

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDING 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 amending the regulations designating areas of California as attainment, nonattainment, nonattainment-transitional, or unclassified for all pollutants for which there are State ambient air quality standards.

DATE: November 16, 2000

TIME: 9:30 a.m.

PLACE: California Air Resources Board
Board Hearing Room, Lower Level
2020 L Street
Sacramento, CA 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:30 a.m., November 16, 2000, and may continue at 8:30 a.m., November 17, 2000. This item may not be considered until November 17, 2000. Please consult the agenda for this meeting, which will be available at least ten days before November 16, 2000, to determine the day on which this item will be considered.

This facility is accessible to persons with disabilities. If accommodation is needed, please contact the ARB's Clerk of the Board at (916) 322-5594, or (800) 700-8326 for Telecommunications Device for the Deaf (TDD) calls from outside the Sacramento area, by November 2, 2000.

INFORMATIVE DIGEST OF PROPOSED ACTION

Section Affected: Proposed amendments to title 17, California Code of Regulations (CCR), section 60201, under section 39608 of the Health and Safety Code (H&SC).

Background: The California Clean Air Act of 1988 (the Act; Stats. 1988, ch. 1568) significantly revised Division 26 of the H&SC. The Act added to the H&SC several requirements concerning district plans and control measures to attain and maintain the State ambient air quality standards (State standards). Section 39607(e) of the H&SC requires the Board to establish and periodically review designation criteria. These criteria provide the basis for designating areas for the State standards cited in CCR, title 17, section 70200. The nine pollutants with State standards for which

designations are made are ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, suspended particulate matter (PM₁₀), sulfates, lead, hydrogen sulfide, and visibility reducing particles. Under H&SC section 39607(e), the Board first established designation criteria at a public hearing in June 1989 (CCR, title 17, sections 70300 through 70306). The Board subsequently amended these criteria in June 1990, May 1992, December 1992, November 1993, November 1995, and September 1998. The criteria specify the data to use, the size of the designated area, and the conditions for determining the appropriate designation category.

Based on the designation criteria, the Board designates areas as attainment, nonattainment, nonattainment-transitional, or unclassified for each of the nine pollutants with State standards set forth in CCR, title 17, section 70200. The nonattainment-transitional designation for ozone is made by operation of law under H&SC section 40925.5(a). Although the nonattainment-transitional designations for ozone are made by operation of law, the Board has adopted guidelines for use in evaluating whether an area satisfies the requirements of H&SC section 40925.5(a). The Board approved the original area designations in June 1989. The H&SC further requires the Board to review the area designations annually and update them as new information becomes available. The area designations comprise CCR, title 17, sections 60200 through 60209.

Staff Proposal: The Board staff proposes to change the area designation for the State ozone standard for three areas, as follows:

Based on air quality data for 1997 through 1999, the staff proposes that Butte, Glenn, and Mono Counties be redesignated from nonattainment-transitional to nonattainment for ozone (CCR, title 17, section 60201). These redesignations occur by operation of law based on data for record for the applicable time period.

The staff is not proposing any changes to the designation criteria this year.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSON

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed action and a summary of the potential environmental and economic impacts of the proposal, if any. The ISOR is entitled, "Proposed Area Designations and Maps" (Release Date: September 29, 2000). Copies of the ISOR and the full text of the proposed regulatory language, in underline and strike-out format, may be obtained from the Board's Public Information Office, 2020 L Street, Sacramento, California 95814, (916) 322-2990. The report can also be obtained from our web site at <http://www.arb.ca.gov/regact/areades/area00/area00.htm>.

To obtain these documents in an alternative format, please contact the Air Resources Board Americans with Disabilities Act Coordinator at (916) 323-4916, TDD

(916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area.

The Board staff has compiled a record that includes all the information upon which the proposal is based. This material is available for inspection upon request to the agency contact person identified below.

Further inquiries regarding this matter should be directed to the agency contact person for this rulemaking, Debora Popejoy, Manager of the Air Quality Analysis Section, Air Quality Data Branch, Planning and Technical Support Division, Air Resources Board, P.O. Box 2815, Sacramento, CA 95812, (916) 323-5123.

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 in reasonable compliance with the proposed amendments are presented below.

The proposed amendments to the area designations by themselves do not contain requirements for action. Subsequent requirements for action may result after additional steps, such as plan preparation and approval, are taken. The area designations are 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 Executive Officer has determined that adoption of the proposed amendments will not create costs or savings, as defined in Government Code section 11346.5(a)(6), 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 under part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or impose other nondiscretionary costs or savings to local agencies.

The Executive Officer also has determined, in accordance with Government Code section 11346.5(a)(8), that adoption of the proposed amendments will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. An assessment of the economic impacts of the proposed amendments can be found in the staff report. Finally, the Executive Officer has determined that there will be no, or insignificant, potential cost impact, as defined in Government Code section 11346.5(a)(9), on private persons or businesses directly affected as a result of adopting the proposed amendments.

In accordance with Government Code section 11346.3, the Executive Officer has determined that adoption of the proposed amendments will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or the

elimination of existing businesses within California, or the expansion of businesses currently doing business within California.

Finally, the Executive Officer has also determined, pursuant to Government Code section 11346.5(a)(3)(B), that the proposed regulatory action will not affect small business, because the area designations are labels that describe the healthfulness of the air quality in each area and changes in these designations contain no requirements for action. Therefore, changes in the area designations have no direct detrimental or beneficial economic impact, including impact on small business.

Before taking final action on the proposed amendments to the regulations, the Board must determine that no alternative considered by the agency 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.

The proposed amendments to the area designations will not have any direct adverse economic impacts because they do not, by themselves, require any regulatory action. The area designations are labels which define the healthfulness of air quality in each area of the State. The proposed amendments would redesignate three areas as nonattainment (from nonattainment-transitional) for the State ozone standard. Redesignating an area as nonattainment may result in the districts implementing control measures previously put on hold because of the prior nonattainment-transitional designation. Therefore, adopting the proposed redesignations ultimately may indirectly benefit public health and welfare. Any potentially adverse impacts on public health and welfare that are identified with respect to specific plans and control measures would be included in the development and consideration of such plans and control measures.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the ARB, written submissions must be addressed to and received by the Clerk of the Board, Air Resources Board, P.O. Box 2815, Sacramento, California 95812, or 2020 L Street, 4th Floor, Sacramento, California 95814, no later than 12:00 noon November 15, 2000, or received by the Clerk of the Board at the hearing. To be considered by the ARB, e-mail submissions must be addressed to area00@listserv.arb.ca.gov and received at the ARB no later than 12:00 noon, November 15, 2000.

The ARB requests, but does not require, 30 copies of any written submission. Also, the ARB requests that written and e-mail statements be filed at least ten days prior to the hearing so that ARB staff and Board Members have time to fully consider

each comment. The ARB encourages members of the public to bring any suggestions for modification of the proposed regulatory action to the attention of staff in advance of the hearing.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in sections 39600, 39601, and 39608 of the H&SC. The amendments to the regulations are proposed to implement, interpret, and make specific sections 39608 and 40925.5 of the H&SC.

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 section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with nonsubstantial 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 the Board's Public Information Office, 2020 "L" Street, Sacramento, CA 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

MICHAEL P. KENNY
EXECUTIVE OFFICER

Date: September 19, 2000