

**PROPOSED AMENDMENTS TO  
RULE 40 - PERMIT AND OTHER FEES, AND  
RULE 42- HEARING BOARD FEES**

**WORKSHOP REPORT**

A workshop notice was mailed to all District permit holders. Notices were also sent to Chambers of Commerce, Economic Development Corporations, the District Advisory Committee members, and other interested parties. Approximately 5,200 notices were sent. The workshop was held on April 27, 1992 and approximately 33 people attended.

District staff explained that the methodology used to develop the proposed permit fees for Fiscal Year 1992-93 is the same as has been used for the past several years. A portion of the permit renewal fees are based on the direct labor associated with specific types of equipment, and part is based on the emissions from that equipment. It was explained that aside from the Consumer Price Index (CPI) adjustment, fluctuations in the permit renewal fee for a specific fee schedule reflects changes in the emissions based portion of the fee caused by shifts in emissions from the equipment within that fee schedule.

The following are the specific comments made and District responses.

**WORKSHOP COMMENT:**

In some fee schedules very low emitters are grouped with larger emitters. Their fees are unfairly high. What can the District do for small marine coating companies, fiberglass or plastic or foam processing lines, surface coating application stations, paint manufacturers and dry cleaners to address this problem?

**DISTRICT RESPONSE:**

The District has reviewed the fees schedules in Rule 40 and is making the following changes to address low emitting operations:

- Fee Schedule 27(p) is moved to the beginning of Schedule 27 (before Part 1). It will be identified as Small Materials Coatings and Adhesive Coating Operations and will apply to "Each Surface Coating or Adhesive Application Station without Control Equipment (except automotive painting) where combined coating, adhesive, and cleaning solvent usage is less than 5 gallons per day and less than 100 gallons per year". The initial application fee will be \$460 and the renewal fee will be \$190.
- Fee Schedule 33(a) is amended to limit it to Can and Coil process lines applying more than 1000 gallons of can and coil coatings per year. There will be no change in the fee proposed for this fee schedule.
- Fee Schedule 33(c) is added to address regulated Can and Coil Process lines applying 1000 gallons per year or less. The initial application fee will be based on the actual time spent to process the application plus the first year's and renewal fee; the renewal fee will be \$317.
- Fee Schedule 38(a) is amended to apply to each paint and stain manufacturing facility producing 10,000 gallons per year or more, and to all ink manufacturers.

- Fee Schedule 38(d) is added for each paint and stain manufacturing facility producing less than 10,000 gallons per year. The application fee will be based on the actual time spent to process the application plus the first year's and renewal fee; the renewal fee will be \$87.

Consideration of small dry cleaners will be deferred to the triennial fee process which begins this summer because the current method of establishing the emissions based portion of this fee schedule does not provide sufficient data to enable a distinction between large and small emitting facilities.

**WORKSHOP COMMENT:**

During these hard economic times, payment of District fees all at once is difficult for some businesses. Would it be possible to spread payment of application and renewal fees out over time?

**DISTRICT RESPONSE:**

The District is now proposing that the following language be added to Rule 40(a) Authority to Construct and Permit to Operate Fees:

"If a permit applicant certifies to the Air Pollution Control Officer's satisfaction through declaration that it is unable to pay either the full fixed fee for fix fee applications or the estimated application and first year renewal costs for time and material applications, the District may authorize the applicant to divide the cost into two payments with the second payment due not later than 90 days after filing of the Application for Authority to Construct or Permit to Operate. The applicant will be required to pay any additional administrative costs resulting from this authorization."

The District is also recommending the following language be added to Rule 40(b) Annual Renewal Fees:

"If a permittee certifies to the Air Pollution Control Officer's satisfaction through declaration that payment in full of permit to operate renewal fees would result in undue financial hardship, the District may negotiate an amended fee schedule, provided that the amended schedule includes reimbursing the District for any increased costs of processing the extra payments. Failure to make any payments by any negotiated due date may result in penalties as otherwise authorized in Rule 40 and/or cancellation of the permit."

**WORKSHOP COMMENT:**

Would it be possible to issue only one bill per year for a facility? This would include permit renewal fees, toxic hot spot and other District fees.

