



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

**STAFF REPORT**  
JUNE 2005

**PROPOSED AMENDMENTS TO  
BAAQMD REGULATION 3: FEES**

**Engineering Division  
Bay Area Air Quality Management District**

## **1. EXECUTIVE SUMMARY**

The Bay Area Air Quality Management District (“the District”) is continuing an annual process of realigning fees to more fully recover the District’s costs of regulatory programs. A recently completed Cost Recovery Study indicates that a significant cost recovery gap still exists. For example, for fiscal year (FY) 2003-04, permit fee revenue covered only about 60 percent of direct and indirect costs of air quality programs related to permitted sources, leaving a gap of approximately \$13 million to be filled with property tax revenue.

For the upcoming FY 2005-06, the Staff is proposing amendments to the fee regulation that would increase revenue to enable the District to address increasing regulatory program activity costs, and reduce the cost recovery gap. The District also will continue to seek measures to improve efficiency and contain costs. On an overall basis, the proposed fee amendments would increase fee revenue by approximately \$1.4 million from projected revenue levels in the current fiscal year, representing an increase of about 7 percent.

The District is proposing to amend individual Fee Schedules based on the magnitude of the cost recovery gap identified in the Cost Recovery Study. Fee Schedules with the largest cost recovery gaps would be increased by 15 percent; schedules with less significant gaps, along with most administrative fees, would be increased by five percent; schedules with no cost recovery gaps would not be increased.

The District is proposing further increases in fees for refinery flares, and health risk screening analyses, due to increases in program activity costs related to regulatory changes in these areas. In addition, new fees are proposed for renewals of Authorities to Construct, and Potential to Emit demonstrations, which are not currently covered by fees. The definition of a Small Business would also be amended to adjust the gross annual income criterion for inflation.

The proposed effective date of the amendments to the District’s fee regulation is July 1, 2005.

## **2. BACKGROUND**

State law authorizes the District to assess fees to generate revenue to cover regulatory program activity costs (i.e., the District’s direct and indirect expenditures for personnel, services and supplies, and capital outlay, related to implementing and enforcing air quality programs affecting stationary sources of air pollution). The largest portion of fees is collected under provisions that allow the District to impose permit fees sufficient to cover the full costs of programs related to permitted sources. (Health and Safety Code Section 42311(a) and (f).) The District has established,

and regularly updates, a fee regulation (District Regulation 3: Fees) under these authorities. Currently, approximately one-third of the District's general fund operating budget is derived from fees imposed in accordance with this regulation.

From time to time, the District has considered whether these fees result in the collection of a sufficient and appropriate amount of revenue in comparison to the cost of related program activities. In 1999, a comprehensive review of the District's fee structure and revenues was completed by the firm KPMG Peat Marwick LLP (*Bay Area Air Quality Management District Cost Recovery Study, Final Report: Phase One – Evaluation of Fee Revenues and Activity Costs; February 16, 1999*). The 1999 Cost Recovery Study indicated that fee revenue did not nearly offset the full costs of program activities associated with sources subject to fees as authorized by State law. Property tax revenue (and in some years, fund balances) had consistently been used to close this cost recovery gap.

The District approved an across-the-board fee increase of 15 percent – the maximum allowed by law – for fiscal year 1999-00 as a step toward more complete cost recovery. In each of the next five years, the District adjusted fees only to account for inflation. For the current FY 2004-05, the District also approved further increases in Title V fees, and a new processing fee for renewals of permits to operate.

In 2004, the District's Board of Directors approved funding for an updated Cost Recovery Study. The accounting firm Stonefield Josephson, Inc. completed this study in March 2005 (*Bay Area Air Quality Management District Cost Recovery Study, Final Report; March 30, 2005*). The 2005 Cost Recovery Study indicates that a significant cost recovery gap still exists. In fact, the study showed that for FY 2003-04, fee revenue covered only about 60 percent of direct and indirect program activity costs, leaving a gap of approximately \$13 million to be filled with property tax revenue.

