



San Joaquin Valley
AIR POLLUTION CONTROL DISTRICT



FINAL DRAFT STAFF REPORT

PROPOSED AMENDMENTS TO RULE 3110 (AIR TOXICS FEES)

AUGUST 17, 2017

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SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Final Draft Staff Report for Proposed Amendments to Rule 3110

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August 17, 2017

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I. SUMMARY

The San Joaquin Valley Air Pollution Control District (District) is proposing to reduce the fees paid by Valley businesses under [District Rule 3110 \(Air Toxics Fees\)](#) for facilities subject to the state's AB 2588 Air Toxics "Hot Spots" Information and Assessment Act (AB 2588). Facilities subject to AB 2588 must pay fees to both the State of California and the District to cover each agency's cost of administering the program. The District's portion of those fees is identified in Rule 3110, and it is only the District portion that is being reduced under this proposal. AB 2588 is implemented via [Sections 44300 to 44394 of the California Health and Safety Code](#).

The District's risk evaluation processes and policies were revised in 2015 as the District implemented the state Office of Environmental Health Hazard Assessment's (OEHHA's) revised Guidance on Preparation of Health Risk Assessments. Since the calculated health risk under the new methodologies is higher than previous estimates, all air toxics facilities subject to AB 2588 are being reassessed. Under this health risk reassessment process, each facility is required to prepare a revised Toxic Emission Inventory Plan (TEIP) and a Toxic Emission Inventory Report (TEIR) in order to provide site-specific inventories of air emissions of toxic substances. This information is then used to assess the risk each facility poses to its neighbors. High risk facilities must inform neighbors of that risk, and the highest risk facilities must make changes at the facility to reduce risk.

District Rule 3110, as authorized by Health & Safety Code § 44380, identifies a specific fee schedule for the amounts to be collected to recover District processing costs to assess facility health risk under the AB 2588 program. As required under District Rule 3110 and Health & Safety Code § 44380, the District also directly collects state fees

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from each facility, and then transfers those funds to the state. The proposed rule amendment and fee reduction only affects the District's portion of the fees.

As part of the reassessment of Valley facilities' risk under the Air Toxics "Hot Spots" program, the District has implemented a number of streamlining processes to both reduce the burden and cost of compliance on industry, and also reduce the operating cost for the District. As a result of these streamlining efforts, the District estimates that total program revenue generated under the current fee schedule would exceed the District's new program costs. Therefore, District staff proposes to reduce its Air Toxics "Hot Spots" fees to correspond as closely as possible to the anticipated costs for the District to implement AB 2588.

II. DESCRIPTION OF RULE 3110 (AIR TOXICS FEES)

District Rule 3110 applies to facilities subject to the requirements of the Air Toxics "Hot Spots" Information and Assessment Act ([Sections 44300 to 44394 of the California Health and Safety Code](#)) and to facilities subject to National Emission Standards for Hazardous Air Pollutants issued pursuant to Section 112 of the federal Clean Air Act (42 U.S. Code, 7401, et. seq.). The purpose of this rule is to recover State costs for implementing the Air Toxic Hot Spots Program as charged to the District, and District costs for implementing an integrated air toxics program that addresses both State and Federal mandates. The proposed reduction in fees are only associated with the District's costs for implementing the Air Toxic Hot Spots Program. The federal Section 112 fees are not associated with the state AB 2588 program and therefore are not affected by these changes.

III. DISTRICT AUTHORITY

The California Health and Safety Code and California Code of Regulations (CCR) provide air districts the authority to adopt fee schedules to cover the costs of an air toxics program. Per [California Health and Safety Code Section 44380](#), the state board shall adopt a regulation that "...Requires each district to adopt a fee schedule which recovers the costs of the district and which assesses a fee upon the operator of every facility subject to this part, except (for exempt facilities)." The state board's adopted regulation is [California Code of Regulations \(CCR\), Title 17, Division 3, Chapter 1, Subchapter 3.6, Article 1](#), at § 90700, which states:

- (a) *"This regulation provides for the establishment of fees to pay for the cost of implementing and administering the Air Toxics "Hot Spots" Information and Assessment Act of 1987 (the "Act"; Stats 1987 ch 1252; [Health and Safety Code Section 44300 et seq.](#))*.