**DISTRICT RESPONSE:**

When an expanded data base is established in the District's new business computer in FY 93-94, all permit renewal fees sharing the same facility identification number will have the same renewal date. New permits will be assigned this same date for their first renewal billing as well. The District will also investigate combining other fee billing dates to the extent this is economically and administratively feasible.

**WORKSHOP COMMENT:**

The District should not charge companies fees for improving the environment. For example, a company doing soil remediation should not be charged fees.

**DISTRICT RESPONSE:**

Such operations must be reviewed for compliance with federal, state and District rules, regulations and requirements. Board policy on setting fees requires that all new permitting costs be borne by the permittee. Any exemption to this would require either a waiver of or a change to this policy. It would also require that other permittees bear the cost of subsidizing the District's review of these operations.

**WORKSHOP COMMENT:**

Companies performing asbestos abatement for the Navy file the required asbestos removal plans and pay the plan fees. If the company then subcontracts for the actual removal, the subcontractor files an amended plan indicating that they will be doing the work. The subcontractor pays the plan amendment fee. Can this procedure be documented?

**DISTRICT RESPONSE:**

Navy asbestos abatement contracts present unique circumstances for contractors. Navy contractors have been utilizing a process to address this situation and are requesting the District to document this process. This is not a Rule 40 issue. It will, however, be considered in light of proposed amendments to the asbestos program.

**WORKSHOP COMMENT:**

Why is it that emission reductions by a large emitter cause fees to increase for other permit holders? This doesn't seem fair. If emissions go down then goals are being met and the revenues from emission fees should go down. Others shouldn't be paying more because someone else has reduced emissions. Instead the District should reduce its budget.

**DISTRICT RESPONSE:**

State Health and Safety Code, Section 42311 authorizes charging fees to cover the costs of programs related to permitted stationary sources that are not otherwise funded. The current fee setting methodology was developed by a special committee established by the District Board in 1987 and was subsequently adopted as policy by the Board. It is comprised of two basic factors.

The first is a labor factor, which is applied to both application and renewal fees, and contains direct salaries, benefits and other costs which can be directly related to a specific fee schedule based on the hours of direct labor required to support the permits for equipment within that fee schedule.

The second factor is the emissions portion which were established to ensure that small emitters do not pay as much in fees as large emitters. The emissions portion of the fee enables the District to recover eligible costs associated with the permit system but not readily attributable to a specific fee schedule. Prior to Board direction that the District recover these types of costs through fees, they were funded by County General Fund contributions. An example of one such cost is the District's monitoring

system which tracks pollutant levels irrespective of the specific company responsible for the pollution. It cannot be related to a specific fee schedule based on service.

Emissions fees are set each year. Eligible District costs are divided by the total tons of inventoried emissions to establish a cost per ton of emissions. This cost per ton is then multiplied times the average tonnage in a fee schedule to set the emission fee portion of the fee schedule. Changes in the numbers of tons of emissions by a single company or within a fee schedule results in their having fewer tons of emissions against which the cost per ton is applied. Changes in the total numbers of tons inventoried by the District changes the divisor in the fee setting process and causes fluctuations in the emissions based portion of the fee.

In the example discussed at the workshop, one company changed its operations to use "cleaner" equipment in 1990 (the inventory year used to prepare the proposed FY 92-93 fees). The company will enjoy reduced emission fees. Some workshop attendees argued that this creates an unfair burden on smaller companies because they will be required to pay higher fees based on their now higher percentage of the total inventoried emissions.

The District's position is that no "unfair burden" is being created. The smaller companies are still paying for their share of the total pollution, in accordance with Board policy.

Some attendees suggested that with reduced emissions the overall revenues from the emission fees should also be reduced. Under the current fee methodology, this is not an option since the reduction of emissions by one company does not reduce the District's cost of maintaining the air quality monitoring system and performing other emissions fee funded activities. By Board policy these costs must be financed through District revenues, and the emission fee is the presently approved method.

#### **WORKSHOP COMMENT:**

What can be done to make it easier for industry to project their fees into the future?

#### **DISTRICT RESPONSE:**

With the exception of some non-complying sources which pay for labor separately, the labor based portion of the fees are generally stable and predictable for all but one in every three years when labor is recalculated. Most of the fluctuations in fees are caused by changes in emission patterns, the grouping of individuals with others having similar but not identical emissions profiles, and a two-year delay in having fees reflect the emissions inventoried.

