

State of California
AIR RESOURCES BOARD

Resolution No. 80-45

June 25, 1980

WHEREAS, Health and Safety Code Section 39601 authorizes the Air Resources Board (the "Board") to adopt standards, rules and regulations necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law; and

WHEREAS, the Board maintains regulations governing its meetings and hearing procedures in Title 17, California Administrative Code, Sections 60000-60013; and

WHEREAS, the Board must follow the rulemaking requirements of the California Administrative Procedure Act, Government Code Sections 11370-11445, in adopting, amending or repealing its administrative regulations; and

WHEREAS, new legislation, AB 1111 (Chapter 810, Stats. 1979) and AB 939 (Chapter 1203, Stats. 1979) has repealed these provisions and enacted new rulemaking procedures contained in Government Code Sections 11340-11445; and

WHEREAS, this legislation has stimulated the need for the Board to adopt new regulations and amend existing regulations in order to meet and implement the new statutory requirements and clarify its procedures and policies; and

WHEREAS, such legislation becomes effective on July 1, 1980; and

WHEREAS, the California Environmental Quality Act and Air Resources Board regulations require that an activity not be adopted as proposed where significant environmental impacts have been identified and alternative and/or mitigation measures which would substantially reduce these impacts exist; and

WHEREAS, a public hearing has been held in accordance with the provisions of the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 4.5); and

WHEREAS, the Board finds:

That the regulations and amendments adopted by this resolution are necessary for the proper execution of the powers and duties granted to, and imposed upon, the Board;

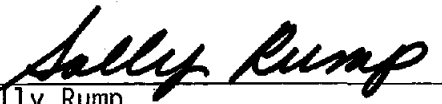
That it is necessary that the regulations become effective at the same time as the underlying statutes to prevent uncertainty and confusion regarding the matters covered by the regulations;

That neither staff nor the public have identified any significant adverse environmental impacts resulting from implementation of this proposal.

NOW, THEREFORE, BE IT RESOLVED, that the Board adopts the amendments and additions to Title 17, California Administrative Code, Sections 60001, 60004, 60005, 60008.2, 60008.3, and 60013 as set forth in Attachment A hereto.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to file with the Secretary of State the regulations adopted herein to become effective July 1, 1980.

I certify that the above is a true and correct copy of Resolution 80-45 as passed by the Air Resources Board



Sally Rump
Board Secretary

Attachment A

SUBCHAPTER 1. ADMINISTRATIVE PROCEDURES

Article 1. Board Meetings and Executive Officer Hearings

* * *

60001. Notice.

(a) Notice of regular meetings of the state board shall be sent by first class mail, dispatched not later than seven days preceding such meeting, and shall contain an agenda or description of all items to be considered at that meeting.

(b) Notice of regular meetings of the state board shall be mailed to all state board members, to all parties to proceedings on the agenda, to interested federal, state and local agencies, and to persons who request such notice in writing. For public information purposes, the agenda shall be provided to newspapers of general circulation.

(c) When a public hearing is required, pursuant to the requirements of Chapter 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code, for the adoption, amendment, or repeal of any rule, regulation, order or standard of general application in order to implement, interpret, or make specific the law enforced or administered by the state board or the Executive Officer, notice shall be given in accordance with the requirements of said Chapter 3.5. Notice shall also be given to all state and local governmental agencies having jurisdiction by law with respect to a proposed activity of the state board.

(d) Before taking any action pursuant to Health and Safety Code Sections 41503 to 41505, inclusive, or Health and Safety Code Section 41650, notice shall be given as provided in Health and Safety Code

Section 41502, and to all state board members, members of the public requesting such notice in writing, and all state and local governmental agencies having jurisdiction by law with respect to the proposed action.

Note: Authority cited: Section 39601, Health and Safety Code.

Reference: Section 11125 and 11346.4, Government Code,
and Section 41502, Health and Safety Code.

* * *

60004. Testimony and Record of Proceedings.

(a) It is the board's policy to encourage and allow interested persons to present oral as well as written testimony at public hearings and meetings held by the board or the Executive Officer. Oral testimony shall be permitted if, no later than 15 days prior to the hearing, an interested person or duly authorized representative submits in writing to the board secretary a request to present oral testimony. Except for hearings held pursuant to Section 41650 of the Health and Safety Code, where no such request is received, the state board or the Executive Officer, as the case may be, shall have discretion to limit interested persons to the presentation of written testimony only. The chairperson, or the Executive Officer, may impose reasonable limitations on the scope, duration, and manner of presentation of oral testimony. To the extent practicable, such limitations shall be set forth in the hearing notice.