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(b) *Each district with jurisdiction over facilities meeting the criteria set forth in Section [90702\(a\)](#) shall annually collect from the operator of each such facility, and each operator shall pay, fees which shall provide for the following:*

- (1) *Recovery of anticipated costs to be incurred by the State Board and the Office to implement and administer the Act, as set forth in Table 1 of this regulation for fiscal year 2001-2002, and as determined by the Executive Officer for subsequent fiscal years, and any costs incurred by the Office or its independent contractor for review of facility risk assessments submitted to the State after March 31, 1995 under [Health and Safety Code Section 44361\(c\)](#).*
- (2) *Recovery of anticipated costs to be incurred by the district to implement and administer the Act, including but not limited to the cost incurred to: review emission inventory plans, review emission inventory data, review risk assessments, verify plans and data, and administer this regulation and the Air Toxics "Hot Spots" program."*

District Rule 3110 (Air Toxics Fees), first adopted in 1992, is the District's mechanism to recover costs to implement and administer the Act (Hot Spots program), as identified above in Section (b)(2) of the aforementioned CCR regulation.

IV. DISCUSSION OF PROPOSED RULE AMENDMENTS

A. Introduction

The Air Toxics "Hot Spots" Information and Assessment Act (AB 2588, 1987, Connelly) was enacted in 1987, and requires stationary sources to report the types and quantities of certain substances routinely released into the air. The goals of the Air Toxics "Hot Spots" Act are:

- To identify Valley facilities that release toxic air contaminants as a result of their day to day operations,
- To collect and quantify emission data,
- To identify facilities causing localized impacts,
- To determine facility-wide health risks,
- To notify nearby residents and businesses of high risk facilities in their vicinity, and
- To require that facilities exceeding the risk reduction audit plan threshold reduce their risks below that threshold in accordance with the provisions of the "Emissions Inventory Criteria and Guidelines Report" adopted by the Air Resources Board.

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The Act requires air districts to administer the Hot Spots program for facilities within their jurisdiction. Following is a summary of the tasks the districts perform:

- Review Toxic Emission Inventory Plans (TEIPs) prepared by facilities,
- Review Toxic Emission Inventory Reports (TEIRs) prepared by facilities,
- Perform screening risk assessments (prioritizations) for facilities,
- Review update summaries for intermediate prioritization facilities,
- Rank facilities for health risk assessment (HRA),
- Review and approve HRAs,
- Participate in the public notification process for high risk facilities,
- Perform budgeting and billing functions, and
- Prepare public reports.

To recover the cost of implementing and administering AB 2588, the California Health and Safety Code Section 44300 et seq. provides authority for the District to adopt a fee schedule. The District is required to annually collect from the owner/operator of each facility fees which provide for the following:

- Recovery of anticipated costs to be incurred by the California Air Resources Board (CARB) and Office of Environmental Health Hazard Assessment (OEHHA) for implementing and administering the Act, and any costs incurred by OEHHA or its independent contractor for reviewing facility risk assessments submitted to the State under Health and Safety Code Section 44361(c).
- Recovery of anticipated costs to be incurred by the District to implement and administer the Act, including but not limited to the cost of reviewing emission inventory plans, emission inventory data, air toxics inventory reports, risk assessments, verifying plans and data, and to administering the Air Toxics "Hot Spots" program.

In addition, the District will take this opportunity to address typographical errors and other insubstantial changes to conform to the definitions in the state fee regulation.

B. Air Toxics "Hot Spots" Reassessment

On March 6, 2015, the California's Office of Environmental Health Hazard Assessment (OEHHA) revised its *Risk Assessment Guidelines* to provide enhanced protection of children, and the public overall. As a result of these changes, the District's health risk assessment processes and policies were updated accordingly and implemented on July 1, 2015. This implementation included incorporating the revised guidance into the District's implementation of the AB 2588 "Hot Spots" Program. Since calculated cancer risk under the new methodology is higher than

previous estimates, the District determined that air toxics facilities subject to the AB 2588 Air Toxics “Hot Spots” program must be reassessed. Under this health risk reassessment process, each facility will be required to prepare a Toxic Emission Inventory Plan (TEIP) and a Toxic Emission Inventory Report (TEIR) in order to provide site-specific inventories of air emissions of toxic substances. This action makes these facilities subject to program fees to recover District costs.