Now that the District has acquired a new business computer, it is investigating methods for improving its emissions inventorying capabilities. It is believed that the new computer will enable the District to bill for emissions by facility rather than fee schedule and to provide more timely emissions data. Although companies would continue to pay their fair share of the emission related costs, the severe fluctuations within fee schedules would be eliminated. In addition companies could realize the benefits of reducing their emissions in one year or less instead of waiting two years and would no longer share the fee reduction with others in their fee schedules. The District anticipates having a new emission inventory/emission fee process ready for review in time for the FY 93-94 fees.

It should be noted that this new process will not avoid fee changes resulting from state and federal requirements or rule revisions.

**WORKSHOP COMMENT:**

The fee setting process seems to be unable to be responsive to industry changes. There are too many delays. The emissions are based on two-year old data. Labor is based on information that is one to three years old with inflation adjustments. This doesn't adequately reflect the changes industry is going through. Current operations are not the same as they were two years ago. Funding is not the same as it was two years ago.

**DISTRICT RESPONSE:**

The current fee setting methodology was adopted in 1987 as the best option, given the resources available for implementation. Since that time it's implementation has grown increasingly cumbersome as new mandated activities have been forced to fit into either the labor or emissions fee structure.

The FY 92-93 fees represent the third and final year of the triennial fee process. As the District begins the next triennial process this summer, it will take the opportunity to review the fee development process. This will include investigating improved and more equitable emission fee allocation methods, reevaluating cost centers to be included in both emissions and labor base fees and developing methods of minimizing time lags. Labor costs and indirect costs will also be updated and evaluated.

**WORKSHOP COMMENT:**

Can the District issue periodic financial reports so that permittees can see what their money is being used for? Identification of mandated activities over which industry has no control, similar to the way the toxics program is split out would be helpful. It will let business know when to voice their objections to their legislators. This will also let us understand why your fees keep going up?

**DISTRICT RESPONSE:**

The District will issue a financial statement with future fee revision workshop notices. The District encourages local businesses to monitor state and federal legislative activities that may impose new programs on the District without the necessary funds to implement. In such cases, District fees must be increased to provide funds for mandated program implementation.

**WORKSHOP COMMENT:**

Can the District get together with other regulatory agencies and issue a single facility permit covering air, water, health and other issues? This should eliminate some redundancy and reduce the costs for all the agencies.

**DISTRICT RESPONSE:**

The District is exploring options with other local regulatory agencies.

Because of the District's historical link with the County of San Diego's Department of Health Services there have in the past been combined enforcement activities for some industries such as dry cleaners. The District and the Hazardous Material Unit in Health Services are discussing re-establishing the combined inspection program. It will be evaluated further and implemented if practicable.

**AB2588 TOXICS "HOT SPOTS" PROGRAM FEES  
APRIL 16, 1991**

**WORKSHOP REPORT**

A workshop notice was mailed to each company in San Diego County subject to the AB2588 program. Notices were also sent to the District Community Advisory Committee, Economic Development Corporations, Chambers of Commerce and other interested parties on the District workshop mailing list.

The workshop was held on April 16, 1992 and was attended by forty-five people. The District introduced the fee regulation to be discussed and explained recent District billings associated with unpaid FY90/91 AB2588 program fees. There were a number of comments and questions regarding past program fees. These comments were related to District billing practices and assessment of late fees and were not directly relevant to the proposed fee regulation that was the subject of the workshop. Those comments are not included in this workshop report. The comments received that related to the proposed FY91/92 program fees and District responses are as follows.

**WORKSHOP COMMENT**

I represent a Phase II facility and paid the fee (for FY90/91). Am I going to get a refund?

**DISTRICT RESPONSE**

No. AB2588 fees paid in 1991 were to recover fiscal year 1990/91 AB2588 program costs. This is an ongoing program. There will be a fee each year as long as the program continues. The fees being proposed are to recover program costs incurred during the District's fiscal year 1991/92 (July 1, 1991 to June 30, 1992). Because of the schedules under which facilities in this program must submit their initial emissions inventory plans, reports and risk assessments and their biennial updates, many facilities will have activities associated with the program every year. The fee for a Phase II facility is proposed to be reduced from \$2000 to \$763.

**WORKSHOP COMMENT**

What provisions or allowances are being made for facilities that either eliminated their source of emissions or greatly reduced their emissions and would be either reclassified or eliminated from the program?