(b) The state board may specify the date by which comments submitted in writing must be received for them to be considered, provided that, except for emergency hearings, the deadline for filing

written comments shall be at least 45 days from the date of publication of the staff report. Any deadline for receipt of written comments shall be contained in the hearing notice. The state board shall accept for consideration written comments submitted after the deadline specified in the hearing notice but by the hearing date on a detailed factual showing that the comments could not have been provided to the state board by the deadline by reason of factors beyond the control of the person submitting the comments, and that the comments were submitted as expeditiously as reasonably practicable following the deadline.

(c) At any public hearing held pursuant to Health and Safety Code Section 41650, regarding state board review of nonattainment area plans, representatives from districts included within the nonattainment area and the designated air quality planning agency shall have the right to question and solicit testimony from qualified representatives of the state board staff on the matter being considered. The state board may, by affirmative vote of four members, place reasonable limits on such right. With regard to any Executive Officer hearing held under Section 41650, the state board may impose such limits as part of its delegation to the Executive Officer.

(d) The proceedings shall be recorded electronically, or by other appropriate means. At the request of the state board, the Executive Officer, or any interested person, the hearing shall be

recorded by a certified court reporter and the cost thereof borne by the person making the request.

Note: Authority cited: Sections 39600, 39601, Health and Safety Code.

Reference: Sections 11346.5, 11346.8, Government Code and Sections 40451, 41502, 41650, 41651, Health and Safety Code.

* * *

60005. Staff Reports.

(a) Where a public hearing by the state board is required by law, or when the Executive Officer proposes to take action following a public hearing or public comment period, a staff report, together with the proposed rule, regulation order, or standard, shall be prepared and published by the staff of the state board. Where a public hearing is required pursuant to the requirements of Chapter 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code, the staff report shall be published at least 45 days before the date of the public hearing. For all other public hearings, the staff reports shall be published at least 30 days before the date of the public hearing. Notwithstanding the foregoing provisions, if the state Board proposes to take emergency action after public hearing, including but not limited to action pursuant to Government Code Section 11346.1(b) and the emergency provisions of Health and Safety Code Section 41502, the staff report shall be published as early as reasonably practicable prior to the public hearing. Staff reports shall be distributed to all governmental agencies having jurisdiction by law with respect to the proposed activity and to persons who have requested such reports.

(b) Except for documents determined to be a trade secret pursuant to Sections 91000, et. seq., of Title 17, California Administrative Code, or documents otherwise exempt from disclosure pursuant to the Public Records Act (Government Code Sections 6250 et. seq.), copies of documents reviewed in connection with the consideration of issues discussed in staff reports, and written comments received from interested persons, shall be made available for inspection and copying upon request.

(c) It is the policy of the state board to provide a reasonable opportunity for interested persons to review and comment upon staff reports prepared on items for which a public hearing is required. The notice required by Section 60001 shall therefore describe the manner in which a staff report may be obtained for review and comment, and general subject matter addressed in the staff report and the specific staff person to whom the request for a copy and any comment shall be addressed.

(d) It is the policy of the state board to prepare staff reports in a manner consistent with the environmental protection purposes of the state board's regulatory program and with the goals and policies of the California Environmental Quality Act (CEQA: Public Resources Code Sections 21000 et. seq.). Therefore, all staff reports shall contain a description of the proposed action and in a separate section, an assessment of anticipated significant long or short term adverse environmental impacts associated with the proposed action and a succinct analysis of those impacts. The adverse impacts to be considered are direct and indirect effects on land, air, water, and minerals (including energy supply or use, flora, fauna, noise, and objects of historic or aesthetic significance).

The analysis shall address possible mitigation measures and alternatives to the proposed action and any irreversible environmental changes or growth-inducing impacts.

(e) The Executive Officer shall prescribe guidelines for reimbursement of the state board's cost of compliance with subsection (a), for the format of staff reports, and such other related requirements as the Executive Officer deems appropriate.

Note: Authority cited: Section 39601, Health and Safety Code.

Reference: Section 41502, Health and Safety Code, Sections 11125.1, 11346.1, Government Code.

