

AIR RESOURCES BOARD2020 L STREET
P.O. BOX 2815
SACRAMENTO, CA 95812**Response to Significant Environmental Issues**

Item: NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE AIR TOXICS
"HOT SPOTS" FEE REGULATION.

Agenda Item Nos.: 92-11-2
92-13-1

Public Hearing Date: July 10, 1992
Continued to: August 14, 1992

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: Pat Hutchens

Pat Hutchens
Board Secretary

Date: 5/7/93

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RESOURCES AGENCY OF CALIFORNIA

STATE OF CALIFORNIA
Air Resources Board

Resolution 92-57

August 14, 1992

Agenda Item No.: 92-11-2

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board ("ARB" or 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, On November 14, 1988, effective December 15, 1988, the Board adopted the Fee Regulation 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 to the Board, local air pollution control districts ("districts"), and the Department of Health Services (hereinafter the Office of Environmental Health Hazard Assessment, or the "Office") to implement and administer the Act;

WHEREAS, the Board has amended the Fee Regulation each year since 1988 to reflect changes in the emission inventory, the sources subject to the Act's requirements, and the state and district costs of implementing the Act;

WHEREAS, Health and Safety Code section 44380(a) was amended in 1990 to require that the Board adopt a regulation which requires all districts, except for districts that have submitted specified information to the Board prior to April 1 of each year, to adopt rules which assess a fee upon the operator of every facility subject to the Act in order to recover the costs to the Districts, the Board and the Office to implement and administer the Act, and this Fee Regulation was amended accordingly on December 31, 1991, effective January 30, 1992;

WHEREAS, the amendments to the fee schedule adopted by the Board on December 31, 1991, 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), provided for the assessment of a fee upon the operator of every facility subject to the Act in order to recover the costs to the Board, local air pollution control districts, and the Office to implement and administer the Act in fiscal year 1991-92;

WHEREAS, Board staff, in consultation with the districts and the fee regulation committee originally convened pursuant to the 1987 Act, has developed amendments to the fee regulation for fiscal year 1992-93 which have been discussed with the public at three consultation meetings;

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 based on information presented by the Districts regarding costs of implementing the Act and emission inventories, 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 proposed amendments would allocate state costs among the districts based on an approved ARB statewide criteria pollutant emission inventory for total organic gases, particulate matter, nitrogen oxides, and sulfur oxides designated by the Executive Officer for this purpose;
2. The Kern, Lassen, Mendocino, San Bernardino, Santa Barbara, Shasta, and Tehama Air Pollution Control Districts (APCDs), the Great Basin and San Joaquin Valley Unified APCDs, and the South Coast Air Quality Management District (AQMD) have requested that the Board adopt a fee schedule for them, and have submitted to the Air Resources Board the districts' program costs, approved by the district boards, prior to April 1, 1992, and that for these districts, the proposed amendments to the fees in the regulation are based on program costs approved by the district boards and on an approved ARB statewide criteria pollutant emissions inventory for total organic gases, particulate matter, nitrogen oxides, and sulfur oxides designated by the Executive Officer for this purpose; or on fees otherwise determined by the district to be reasonable for facilities that emit less than ten tons per year or 10-25 tons per year of these pollutants, or facilities that are listed on a district toxic inventory or report;

3. The Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Imperial, Lake, Mariposa, Modoc, Northern Sonoma, Placer, San Diego, San Luis Obispo, Siskiyou, Tuolumne and Ventura County APCDs, the Feather River, Monterey Bay Unified, and Yolo-Solano APCDs, and the Bay Area, North Coast Unified, Northern Sierra, and Sacramento Metropolitan AQMDs will be adopting district Air Toxics "Hot Spots" Program fee rules for fiscal year 1992-93;
4. A statewide air toxics inventory has not yet been compiled, but as soon as such an inventory becomes available, the Board staff will propose changes to the regulation so that fees are, to the extent practicable, assessed on a basis that better reflects toxic emissions;
5. The revenues to be assessed pursuant to the proposed fee regulation are reasonably necessary to recover the anticipated program costs which will be incurred by the Board, the districts, and the Office to implement and administer the Act's provisions in fiscal year 1992-1993;
6. 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 staff has determined that the proposed amendments may have a significant adverse economic impact on small businesses, or on private persons or other businesses directly affected by the regulation; and
7. Because current economic conditions are adverse, the originally proposed contingency adjustment factors of five percent of state costs and ten percent of district costs for those districts for which the Fee Regulation would establish fees may not be appropriate; and
8. The state budget for fiscal year 1992-93, which has not yet been approved, may require a reduction in the state's proposed expenditures from the Air Toxics Inventory and Assessment Account; and
9. 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 90700-90705, Title 17, California Code of Regulations including the appendices referenced therein, as set forth in Attachment A hereto.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to adopt sections 90700-90705, 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 revise the emission inventory used to calculate fees as necessary to reflect needed revisions brought to the Board's attention through July 10 only, and to accept no further revisions after that date.


BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to revise the contingency adjustment factors used to calculate fees to 2.5 percent for state costs, and five percent for district costs for those districts for which the Fee Regulation will establish fees.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to credit the reduction in the contingency adjustment factor towards any reduction in the state's proposed expenditures for the Air Toxics Inventory and Assessment Account required by the approved state budget for fiscal year 1992-93.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to provide a 15-day period in which the public may review and comment on the modifications which the Board has approved to the original proposal.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to present annually to the Board appropriate amendments to the fee schedule, utilizing toxic inventory information generated pursuant to the Act's requirements to the extent practicable for the fiscal year 1993-94 amendments and thereafter.

I hereby certify that the above is
a true and correct copy of
Resolution 92-57, as adopted by the
Air Resources Board.



Pat Hutchens, Board Secretary

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