State of California
AIR RESOURCES BOARD

Resolution 93-1

January 14, 1993

Agenda Item No: 93-1-1

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (the "Board") to adopt standards, rules, and regulations 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, following identification of cadmium, inorganic arsenic, and nickel as toxic air contaminants, the Executive Officer, with the participation of local air pollution control districts, is required by Health and Safety Code Section 39665 to prepare a report on the need for, and appropriate degree of, control of these toxic metals;

WHEREAS, lead is in the process of being identified as a toxic air contaminant due to known adverse health effects and has been shown to be emitted with the aforementioned toxic air contaminants;

WHEREAS, the staff has worked closely with the districts through the statewide Technical Review Group (TRG), affected sources, and other parties to develop as expeditiously as practical an airborne toxic control measure (ATCM) for emissions of these toxic metals from facilities that operate metal melting furnaces such as those used in smelters, foundries, and galvanizers;

WHEREAS, the staff has proposed an ATCM for toxic metals which would significantly reduce the quantity of toxic metals emitted to the atmosphere by requiring emission controls on furnaces, kettles, and pouring operations and fugitive emission reduction at affected facilities;

WHEREAS, the staff has prepared the document titled "Proposed Airborne Toxic Control Measure for Emissions of Toxic Metals from Non-Ferrous Metal Melting" (Staff Report and Technical Support Document), which constitutes the report required by Health and Safety Code Section 39665 and includes: estimates of cadmium, arsenic, nickel and lead emissions, public exposure, and potential cancer risk; a discussion of the technical feasibility of control and of existing emission control devices; an estimate of the costs to comply with the ATCM; a discussion of the anticipated effect of the ATCM on public exposure to the aforementioned toxic metal emissions from smelters, foundries, and galvanizers and the associated risk; a discussion of alternatives to the ATCM; and identification of any potential adverse environmental effects of the ATCM and possible mitigation measures;

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

WHEREAS, the proposed ATCM was made available to the public for review and comment, and was discussed at public consultation meetings on September 19, 1991, September 20, 1991, March 2, 1992, and March 9, 1992;

WHEREAS, in accordance with Health and Safety Code Section 39665(c), the Staff Report, Technical Support Document, and relevant comments on the proposed ATCM received during public consultation with the districts, affected sources, and the public were made available for public review and comment 45 days prior to the public hearing to consider the proposed ATCM;

WHEREAS, a public hearing and other administrative proceedings were 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, 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. Toxic metal emissions from smelters, foundries, and galvanizers are not currently regulated to a degree that adequately protects the public health statewide;

2. The emission of toxic metals from smelters, foundries, and galvanizers results in public exposure;

3. The proposed ATCM would reduce cadmium, arsenic, nickel, and lead emissions from non-ferrous foundries, smelters, and galvanizers by 70%, 11%, 25%, and 45%, respectively. Varying degrees of reduction are attributable to differences in facility type and level of control employed;

4. Lifetime exposure (70 years) to these toxic metals emitted from smelters, foundries, and galvanizers contributes an additional 111 potential cancer cases to the statewide incidence of cancer;

5. The proposed ATCM would require facilities to reduce their toxic metal emissions from foundries, smelters, and galvanizers to the lowest level achievable through the application of the best available control technology (BACT), as required by Health and Safety Code Section 39666(c), and therefore complies with the requirements of state law for the control of sources of toxic air contaminants identified by the board;

6. Compliance with the requirements of the proposed ATCM will not interfere with the use of cadmium, arsenic, nickel, and lead as additives used to impart desirable properties to non-ferrous metals;

7. No alternative considered would be either more effective at carrying out the purpose for which the ATCM is proposed, or both as effective and less burdensome to affected private persons, than the proposed ATCM;

8. Adoption of the proposed ATCM will not have a significant adverse economic impact on most small businesses because it is estimated the majority of small businesses (approximately 60%) will qualify for an exemption. For some small businesses not qualifying for an exemption, the compliance costs associated with the proposed control measure could result in a significant decrease in profitability if these businesses are unable to pass these costs on to their customers. It is not feasible to exempt all small businesses from the control measure as small businesses do not necessarily have low emissions. The reporting and emission control requirements that apply to small businesses are necessary for the health, safety, and welfare of the people of the state;

9. Adoption of the proposed ATCM is not expected to result in any significant adverse environmental impacts. Potential adverse environmental impacts, including increased power plant emissions due to increased electricity needed to operate the required pollution control equipment and increased quantities of metal contaminated water from dust collection activities, are expected to be minimal. Appropriate disposal practices, as required by law, are considered to be sufficient mitigation for increased quantities of particulate matter or sludge collected by the pollution control equipment.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts Section 93107, Titles 17 and 26, Subchapter 7.5, Airborne Toxic Control Measures, California Code of Regulations, as set forth in Attachment A hereto.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to adopt the amendments, as set forth in Attachment B, after making them available to the public for a period of 15 days. The Executive Officer shall consider such written comments as may be submitted during this period, shall make such 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 send the adopted ATCM to the districts and provide assistance to the districts in adopting regulations to implement the ATCM.

I hereby certify that the above is a true and correct copy of Resolution 93-1, as adopted by the Air Resources Board.

Pat Hutchens

Pat Hutchens, Board Secretary

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RESOURCES AGENCY OF CALIFORNIA