* * *

60008.2. Statement of Reasons for Proposed Rulemaking

(a) Where a public hearing is required pursuant to Chapter 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code, the statement required by Government Code Section 11346.7 shall be prepared by the staff of the state board prior to the time the notice referred to in Section 60001(c) is published and made available to the public. The notice shall inform the reader that such statement has been prepared.

(b) Prior to final adoption of a regulation, the statement shall be updated pursuant to Government Code Section 11346.7.

Note: Authority cited: Section 39601, Health and Safety Code.

Reference: Sections 11346.6, 11346.7, Government Code.

* * *

60008.3. Rulemaking File.

For every rulemaking for which a public hearing is required pursuant to Chapter 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code, the secretary of the state board shall maintain a file as required by Government Code Section 11347.3.

Note: Authority cited: Section 39601, Health and Safety Code.

Reference: Section 11347.3, Government Code.

* * *

60013. Confirmation of Emergency Action.

Where the state board takes action under emergency conditions, and such action is subject to Chapter 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code, the state board or the Executive Officer shall confirm such action within 120 days in accordance with the provisions of Government Code Section 11346.1 if it is determined that the action should have legal effect for more than 120 days.

Note: Authority cited: Section 39601, Health and Safety Code.

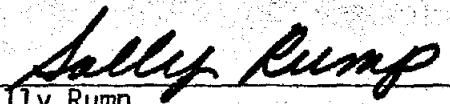
Reference: Section 11346.1, Government Code.

That neither staff nor the public have identified any significant adverse environmental impacts resulting from implementation of this proposal.

NOW, THEREFORE, BE IT RESOLVED, that the Board adopts the amendments and additions to Title 17, California Administrative Code, Sections 60001, 60004, 60005, 60008.2, 60008.3, and 60013 as set forth in Attachment A hereto.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to file with the Secretary of State the regulations adopted herein to become effective July 1, 1980.

I certify that the above is a true and correct copy of Resolution 80-45 as passed by the Air Resources Board


Sally Rump
Board Secretary

State of California
AIR RESOURCES BOARD

Resolution No. 80-45

June 25, 1980

WHEREAS, Health and Safety Code Section 39601 authorizes the Air Resources Board (the "Board") to adopt standards, rules and regulations necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law; and

WHEREAS, the Board maintains regulations governing its meetings and hearing procedures in Title 17, California Administrative Code, Sections 60000-60013; and

WHEREAS, the Board must follow the rulemaking requirements of the California Administrative Procedure Act, Government Code Sections 11370-11445, in adopting, amending or repealing its administrative regulations; and

WHEREAS, new legislation, AB 1111 (Chapter 810, Stats. 1979) and AB 939 (Chapter 1203, Stats. 1979) has repealed these provisions and enacted new rulemaking procedures contained in Government Code Sections 11340-11445; and

WHEREAS, this legislation has stimulated the need for the Board to adopt new regulations and amend existing regulations in order to meet and implement the new statutory requirements and clarify its procedures and policies; and

WHEREAS, such legislation becomes effective on July 1, 1980; and

WHEREAS, the California Environmental Quality Act and Air Resources Board regulations require that an activity not be adopted as proposed where significant environmental impacts have been identified and alternative and/or mitigation measures which would substantially reduce these impacts exist; and

WHEREAS, a public hearing has been held in accordance with the provisions of the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 4.5); and

WHEREAS, the Board finds:

That the regulations and amendments adopted by this resolution are necessary for the proper execution of the powers and duties granted to, and imposed upon, the Board;

That it is necessary that the regulations become effective at the same time as the underlying statutes to prevent uncertainty and confusion regarding the matters covered by the regulations;

RECEIVED BY
Office of the Secretary

JUL 01 1980

Memorandum

To : Huey D. Johnson
Secretary
Resources Agency
1416 - 9th Street
Sacramento, CA 95814

Date : July 1, 1980

Subject : Filing of Notice
of Decision of the
Air Resources Board

From : **Air Resources Board**

Pursuant to Title 17, Section 60007(b), and in compliance with Air Resources Board certification under section 21080.5 of the Public Resources Code, the Air Resources Board hereby forwards for posting the attached notice of decision and response to environmental comments raised during the comment period.

