

State of California
AIR RESOURCES BOARD

**Final Statement of Reasons for Rulemaking,
Including Summary of Comments and Agency Responses**

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

Public Hearing Date: March 25, 2010
Agenda Item No.: 10-10-7

I. GENERAL

On March 25, 2010, the Air Resources Board (ARB or Board) conducted a public hearing to consider amendments to the area designation criteria (contained in title 17, California Code of Regulations (CCR), sections 70300 through 70306) and the area designations for State ambient air quality standards (contained in title 17, California Code of Regulations (CCR), sections 60200 through 60210). The Staff Report: Initial Statement of Reasons for Rulemaking, entitled "Proposed 2010 Amendments to the State Area Designations, Criteria, and Maps" (staff report or ISOR), was made available to the public beginning February 4, 2010. The ISOR, which is incorporated by reference herein, contained a description of the rationale for the proposed amendments. On February 3, 2010, all references relied upon and identified in the staff report were made available to the public. The Final Statement of Reasons for Rulemaking, or FSOR, updates the ISOR by summarizing written and oral comments received during the 45-day public comment period.

Following the public hearing on March 25, 2010, the Board, by Resolution 10-17, directed the Executive Officer to make conforming modifications, as appropriate, and take final action to adopt the regulations. No modifications to staff's proposal were made. The Executive Officer thereafter adopted amendments to the area designation criteria regulations and the area designation regulations.

A. Area Designation Criteria Regulations.

The area designation criteria regulations set forth the requirements for making area designations for State ambient air quality standards (State standards). The amendments to the area designation criteria regulations affect title 17, CCR, sections 70300, 70301, 70302, 70303, 70303.1, 70303.5, 70304, 70305, and 70306, and appendices 2 and 3 to sections 70300 through 70306 and deletion of appendix 4 to sections 70300 through 70306. These changes delegate authority to the Executive Officer, or his or her delegate, to review and approve annual changes to the area designations and to provide for a public hearing, if requested. In addition, a provision was added that allows current attainment areas without current monitoring data to remain attainment if emissions have not substantially increased. Appendix 4, containing outdated screening criteria, was removed, along with all references to appendix 4. Other changes to the regulations clarify and provide for consistency among

various existing portions of the designation criteria regulations. None of the adopted amendments change the Board's approach to or way of making the area designations for State standards.

B. Area Designation Regulations.

As part of the same March 25, 2010, action, the Board also addressed amendments to the area designation regulations. These regulations set forth designations of attainment, nonattainment, nonattainment-transitional, and unclassified for each area of the State with respect to the State standards. Health and Safety Code (H&SC) section 39608(c) requires the Board to conduct an annual review of the area designations and update them as warranted. The amendments to the area designation regulations affect title 17, CCR, sections 60201, 60203, 60207, and 60210. Based on data collected during 2006 through 2008, one area was redesignated for nitrogen dioxide, one area for lead (particulate), six areas for fine suspended particulate matter or PM_{2.5}, and two areas for ozone. Yuba and Sutter Counties in the Sacramento Valley Air Basin were also redesignated from ozone nonattainment to nonattainment-transitional. This change took effect by operation of law under the provisions of H&SC section 40925.5. These changes in designations are summarized in Table 1.

Update of Information Contained in the Initial Statement of Reasons (ISOR)

The ISOR was made available to the public on February 4, 2010. No changes were made after its release.

Fiscal Impacts

The Board has determined that this regulatory action will not result in a mandate to any local agency or school district, the costs of which are reimbursable by the State pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code.

The Board has determined that this 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 Board has determined that this 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.

In addition, the Board has determined that there will be no, or an insignificant, potential cost impact, as defined in Government Code section 11346.53(e), on private persons or businesses directly affected resulting from this regulatory action.

Finally, the Board has determined, pursuant to title 1, CCR, section 4, that this regulatory action will not affect small businesses because the proposed regulatory action does not contain any requirements for action.

