State of California
AIR RESOURCES BOARD

Resolution 01-30

September 20, 2001

Agenda Item No.: 01-7-1

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (the Board or ARB) 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, on January 23, 1986, the Board identified hexavalent chromium as a toxic air contaminant pursuant to article 3 (commencing with section 39660), chapter 3.5, part 2, division 26 of the Health and Safety Code;

WHEREAS, on January 22, 1987, the Board identified cadmium as a toxic air contaminant pursuant to article 3 (commencing with section 39660), chapter 3.5, part 2, division 26 of the Health and Safety Code;

WHEREAS, the Board determined that there is not sufficient scientific evidence to support identification of a threshold level for hexavalent chromium below which no significant adverse health effects are anticipated (see title 17, California Code of Regulations (CCR), section 93000);

WHEREAS, the Board determined that there is not sufficient scientific evidence to support identification of a threshold level for cadmium below which no significant adverse health effects are anticipated (see title 17, California Code of Regulations (CCR), section 93000);

WHEREAS, sections 39658 and 39666 of the Health and Safety Code authorize the Board to establish airborne toxic control measures (ATCMs) for substances identified as toxic air contaminants in accordance with specified criteria;

WHEREAS, for toxic air contaminants for which the Board has not specified a threshold exposure level, section 39666 of the Health and Safety Code requires ATCMs to be designed to reduce emissions to the lowest level achievable through the application of best available control technology (BACT) or a more effective control method, considering factors specified in section 39665, unless the Board determines, based on an assessment of risk, that an alternative level of emissions reduction is adequate or necessary to prevent an endangerment of public health;
WHEREAS, modeling analyses show that even the use of small amounts of coatings containing hexavalent chromium can potentially cause significant public health risks;

WHEREAS, ARB staff has surveyed manufacturers of motor vehicle and mobile equipment coatings and has determined that coatings containing hexavalent chromium are sold and used in California;

WHEREAS, ARB staff has determined that manufacturers are currently selling motor vehicle and mobile equipment coatings that do not contain hexavalent chromium as alternatives to the hexavalent chromium-containing coatings;

WHEREAS, based upon evidence of potential risk to public health from the air modeling and emissions estimates resulting from the application of motor vehicle and mobile equipment coatings that contain hexavalent chromium, ARB staff has proposed an ATCM for motor vehicle and mobile equipment coatings;

WHEREAS, because cadmium has been used in the past in motor vehicle and mobile equipment coatings, ARB staff has determined that it is a prudent pollution prevention measure to prohibit the future use of cadmium in such coatings;

WHEREAS, the South Coast Air Quality Management District and the Antelope Valley Air Pollution Control District have promulgated motor vehicle and mobile equipment coating regulations that prohibit not only the use of hexavalent chromium in motor vehicle and mobile equipment coatings, but prohibit the use of cadmium in these coatings, inclusion of a ban on cadmium use will make the proposed ATCM consistent with existing district regulations;

WHEREAS, ARB staff has worked closely with the air pollution control districts and air quality management districts (districts), the affected industry, and the public, as required by Health and Safety Code section 39665, to prepare a report identifying the need for, and appropriate degree of control of these toxic air contaminants;

WHEREAS, ARB staff has prepared a staff report entitled *Initial Statement of Reasons for Proposed Airborne Toxic Control Measure for Emissions of Hexavalent Chromium and Cadmium from Motor Vehicle and Mobile Equipment Coatings* (Initial Statement of Reasons) which provides estimates of emissions and potential cancer risk due to airborne hexavalent chromium from the application of motor vehicle and mobile equipment coatings that contain hexavalent chromium, discusses feasible control options, and the potential cost impacts to the affected industry, local districts, state, and local government for implementation and compliance with the proposed ATCM;

WHEREAS, the Initial Statement of Reasons constitutes the report on the need and appropriate degree of regulation for motor vehicle and mobile equipment coatings containing hexavalent chromium and/or cadmium as required by Health and Safety Code section 39665;

WHEREAS, in accordance with Health and Safety Code section 39665(c), the report and any relevant comments 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, the report discusses, to the extent data could reasonably be made available, the factors specified in Health and Safety Code section 39665(b);