Sally Rump
Sally Rump
Board Secretary

attachments

Resolution 80-26

State of California
AIR RESOURCES BOARD

Response to Significant Environmental Issues

Item: Amendments to Title 17, California Administrative Code, Sections
60000-60023, regarding the Administrative Procedures of the Air
Resources Board (Board Item 80-11-4)

Public Hearing Date: June 25, 1980

Response Date: June 25, 1980

Issuing Authority: Air Resources Board

Comment: None Received

Response: N/A

CERTIFIED:

Sally Rump
Board Secretary

Date:

July 1, 1980

RECEIVED BY
Office of the Secretary

JUL 01 1980

Resources Agency of California

State of California
AIR RESOURCES BOARD

PUBLIC HEARING TO CONSIDER AMENDMENTS TO TITLE 17, CALIFORNIA ADMINISTRATIVE
CODE SECTIONS 60000-60023 REGARDING THE ADMINISTRATIVE PROCEDURES OF THE
AIR RESOURCES BOARD

Summary of Opposing Considerations and Agency Response

1. Opposing Consideration: A written comment from the Western Oil and Gas Association ("WOGA") opposes the language in proposed Section 60004 which provides that oral testimony may be limited to the issues raised in written comments or in the staff report. WOGA notes that new developments in the air pollution field occur rapidly. It suggests that the policy of the ARB be to permit those who wish to testify to present new matters at the time of the public hearing upon only a minimal showing as to why the information was not provided earlier in writing.

Agency Response: The proposed limiting language has been eliminated.

2. Opposing Consideration: By written comment, WOGA also opposes the proposed language in Section 60004 authorizing the Board to establish in the hearing notice a deadline, except for emergency hearings at least 30 days from publication of the staff report, by which comments submitted in writing must be received for them to be considered. For the same reasons as given in item "1" above, WOGA suggests that written comments after the deadline be considered if the Board is provided with an explanation as to why the comments were not available by the deadline.

WOGA also summarily states that, "there is no statutory authority for imposing an advance submission requirement." Similarly, Steven MacDonald

of the law firm of Latham and Watkins advised the Board of his opinion that Government Code Section 11346.8 precludes the establishment of a deadline for written comments prior to the hearing date.

Persons testifying also requested that the deadline for written comments be extended to 45 days after notice.

Agency Response: In unusual situations, members of the public may not be able to submit comments by the deadline for reasons beyond their control. In these situations, the public should not be precluded from submitting written statements. Therefore, the following language will be added to proposed Section 60004:

The state board shall accept for consideration written comments submitted after the deadline specified in the hearing notice but by the hearing date on a detailed factual showing that the comments could not have been provided to the state board by the deadline by reason of factors beyond the control of the person submitting the comments, and that the comments were submitted as expeditiously as reasonably practicable following the deadline.

As discussed above, it is necessary for the Board normally to receive all written comments prior to the Board hearing so that the required statements may be prepared. The proposed exception to the deadline is purposefully limited and applies only when the issues raised in the comments truly could not have been raised by the deadline.

Further, the deadline is changed to 45 days to allow a 45-day comment period in all cases.

The legal branch has determined that, particularly with the proposed exception, the deadline authorized in Section 60004 is permitted under Government Code Section 11346.5(a)(7). Staff has been advised by Herbert Nobriga, Director of the Office of Administrative Hearings, that such a deadline is permissible under the new statutes. (See attached Appendix C.)

- 3. Opposing Consideration: Herbert Nobriga, Director of the Office of Administrative Hearings, has orally brought to staff's attention AB 1861 (Chapter 151, Stats. 1980), approved by the Governor on June 11, 1980. A copy is attached hereto as Appendix A. This bill provides that in hearings regarding adoption, amendment or repeal of an administrative regulation by a state agency, an oral presentation shall be permitted if a written request is submitted to the state agency no later than 15 days prior to the hearing. The law goes into effect January 1, 1981.

Agency Response: Section 60004 of the proposed regulations should be changed to comply with this new law. Attached hereto as Appendix B is a set of the proposed regulations, including the new proposed Section 60004. To clarify board procedures, the contents of prior subsection (a) have been divided into subsections (a) and (b).

Assembly Bill No. 1861

CHAPTER 151

An act to amend Section 11346.8 of the Government Code, relating to administrative regulations.

[Approved by Governor June 11, 1980. Filed with Secretary of State June 11, 1980.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1861, Egeland. Administrative regulations.