**DISTRICT RESPONSE**

Few facilities will be eliminated from the program. Only those with no toxic air contaminant emitting equipment would fall out of the program.

The proposed fees are intended to recover District and state program costs associated with each grouping of facilities under the program during FY1991/92 and are not directly related to current toxic air contaminant emissions. In addition, the District is proposing fees that are related to the program group (phase) a facility falls in rather than a facility's emissions of criteria pollutants. If a facility is reclassified in the future from the Phase I group (criteria pollutant emissions above 25 tons per year) to Phase II (less than 25 tons per year), its future fees will reflect that change. For facilities

currently identified in Phase I, II or III, the District is already incurring the costs associated with Phase I, II and III facilities, respectively.

The District will be reviewing and revising the fee schedule each year to reflect current costs. The District will consider whether permanent reductions in toxic air contaminant emissions should be reflected immediately in future year's fees.

### **WORKSHOP COMMENT**

I work at a facility that uses solvents, but we have completely eliminated that process and therefore have no emissions.

### **DISTRICT RESPONSE**

If a facility no longer emits any of the toxic air contaminants listed by the state under this program and that fact can be documented, the District will work with the facility to remove it from the program.

### **WORKSHOP COMMENT**

Is a close-loop dry cleaning facility exempt from this program?

### **DISTRICT RESPONSE**

No. Such equipment does emit quantities of perchloroethylene, a toxic compound required to be studied under the AB2588 program.

### **WORKSHOP COMMENT**

How does the District incur its costs? Can more detail be provided about that? Also, why are the Navy and Marine Corps Phase I facilities being charged fees more than three times that of other Phase I facilities. Is this reflected in other District fees?

### **DISTRICT RESPONSE**

The majority of District AB2588 program costs are related to staff that work on the program. District staff monitors the compliance of facilities with program deadlines, meets with facilities to discuss how to do inventory plans, inventory reports and health risk assessments, reviews and approves inventory plans and reports, makes corrections if appropriate, reviews protocols for doing health risk assessments and reviews and approves the health risk assessments. Many of the toxic air contaminant emissions estimates required to be reported are based on source testing. Such testing requires District review and approval of protocols, and observation of testing. District staff also have frequent communications with facilities subject to the program, providing guidance on program requirements, deadlines and technical issues. As provided in state law, risk assessments are also being reviewed by the state Office of Environmental Health Hazard Assessments, and those costs are part of the state costs that are included in the proposed fees for this program.

The District has found it necessary to have frequent and detailed communications with Navy and Marine Corps facilities and their many consultants. This is due in part to the complexity of these facilities and in part because of the difficulty that the Navy and Marine Corps have had in meeting the requirements of the program, especially with regard to submittal of appropriate and acceptable plans, reports, protocols and risk assessments. On most phases of the program the Navy and Marine Corps facilities have had difficulties in meeting deadlines and submitting materials that meet the standards of the program. This has resulted in significantly higher District costs associated with those facilities.

Beginning in FY1990/91, the District has been tracking the costs associated with Navy and Marine Corps facilities separately. The proposed fees reflect those past and future projected costs. Separating out Navy and Marine Corps facilities is consistent with other District fees (Rule 40) that provide for facility-specific fees if individual facilities cause District costs significantly greater than other facilities in a fee group. Navy and Marine Corps facilities have been given their own separate fee schedules rather than spreading those extraordinary costs over all of industry.

### **WORKSHOP COMMENT**

Is that information available to Navy and Marine Corps facilities ?

### **DISTRICT RESPONSE**

The District's labor tracking records associated with these fees are available for review upon request.

### **WORKSHOP COMMENT**

This is an annual fee and future costs will not remain at three times the average. Given this, the proposed Navy/Marine Corps facility fee seems high.

### **DISTRICT RESPONSE**

The proposed fees recover actual costs incurred by the District for Navy and Marine Corps facilities. As noted previously, each year the District will reevaluate these fees, based on actual and projected costs for each fee group. Adjustments to the fees will be proposed, as appropriate. If the Navy and Marine Corps improve their efforts to meet program requirements, the fees will be adjusted accordingly.

### **WORKSHOP COMMENT**

Do the proposed fees reflect the staff costs you've already incurred?