C. Program Streamlining

To prepare for this reassessment, the District examined required resources and spent significant time in streamlining processes and creating facility-specific tools, resources, and templates. This was done to both reduce the burden of compliance on industry and reduce program costs for the District. Streamlining activities included the following:

- Toxic Emissions Inventory Plan Templates. Customized, facility-specific, pre-populated Toxic Emissions Inventory Plan (TEIP) templates are available for all facilities that are subject to reporting air toxic emissions under AB 2588. The TEIP templates identify the information needed from the facility without requesting any unnecessary information. In this process, the District pre-populates each facility specific template with all the facility’s currently available information. This process significantly reduces the burden on facilities compiling and reporting the information required for these plans. Further, having available templates with an established format saves facility additional time by avoiding the need for each facility to create its own individual document. Finally, uniform submittals result in District staff resources saved and contribute significantly to reducing staff evaluation processing time.
- Toxic Emissions Inventory Report Streamlining. The District is implementing streamlined, customized, electronic information submittal processes for Toxic Emissions Inventory Reports (TEIRs), as well. Upon request, District staff will provide each facility with a facility-specific, electronic information submittal database or spreadsheet. The District is committed to engaging in discussion with each facility to determine the most efficient method for reporting toxics related data. Through meetings with stakeholders, the District recognizes that some facilities may choose to use the District’s user-friendly inventory database to report toxics emission data, while others may prefer to use customized spreadsheets similar to those already used to report annual criteria emissions inventory. The District will then utilize and import these information submittals into the District’s toxics emission inventory program. The District’s program further streamlines the toxics reporting process by automatically creating state-compliant toxics reports. This feature entirely eliminates the need for facilities to individually prepare their own report. During this process, prior to finalizing the

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facility specific TEIR, District staff will also output the regulatory report as well as a tabular emissions summary for review by the facility. Once the report is finalized, the District will perform the health risk prioritization assessment and transmit the results to the facility.

- Small Single Source Surveys. Historically there has been certain specific categories of sources that were identified as “Industrywide Survey Facilities.” Industrywide Survey Facilities are [defined by the state](#) as those facilities in a category of source that, among other qualifiers, release less than 10 tons per year of any one pollutant, fall within one of the pre-established four-digit Standard Industrial Classification (SIC) Codes, and result in emissions that can easily and generically be characterized and calculated. For example, gasoline dispensing, dry cleaners, and auto coating facilities are classified as Industrywide Survey Facilities. Due to streamlined and simplified processing for Industrywide Survey Facilities, the average cost recovery per facility is less when compared to non-Industrywide Survey Facilities. As such, Industrywide Survey facilities have a relatively smaller fee.

Utilizing the Industrywide Survey approach, the District proposes to create a “Small Single Source Survey” category. This new category would be similar in concept to the Industrywide Survey facility status except that it would apply to various facilities that do not share the same four-digit SIC Code but have a common simple and single type of emissions unit. At this time the District has identified one such “Small Single Source Survey” category, facilities with only diesel internal combustion engine(s). Other types of emissions units may be identified in the future as qualifying for a “Small Single Source Survey” category.

- In-House Assessments Utilizing Information on File. Through the District’s integrated air toxics program, thousands of air toxics assessments have been performed. The District is currently assessing historic information available on file for each facility. Upon assessment of this information, the District will notify facilities whether they are subject to Hot Spots reporting, rather than requiring the facilities to make this assessment.
- Applicability Survey for Phase III Facilities. The District plans to survey the “Phase III” facilities, which are those with emissions less than 10 tons per year and not categorized as “Industrywide.” There are a few thousand District facilities in this category for which an applicability determination will be required. Towards that end, the District will reach out to these facilities in an effort to accurately determine Hot Spots applicability. Identifying exempt facilities will result in eliminating further toxics related fees and requirements for those exempt facilities, and greatly reduce the amount of District resources required to process Hot Spots assessments.