Under existing law, at a hearing regarding the adoption, amendment, or repeal of a regulation by a state agency, the state agency is required to provide any interested person or his duly authorized representative, or both, the opportunity to present statements in writing with or without opportunity to present the same orally.

This bill would, instead, provide that when a public hearing is scheduled, an oral presentation shall also be permitted if a written request is submitted to the state agency no later than 15 days prior to the hearing.

The people of the State of California do enact as follows:

SECTION 1. Section 11346.8 of the Government Code is amended to read:

11346.8. On the date and at the time and place designated in the notice the state agency shall afford any interested person or his or her duly authorized representative, the opportunity to present statements, arguments, or contentions in writing. If a public hearing is scheduled, an oral presentation shall also be permitted if, no later than 15 days prior to the hearing, an interested person or duly authorized representative submits in writing to the state agency, a request to make an oral presentation. The state agency shall consider all relevant matter presented to it before adopting, amending or repealing any regulation.

In any hearing under this section the state agency or its duly authorized representative shall have authority to administer oaths or affirmations, and may continue or postpone such hearing from time to time to such time and at such place as it shall determine.

The state agency shall make no substantial change or modification to a proposed adoption, amendment, or repeal of a regulation unless such change or modification is related directly to the same subject or issue noticed pursuant to Section 11345.4.

SUBCHAPTER 1. ADMINISTRATIVE PROCEDURES

Article 1. Board Meetings and Executive Officer Hearings

* * *

60001. Notice. (a) Notice of regular meetings of the state board shall be sent by first class mail, dispatched not later than seven days preceding such meeting, and shall contain an agenda or description of all items to be considered at that meeting.

(b) Notice of regular meetings of the state board shall be mailed to all state board members, to all parties to proceedings on the agenda, to interested federal, state and local agencies, and to persons who request such notice in writing. For public information purposes, the agenda shall be provided to newspapers of general circulation.

(c) When a public hearing is required, pursuant to the requirements of Chapter 4.5-~~(commencing with Section 11371)~~, 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code, for the adoption, amendment, or repeal of any rule, regulation, order or standard of general application in order to implement, interpret, or make specific the law enforced or administered by the state board or the Executive Officer, notice shall be given in accordance with the requirements of said Chapter 4.5 3.5. Notice shall also be given to all state and local governmental agencies having jurisdiction by law with respect to a proposed activity of the state board.

~~(d) Where a public hearing is required pursuant to the Health and Safety Code Section 41502, regarding the establishment of a basinwide air pollution control plan or the assumption of the powers of an air pollution control district to develop an effective plan, program, rules or regulations for the attainment or maintenance of ambient air quality standards, notice shall be given as required by Section 41502, including~~

~~notice to all state board members, to the basinwide air pollution control council, if any, to the affected districts, to members of the public requesting such notice in writing, and to all state and local governmental agencies having jurisdiction by law with respect to the proposed action.~~

(d) Before taking any action pursuant to Health and Safety Code Sections 41503 to 41505, inclusive, or Health and Safety Code Section 41650, notice shall be given as provided in Health and Safety Code Section 41502, and to all state board members, members of the public requesting such notice in writing, and all state and local governmental agencies having jurisdiction by law with respect to the proposed action.

Note: Authority cited: Section 39601, Health and Safety Code.
Reference: Sections 11125, and 11423 11346.4, Government Code, and Section 41502, Health and Safety Code.

* * *

60004. Testimony and Record of Proceedings. (a) It is the board's policy to encourage and allow interested persons to present oral as well as written testimony at public hearings and meetings held by the board or the Executive Officer. Oral testimony shall be permitted if, no later than 15 days prior to the hearing, an interested person or duly authorized representative submits in writing to the board secretary a request to present oral testimony. However, Except for hearings held pursuant to Section 41650 of the Health and Safety Code, where no such request is received, the state board or the Executive Officer, as the case may be, shall have discretion to limit interested persons to the presentation of written testimony only. ~~In all instances, where oral testimony is either permitted pursuant to this section or required pursuant to Health and Safety Code Section 41651,~~ The

chairperson, or the Executive Officer, may impose reasonable limitations on the scope, duration, and manner of presentation of oral testimony. To the extent practicable, such limitations shall be set forth in the hearing notice.