WHEREAS, the proposed ATCM would eliminate hexavalent chromium emissions from the application of motor vehicle and mobile equipment coatings containing hexavalent chromium;

WHEREAS, in accordance with Health and Safety Code section 39666(c), the requirements of the ATCM have been designed, in consideration of the factors specified in Health and Safety Code section 39665(b), to reduce emissions of hexavalent chromium to the lowest levels achievable through application of best available control technology (BACT);

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, the proposed ATCM was made available for review and comment, and concepts and drafts of the ATCM were discussed at a public consultation meeting on May 9, 2001;

WHEREAS, in consideration of the staff report, written comments, and public testimony it has received, the Board finds that:

> Existing federal, state, and local regulations do not sufficiently protect the public health from hexavalent chromium emissions from motor vehicle and mobile equipment coatings;
>
> Application of motor vehicle and mobile equipment coatings containing hexavalent chromium may result in potentially harmful concentrations of hexavalent chromium entrained in the air, and these hexavalent chromium particles may pose a significant health risk to exposed members of the public;
>
> The proposed ATCM would essentially eliminate hexavalent chromium emissions from the application of motor vehicle and mobile equipment coatings;
>
> The proposed ATCM complies with the requirements of State law for control of sources of toxic air contaminants identified by the Board;
>
> The provisions of the proposed ATCM constitute the best available control technology, as required by Health and Safety Code section 39666(c) and, also constitute a pollution prevention measure;

The economic impacts of the proposed ATCM have been analyzed as required by California law, and the conclusions and supporting documentation for this analysis are set forth in the Initial Statement of Reasons;

The benefits to human health, public safety, public welfare, or the environment justify the costs of the regulatory requirements;

No alternatives considered or that have otherwise been identified and brought to the attention of the ARB would be more effective at carrying out the purpose for which the ATCM is proposed, or be as effective and less burdensome to the affected private persons and businesses than the proposed ATCM; and

The proposed ATCM will eliminate exposures to potential hexavalent chromium emissions for all communities with motor vehicle and mobile equipment coating operations.

WHEREAS, the Board further finds, in accordance with the Health and Safety Code, section 39650 (e), that:

While absolute and undisputed scientific evidence may not be available to determine the exact extent of the risk from emissions of hexavalent chromium from the application of motor vehicle and mobile equipment coatings, it is necessary to take action to protect public health; and

WHEREAS, pursuant to the requirements of the California Environmental Quality Act and the Board's regulations, the Board further finds that:

No significant adverse environmental impacts should occur from the proposed ATCM; and

The proposed ATCM is necessary in order to protect public health by eliminating hexavalent chromium emissions from the application of motor vehicle and mobile equipment coatings.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves section 93112, title 17, California Code of Regulations, as set forth in Attachment A hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt section 93112, title 17, California Code of Regulations, after making the modified regulatory language available for public comment for a period of 15 days, provided that the Executive Officer shall consider such written comments regarding the modification as may be submitted during this period, shall make modifications as

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Identification of Attachments to the Board Resolution

Attachment A: Proposed Airborne Toxic Control Measure for Emissions of Hexavalent Chromium and Cadmium from Motor Vehicle and Mobile Equipment Coatings (section 93112, title 17, California Code of Regulations), as set forth in Appendix A to the Initial Statement of Reasons, released August 10, 2001.

Attachment B: Staff's Suggested Modifications to the Original Proposal (distributed at the Board hearing on September 20, 2001).

State of California
Environmental Protection Agency
AIR RESOURCES BOARD

Notice of Decision and
Response to Significant Environmental Issues

Item:	Airborne Toxic Control Measure for Emissions of Hexavalent Chromium and Cadmium for Motor Vehicle and Mobile Equipment Coatings
Approved By:	Resolution 01-30
Adopted by:	Executive Order G-02-039
Agenda Item:	01-7-1
Public Hearing Date:	September 20, 2001
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:	Alexa Malik, Assistant Board Administration & Regulatory Coordination Unit
Date:	7-10-02

Rec'd By
Office of the Secretary

JUL 10 2002

Resources Agency of California