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- Web-based Automated Hot Spots Applicability Screening Tool for Phase III Facilities. The “Phase III” facilities survey described above will be added to the District’s website. This tool will allow stakeholders to enter simple facility information into the system and automatically submit a screening applicability determination to the District for review and final assessment.
- District Presentations and Site Visits. The District is available at any time to outreach and present on the Air Toxics Hot Spots regulation and the District’s implementation. At a moment’s notice, District staff is able to meet at a facility, or present at a conference, in an effort to provide education and assistance to stakeholders for the Hot Spots assessment process.
- Small Business Assistance. In a continuing effort to provide excellent customer service, District staff is available to answer questions by phone and e-mail. Within the Hot Spots assessment process, the District encourages facilities to contact staff in order to obtain the aforementioned streamlining tools, ensure a good understanding of the process, and to obtain immediate technical assistance.
- Outreach Letters. Prior to beginning a Hot Spots assessment process with a facility, the District sends an informational outreach letter. The letter contains general information about Hot Spots, an explanation of the State’s health risks calculation method, the District’s plans to assess the facility’s health risk under the Hot Spots program, and names and phone numbers of District staff who can assist the facility.
- Website Resources. The District has and will continue to enhance its website, to provide additional useful information and resources designed to assist stakeholders. Resources posted on the District’s air toxics webpage already include a Hot Spots Frequently Asked Questions (FAQ) document. In the near future, a new air toxic profiles technical reference document, emissions calculators, and an automated Hot Spots applicability screening tool will be available.

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D. Current Hot Spots Fees

Part of the review of the District’s AB 2588 program included an evaluation of program costs and projected revenue. Current fees charged pursuant to Rule 3110 are applied using a matrix that combines the facility’s AB 2588 status and a measure of the complexity of the assessment. For the purposes of complexity, facilities are separated into three categories (simple, medium or complex) based upon the number of toxic emission processes that must be evaluated. Current Rule 3110 Hot Spots fees are summarized in Table 1 below.

Table 1: Current Rule 3110 Hot Spots Fees.

Facility Status	Current Fee
Industrywide Survey	\$110
Small Business	\$384
Unprioritized	
Simple	\$478
Medium	\$1,264
Complex	\$3,924
Intermediate Priority*	\$160
High Priority	
Simple	\$1,348
Medium	\$3,729
Complex	\$6,837
High Risk	
Simple	\$3,729
Medium	\$5,521
Complex	\$8,912

*Billed every four years (quadrennially)

E. Hot Spots Fee Revision Methodology

After implementation of program streamlining efforts, the District estimates that total revenues generated under the current fee schedule will exceed District program costs. Therefore, the District is proposing to reduce AB 2588 fees to reflect anticipated streamlining measures.

First, a large portion of the proposed fee reductions can be found by creating the new “*Small Single Source Surveys*” fee category, as discussed above under “Program Streamlining” in Section IV.C of this document. The new fee corresponds to the District’s cost for surveying these sources after the implementing the intensive streamlining created by these simplified surveys. Currently, small single source

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facilities, such as those with only diesel IC engines, are identified as *Unprioritized* and are assessed a fee under the *Unprioritized* rate. Staff determined that programmatic streamlining of the regulatory reporting required for this category would reduce program cost significantly. The new *Small Single Source Surveys* category results in a fee of \$99, a reduction of 79% compared to the existing *Unprioritized* fees.

Second, the District proposes reducing the maximum fee that can be assessed to a qualified “small business” by 22%. This amount is established by Title 17 of the California Code of Regulations (17 CCR), Section 90704, and provides a cap on the total annual air toxic fees for small businesses.

Third, additional fee reductions are proposed by creating a new “*Intermediate Risk*” category, which will represent an appropriate fee based on District costs. Currently, facilities that were identified as intermediate risk are assessed a fee under the *High Priority* rate. Staff determined that program streamlining of the regulatory reporting required for this category would reduce program costs significantly. The new intermediate risk category results in a fee reduction of 93% to 95% compared to the existing High Priority fees.

After evaluating the fee reductions listed above, the District estimates that the *Industrywide Surveys*, *High Priority*, and *High Risk* fee categories can be reduced by 10% across the board. These additional reductions would bring the revenue projections in line with projected District costs.

F. Proposed Hot Spots Fee Reductions

The proposed changes in fees by fee rule facility status are described below:

Industrywide Surveys

California Health and Safety Code Section 44323 allows air districts to prepare an industrywide emissions inventory and health risk assessment for any class of facilities that the district finds and determines meets all of the following conditions:

- a) All facilities in the class fall within one four-digit Standard Industrial Classification Code (SIC);
- b) Individual compliance with AB 2588 would impose severe economic hardships on the majority of the facilities within the class;
- c) The majority of the class is composed of small businesses; and
- d) Releases from individual facilities in the class can easily and generically be characterized and calculated.