### **DISTRICT RESPONSE**

The proposed fees recover District and state costs associated with the AB2588 program for fiscal year 1991/92 (July 1, 1991 to June 30, 1992). The fees are based on actual costs incurred to date plus costs projected for the remainder of the fiscal year. These fees will be collected at the beginning of the next fiscal year (shortly after July 1, 1992). This is similar to the District's Rule 40 permit fee program where fees are based on actual costs incurred in previous fiscal years.



**WORKSHOP COMMENT**

When you're projecting what you are going to have to do this year, are you also including what you've already done?

**DISTRICT RESPONSE**

Yes. The fees that are being proposed are based on actual costs that were recorded during the first half of FY1991/92. The District then projected future program costs through the remainder of FY1991/92. The proposed fees are a combination of the two. The proposed fees also include credit for any excess revenues from last fiscal year, i.e. revenues that exceeded actual program costs for last year, specific to each fee group.

**WORKSHOP COMMENT**

Are any allowances for the different sizes of Navy and Marine Corps facilities? For example small facilities such as the Navy hospital. It seems like this hasn't been done.

**DISTRICT RESPONSE**

This has been addressed in the proposed fee schedule. The separate Navy and Marine Corps facilities fee will apply only to the large Navy facilities that are in Phase I of the program. Navy and Marine Corps facilities that are in Phase II or Phase III of the program would be charged the normal Phase II or Phase III fees.

**WORKSHOP COMMENT**

What are the District's estimated 1992 costs for this program? How many staff are working on this program.

**DISTRICT RESPONSE**

The projected District AB2588 program costs for fiscal year 1991/92 are approximately \$530,000. There are six engineering staff, three source testing staff and one air quality modeling section staff member working on this program. In addition, there is a share of state costs that the District is required to recover. This year's share of state costs for San Diego County facilities is approximately \$130,000.

**WORKSHOP REPORT**

Are airports exempted from this program.

**DISTRICT RESPONSE**

Equipment at airports that requires permits from the District is included in the program. Aircraft operations are not included in the District's part of the AB2588 program. Aircraft operations are considered mobile sources. The ARB prepares the air toxics emissions inventory for mobile sources, area sources and natural sources.

**WORKSHOP COMMENT**

Is the County of San Diego tracking their own emissions and are they paying the fees for the services associated with this program or are these costs to be absorbed by other facilities' fees?

**DISTRICT RESPONSE**

County facilities that are included in the program are primarily municipal waste landfills. They are being assessed a fee commensurate with the level of District effort that has been associated with those facilities. Under state law, if a landfill operator had done toxic emissions testing under a previous program, the facility is not required to prepare an AB2588 emissions inventory plan or inventory report. Accordingly, the District did not incur the same level of costs for those facilities as was incurred for other Phase I facilities. The District felt it was appropriate to separate out the landfills and charge them a lower fee. This applies to all landfills, not just those owned/operated by the County of San Diego.

The County also operates medical and printing facilities. These facilities are included in either Phase II or Phase III of the program and they will be assessed the same fees that private facilities in the same groups are required to pay.

**WORKSHOP COMMENT**

Why are the fees termed annual fees? In particular, Subsection (m)(2) of the proposed fee rule refers to payment of an annual fee for risk assessments. The risk assessment is submitted once. Why would an annual fee be required?

**DISTRICT RESPONSE**

The proposed fee is intended to recover current fiscal year 1991/92 costs associated with receipt, review and approval of risk assessment protocols and risk assessment reports. Costs associated with the Phase I facility risk assessments will likely carry over, in part, to next fiscal year which starts July 1, 1992. Phase I risk assessments are currently being submitted. There will be a 4 to 6 month period for the state to complete their review of the risk assessments, and for the District to finalize its review and approval. The fee next fiscal year for Phase I facilities that are doing risk assessments will reflect those future costs.

The District anticipates next year's fee proposal will have a Phase I risk assessment fee and a separate Phase II risk assessment fee. The District is tracking those expenditures separately and there may be a significant difference between the two.

The District agrees that the proposed language implies that Phase I facilities preparing risk assessments would have to pay this same fee every year. As explained above, that is not the case. The word "annual" in Subsection (m)(2) will be deleted from the proposal.

**WORKSHOP COMMENT**

At a meeting in Los Angeles, the ARB indicated that they have planned a fee to support their end of the program. Is that built into the District's proposed fee? Is part of this going to ARB for their part of the program?