For the upcoming FY 2005-06, District staff is proposing amendments to Regulation 3 that would increase fee revenue to enable the District to address increasing regulatory program activity costs, and to reduce the cost recovery gap. The District also recognizes the need to continually seek measures to improve efficiency and contain costs, and has included a number of such measures in the proposed FY 2005-06 budget. On an overall basis, the proposed fee amendments would increase fee revenue by approximately \$1.4 million from projected revenue levels in the current fiscal year, representing an increase of about 7 percent. Projected fee revenue for FY 2005-06 is provided in Table 1. These figures are approximations, as accurate projections of fee revenues are very difficult because of many factors including fluctuations in industrial activities.

**Table 1. Projected Fee Revenue for FY 2005-06**

<b>Permit Fees</b>	
Operating/New & Modified Permit Fees	\$17,011,700
Title V Fees	\$2,014,700
<b>Other Fees</b>	
AB 2588 Fees (including State pass through)	\$626,600
Asbestos Fees	\$1,574,300
Soil Excavation and Landfill Fees	\$43,000
Hearing Board Fees	\$69,800
<b>Total</b>	<b>\$21,340,100</b>

**2. PROPOSED FEE AMENDMENTS FOR FY 2004-2005**

**2.1 OVERVIEW OF PROPOSED AMENDMENTS**

The District’s fee proposal is based largely on the results and recommendations of the 2005 Cost Recovery Study. The details are summarized as follows.

1. The following Fee Schedules, which the Cost Recovery Study indicates have the largest revenue gaps (i.e., costs exceeding revenue by more than 50 percent for the period July 1, 2001 – June 30, 2004), would be increased by 15 percent:

- Schedule A: Hearing Board
- Schedule D: Gasoline Transfer at Gasoline Dispensing Facilities, Bulk Plants and Terminals
- Schedule E: Solvent Evaporating Sources
- Schedule F: Miscellaneous Sources
- Schedule G1: Miscellaneous Sources
- Schedule H: Semiconductor and Related Operations
- Schedule I: Dry Cleaners
- Schedule K: Solid Waste Disposal Sites (except for fees for Evaluation of Reports and Questionnaires, which would not be increased)
- Schedule P: Major Facility Review Fees

2. The following Fee Schedules, which the Cost Recovery Study indicates have less significant revenue gaps (i.e., costs exceeding revenue by between 15 and

50 percent for the period July 1, 2001 – June 30, 2004), would be increased by 5 percent:

Schedule B: Combustion of Fuels  
Schedule G2: Miscellaneous Sources  
Schedule N: Toxic Inventory Fees

3. The following Fee Schedules, which the Cost Recovery Study indicates have no revenue gaps (for the period July 1, 2001 – June 30, 2004), would not be increased:

Schedule C: Stationary Containers for the Storage of Organic Liquids  
Schedule G3: Miscellaneous Sources  
Schedule G4: Miscellaneous Sources  
Schedule L: Asbestos Operations  
Schedule Q: Excavation of Contaminated Soil and Removal of Underground Storage Tanks

4. The fees in Schedule M: Major Stationary Source Fees, would be increased by 15 percent. This will partially compensate for emissions inventory reductions at affected facilities that do not necessarily manifest themselves in less costly programs, but which have resulted in decreasing fee revenue from this emissions-based Fee Schedule.

5. The following administrative fees would be increased by 5 percent:

Section 3-302: New and modified source filing fee  
Section 3-309: Duplicate permit fee  
Section 3-311: Banking filing fee and withdrawal fee  
Section 3-312: Regulation 2, Rule 9 Alternative Compliance Plan fee  
Section 3-327: Permit to Operate renewal processing fee

6. The following fees would be created or amended:

- (a) A new fee would be created for an application to renew an Authority to Construct. This activity requires a Best Available Control Technology (BACT) and offset review by District staff, but there is currently no fee for this activity. The proposed fee would be equal to one half of the initial fee for each new and modified source.