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Historically, industrywide facilities have included gasoline service stations, auto bodyshops, printing operations, and perchloroethylene dry cleaners. The District intends to explore the possibility of including additional groups in this fee category such as some agricultural operations.

Of the District's permitted facilities, 2,078 are expected to be evaluated with industrywide surveys. Under the current fee rule, each of these facilities would be assessed \$110 to recover District costs. As discussed in Section IV.E above, staff proposes reducing this assessment to by 10% to \$99.

New Category: Small Single Source Surveys

The District proposes to create a new AB 2588 facility status called *Small Single Source Surveys*. This facility status would be similar in concept to the *Industrywide Surveys* facility status except that it would apply to sources that do not share the same four digit SIC. For this new facility status, the District would prepare an emissions inventory and screening health risk assessment for any facilities that the District finds and determines meets all of the following conditions:

- a) The facility has one process as determined by six digit Source Classification Code;
- b) The facility is subject to AB 2588 because it manufactures, formulates, uses, or releases any listed substance or any other substance which reacts to form a listed substance; and which releases less than 10 tons per year of each of total organic gases, particulate matter, nitrogen oxides, and sulfur oxides;
- c) The facility is not an industrywide source;
- d) The facility is subject to District permitting requirements and all required assessment inputs are present in the annual emissions inventory database; and
- e) The District has prepared an applicable Toxic Emission Inventory Plan and screening health risk assessment method for the class.

The District intends to use this new status for facilities which are subject to AB 2588 solely due to operating diesel engines pursuant to Section XI of the California Air Resources Board's *Emission Inventory Criteria and Guidelines Report* (EIC&GR). Of the District's permitted facilities, approximately 2,127 diesel engine single source facilities are expected to be evaluated using this new fee status. Under the current fee rule, each of these facilities would receive a status of *Unprioritized Simple* and

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be assessed a \$478 fee under the unprioritized simple facility fee schedule to recover District costs. Since the level of effort involved in evaluating facilities in this status will be similar to *Industrywide Surveys*, staff proposes reducing this assessment to \$99 through the creation of this new status. This would result in an anticipated net savings to industry of \$806,133. Note that the facility status and associated fees will change based on the results of the screening risk assessment.

Small Business

Title 17 of the California Code of Regulations (17 CCR), Section 90704 provides for a cap on the total annual air toxic fees, including District and State fees, charged for small businesses. For the purposes of the regulation, a small business is defined in 17 CCR Section 90701 as a facility which is independently owned and operated and has met all of the following criteria in the preceding year:

- a) The facility has 10 or fewer (annual full-time equivalence) employees;
- b) The facility's total annual gross receipts are less than \$1,000,000; and
- c) The total annual gross receipts for the California operations the facility is part of are less than \$5,000,000.

Under the current rule, the fees assessed each facility classified as a small business are capped at \$384. Staff proposes reducing this fee to \$300, a 22% reduction, which is the amount authorized by the CCR. Currently it is not known how many facilities may apply for these reduced fees. However, the District is committed to informing facilities of its availability. This will be done by including information on the small business cap on the District's web page, in AB 2588 notification letters, and on AB 2588 invoices.

Unprioritized

A Prioritization is a very conservative risk screening method developed by the California Air Pollution Control Officers Association (CAPCOA). The prioritization results are used to classify facilities as *Low Priority*, *Intermediate Priority* or *High Priority* for the purposes of potential further evaluation in accordance with California Health and Safety Code Section 44360 (a). An *Unprioritized* facility is one in which a TEIP and TEIR have been requested, but the facility has not yet been prioritized by the District.

Based on all of the streamlining measures identified in Section IV.C above, the District finds that current fees assessed for *Unprioritized* facilities are appropriate to recover anticipated costs. Therefore no change is proposed for *Unprioritized* facilities.

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Intermediate Priority

An *Intermediate Priority* facility is one that has been prioritized by the District and determined to have a prioritization score of greater than 1.0 and less than or equal to 10.0. Section V.C of the EIC&GR requires *Intermediate Priority* facilities to complete and submit to the District for review an *Update Summary Form* every four years. Any facility determined to have experienced a significant increase in activity since their previous emission inventory report may require further evaluation.

The current fee for *Intermediate Priority* facilities is \$160, billed every four year. Staff has determined that the current fee is appropriate to recover District costs and does not recommend a change.

