State of California
AIR RESOURCES BOARD

FINAL STATEMENT OF REASONS
Including Summary of Comments and Agency Response

REGULATORY IMPROVEMENT INITIATIVE: REPEAL OF REGULATIONS

PUBLIC HEARING TO CONSIDER THE REPEAL OF REGULATIONS
(Repeal of Title 13, California Code of Regulations, sections 2201 and 2202; Repeal of Title 17, California Code of Regulations, sections 93301-93355 and Appendices A-E and addition of section 93300.5)

Date of Public Hearing: May 30, 1996
Agenda Item No.: 96-5-1

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Final Statement of Reasons
for Proposed Repeal of Regulations

INTRODUCTION AND BACKGROUND

The Governor's Executive Order W-127-95 requires all California regulatory agencies to review all of their respective regulations and identify all regulations suitable for repeal. The California Environmental Protection Agency (Cal/EPA), of which the California Air Resources Board (ARB) is a constituent agency, conducted an agency-wide Regulatory Improvement Initiative in response to the Executive Order. The action proposed herein is part of the continuing process to eliminate excess regulations.

The Staff Report entitled "Initial Statement of Reasons for Repeal of Regulations" ("Staff Report"), released April 12, 1996, was made available for public inspection and is incorporated by reference herein. A copy of the Staff Report, with typographical errors corrected, is attached to this document as Attachment __. The Staff Report provides an extensive description of the rationale and necessity for the action proposed. The proposed action consisted of the repeal of Title 13 California Code of Regulations ("CCR") §2201 and §2202 and the adoption of new Title 17 CCR §93300.5 and the related repeal of 17 CCR §§93300-93355 (including appendices). The new Title 17 CCR §93300.5 incorporates by reference a document entitled "Air Toxics 'Hot Spots' Emission Inventory Criteria and Guidelines Report."

On May 30, 1996, the Air Resources Board ("ARB" or "the Board") conducted a public hearing at which it received written and oral comments on the regulatory proposal. At the conclusion of the public hearing, the Board approved the proposed regulatory action by adopting Resolution 96-19 ("Resolution"). As adopted, the resolution and regulation contain non-substantive changes from the originally proposed text. The additional language in the text of new Title 17 CCR §93300.5 was included to facilitate the user's obtaining a copy of the document incorporated by reference. The additional language in the text of Resolution 96-19 was included to clarify the effect of the Board's action with respect to the repeal of Title 13 CCR §2201 and §2202.

The Resolution that the Board adopted repeals §2201 and §2202 of Title 13 CCR. The repeal of these sections will have no regulatory effect because they set forth general policy statements which are also stated in statutes.

The Resolution that the Board adopted also adds new section 93300.5 to Title 17 of CCR. This regulation incorporates by reference the document entitled "Air Toxics 'Hot Spots' Emission Inventory Criteria and Guidelines Report." This document contains the language formerly found in Title 17 CCR §§93300-93355, including Appendices A-E. The Resolution then repeals Title 17 CCR §§93300-93355, including Appendices A-E. Because there was no substantive change to the language of these sections, this action has no regulatory effect.

The transfer of 17 CCR §§93300-93355, including Appendices A-E into the incorporated document was adopted because the regulatory material comprises approximately 100 pages of highly technical material which applies to a relatively small segment of the public (those facilities that are under the Air Toxics "Hot Spots" regulations). The incorporated document will be available directly from the ARB, as stated in the regulation. In addition, the ARB plans to make the document available at local air quality control and air quality management district offices throughout the state. The ARB also intends to make the material available on the Internet. The ARB believes that the incorporation by reference will make the material more available to those who need it, especially to small businesses, for whom subscribing to the Code of Regulations may be a significant expense. The ARB also believes that the removal of this material from Title 17 will make Title 17 less cumbersome and easier to use for those who do not need the "Hot Spots" material.

SUMMARY OF COMMENTS AND AGENCY RESPONSE

Written comments were received during the 45-day comment period, and one oral comment was received at the public hearing. During the 45-day comment period, written comments were received from California Council for Environmental and Economic Balance (CCEEB), the Sierra Club, the California Grain and Feed Association, the California Warehouse Association, and Southern California Gas Company. The written comments all focused on the transfer of the Air Toxics 'Hot Spots' Emission Inventory Criteria and Guidelines, 17 CCR §§93300-93355, including Appendices A-E, into an incorporated document.

1. COMMENT: Placing the Air Toxics 'Hot Spots' Emission Inventory Criteria and Guidelines, 17 CCR §§93300-93355, including Appendices A-E, into an incorporated document will decrease the public's access to these regulations. (California Council for Environmental and Economic Balance (CCEEB), the Sierra Club, the California Grain and Feed Association, the California Warehouse Association, and Southern California Gas Company.)

AGENCY RESPONSE: As noted above, the ARB believes that placing the Air Toxics 'Hot Spots' Emission Inventory Criteria and Guidelines, 17 CCR §§93300-93355, including Appendices A-E, into an incorporated document will in fact increase the public's access to these regulations. The incorporated document will be available directly from the ARB upon request, and will also be available on the Internet. Interested parties may thus obtain the document at nominal cost. This would represent a substantial cost savings, especially for small businesses.

2. **COMMENT**: Regulated entities will not be able to tell whether the document in their possession is the most recent version of the incorporated document. (Southern California Gas Company.)

AGENCY RESPONSE: Those who have a copy of the incorporated document would be able to find out quickly whether their version is the most current in several ways. First, the regulation which incorporates the document by reference, 17 CCR §93300.5, will state the most recent date of amendment (if any). Second, those with Internet access will be able to verify through accessing the ARB's Internet site. Finally, concerned persons may contact the ARB directly. Also, because the incorporated document must go through the full Administrative Procedure Act (APA) process to be amended, interested parties will receive notice of proposed changes ahead of time through the APA process.

The language of new Title 17 CCR §93300.5 states the several ways in which a party may obtain a copy of the incorporated document. While this is not legally necessary because the document is available directly from the ARB, the information has been included in the regulation to facilitate the public's access to the document.