

State of California
AIR RESOURCES BOARD

**PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE
CALIFORNIA AIR RESOURCES BOARD'S CERTIFIED REGULATORY PROGRAM
IN THE CALIFORNIA CODE OF REGULATIONS, TITLE 17, SECTIONS 60000-60007**

Resolution 19-13

May 23, 2019

Agenda Item No.: 19-5-1

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the California Air Resources Board (CARB or 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, section 21080.5 of the Public Resources Code authorizes state agencies to develop their own California Environmental Quality Act (CEQA) equivalent regulatory programs and to seek certification of those programs by the California Natural Resources Agency (Resources Agency), and sets forth the statutory requirements for such Resource Agency certification of regulatory programs;

WHEREAS, section 21080.5, subdivision (c) of the Public Resources Code exempts a certified regulatory program from Chapters 3 and 4 of Division 13 of the Public Resources Code, and Section 21167, except as provided in Article 2 of Chapter 4.5 of Division 13 of the Public Resources Code.

WHEREAS, section 15250 of Title 14 of the California Code of Regulations provides that a regulatory program of a state agency shall be certified by the Secretary for Resources as being exempt from the requirements for preparing EIRs, negative declarations, and initial studies if the Secretary finds that the program meets the criteria contained in section 21080.5 of the Public Resources Code;

WHEREAS, staff has worked to develop proposed amendments to CARB's certified regulatory program in the California Code of Regulations, Title 17, Sections 60000-60007, as set forth in Appendix A to the Initial Statement of Reasons released to the public on February 27, 2019; and, in response to comments received since the Initial Statement of Reasons, staff has also developed proposed modified regulatory language, released on May 3, 2019, and set forth in Attachment B to this resolution (collectively referred to as the "proposed amendments");

WHEREAS, section 15251 of Title 14 of the California Code of Regulations lists programs of state regulatory agencies that have been certified by the Secretary for

Resources as meeting the requirements of Section 21080.5, which includes CARB's certified regulatory program;

WHEREAS, in 1978, CARB developed a regulatory program that received certification by the Secretary of the Resources Agency in August 1978;

WHEREAS, CARB amended its certified regulatory program twice since receiving certification, in 1980 and 1981;

WHEREAS, CARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary for Natural Resources under Public Resources Code section 21080.5 of the California Environmental Quality Act (CEQA; California Code of Regulations, title 14, section 15251(d)), and CARB conducts its CEQA review according to this certified program (California Code of Regulations, title 17, sections 60000-60007);

WHEREAS, the CEQA statute and guidelines, have undergone significant legislative and administrative revisions, as well as judicial interpretation, since certification of CARB's regulatory program;

WHEREAS, CARB intends to align its certified regulatory program with established CEQA principles and increase public transparency by more fully setting forth the requirements applicable to CARB environmental analysis;

WHEREAS, on December 7, 2018 and January 16, 2019, CARB held public workshops to gather input on its proposed amendments;

WHEREAS, on January 4, 2019, prior to the January 16, 2019 workshop, CARB released a workshop discussion draft of its proposed amendments;

WHEREAS, CARB released the public notice, the draft regulatory text, and the Initial Statement of Reasons for the proposed amendments on February 27, 2019;

WHEREAS, CARB held a 45-day public review and comment period on the proposed amendments from February 27, 2019 through April 15, 2019;

WHEREAS, CARB received four (4) public comments on its proposed amendments during the 45-day public comment period;

WHEREAS, CARB released 15-day changes to the proposed amendments for public review and comment from May 3, 2019 through May 20, 2019;

WHEREAS, CARB received one comment on its proposed amendments during the 15-day public comment period;

WHEREAS, in accordance with section 21080.5(f) of the Public Resources Code, on March 15, 2019, CARB submitted its proposed amendments to the Secretary of the Resources Agency, including the proposed regulatory text and an explanation regarding how each of the applicable statutory requirements governing certified regulatory programs continues to be met by the proposed changes;

WHEREAS, within the statutory 30-day review period as set forth in section 21080.5(f) of the Public Resources Code, the Secretary for the Resources Agency did not determine that the proposed change would alter the regulatory program so that it no longer meets the qualifications for certification;

WHEREAS, staff has determined that the proposed amendments are exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) ("common sense" exemption) because the record evidence shows with certainty that there is no possibility that the proposed activity may result in a significant adverse impact on the environment, as described in Chapter V of the Staff Report;

WHEREAS, a public hearing and other administrative proceedings have been held according to the provisions of Chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code;

WHEREAS, the Board finds that:

With the proposed amendments, CARB's regulatory program would continue to meet the statutory requirements for a certified regulatory program identified in section 21080.5 of the Public Resources Code;

The proposed amendments were developed in an open public process, in consultation with affected parties, through two public workshops, individual meetings, and other outreach efforts;

No reasonable alternatives to the amendments considered to date, or that have otherwise been identified and brought to the attention of CARB, would be more effective at carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected entities than the proposed regulation;

The proposed amendments are consistent with CARB's environmental justice policies and do not disproportionately impact people of any race, culture, or income; and

The proposed amendments are exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) because substantial evidence in the record shows with certainty that there is no possibility that the proposal may result in a significant adverse impact on the environment.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves for adoption amendments to sections 60000-60007, Title 17, California Code of Regulations, and adoption of sections 60004.1, 60004.2, 60004.3, and 60004.4, as set forth in Attachments A and B.

BE IT FURTHER RESOLVED that if the Executive Officer determines that any additional conforming modifications are appropriate, the Board directs the Executive Officer to make any such additional conforming modifications available for public comment, with any additional supporting documents and information, for a period of at least 15 days. The Executive Officer shall consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days. The Executive Officer may present the regulation to the Board for further consideration if warranted; and if not, the Executive Officer shall take final action to adopt the regulation after addressing all appropriate modifications.

BE IT FURTHER RESOLVED that if there is a possibility that any modifications to the regulation made available for one or more 15 day public comment periods may affect the conclusion of the environmental analysis, the Executive Officer shall prepare and circulate any additional environmental analysis to the extent required by CARB's regulations at California Code of Regulations, title 17, sections 60000-60007, and prepare written responses to any comments received raising significant environmental issues as necessary, to present to the Board for approval along with the final regulation.

BE IT FURTHER RESOLVED that the Executive Officer shall, upon adoption, forward the finalized regulations to the Natural Resources Agency for informational purposes.

I hereby certify that the above is a true and correct copy of Resolution 19-13 as adopted by the California Air Resources Board.



Cristina Granados, Clerk of the Board

Resolution 19-13

May 23, 2019

Identification of Attachments to the Board Resolution

- Attachment A*:** Proposed Amendments to the California Air Resources Board's Certified Regulatory Program in the California Code Of Regulations, Title 17, Sections 60000-60007, as set forth in Appendix A to the Initial Statement of Reasons, released February 27, 2019.
- Attachment B*:** Modifications to the Proposed Amendments to the California Air Resources Board's Certified Regulatory Program in the California Code Of Regulations, Title 17, Sections 60000-60007, as set forth in Attachment A to the Notice of Public Availability of Modified Text, released May 3, 2019.

***Attachment A and B are NOT attached to the proposed resolution; they are simply described on this page.**