State of California
AIR RESOURCES BOARD

Response to Significant Environmental Issues

Item: Notice of Public Hearing to Consider Amendments to the Air Toxics "Hot Spots" Program Fee Regulation, List of Substances, and Emission Inventory Criteria and Guidelines Regulations.

Agenda Item No.: 91-5-2

Public Hearing Date: June 13, 1991

Issuing Authority: Air Resources Board

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

Response: N/A

Certified: Pat Hutchens
Board Secretary

Date: 12/5/91

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RESOURCES AGENCY OF CALIFORNIA

STATE OF CALIFORNIA
Air Resources Board

Resolution 91-29

June 13, 1991

Agenda Item No.: 91-5-2

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

WHEREAS, the Legislature found in the Air Toxics "Hot Spots" Information and Assessment Act of 1987 ("the Act", Health and Safety Code section 44300 et seq.) that facilities manufacturing or using hazardous substances may be exposing nearby populations to toxic air releases on a routine basis and that it is in the public interest to ascertain the nature and quantity of hazardous releases from specific sources which may create air toxics "hot spots";

WHEREAS, the Act sets forth a program to develop air toxics emission inventories and to assess the risk to public health from exposure to these emissions;

WHEREAS, the Board adopted amendments on March 26, 1991 to the fee schedule set forth in sections 90700 et seq. of Title 17 of the California Code of Regulations pursuant to Health and Safety Code section 44380(a), which assessed a fee upon the operator of every facility subject to the Act in order to recover the costs to the Board, local air pollution control districts ("districts"), and the Department of Health Services to implement and administer the Act;

WHEREAS, Health and Safety Code section 44380(a) was amended in 1990 to require that the Board adopt a regulation which requires all districts, except for districts that have submitted specified information to the Board prior to April 1 of each year, to adopt rules which assess a fee upon the operator of every facility subject to the Act in order to recover the costs to the Board and the Department of Health Services to implement and administer the Act;

WHEREAS, Board staff, in consultation with representatives of the districts and the fee regulation committee originally convened pursuant to the 1987 Act, have developed amendments to the fee regulation for fiscal year 1991-92 which have been discussed with the public at two consultation meetings;

WHEREAS, Health and Safety Code section 44321 requires the Board to compile and maintain a list of specified toxic substances for use in determining which facilities are subject to the Act and the Board's implementing regulations;

WHEREAS, Health and Safety Code section 44342 requires the Board to develop, in consultation with districts, criteria and guidelines for site-specific air toxics emissions inventory plans and reports;

WHEREAS, the Board adopted amendments on June 14, 1990 and March 26, 1991 to the Emission Inventory Criteria and Guidelines Regulation set forth in sections 93300 et seq. of Title 17 of the California Code of Regulations which, among other things, divides the substances listed pursuant to Health and Safety Code section 44321 into two categories based upon those for which emissions must be quantified and those for which the production, use, or other presence must be reported but not quantified, and specifies the degree of accuracy to which these substances must be reported;

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

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

WHEREAS, changes have been proposed to the originally noticed text of the regulations on the basis of information presented by the Districts regarding costs of implementing the Act and emission inventories, among other things;

WHEREAS, based upon the information presented by the staff and the written and oral comments received prior to and at the hearing, the Board finds that:

1. The proposed amendments to the regulation require all districts to adopt a rule to assess a fee upon the operator of every facility subject to the Act, as required by Health and Safety Code section 44380(a);

2. The proposed amendments allow the Board to establish fee schedules for districts, and specify the information that a district must submit to the Board, by April 1 of the year prior to the fiscal year for which the regulation is to be adopted, to enable the Board to include a fee schedule for that district in the Air Toxics "Hot Spots" Fee Regulation;

3. State program costs are allocated among the districts on the basis of the most recently approved ARB statewide criteria pollutant emission inventory for total organic gases, particulate matter, nitrogen oxides, and sulfur oxides;