- (b) A new fee would be added for a Potential to Emit (PTE) demonstration requested by a facility. This activity requires detailed emissions calculations to be made, or reviewed, by District staff for each source at a facility, but there is currently no fee for this activity. The proposed fee for a PTE demonstration would be \$50 per source evaluated, not to exceed a total of

\$5000 per facility.

- (c) The fee for a Health Risk Screening Analysis would be increased. The District has separately proposed to update and enhance its Air Toxics New Source Review (NSR) program, which will require more complex Health Risk Screening Analyses to be prepared by District staff. The proposed fee would represent a \$272 increase for permit applications for new and modified sources that require a Health Risk Screening Analysis. The risk-screening fee would also be applicable to other provisions in District regulations (e.g., a request for demonstration of permit exemption under Regulation 2-1-316) under which the District prepares a Health Risk Screening Analysis for a facility upon request.
  - (d) The permit fees for refinery flares would be increased. In recent years, the District has significantly increased its regulatory activities for refinery flares with the adoption of a refinery flare monitoring rule, and the proposal of a refinery flare control rule. The proposed fee amendments would move refinery flares subject to Regulation 12, Rule 11: Flare Monitoring at Petroleum Refineries, from Schedule G-1 to the higher-cost Schedule G-3.
7. Additional changes in the definitions, standards, administrative requirements, and Fee Schedules of the fee regulation are proposed in order to improve the clarity and efficacy of the regulation. Many of these are related to the separate District proposal to codify the policies and procedures of the Air Toxics NSR program into Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants. The District's Board of Directors will consider adoption of Regulation 2, Rule 5, and the proposed amendments to Regulation 3, on June 15, 2005.

## **2.2 PROPOSED RULE AMENDMENTS**

The complete text of the proposed changes to District Regulation 3: Fees, has been prepared in strikethrough (deletion of existing text) and underline (new text) format, and is included in Appendix A. A description of the proposed amendments follows.

- Section 3-209: Small Business

Small businesses are provided with a discount for certain District fees (e.g., fees for permit applications for new and modified sources, and fees for Hearing Board proceedings). The 2005 Cost Recovery Study included a recommendation that the District re-examine its definition for small business, and make adjustments accordingly to reflect revenue as well as equity issues. As an initial step in this effort, the District is proposing to increase the gross annual income criterion in the definition of small business from \$500,000 to \$600,000. This increase is an inflation adjustment (rounded to the nearest \$100,000), based on the increase in the

Consumer Price Index that has occurred for the California Bay Area, as reported by the California Department of Industrial Relations, from the year 2000 when this definition for Small Business was originally established. This change is expected to have a minor impact on overall fee revenue.

- Section 3-227: Toxic Air Pollutant

Section 222 of proposed Regulation 2, Rule 5 defines the term “Toxic Air Contaminant, or TAC”. To maintain consistency in terminology between rules, the same definition is proposed to be included in Section 3-227. The term Toxic Air Contaminant refers to the list of TACs that are included in Table 2-5-1 of proposed Regulation 2, Rule 5. This table has been updated based on the most recent health risk assessment guidelines adopted by Cal/EPA’s Office of Environmental Health Hazard Assessment.

- Section 3-238: Risk Screening Fee, and Section 3-239: Toxic Surcharge

Two new terms are being defined to improve clarity in the regulation: “Risk Screening Fee” in Section 3-238, and “Toxic Surcharge” in Section 3-239. These terms will replace the term “Toxic Surcharge Fee” which is currently used in most Fee Schedules to establish initial fees for new and modified sources, and permit to operate renewal fees, for sources with TAC emissions above specified trigger levels. These changes in terminology also necessitate some rewording in other parts of Regulation 3, such as Section 3-302: Fees for New and Modified Sources, Section 3-303: Back Fees, Section 3-306: Change in Conditions, Section 3-310: Fee for Constructing Without a Permit, Section 3-327: Permit to Operate, Renewal Fees, and Fee Schedules B through K.