(b) The state board may specify the date by which comments submitted in writing must be received for them to be considered, provided that, except for emergency hearings, the deadline for filing written comments shall be at least 45 days from the date of publication of the staff report. Any deadline for receipt of written comments shall be contained in the hearing notice. The state board shall accept for consideration written comments submitted after the deadline specified in the hearing notice but by the hearing date on a detailed factual showing that the comments could not have been provided to the state board by the deadline by reason of factors beyond the control of the person submitting the comments, and that the comments were submitted as expeditiously as reasonably practicable following the deadline.

~~(b) (c)~~ (c) At any public hearing held pursuant to Health and Safety Code Section 41650, regarding state board review of nonattainment area plans, ~~all-interested-persons-shall-be-permitted-to-present-both-written-and-oral-testimony.~~ representatives from districts included within the nonattainment area and the designated air quality planning agency shall have the right to question and solicit testimony from qualified representatives of the state board staff on the matter being considered. The state board may, by affirmative vote of four members, place reasonable limits on such right. With regard to any Executive Officer hearing held under Section 41650, the state board may impose such limits as part of its delegation to the Executive Officer.

(e) (d) The proceedings shall be recorded electronically, or by other appropriate means. At the request of the state board, the Executive Officer, or any interested person, the hearing shall be recorded by a certified court reporter and the cost thereof borne by the person making the request.

Note: Authority cited: Sections 39500, 39601, Health and Safety Code.

Reference: Sections 11425 11346.5, 11346.8, Government Code and Sections 40451, 41502, 41650, 41651, Health and Safety Code.

60005. Staff Reports. (a) Where a public hearing by the state board is required by law, or when the Executive Officer proposes to take action following a public hearing or public comment period, a staff report, together with the proposed rule, regulation order, or standard, shall be prepared and published by the staff of the state board. at least 30 days before the date of the public hearing. Where a public hearing is required pursuant to the requirements of Chapter 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code, the staff report shall be published at least 45 days before the date of the public hearing. For all other public hearings, the staff reports shall be published at least 30 days before the date of the public hearing. Notwithstanding the foregoing provisions, if the state board proposes to take emergency action after public hearing, including but not limited to action pursuant to Government Code Section 11346.1(b) and the emergency provisions of Health and Safety Code Section 41502, the staff report shall be published as early as reasonably practicable prior to the public hearing. Staff reports shall be distributed to all governmental agencies having jurisdiction by law with respect to the proposed activity and to persons who have requested such reports.

(b) Except for documents determined to be a trade secret pursuant to Sections 91000, et. seq., of Title 17, California Administrative Code, or documents otherwise exempt from disclosure pursuant to the Public

Records Act (Government Code Sections 6250 et. seq.), copies of documents reviewed in connection with the consideration of issues discussed in staff reports, and written comments received from interested persons, shall be made available for inspection and copying upon request.

(c) It is the policy of the state board to provide a reasonable opportunity for interested persons to review and comment upon staff reports prepared on items for which a public hearing is required. The notice required by Section 60001 shall therefore describe the manner in which a staff report may be obtained for review and comment, and general subject matter addressed in the staff report and the specific staff person to whom the request for a copy and any comment shall be addressed.

(d) It is the policy of the state board to prepare staff reports in a manner consistent with the environmental protection purposes of the state board's regulatory program and with the goals and policies of the California Environmental Quality Act (CEQA: Public Resources Code Sections 21000 et. seq.). Therefore, all staff reports shall contain a description of the proposed action and in a separate section, an assessment of anticipated significant long or short term adverse environmental impacts associated with the proposed action and a succinct analysis of those impacts. The adverse impacts to be considered are direct and indirect effects on land, air, water, and minerals (including energy supply or use, flora, fauna, noise, and objects of historic or aesthetic significance). The analysis shall address possible mitigation measures and alternatives to the proposed action and any irreversible environmental changes or growth-inducing impacts.

(e) The Executive Officer shall prescribe guidelines for reimbursement of the state board's cost of compliance with subsection (a), for the format of staff reports, and such other related requirements as the Executive Officer deems appropriate.

Note: Authority cited: Section 39601, Health and Safety Code.
Reference: Section 41502, Health and Safety Code, Sections 11125.1, 11346.1, Government Code.

Section 60008.2. Statement of Reasons for Proposed Rulemaking

(a) Where a public hearing is required pursuant to Chapter 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code, the statement required by Government Code Section 11346.7 shall be prepared by the staff of the state board prior to the time the notice referred to in Section 60001(c) is published and made available to the public. The notice shall inform the reader that such statement has been prepared.