4. The El Dorado, Glenn, Imperial, Lassen, Mendocino, San Bernardino, Santa Barbara, Shasta, Tehama, and Tuolumne Counties Air Pollution Control Districts (APCDs), the Great Basin and San Joaquin Valley Unified APCDs, and the South Coast Air Quality Management District (AQMD) have requested that the Board adopt a

fee schedule for them, and have submitted to the Air Resources Board the district's program costs, approved by the district board, prior to April 1, 1991, and that for these districts, the proposed amendments to the fees in the regulation are based on program costs approved by the district boards and on the most recently approved ARB statewide criteria pollutant emissions inventory for total organic gases, particulate matter, nitrogen oxides, and sulfur oxides; or on fees otherwise determined by the district to be reasonable for facilities that emit less than ten tons per year or 10-25 tons per year of these pollutants, or facilities that are listed on a district toxic inventory, survey, or report.

5. The Amador, Butte, Calaveras, Colusa, Kern, Lake, Mariposa, Modoc, Northern Sonoma, Placer, San Diego, San Luis Obispo, Siskiyou, and Ventura Counties APCDs, the Feather River, Monterey Bay Unified, and Yolo-Solano APCDs, Northern Sierra, Bay Area, North Coast Unified and Sacramento Metropolitan AQMDs will be adopting district Air Toxics "Hot Spots" Program fee rules for fiscal year 1991-92;

6. A statewide air toxics inventory has not yet been compiled, but after such an inventory is available the Board staff will propose changes to the regulation so that fees are assessed on the basis of emissions of toxic air releases;

7. The proposed addition of 190 substances to Appendix A of the Fee Regulation accurately reflects those required to be compiled and maintained by the ARB pursuant to Health and Safety Code section 44321, including the addition of 52 substances which are recognized by the Board, after consultation with Department of Health Services Staff, as presenting a chronic or acute threat to public health when present in the ambient air;

8. Because of the proposed additions to the list of substances appended to the fee regulation, it is also necessary to amend the "List of Substances for Which Emissions Must Be Quantified" and "List of Substances for Which Production, Use, or Other Presence Must Be Reported", the list of "Emittent ID Codes for Listed Substances Lacking CAS Numbers", and the degree of accuracy text contained in the Emissions Inventory Criteria and Guidelines Regulation (Appendix A, Appendix B to sections 93300-93354, and section 93334, respectively, Title 17, California Code of Regulations);

9. The substances proposed for addition to the list set forth in Appendix A of the fee regulation have been appropriately categorized for purposes of reporting facility emissions pursuant to the Emission Inventory Criteria and Guidelines Regulation;

10. The revenues to be assessed pursuant to the proposed fee regulation are reasonably necessary to recover the anticipated

program costs for fiscal year 1991-92 which will be incurred by the Board, the districts, and the Department of Health Services to implement and administer the Act's provisions;

11. On the basis of a financial analysis conducted to indicate the economic impacts on affected facilities resulting from the fees proposed in this regulation, the economic impact on the affected facilities will not be significant; and

12. This regulatory action will not have a significant adverse impact on the environment and may indirectly benefit air quality by stimulating a reduction in emissions of both toxic and criteria pollutants.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves sections 90700-90705, Title 17, California Code of Regulations including the appendices referenced therein, as set forth in Attachment A hereto, and Appendices A and B of sections 93300-93354 and section 93334, Title 17, California Code of Regulations, as set forth in Attachment B hereto.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to adopt sections 90700-90705, Title 17, California Code of Regulations and Appendices A and B and section 93334 of sections 93300-93354, Title 17, California Code of Regulations, after making them available to the public for a period of 15 days, provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if he determines that this is warranted.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to commence the 15-day public review period no later than July 22, 1991.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to present annually to the Board appropriate amendments to the fee schedule, taking into account the availability of toxic inventory information generated pursuant to the Act's requirements, and to report to the Board on the effectiveness of the Fee Regulation in recovering state and district costs.

I hereby certify that the above is a true and correct copy of resolution 91-29, as adopted by the Air Resources Board.

Pat Hutchens

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