The Risk Screening Fee is similar to the existing Toxic Surcharge Fee for new and modified sources. The Risk Screening Fee would be applicable to those new and modified sources of TACs for which a Health Risk Screening Analysis (HRSA) is required under the proposed Regulation 2, Rule 5. The Risk Screening Fee would also be applicable where the owner/operator of a facility requests that the District prepare or review an HRSA to comply with other provisions in District rules. For example, the owner/operator of a facility may request that the District prepare an HRSA to demonstrate under Regulation 2-1-316 that a source with emissions above a TAC trigger level is exempt from permit requirements. Regulation 8, Rule 47: Air Stripping and Soil Vapor Extraction Operations Regulation, also has an exemption that may apply based on the results of an HRSA.

The Toxic Surcharge is an additional fee for sources of TACs that is assessed on permit renewals. The Toxic Surcharge would apply to sources with annual emissions that exceed one or more chronic TAC trigger level in Table 2-5-1. As is the case under the exiting fee regulation, the Toxic Surcharge would be equal to 10

percent of the permit to operate fee established under the applicable Fee Schedule for the source under consideration.

- Section 3-302: Fees for New and Modified Sources

The primary proposed amendment for Section 3-302 is a 5 percent increase in the filing fee for permit applications (rounded to the nearest whole dollar), which would be increased from \$259 to \$272. A number of other changes to the language in Section 3-302 are also being proposed to improve the clarity of the requirements and maintain consistency with the change in terminology for Risk Screening Fee and Toxic Surcharge.

- Section 3-303: Back Fees

Language has been added to Section 3-303 to indicate that back fees include any applicable toxic inventory fees. This provision is being added to address equity issues because owners/operators of sources that apply for permits on a timely basis as required by District regulations are also required to pay these fees. The other proposed language changes in Section 3-303 are intended to improve the clarity of the requirements and maintain consistency with the change in terminology for Toxic Surcharge.

- Section 3-308: Change of Location

The changes to the language in Section 3-308 are being proposed to improve the clarity of the requirements.

- Section 3-309: Duplicate Permit

The proposed amendment for Section 3-309 is a 5 percent increase in the fee for a duplicate permit to operate (rounded to the nearest whole dollar), which would be increased from \$52 to \$55 per permit.

- Section 3-310: Fee for Constructing Without a Permit

The proposed amendments for Section 3-310 are to improve clarity and to maintain consistency with the change in terminology for Risk Screening Fee and Toxic Surcharge.

- Section 3-311: Banking

The proposed amendment for Section 3-311 is a 5 percent increase in the filing fee for banking applications (rounded to the nearest whole dollar), which would be increased from \$259 to \$272.

- Section 3-312: Emission Caps and Alternative Compliance Plans

The proposed amendment for Section 3-312 is a 5 percent increase in the annual fee for a facility that elects to use an alternative compliance plan or “bubble” permit to comply with Regulation 8, or Regulation 2, Rule 9.

- Section 3-327: Permit to Operate, Renewal Fees

The proposed amendment for Section 3-327 is a 5 percent increase in the processing fee (rounded to the nearest whole dollar) for a facility for renewal of permits to operate. Additional language changes are proposed to improve clarity and to maintain consistency with the change in terminology for Toxic Surcharge.

- Section 3-329: Fee for Risk Screening

The proposed amendments would add a new Section 3-329, which is intended to improve clarity and maintain consistency with the change in terminology for the Risk Screening Fee. The Risk Screening Fee would be applicable to those new and modified sources of TACs for which an HRSA is required under the proposed Regulation 2, Rule 5. In addition, the Risk Screening Fee would apply if the owner/operator of a facility requests that the District prepare or review an HRSA to comply with other provisions in District rules.