(b) Prior to final adoption of a regulation, the statement shall be updated pursuant to Government Code Section 11346.7.

Note: Authority cited: Section 39601, Health and Safety Code.
Reference: Sections 11346.6, 11346.7, Government Code.

Section 60008.3. Rulemaking File. For every rulemaking for which a public hearing is required pursuant to chapter 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code, the secretary of the state board shall maintain a file as required by Government Code Section 11347.3.

Note: Authority cited: Section 39601, Health and Safety Code.

Reference: Section 11347.3, Government Code.

* * *

60013. Confirmation of Emergency Action. Where the state board takes action under emergency conditions, and such action is subject to ~~the Administrative Procedure Act (Government Code Sections 11420-11427),~~ Chapter 3.5 (commencing with Section 11340); Part 1, Division 3, Title 2 of the Government Code, the state board or the Executive Officer shall confirm such action within 120 days in accordance with the provisions of Government Code Section 11422.1 11346.1 if it is determined that the action should have legal effect for more than 120 days.

Note: Authority cited: Section 39601, Health and Safety Code.

Reference: Section 11422.1 11346.1, Government Code.

AIR RESOURCES BOARD

102 Q STREET
BOX 2315
SACRAMENTO, CA 95812
(916) 322-2884



June 18, 1980

Mr. Herbert W. Nobriga
Office of Administrative Hearings
717 K Street, Suite 409
Sacramento, CA 95814

RE: Request for Opinion on AB 1111 and AB 939

Dear Mr. Nobriga:

As you know, the Air Resources Board is currently considering adoption of amendments to its administrative regulations to implement AB 1111 and AB 939, which become effective July 1, 1980. AB 939 requires that for hearings to consider action on proposed regulations be on at least 45 days notice (Government Code Section 11346.4). AB 939 also provides that the notice of proposed action on a proposed regulation shall include:

"The date by which comments submitted in writing must be received to present statements, arguments, or contentions in writing relating to the proposed action in order for them to be considered by the state agency before it adopts, amends, or repeals a regulation." (Government Code Section 11346.5(a)(7))

Additionally, AB 939 enacts Government Code Section 11346.8, which contains the following language formerly contained in Government Code Section 11425:

"On the date and at the time and place designated in the notice the state agency shall afford any interested person or his duly authorized representative, or both, the opportunity to present statements, arguments, or contentions in writing, with or without opportunity to present the same orally. The state agency shall consider all relevant matter presented to it before adopting, amending or repealing any regulation.

June 18, 1980

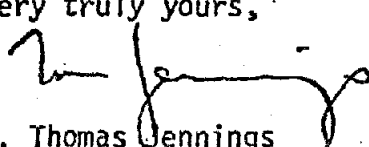
We are proposing that Section 60004 of Title 17, California Administrative Code include the following:

"The state board may specify the date by which comments submitted in writing must be received for them to be considered, provided that, except for emergency hearings, the deadline for filing written comments shall be at least 30 days from the date of publication of the staff report. Any deadline for receipt of written comments shall be contained in the hearing notice."

We would appreciate your opinion whether, in light of the above-cited provisions, AB 1111 and AB 939 authorize a rulemaking body to establish in the hearing notice a deadline, prior to the rulemaking hearing but not less than 30 days following publication of the hearing notice, by which written comments must be submitted for them to be considered.

Thank you for your consideration of this request.

Very truly yours,



W. Thomas Jennings
Staff Counsel

DEPARTMENT OF GENERAL SERVICES
OFFICE OF ADMINISTRATIVE HEARINGS17 K STREET, SUITE 401
SACRAMENTO 95814 445-492610 VAN NESS, 11TH FLOOR
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June 24, 1980

Mr. W. Thomas Jennings
Staff Counsel
Air Resources Board
1102 Q Street
Sacramento, CA 95812


Dear Mr. Jennings:

Reference is made to your letter of June 18, 1980, about the conduct of hearings on proposed regulations.

In my opinion, a state regulatory agency may set a deadline for written testimony at the hearing which is not less than 30 days after notice of the hearing is published.

Therefore, your proposed 17 Cal. Adm. C. Section 60004 appears lawful to me.

Best wishes,



HERBERT W. NOBRIGA
Director

HWN:ap