

State of California
AIR RESOURCES BOARD

Response to Significant Environmental Issues

Item: Notice of Public Hearing to Consider Adoption of Amendments to the Fee Schedule and List of Substances and to the Emission Inventory Criteria and Guidelines Regulations Pursuant to the Air Toxics "Hot Spots" Information and Assessment Act of 1987

Agenda Item No.: 90-13-2

Public Hearing Date: September 13, 1990

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:

Judith M. Lounsbury
Board Secretary

Date:

2/13/91

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RESOURCES AGENCY OF CALIFORNIA

STATE OF CALIFORNIA
Air Resources Board

Resolution 90-55

September 13, 1990

Agenda Item No.: 90-13-2

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 set 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 February 21, 1990 to the fee schedule set forth in section 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 of the Board, local air pollution control districts ("Districts"), 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 convened pursuant to Health and Safety Code section 44380(b), has developed amendments to the fee regulation for fiscal year 1990-91 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 to the 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 which must be quantified and those for which use 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, 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 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, except for the Bay Area Air Quality Management District, where fees are based on that District's toxic emission inventory;
2. 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;
3. The proposed addition of 103 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;
4. 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 and section 93334, respectively, sections 93300-93347, Title 17, California Code of Regulations);

5. Districts will incur additional costs due to the recent inclusion of facilities emitting less than 10 tons per year of a criteria pollutant into the reporting requirements of the Act and a flat fee for those newly added sources will recover said costs;
6. The proposed modifications to the list of district toxic inventories, surveys and reports, as contained in Appendix B of the fee regulation reflect recent changes in the information contained therein;
7. The revenues to be assessed pursuant to the proposed fee regulation are reasonably necessary to recover the anticipated program costs for fiscal year 1990-91 which will be incurred by the Board, the Districts, and the Department of Health Services to implement and administer the Act's provisions;
8. Although preliminary cost estimates and emission inventories have been provided by District staff, several Districts have not yet submitted their District board-approved costs or their final updated emission inventories to the ARB for fiscal year 1990-91;
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 the Emission Inventory Criteria and Guidelines Regulation;
10. 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
11. 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.

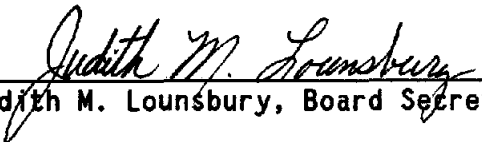
NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves sections 90700-90704, Title 17, California Code of Regulations including the appendices referenced therein, as set forth in Attachment A hereto, and Appendices A and B and section 93334 of sections 93300-93347, Title 17, California Code of Regulations, as set forth in Attachment B hereto.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to adopt sections 90700-90704, Title 17, California Code of Regulations and Appendices A and B and section 93334 of sections 93300-93347, 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 because several District Boards have not provided cost information or updated emissions inventories to the ARB, the Board directs the Executive Officer to insert into the designated inventory the emissions data received no later than October 15, 1990, and to insert into the regulation the District costs received from the Districts no later than October 31, 1990, and to make other conforming changes necessitated by the new data, and to delay commencement of the 15-day public review period until such changes are made but no later than November 15, 1990.

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 90-55, as adopted by the Air Resources Board.



Judith M. Lounsbury, Board Secretary