The amount of the Risk Screening Fee is determined in the applicable Fee Schedules for the sources included in the HRSA. The proposed amendments include changes in these Fee Schedules as described in Section 2.1 of this report. In addition, this fee would be increased for each application requiring an HRSA by \$272 (\$136 for applications at facilities that qualify for a small business discount). The Risk Screening Fee for many applications would be the minimum fee of \$481 (\$241 with the small business discount), which comes closer to recovering the full cost of District staff resources required to complete a simplified HRSA. The proposed increase in fees is expected to provide adequate revenue to cover the District costs of the proposed enhancements in the Air Toxics NSR Program included in Regulation 2, Rule 5.

- Section 3-330: Fee for Renewing an Authority to Construct

The proposed amendments would add a new Section 3-330, creating a new fee for an application to renew an Authority to Construct under Regulation 2-1-407. This activity requires a review of BACT and emission offsets requirements by District staff, but there is currently no fee for this activity. The proposed fee would be equal to one half of the initial fee for each new and modified source in the application, which is believed to be a reasonable fee for this activity. If the District determines

that the requirements for renewal of an Authority to Construct are not met, any fees paid under Section 3-330 will be credited toward an application submitted for equipment performing the same function within six months of the date that the original Authority to Construct expires.

- Section 3-405: Fees Not Paid

The proposed amendments to Section 3-405 are intended to clarify that, when applicable, the amount of late fees or reinstatement fees will be based on the total fees specified on the invoice.

- Section 3-415: Failure to Pay – Further Actions

The proposed amendment to Section 3-415 is intended to correct a typographical error. The word “delinquent” was inadvertently left out of the current language.

- Fee Schedules

The fees contained in each Fee Schedule in Regulation 3 would be increased by either 5 percent or 15 percent (generally rounded to the nearest whole dollar) as summarized in Section 2.1 of this report, with the exception of the following fee schedules, which would have no increase in fees: Schedule C: Stationary Containers for the Storage of Organic Liquids, Schedule G3: Miscellaneous Sources, Schedule G4: Miscellaneous Sources, Schedule L: Asbestos Operations, and Schedule Q: Excavation of Contaminated Soil and Removal of Underground Storage Tanks.

The District portion of variable  $F_T$ , the total amount of fees to be collected, used to calculate fees for Schedule N: Toxic Inventory Fees, is proposed to be increased by 5 percent. This change does not require any modifications to the language of Schedule N. (The smaller State portion of  $F_T$  established by the California Air Resources Board is expected to be unchanged in FY 2005-06).

As was previously indicated, the fees for risk screening indicated in the applicable Fee Schedules would also be increased for each application requiring an HRSA by \$272 (\$136 for applications at facilities that qualify for a small business discount). This increase in fees will bring the minimum risk screening fee closer to the cost of District staff resources required to complete a simplified HRSA. The proposed increase in fees is also expected to provide adequate revenue to cover the District costs of the proposed enhancements in the Air Toxics NSR Program included in Regulation 2, Rule 5.

Additional changes in the wording and structure of Fee Schedules B through K, and Schedule N are proposed in order to improve the clarity of the regulation. Most of

these language changes are related to the proposed changes in terminology for Risk Screening Fee and Toxics Surcharge, and to maintain consistency with the proposed Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants (e.g., the toxic trigger level table is being moved from Regulation 2-1-316 to Table 2-5-1).

Fee Schedules G-1, G-3, and P have additional proposed amendments as follows.

- Fee Schedules G-1 and G-3: Miscellaneous Sources

The proposed amendments would move refinery flares subject to Regulation 12, Rule 11: Flare Monitoring at Petroleum Refineries, from Schedule G-1 to the higher-cost Schedule G-3. This change is being made because the District has significantly increased its regulatory activities for refinery flares with the adoption of a refinery flare monitoring rule, and the proposal of a refinery flare control rule. This change will result in an increase in the annual permit renewal fees for each affected flare of \$7733. Based on an estimated 23 affected refinery flares in the Bay Area, an increase in total revenue of approximately \$178,000 is projected. The District's increased costs of implementing and enforcing the new regulatory requirements for refinery flares on an ongoing basis are expected to be at least this high.