High Priority

A *High Priority* facility is any facility that, based on their most recent Toxic Emission Inventory Report approved and prioritized by the District in accordance with Section 44360(a) of the California Health and Safety Code, has been prioritized by the District with a score greater than 10.0. The CH&S Section 44360 (b) requires facilities that have been included within the highest priority category prepare and submit to the district a health risk assessment.

Staff has evaluated the fees currently assessed *High Priority* facilities and determined that they will generate more revenue than is necessary to recover District costs. As discussed in Section IV.E above, staff recommends a 10% reduction in fees for this facility status.

New Category: Intermediate Risk

The District proposes to create a new AB 2588 facility status called *Intermediate Risk*. This facility status is for any facility that has had its health risk assessment approved by the District in accordance with California Health and Safety Code Section 44362 and whose risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, of greater than or equal to 1.0 in a million and less than 10.0 in a million, or a total hazard index of greater than or equal to 0.1 and less than or equal to 1.0.

Section V.C of the EIC&GR requires *Intermediate Risk* facilities to complete and submit to the District for review an update summary form every four years. Any facility determined to have experienced a significant increase in activity since their previous emission inventory report may require further evaluation. In addition, *Intermediate Risk* Facilities (previously *High Priority*) require additional ongoing annual emissions tracking.

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Currently, the Rule 3110 definition of a *High Priority* facility includes facilities that are Intermediate Risk. This subjects *Intermediate Risk* facilities to the *High Priority* annual fees of \$1,348 (Simple), \$3,729 (Medium) or \$6,837 (Complex) based upon facility complexity. Staff has determined that current fees will generate more revenue than is necessary to recover District costs. Staff proposes to reduce annual fees for this facility status to \$100 (Simple), \$200 (Medium), and \$400 (Complex) to cover processing costs. This would be a fee reduction of 93% to 95% from the previous *High Priority* fee schedule. Note, CARB also charges *Intermediate Risk facilities an annual fee*.

High Risk

A High Risk facility is any facility that has had its health risk assessment approved by the District in accordance with California Health and Safety Code Section 44362 and whose risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, of greater than or equal to 10.0 in a million, or a total hazard index of greater than 1.0. Once risk assessments are reviewed by the Office of Environmental Health Hazard Assessment (OEHHA) and approved by the District, facility operators must notify all exposed persons of the risk assessment results if the district determines that there is a potentially significant health risk associated with emissions from the facility. If the facility cancer risk is greater and 100 in a million, they are required to conduct a toxic risk reduction audit and develop a plan to implement measures to reduce that risk.

Staff has evaluated the fees currently assessed *High Risk* facilities and determined that they will generate more revenue than is necessary to recover District costs. As discussed in Section IV.E above, staff recommends a 10% reduction in fees for this facility status.

Summary of Hot Spots Fee Reductions

A comparison of current and proposed Hot Spots fees is presented in Table 2 below. In all cases, the fee is either being reduced or remains unchanged. No individual facility annual fee is increasing. Under the current fee rule, the District estimates revenues of \$10.5 million for complete reassessment of District facilities under Hot Spots. With the proposed fee reductions, the District estimates revenues of \$7.2 million, representing an approximate 30% decrease in the District Hot Spots toxics fees, which is in line with anticipated District costs.

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Table 2: Current and Proposed Rule 3110 Hot Spots Fees.

Facility Status	Current Fee	Proposed Fee
Industrywide Survey	\$110	\$99
Small Single Source - <i>New Category</i>	\$478*	\$99
Small Business	\$384	\$300
Unprioritized		
Simple	\$478	\$478
Medium	\$1,264	\$1,264
Complex	\$3,924	\$3,924
Intermediate Priority**	\$160	\$160
High Priority		
Simple	\$1,348	\$1,213
Medium	\$3,729	\$3,356
Complex	\$6,837	\$6,153
Intermediate Risk - <i>New Category</i>		
Simple	\$1,348*	\$100
Medium	\$3,729*	\$200
Complex	\$6,837*	\$400
High Risk		
Simple	\$3,729	\$3,356
Medium	\$5,521	\$4,969
Complex	\$8,912	\$8,021

*The "Current Fee" identified is the amount the facility would be responsible for under the current fee rule based on an existing fee category.

**Billed every four years (quadrennially).

V. PROPOSED AMENDMENTS TO RULE 3110

The following discussion details the pertinent amendments to Rule 3110. Corrections to typographical errors and other insubstantial changes are not itemized here, but are captured in strikeout and underline in the attached draft revised rule.

