorated basis, from that portion of the fee collection requirement for the district, as set forth in Section 90605. Nothing herein shall relieve the owner or operator from any legal obligation to pay any fees assessed pursuant to district rules and regulations.

NOTE: Authority cited: Sections 39600, 39601, and 39910, Health and Safety Code. Reference: Sections 39002, 39500, 39600, and 39910-39914, Health and Safety Code.

Adopt title for Article 3, Subchapter 3.5, Chapter 1, Part III, Title 17, California Administrative Code, to read as follows:

Article 3. Fee Program to be Implemented by
Air Pollution Control Districts and Air Quality Management Districts
for Fiscal Year 1985-1986 and Subsequent Years

[Reserved.]

1984-85

SAMPLE FEE SCHEDULE

I. RULE NO. (____) SCHEDULE OF FEES FOR ACID DEPOSITION RESEARCH

A. DEFINITION OF MAJOR NONVEHICULAR SOURCE

For the purpose of this rule, major nonvehicular source shall mean any plant, building, structure, stationary facility or group of facilities under the same ownership, leasehold, or operator which, in the base calendar year, emitted to the atmosphere oxides of nitrogen or oxides of sulfur, expressed as nitrogen dioxide and sulfur dioxide, respectively, in an amount equal to or exceeding 1,000 tons.

B. FEE REQUIREMENTS FOR MAJOR SOURCES

1. For each major source, the permit holder is assessed a fee payable to (district) , due within 60 days of notice of assessment by (district) , and calculated according to the formula:

a. FEE AMOUNT = \$5.00 x E

where:

E = mass of emissions in the base year of oxides of nitrogen and/or oxides of sulfur, expressed as tons of nitrogen dioxide and sulfur dioxide, respectively, from the subject major source, and as determined by the Air Pollution Control Officer (Executive Officer) of (district). If only one pollutant is emitted in the amount of 1000 tons per year or more, "mass of emissions" shall be determined based only on that pollutant.

b. Notwithstanding Section (3)(1)(a), the fee amount, including district administrative costs, shall not exceed \$0.0025 per pound (five dollars per ton) as specified by Health and Safety Code Section 39912.

2. Nonpayment of the assessed fees by the permit holder of a major source shall be cause for revocation of permit to operate or such other action as may be required by the Air Pollution Control Officer (Executive Officer) of the (district), consistent with current district practices for securing fee payment.

State of California
AIR RESOURCES BOARD

Response to Significant Environmental Issues

Item: Public Hearing to Consider Adoption of Sections 90604-90607, Title 17, California Administrative Code, Regarding the Acid Deposition Fee Program, and to Consider Approval of a Sample Fee Schedule

Agenda Item No.: 84-10-1

Public Hearing Date: June 21, 1984

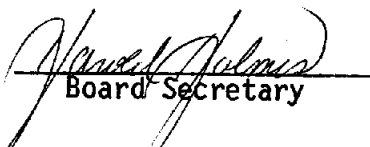
Response Date: October 8, 1984

Issuing Authority: Air Resources Board

Comment: No comments were received identifying any significant environmental issues pertaining to this item. The staff report identified no adverse environmental impacts.

Response: N/A

CERTIFIED:


Board Secretary

Date:

10-17-84

Memorandum

To : Gordon Van Vleck
Secretary
Resources Agency

Date : February 1, 1985

Subject: Filing of Notice of
Decisions of the Air
Resources Board

(Harold Holmes)
From Harold Holmes
Board Secretary
Air Resources Board

Pursuant to Title 17, Section 60007 (b), and in compliance with Air Resources Board certification under section 21080.5 of the Public Resources Code, the Air Resources Board hereby forwards for posting the attached notice of decision and response to environmental comments raised during the comment period.

ATTACHMENTS

84-38
84-41
84-42
84-52

FILED AND POSTED BY
OFFICE OF THE SECRETARY

FEB 5 1985

Resources Agency of California