

STATE OF CALIFORNIA
Air Resources Board

Resolution 88-42

July 14, 1988

Agenda Item No.: 88-9-3

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, Health and Safety Code Section 44380(a) requires the Board to adopt a fee schedule by August 1, 1988 which assesses a fee upon the operator of every facility subject to the Act in order to recover the anticipated costs of the Board, local air pollution control districts ("districts"), and the Department of Health Services of implementing and administering the Act;

WHEREAS, Health and Safety Code Section 44383 directs the Board to adopt rules or regulations to implement Section 44380 as emergency regulations in accordance with Section 11346.1 of the Government Code;

WHEREAS, Board staff, in consultation with representatives of the districts and the technical review group convened pursuant to Health and Safety Code 44380(b), has developed a proposed fee regulation for fiscal year 1988-89 which has been discussed with the public at four 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 regulations;

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 Board finds that:

The revenues to be collected pursuant to the proposed fee regulation are reasonably necessary to recover start-up costs and the reasonable anticipated costs for fiscal year 1988-89 which will be incurred by the Board, the districts, and the Department of Health Services to implement and administer the Act's provisions, as required by Health and Safety Code Section 44380(a);

The proposed fee regulation is based on criteria pollutant emissions in the absence of a statewide air toxics inventory, and after such an inventory is available, the Board staff will propose changes to the regulation so that fees are assessed on the basis of emission of toxic air releases;

The proposed regulation bases fees on the most recently approved ARB criteria pollutant emissions inventory data for total organic gases, particulate matter, nitrogen oxides and sulfur oxides and on program cost information provided by or estimated for the districts;

The list of substances proposed for adoption accurately reflects those required to be compiled and maintained by the ARB pursuant to Health and Safety Code Section 44321;

The economic impact of the fee regulation on the affected facilities will not be significant;

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; and

Adoption of this regulation as an emergency measure is required by Health and Safety Code Section 44383 and is necessary for the immediate preservation of the public health, safety, and welfare in order to permit the immediate initiation and funding of state and district activities to implement the Act, including development of guidelines for preparation of air toxics inventory plans, amendment of district rules to require compliance with the Act as a permit condition for new and modified sources, development of a data management system, maintenance of a complete and accurate list of toxic substances, development of health risk assessment and public notification guidelines, and the provision of technical assistance to industry and the public, all of which will increase public awareness of the amounts, types, and health impacts of routine toxic releases into the air by specific sources of hazardous emissions.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves Sections 90700-90704, Title 17, California Code of Regulations, as set forth in Attachment A hereto.

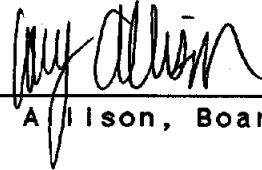
BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt Sections 90700-90704, Title 17, California Code of Regulations, after making them available to the public for a period of 15 days, provided that the Executive Officer shall consider such written comments as may be submitted 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 adopt the regulations referenced above as emergency regulations in accordance with the procedures set forth in Government Code Section 11346.1, and to complete the procedures set forth in Government Code Sections 11346.4 through 11346.8 to formally adopt the regulations as expeditiously as practicable;

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to forward the adopted regulations to the districts for appropriate action.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to report annually to the Board on progress in implementing AB 2588 and to propose appropriate amendments to the fee schedule.

I hereby certify that the above is a true and correct copy of Resolution 88-42, as adopted by the Air Resources Board.



Cary A. Wilson, Board Secretary

State of California
AIR RESOURCES BOARD

Response to Significant Environmental Issues

Item: Public Hearing to Consider the Adoption of a Fee Schedule and List of Substances Pursuant to the Air Toxics "Hot Spots" Information and Assessment Act of 1987.

Agenda Item No.: 88-9-3

Public Hearing Date: July 14, 1988

Issuing Authority: Air Resources Board

Comments: 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:

Cory Allison
Board Secretary

Date:

11/10/88