The definition of a *High Priority* facility has been changed to exclude *Intermediate Risk* facilities. *Intermediate Risk* facilities will be assessed at a lower rate in the proposed revision to the rule. The definition of high priority was also corrected to conform to the definition in the state fee regulation.

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- 3.4 *High Priority Facility: except for Intermediate Risk Facilities and High Risk Facilities, any facility that, based on their most recent Toxic Emission Inventory Report approved and prioritized by the District in accordance with Section 44360(a) of the California Health and Safety code, has been prioritized by the District with a score greater than ~~or equal to~~ 10.0. This fee category does not apply to Industrywide Survey Facilities.*

The definition of High Risk Facility to clarify the fact that the units of cancer risk is based on the risk “in a million.” The definition of high risk was corrected to conform to the definition in the state fee regulation.

- 3.5 *High Risk Facility: a facility that has had its health risk assessment approved by the District in accordance with California Health and Safety Code Section 44362 and whose risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, of greater than or equal to 10.0 in a million or a total hazard index of greater than ~~or equal to~~ 1.0. This category does not apply to Industrywide Survey Facilities.*

The definition of intermediate priority was corrected to conform to the definition in the state fee regulation.

- 3.7 *Intermediate Priority Facility: means a facility that has been prioritized by the District with a ~~prioritization~~ score of ~~equal to~~ or greater than 1.0 and less than or equal to 10.0 based on the most recent Toxic Emission Inventory Report for the facility approved and prioritized by the District.*

A definition for an *Intermediate Risk* facility has been added. This is a new facility status.

- 3.8 *Intermediate Risk Facility: a facility that has had its health risk assessment approved by the District in accordance with California Health and Safety Code Section 44362 and whose risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, of greater than or equal to 1.0 in a million and less than 10.0 in a million, or a total hazard index of greater than or equal to 0.1 and less than or equal to 1.0. This category does not apply to Industrywide Survey Facilities.*

The definition of low priority was corrected to conform to the definition in the state fee regulation.

- 3.9 *Low Priority Facility: a facility that, based on their most recent Toxic Emission Inventory Report approved and prioritized by the District in accordance with Section 44360(a) of the California Health and Safety code, has been prioritized by the District with a score less than or equal to 1.0.*

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The definition of Low Risk Facility was modified to clarify the fact that the units of cancer risk is based on the risk “in a million”. The definition of low risk was corrected to conform to the definition in the state fee regulation.

3.10 Low Risk Facility: a facility that has had its health risk assessment approved by the District in accordance with California Health and Safety Code Section 44362 and whose risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, of less than 1.0 in a million ~~or~~ and a total hazard index of less than 0.1.

A definition for a *Small Single Source Facility* has been added. This is a new facility status.

3.16 Small Single Source Facility: a facility that qualifies to be included in a small single source inventory prepared by the District must meet all of the following criteria: 1) the facility has one process as determined by six digit Source Classification Code; 2) the facility releases less than 10 tons per year each of total organic gases, particulate matter, nitrogen oxides, and sulfur oxides; 3) the facility is not an Industrywide Survey Facility; 4) the facility is subject to District permitting requirements and can be assessed through the annual emissions inventory system; and 5) the District has prepared an applicable screening assessment method for the Small Single Source Facility class.

The Small Business Cap Fee has been reduced. The proposed amended section reads as follows:

5.0 Small Business Fee Cap

The total annual air toxic fees, including District and State fees from sections 6.0 and 7.0 of this rule, charged for ~~s~~Small ~~b~~Businesses shall be limited by a ~~s~~Small ~~b~~Business fee cap. The maximum annual air toxic fee that a ~~s~~Small ~~b~~Business, as defined in Section 3.14 of this rule, shall pay is ~~\$384~~ \$300.

The District air toxic fee table in Section 6.1 shall be amended to incorporate the fee reduction discussed in Section IV.F of this document. In addition, two new Facility Status categories (*Intermediate Risk* and *Small Single Source Facility*) have been added.