- Fee Schedule P: Major Facility Review Fees

A new fee has been added to Schedule P for PTE demonstrations requested by a facility under Regulation 2-6-312 in order to avoid the requirement for a Major Facility Review (Title V) permit. This activity requires detailed emissions calculations to be made, or reviewed, by District staff for each source at a facility, but there is currently no fee for this activity. The proposed fee for a PTE demonstration would be \$50 per source evaluated, not to exceed a total of \$5000 per facility. This is believed to be an appropriate fee based on the District staff resources needed to conduct this activity.

### **3. PROJECTED FEE REVENUE AND COSTS OF PROGRAM ACTIVITIES**

With the proposed fee amendments, the District's total projected fee revenue for FY 2005-06 is \$21.34 million. The 2005 Cost Recovery Study indicated that, for the last complete fiscal year (FY 2003-04), the District's total regulatory program activity costs were approximately \$32.54 million (\$21.85 million in direct costs, and \$10.69 million in indirect costs). The regulatory program activity costs for FY 2005-06, are expected to exceed the FY 2003-04 costs by more than 3 percent.

### **4. STATUTORY AUTHORITY FOR PROPOSED FEE INCREASES**

State law provides authorities for air districts to adopt fee schedules to cover the

costs of various air pollution programs. Health & Safety Code Section 42311(a) provides authority for an air district to collect permit fees to cover the costs of district programs related to permitted stationary sources. These fees may not exceed the actual cost of permit programs in the preceding year with an adjustment for an increase in the Consumer Price Index (CPI). Subject to similar limitations, Health & Safety Code Section 42311(f) further authorizes the District to assess additional permit fees to cover the costs of programs related to toxic air contaminants. Health & Safety Code Section 41512.7 limits the allowable percentage increase in fees for authorities to construct and permits to operate (i.e., operating/new and modified permit fees) to 15 percent per year.

Health & Safety Code Section 42311(g) authorizes air districts to adopt a schedule of fees to be assessed on areawide or indirect sources of emissions, which are regulated but for which permits are not issued by the district, to recover the costs of district programs related to these sources. This Section provides the authority for the District to collect asbestos, soil excavation and landfill fees.

Health & Safety Code Section 44380(a) authorizes the air district to adopt a fee schedule, which recovers the costs to the district and the State of the Air Toxics Hot Spots Program (AB 2588).

Health & Safety Code Section 42311(h) authorizes air districts to adopt a schedule of fees to cover the reasonable costs of the Hearing Board incurred as a result of appeals from district decisions on the issuance of permits. Section 42364(a) provides similar authority to collect fees for the filing of applications for variances or to revoke or modify variances.

The proposed fee amendments are in accordance with all applicable authorities provided in the California Health and Safety Code. Based on the results of the 2005 Cost Recovery Study, permit fee revenue following the proposed amendments would still be far below the District's direct and indirect program activity costs associated with regulatory programs covering permitted sources. Similarly, Hearing Board fee revenue will still be far below the District's program activity costs associated with Hearing Board activities related to variances and permit appeals. No increases in fees are proposed for those asbestos, soil excavation and landfill regulatory activities that are non-permit related.

## **5. ASSOCIATED IMPACTS AND OTHER RULE DEVELOPMENT REQUIREMENTS**

### **5.1 EMISSIONS IMPACTS**

There will be no direct air emission increases or decreases as a result of the proposed fee amendments.

## 5.2 ECONOMIC IMPACTS

The District must, in some cases, consider the socioeconomic impacts and incremental costs of proposed rules or amendments. Section 40728.5(a) of the California Health and Safety Code requires that socioeconomic impacts be analyzed whenever a district proposes the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations. The proposed fee amendments will not significantly affect air quality or emissions limitations, and so a socioeconomic impact analysis is not required.