**DISTRICT RESPONSE**

Yes. The state does incur costs associated with the AB2588 program. These costs include activities of the ARB and the Office of Environmental Health Hazard Assessment. The state distributes their costs among air districts using a formula based on criteria air contaminant emission quantities. The air districts are required to collect fees sufficient to recover their own costs and the state costs. The share of this year's state costs for facilities in San Diego County was approximately \$130,000. The District has included these state costs in the proposed fee rule.

**WORKSHOP COMMENT**

If a Phase I, Category A facility will pay a fee of \$2,021, what fee will a Category B or Category C Phase I facility pay?

**DISTRICT RESPONSE**

Every Phase I facility will pay a fee of \$2,021. A Category A, Phase I facility is one that is required to, or has volunteered to, prepare a public health risk assessment for their toxic air contaminant emissions. Category A, Phase I facilities will be charged an additional fee of \$3,391, or a total fee of \$5,412. Category B and Category C Phase I facilities are not currently being required to prepare public health risk assessments under the AB2588 program. Accordingly, these latter facilities would not be charged the additional \$3,391 fee associated with preparing a risk assessment and would only pay the \$2,021 Phase I facility fee.

**WORKSHOP COMMENT**

We have not received an invoice for these fees. Can you an estimated date be provided when I should expect to receive the invoice?

**DISTRICT RESPONSE**

The District will not send out invoices for these fees until after the Air Pollution Control Board has approved the proposed fee rule. The District expects to send out invoices for these fees by July or August, 1992 if they are approved by the Board.

**WORKSHOP COMMENT**

The District has discussed the Navy being classified separately for fees because it has taken the District more time working with them than for other Phase I facilities. We feel it's not good business practice to pay bills just because they came to your door and you don't know what they're about. I am not with the Navy but I have spent a lot of time either writing letters or talking on the phone with District staff. Is there a limit to the amount of District staff time spent on my facility before I will be tracked separately and have to pay extra?

**DISTRICT RESPONSE**

There is a general level of District effort for all facilities. From the experience of working with all the facilities, the District has a good idea how much that general level of effort is. If the District's level of

effort for any facility is well above the norm, the District will recognize this and begin to track its costs separately for that facility.

**WORKSHOP COMMENT**

Are the changes being discussed today specific only to the AB2588 program and not part of the changes to be discussed at the Rule 40 workshop on April 27, 1992?

**DISTRICT RESPONSE**

Yes. The workshop on April 27, 1991 will be about initial permit application and permit renewal fees.

**WORKSHOP COMMENT**

Will facilities be notified of annual fees in the same manner as permit renewal fees? What will the invoice look like?

**DISTRICT RESPONSE**

The AB2588 fee notification will be different than the permit renewal fee notification format currently in use. The notification will be an invoice that states at the top it is for the AB2588 "Hot Spots" Program.

**WORKSHOP COMMENT**

How can facilities find out if they are subject to the AB2588 program and if they should have received an invoice?

**DISTRICT RESPONSE**

The District's Air Toxics Engineering Section should be contacted regarding applicability of the AB2588 program to a given facility. The District's Accounting Section should be contacted regarding invoices. In general, all dry cleaners, gasoline service stations and auto body repair shops are subject to the program as well as many other types of facilities.

**WORKSHOP COMMENT**

How have facilities been notified of AB2588 program requirements?

**DISTRICT RESPONSE**

The District provided written notification to facilities of both the AB2588 program requirements and submittal of program fees. Each facility was provided with a synopsis of the program and those facilities subject to full requirements were given a copy of the AB2588 Criteria and Guidelines established by the state Air Resources Board.

**WORKSHOP COMMENT**

If I paid my fee last year am I subject to a penalty.

**DISTRICT RESPONSE**

No, if a facility paid its fee last year, it is not subject to any penalty.

**WORKSHOP COMMENT**

Is there another fee for this year?

**DISTRICT RESPONSE**

As noted earlier, the AB2588 program is an on-going program. Most facilities should expect to pay a fee each year. The amount of the fee may vary from year to year because the District's program costs may vary. The proposed fees being discussed are for this year and will likely be billed in July or August if approved by the Air Pollution Control Board. The proposed fees are actually going down for most facilities.