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- 6.1 *Owners and/or operators of facilities, except for ~~i~~Intermediate ~~p~~Priority ~~f~~Facilities, shall pay an annual fee based on their facility status on the first day of the fiscal year, according to the following schedule:*

Facility Status	Simple	Medium	Complex
Industrywide Survey	\$110 <u>99</u>	\$110 <u>99</u>	\$110 <u>99</u>
<u>Small Single Source</u>	<u>\$99</u>	<u>\$99</u>	<u>\$99</u>
Small Businesses	384 <u>\$300</u>	384 <u>\$300</u>	384 <u>\$300</u>
Unprioritized	\$478	\$1,264	\$3,924
High Priority	1,348 <u>\$1,213</u>	3,729 <u>\$3,356</u>	6,837 <u>\$6,153</u>
<u>Intermediate Risk</u>	<u>\$100</u>	<u>\$200</u>	<u>\$400</u>
High Risk	3,729 <u>\$3,356</u>	5,521 <u>\$4,969</u>	8,912 <u>\$8,021</u>

VI. RULE DEVELOPMENT PROCESS

A. Public Workshop

The District hosted a public workshop on May 31, 2017, to present the proposed amendments to the rule and to solicit public feedback. At the public workshop District staff presented the objectives of the rule amendment, explained the District's rule development process for this project, solicited feedback from affected stakeholders, and informed all interested parties of the comment period and project milestones. The public workshop was held via video teleconferencing in all three District offices and was also livestreamed over the internet.

The Draft Staff Report and Draft Rule were made available on the District's website prior to the public workshop, and a two-week comment period commenced on May 31, 2017, and ended on June 14, 2017, following the public workshop. The District did not receive any comments on the proposed rule amendments. As such, it was determined that there was no need to hold additional workshops.

B. Public Hearing

In accordance with California Health and Safety Code (CH&SC) Section 40725, the proposed amendments to District Rule 3110 and final draft staff report will be publicly noticed and made available on the District's website prior to the Governing Board public hearing to consider adoption of the proposed rule amendments. The proposed amendments and final draft staff report will be made available to the public no later than July 17, 2017, with a two-week public comment period ending at 5:00 PM on July 31, 2017. Comments received before July 31, 2017, will be addressed in the final draft staff report presented to the Governing Board. The public is also invited to

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provide comments after July 31, 2017, either before or during the public hearing for the adoption of the proposed rule amendments on August 17, 2017

VII. COST EFFECTIVENESS AND SOCIOECONOMIC IMPACT ANALYSES

Pursuant to CH&SC Section 40920.6(a), the District is required to analyze the cost effectiveness of new rules or rule amendments. Additionally, state law (CH&SC § 40728.5(a)) requires that “whenever a District intends to propose the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations, that agency shall, to the extent data is available, perform an assessment of the socioeconomic impacts of the adoption, amendment, or repeal of the rule or regulation. The draft amendments propose a reduction in existing fees and will have neither effect. Therefore the proposed rule amendments are not subject to the cost effectiveness or socioeconomic analysis mandate.

VIII. RULE CONSISTENCY ANALYSIS

Pursuant to CH&SC Section 40727.2 (g) a rule consistency analysis of the draft rule is not required, because the draft rule does not strengthen emission limits or impose more stringent monitoring, reporting, or recordkeeping requirements.

IX. ENVIRONMENTAL ASSESSMENT

This amendment to Rule 3110 is to reduce fees assessed to facilities subject to the Air Toxics "Hot Spots" Information and Assessment Act (Sections 44340 to 44383 of the California Health and Safety Code)

According to Section 15061 (b)(3) of the CEQA Guidelines, a project is exempt from CEQA if, *“(t)he activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.”* The amendments proposed in the attached proposed rule do not involve any new requirements. The District finds that that no significant impacts are anticipated due to the adoption of this rule.

In addition, California Environmental Quality Act (CEQA) Guidelines §15308 (Actions by Regulatory Agencies for Protection of the Environment), provides a categorical exemption for *“actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the*

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environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption.”

This amendment to Rule 3110 is an action taken by a regulatory agency, the San Joaquin Valley Air Pollution Control District, to assure the maintenance, restoration, enhancement, or protection of air quality in the San Joaquin Valley where the regulatory process involves procedures for protection of air quality. As discussed above, the amendments more specifically are simply to reduce fees assessed to facilities. No construction activities or relaxation of standards are included in this project. Therefore, the rule amendment is exempt from CEQA.

Therefore, pursuant to Section 15062 of the CEQA Guidelines, Staff will file a Notice of Exemption upon Governing Board approval of amendments to Rule 3110.