

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE AREA DESIGNATIONS FOR STATE AMBIENT AIR QUALITY STANDARDS

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adoption of amendments to the regulations establishing designation criteria, designating areas of California as attainment, nonattainment, nonattainment-transitional, or unclassified for pollutants with State ambient air quality standards set forth in section 70200 of title 17, California Code of Regulations, and describing procedures for future amendments to the area designations.

DATE: March 25, 2010

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., March 25, 2010, and may continue at 8:30 a.m., March 26, 2010. This item may not be considered until March 26, 2010. Please consult the agenda for the meeting, which will be available at least 10 days before March 25, 2010, to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to title 17, California Code of Regulations (CCR), sections 60201, 60203, 60207, 60210, 70300, 70301, 70302, 70303, 70303.1, 70303.5, 70304, 70305, 70306, and Appendices 2, and 3, and repeal of Appendix 4.

Background: The Board is charged with the responsibility of adopting standards of ambient air quality for each air basin in consideration of the public health, safety, and welfare (Health and Safety Code (H&SC) § 39606). To date, the Board has adopted State ambient air quality standards (State Standards) for ten pollutants, set forth in CCR, title 17, section 70200. In addition, H&SC section 39607(e) requires the Board to establish designation criteria which provide the basis for designating areas of California as attainment or nonattainment with respect to the State standards. The Board originally adopted designation criteria in 1989 and has modified them several times, most recently in January 2004. The designation criteria are set forth in CCR, title 17, sections 70300 through 70306, and appendices 1 through 4 thereof. Based on these designation criteria, H&SC section 39608 further requires ARB to establish and annually

review area designations for State standards. During the annual review, ARB staff determines whether changes to the existing area designations are warranted, based on an evaluation of recent air quality data.

Area Designation Criteria: The designation criteria specify the data requirements, the size of the designated areas, and other requirements for determining the appropriate area designation category. Based on the designation criteria, the Board designates areas as attainment, nonattainment, nonattainment-transitional or unclassified for each of the ten pollutants with State standards set forth in CCR, title 17, section 70200.

Based upon review of the designation criteria, the ARB staff is proposing several minor cleanup changes to these criteria. These amendments would not change the way in which the Board designates areas, but would clarify existing aspects of the designation criteria, assure consistency among the various provisions of the criteria, and aid in streamlining the designation process. These changes include:

- Removing language requiring a district to initiate the request for nonattainment-transitional designation;
- Adding a provision to allow current attainment areas without current monitoring data to remain attainment if emissions have not substantially increased;
- Removing references to Appendix 4 and outdated screening criteria contained therein;
- Delegating authority to the Executive Officer to review and approve annual changes to area designations and to provide for a public hearing if requested; and
- Other minor language changes to provide clarification and consistency among the various provisions of the designation criteria.

These changes would amend CCR, title 17, sections 70300, 70301, 70302, 70303, 70303.1, 70303.5, 70304, 70305, 70306, appendices 2 and 3 to sections 70300 through 70306, and deletion of appendix 4 to sections 70300 through 70306.

Area Designations: The ARB conducts a routine annual review of the State area designations. This is done for ten pollutants: ozone, suspended particulate matter (PM10), fine suspended particulate matter (PM2.5), carbon monoxide, nitrogen dioxide, sulfur dioxide, sulfates, lead, hydrogen sulfide, and visibility reducing particles. The area designations comprise CCR, title 17, sections 60200 through 60210. This year's review of the area designations is based on air quality data from 2006 through 2008. The proposed amendments include several updates to existing area designations for ozone, lead, nitrogen dioxide, and PM2.5. This is the first year the new State annual nitrogen dioxide standard is being considered in the area designation process. This new standard became effective March 20, 2008. The change to the nitrogen dioxide designations listed below is primarily due to the addition of this new more health-protective standard. All the recommended changes are summarized below:

Ozone:

- Designate the Sonoma County portion of the North Coast Air Basin as attainment. This area is currently designated as nonattainment.
- Designate the Lake Tahoe Air Basin as nonattainment. This area is currently designated as unclassified.

In addition, there is one change for ozone that occurs by operation of law. Under H&SC section 40925.5, reclassifications between nonattainment and non-attainment transitional status for ozone occur by operation of law. While these changes do not require formal action by the Board, ARB's designation criteria contain guidelines for confirming such changes. Therefore, staff is proposing that the Board confirm the change below and modify the designation regulations to reflect this automatic change.