**WORKSHOP COMMENT**

Will Phase II facilities subject to risk assessment requirements be required in the future to pay the fee of \$3391 proposed in these amendments?

**DISTRICT RESPONSE**

Phase II facilities required to prepare risk assessments will be subject to a risk assessment review fee. With regard to the fee amount, the District cannot predict exactly what the fees may be one or more years from now. The District is tracking labor expenditures associated with the Phase I and Phase II facilities required to do risk assessments and will continue to do so in the future. During next year, the District will determine a fee for those facilities.

**WORKSHOP COMMENT**

Would \$3,000 be a good estimate of the next year's risk assessment fee for Phase II facilities?

**DISTRICT RESPONSE**

A fee for the review of risk assessments for Phase II facilities must be developed by the District. The District will not have a good estimate of what this fee will be until approximately October of this year. Businesses which need an estimate of the risk assessment fee before October can use \$3,000 as the best available estimate.

**WORKSHOP COMMENT**

When do you anticipate a workshop for next year's fees?

**DISTRICT RESPONSE**

A similar workshop for next year's fees will likely occur early in 1993.

**WORKSHOP COMMENT**

Our budgetary restraints are established in October of this year for 1993.

**DISTRICT RESPONSE**

By October of this year, the District should be able to provide a better estimate of the approximate cost and projected fees.

**WORKSHOP COMMENT**

Will facilities be invoiced for the AB2588 program fees and health risk assessment fees at the same time?

**DISTRICT RESPONSE**

Yes.

**WORKSHOP COMMENT**

What are the health risk assessment fees for?

**DISTRICT RESPONSE**

Health risk assessment fees recover District costs associated with reviewing and approving or correcting risk assessment protocols, and reviewing and approving risk assessment reports. Also included are expenditures incurred by the Cal/EPA Office of Environmental Health Hazard Assessment during their review of the risk assessment reports.

**WORKSHOP COMMENT**

The proposed definitions for Phase I, Phase II, and Phase III facilities should be revised so that facilities are designated each year according to their current criteria pollutant emissions rather than on past emissions or future potential to emit. This would make the fee rule consistent with the threshold trigger requirements of AB2588 and would recognize facilities that implement programs to reduce their criteria pollutant emissions.

**DISTRICT RESPONSE**

The enabling program legislation, specifically Section 44322 of the Health and Safety Code, established the threshold levels for facilities that would be included in the program, and the program schedule for each group. It provides that the threshold levels would be based upon actual or potential emissions. In 1988, Phase I facilities were first brought into the program based on actual emissions of equal to or greater than 25 tons per year of specified criteria air contaminants. Similarly, in 1989,

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Phase II facilities were brought into the program based on actual criteria pollutant emissions of 10 tons per year or more but less than 25 tons per year. Phase III facilities were brought into the program in 1990.

The date when these facilities were initially brought into the program established the schedules for facilities to submit inventory plans, inventory reports, risk assessments and biennial updates. Phase II facilities are on a program cycle one year later than Phase I facilities. Phase III facilities are on a program cycle one year later than Phase II facilities. Because of the need to maintain an appropriate sequencing of program steps such as the plans, reports and updates, it makes more sense to have a facility remain in Phase I if that was its original designation.

District expenditures under the AB2588 Program are controlled by two factors: facility size, which determines the program phase, and the date when a facility became subject to the program. The District's program costs are primarily a function of the program activities (e.g. plan review, report review, protocol review) occurring, which are dictated by the program phase, not the quantity of criteria pollutant emissions from individual facilities. Accordingly, the District believes it appropriate to establish a single flat fee for all facilities within a group rather than base fees on facility emissions, as was done in the past by ARB.

Generally, Phase I facilities are larger and more complex than other facilities in the program. Thus, District expenditures are substantially different for those facilities relative to Phase II and Phase III facilities. Another factor which affects fees is the cyclic nature of the AB2588 program that requires biennial updates to inventory plans, inventory reports, and risk assessments. For Phase I facilities, which were the first group of facilities subject to requirements of AB2588, these updates were required on August 1, 1991. Phase II facilities must provide updates on August 1, 1992. The District's costs for each group of facilities will vary with this update schedule regardless of their criteria pollutant emissions. Although a Phase I facility may reduce its criteria pollutant emissions, this may not directly affect toxic pollutant emissions nor the District's costs associated with that facility's participation in the AB2588 program.