Section 40920.6 of the California Health and Safety Code specifies that a district is required to perform an incremental cost analysis for a proposed rule, if the purpose of the rule is to meet the requirement for best available retrofit control technology or for a feasible measure. The proposed fee amendments are not best available retrofit control technology requirements, nor a feasible measure required under the California Clean Air Act. Therefore, an incremental cost analysis is not required.

The impact of the proposed fee amendments on small businesses is expected to be minimal. Many small businesses operate only one or two sources, and generally pay only the minimum permit renewal fees. A summary of typical expected increases in annual permit renewals fees is given in Table 2 for various size dry cleaners, auto body shops, and gasoline stations.

**Table 2. Typical Increases in Annual Permit Renewal Fees for FY 2005-06**

<b>Permit Fees</b>	<b>Small</b>	<b>Medium</b>	<b>Large</b>
Dry Cleaner	\$25	\$36	\$108
Auto Body Shop	\$23	\$23	\$45
Gasoline Station	\$60	\$117	\$173

## 5.3 ENVIRONMENTAL IMPACTS

The California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq., and the CEQA Guidelines, 14 CCR 15000 et seq., require a government agency that undertakes or approves a discretionary project to prepare documentation addressing the potential impacts of that project on all environmental media. Certain types of agency actions are, however, exempt from CEQA requirements. The proposed fee amendments are exempt from the requirements of the CEQA under Section 15273 of the CEQA Guidelines, which state: "CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies...." (See also Public

Resources Code Section 21080(b)(8)).

Section 40727.2 of the Health and Safety Code imposes requirements on the adoption, amendment, or repeal of air district regulations. It requires a district to identify existing federal and district air pollution control requirements for the equipment or source type affected by the proposed change in district rules. The district must then note any differences between these existing requirements and the requirements imposed by the proposed change. This fee proposal does not impose a new standard, make an existing standard more stringent, or impose new or more stringent administrative requirements. Therefore, Section 40727.2 does not apply.

#### **5.4 STATUTORY FINDINGS**

Pursuant to Health and Safety Code, Section 40727, regulatory amendments must meet findings of necessity, authority, clarity, consistency, non-duplication, and reference. The proposed amendments to Regulation 3 are:

- Necessary to fund the District's efforts to attain federal and state air quality standards, and to reduce public exposure to toxic air contaminants;
- Authorized by Health and Safety Code Sections 42311, 42311.2, 41512.7, 42364, 44380 and 40 CFR Part 70.9;
- Clear, in that the amendments are written so that the meaning can be understood by the affected parties;
- Consistent with other District rules, and not in conflict with any state or federal law;
- Not duplicative of other statutes, rules or regulation; and
- Implements and references Health and Safety Code Sections 42311, 42311.2, 41512.7, 42364, 44380 and 40 CFR Part 70.9.

#### **6. RULE DEVELOPMENT PROCESS**

On April 21, 2005, the District issued a notice for a public workshop to discuss with interested parties an initial proposal to increase District fees. Distribution of this notice included all District-permitted facilities.

The workshop was held on May 6, 2005. Six individuals attended. On May 13, 2005, the District issued a Public Hearing Notice, which was mailed to the same address list used for the workshop notice. The Public Hearing to consider adoption of the regulation amendments is scheduled for June 15, 2005.

Under State law, amendments to fees for non-permitted sources require two public

hearings that are held at least 30 days apart from one another. This provision applies to Schedule L: Asbestos Operations, and Schedule Q: Excavation of Contaminated Soil and Removal of Underground Storage Tanks. Because the District is not proposing to amend these Fee Schedules, adoption of the proposed amendments can occur following the Public Hearing on June 15, 2005.

## **7. PUBLIC COMMENTS**

No written comments have been received regarding the proposed fee amendments as of the date of this report. The only oral comments received were from two owners of gasoline stations that attended the public workshop. These individuals indicated that they were opposed to any fee increases. The increase in fees for both of these facilities was determined to be less than \$100.