- Change the designation of Sutter and Yuba Counties in the Sacramento Valley Air Basin to nonattainment-transitional. These counties are currently designated as nonattainment.

Lead (particulate):

- Designate that portion of Los Angeles County within the South Coast Air Basin as nonattainment. This area is currently designated as attainment.

Nitrogen Dioxide:

- Designate the South Coast Air Basin as nonattainment. This area is currently designated as attainment.

PM2.5:

- Designate the Great Basin Valleys Air Basin as attainment. This area is currently designated as unclassified.
- Designate Colusa, Shasta, Sutter, and Yuba Counties in the Sacramento Valley Air Basin as attainment. They are currently designated as unclassified.
- Designate that portion of Placer County within the Sacramento Valley Air Basin as attainment. This area is currently designated as nonattainment.

Area Designation Process: During the annual review of State area designations, ARB staff determines whether changes to the existing area designations are warranted, based on an evaluation of recent air quality data. Any proposed changes to the area designations or criteria are submitted to the Board for adoption after a public hearing. The present amendments also include changes to this process delegating authority to the Executive Officer of the ARB to allow for a public hearing before the Executive

Officer or his or her delegate, and that such a hearing be held if requested pursuant to Government Code section 11346.8(a).

COMPARABLE FEDERAL REGULATIONS

There are no comparable federal or local regulations that address area designations for the California State standards.

AVAILABILITY OF DOCUMENTS AND CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The Staff Report is entitled: "Initial Statement of Reasons for Proposed Rulemaking: Proposed 2010 Amendments to the State Area Designations Criteria, Area Designations, and Maps."

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strike-out format to allow for comparison with the existing regulations, may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on March 25, 2010.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on ARB's website listed below.

Inquires concerning the substance of the proposed regulations may be directed to the designated agency contact persons: Ms. Sylvia Zulawnick, Manager, Particulate Matter Analysis Section, (916) 324-7163, or Ms. Theresa Najita, Air Pollution Specialist, Particulate Matter Analysis Section, at (916) 322-7297.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Ms. Lori Andreoni, Manager, Board Administration and Regulatory Coordination Unit, (916) 322-4011, or Ms. Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB website for this rulemaking at <http://www.arb.ca.gov/regact/2010/area10/area10.htm>.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

The proposed amendments to the area designation regulations do not contain any requirements for action. The area designations are simply labels that describe the healthfulness of the air quality in each area. Because these regulations by themselves contain no requirements for action, they have no direct economic impact, and the following general determinations are appropriate.

The proposed changes to the area designations process requires a public hearing before the Executive Officer or his or her delegate if requested pursuant to Government Code section 11346.8(a). Therefore the cost, if any, associated with this change will be the cost of preparing and submitting the request, which is anticipated to be minimal.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action will not create costs or savings to any state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary savings to state or local agencies.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB is not aware of any significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Executive Officer also has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will not affect small businesses because the proposed regulatory action does not contain any requirements for action. However, if a public hearing is requested, a minimal cost, if any, of preparing and submitting a request to ARB may be incurred.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and comments may be submitted by postal mail or by electronic submittal before the meeting. The public comment period for this regulatory action will begin on February 8, 2010. To be considered by the Board, written comments, not physically submitted at the meeting, must be submitted on or after February 8, 2010, and received **no later than 12:00 noon, March 24, 2010**, and must be addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and other search engines.

The Board requests, but does not require, that 20 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in H&SC sections 39600, 39601, 39607, 39608, and 40925.5; Government Code section 11346.8. This action is proposed to implement, interpret, and make specific H&SC sections 39607, 39608, and 40925.5; Government Code section 11346.8.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with § 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also

adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322-2990.

SPECIAL ACCOMMODATION REQUEST

To request a special accommodation or language needs for any of the following:

- An interpreter to be available at the hearing.
- Have documents available in an alternate format (i.e. Braille, large print) or another language.
- A disability-related reasonable accommodation.

Please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Para solicitar alguna comodidad especial o si por su idioma necesita cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia.
- Documentos disponibles en un formato alternativo (es decir, sistema Braille, letra grande) u otro idioma.
- Una acomodación razonable relacionados con una incapacidad.

Por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de diez (10) días laborales antes del día programado para la audiencia. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

CALIFORNIA AIR RESOURCES BOARD

/s/

James N. Goldstene
Executive Officer

Date: January 26, 2010