Consideration of Alternatives

H&SC section 39608 requires the Board to make and to annually review the area designations for State ambient air quality standards. The proposed area designations reflect the most current and complete ambient air quality data, collected during 2006 through 2008. The Board considered the potential alternatives to the proposed amendments, namely the no action alternative. However, based on the available data, the Board found that the proposed amendments are more appropriate than the no action alternative, which would not be consistent with State law. Furthermore, the no action alternative would not serve to inform the public about the healthfulness of air quality.

In summary, the Board determined that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulatory action was proposed or would be as effective and less burdensome to affected private persons than the action taken by the Board.

Modifications to the Original Proposal

There were no modifications to the original proposal. The amended regulations the Board adopted are identical to those initially proposed by the staff and made available in the staff report released on February 4, 2010.

II. SUMMARY OF COMMENTS AND AGENCY RESPONSES

Two comments were received during the 45-day comment period, which began on February 4, 2010, and are listed below. There was no public testimony at the public hearing on March 25, 2010.

<u>Name</u>	<u>Representing</u>
1. Gergans, Nicole	League to Save Lake Tahoe, The
2. Greene, Larry	Sacramento Metropolitan Air Quality Management District

A. COMMENTS RECEIVED PRIOR TO OR AT THE HEARING

1. **Comment:** The League fully supports the staff recommendation to amend the designation of the Lake Tahoe Air Basin for ozone from unclassified to nonattainment. The League believes that the nonattainment designation will assist and hold accountable the responsible agencies in making appropriate plans and decisions to restore ozone concentrations to levels that will no longer be detrimental to the public or ecosystem health

Agency Response: No change required. ARB agrees that the nonattainment designation will assist stakeholders in developing strategies to attain the State ozone standard in the Lake Tahoe Air Basin as expeditiously as possible.

Comment: The League stated that the Lake Tahoe Air Basin has violated the State 8-hour ozone standard since 1975, with the exception of two years (2004 and 2005). The League also believes that the number of ozone exceedances is on the rise, causing impacts to both human health and the environment.

Agency Response: No change required. This comment is not directly relevant to the proposed regulation. However, the ozone air quality in the Lake Tahoe Air Basin is not getting worse; rather the target used to assess compliance has recently become stricter.

The Lake Tahoe Air Basin attained the State ozone standard for thirteen years, from 1992 through 2005. During this time, the applicable State standard was the 1-hour standard of 0.09 ppm. In 2006, a new State 8-hour ozone standard was approved (effective date of May 17, 2006). The 8-hour ozone standard of .070 ppm is more health protective (and therefore more stringent) than the 1-hour ozone standard. As a result, the Lake Tahoe Air Basin now violates the ozone standard, because both ozone standards must be met in order for an area to qualify for attainment.

2. **Comment:** The Sacramento Metropolitan Air Quality Management District (District) supports the PM_{2.5} nonattainment designation for the District but states that the designation value should have been identified as having been impacted by exceptional events, due to the 2008 Northern California Wildfires.

Agency Response: No change required. Although incorporating the impact of the wildfires in the designation process would not have altered the outcome, a more complete notation as to the impact of these fires on air quality in the summer of 2008 would have been informative. ARB further notes that the Sacramento Metropolitan area has shown great strides in lowering PM_{2.5} levels, due to continued implementation of effective emission control program that have resulted in a positive impact on local air quality.

TABLE 1***Amendments to the Area Designations for State Standards***

Adopted by the Air Resources Board on March 25, 2010

<i>POLLUTANT</i>	<i>AREA</i>	<i>DESIGNATION</i>
Nitrogen Dioxide	South Coast Air Basin	Nonattainment
Lead	Los Angeles County (South Coast Air Basin portion)	Nonattainment
PM2.5	Great Basin Valleys Air Basin	Attainment
	Colusa, Placer (portion), Shasta, Sutter, and Yuba Counties (Sacramento Valley Air Basin)	
Ozone	Lake Tahoe Air Basin	Nonattainment
	Sonoma County (North Coast Air Basin portion)	Attainment
	Sutter and Yuba Counties (Sacramento Valley Air Basin)	Nonattainment-Transitional*

* The ozone designation from nonattainment-transitional occurs by operation of law, under the provisions of Health and Safety Code section 40925.5.