

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

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

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider adoption of amendments to the regulations establishing designation criteria, and to the regulations 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.

DATE: January 22, 2004

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
1001 "I" Street
Auditorium, Second Floor
Sacramento, CA 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., January 22, 2004 and may continue at 8:30 a.m., January 23, 2004. This item may not be considered until January 23, 2004. Please consult the agenda for the meeting, which will be available at least 10 days before January 22, 2004, to determine the order in which the scheduled items will be considered.

This facility is accessible to persons with disabilities. If you have special accommodation or language needs, please contact ARB's Clerk of the Board at (916) 322-5594, or sdorias@arb.ca.gov as soon as possible. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to sections 60200, 60201, 60202, and 60206; adoption of new section 60210; amendments to sections 70302, 70303, 70303.1, 70303.5, and 70304, and appendices 1, 2, and 3 to sections 70300 through 70306, title 17, California Code of Regulations (CCR).

Background: Pursuant to section 39606 of the Health and Safety Code (H&SC), the Board is charged with the responsibility to adopt standards of ambient air quality for each air basin in consideration of the public health, safety and welfare. The Board has

adopted State ambient air quality standards (State Standards) for ten pollutants, set forth in section 70200, title 17, CCR. The California Clean Air Act in H&SC section 39607(e) also requires the Board to establish and periodically review designation criteria. These criteria provide the basis for designating areas of California as attainment, nonattainment, nonattainment-transitional, or unclassified with respect to the State standards.

Under H&SC section 39607(e), the Board first established designation criteria at a public hearing in June 1989 (sections 70300 through 70306, and appendices 1 through 4, thereof, title 17, CCR). The Board has amended these designation criteria several times since then, most recently in 1998. State law further requires the ARB to establish and annually review the area designations for State standards. During the annual review, ARB determines whether changes to the existing area designations are warranted, based on an evaluation of recent air quality data.

In past years, the ARB has made area designations for nine pollutants: ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, suspended particulate matter (PM10), sulfates, lead, hydrogen sulfide, and visibility reducing particles. This year marks the first time the ARB will be making area designations for the new State PM2.5 standard that the Board adopted in June 2002. In addition, this year's designations also incorporate changes made to the State annual PM10 standard, as well as the State sulfates standard.

The State PM2.5 standard is 12 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), measured as an annual arithmetic mean. When the Board adopted the PM2.5 standard, they also made modifications to the existing State annual PM10 standard. The Board lowered the existing State annual PM10 standard from $30 \mu\text{g}/\text{m}^3$ to $20 \mu\text{g}/\text{m}^3$. At that time the Board also revised the averaging method (from an annual geometric mean to an annual arithmetic mean) as well as the measurement method for determination of attainment of the 24-hour sulfates standard. The Board changed the measurement method for the State sulfates standard. The old sulfates method was based on total suspended particulate matter (TSP) measurements, while the new method is based on PM10 measurements. All of these changes became effective on July 5, 2003.

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 and specific requirements applicable to the nonattainment-transitional designation category for ozone specified in H&SC section 40925.5(a), the Board designates areas as attainment, nonattainment, nonattainment-transitional or unclassified for each of the ten pollutants with State standards set forth in section 70200, title 17, CCR.

Based upon review of the designation criteria, the ARB staff is proposing several changes to these criteria. The primary change concerns the new PM2.5 standard. When ARB adopted the State PM2.5 standard, it was included in section 70200, title 17, CCR. Because the designation criteria apply to all pollutants with standards specified in

section 70200, title 17, CCR, PM2.5 is already included among the pollutants for which the ARB makes area designations. However, the designation criteria do not specify any default geographic area for the PM2.5 designations. There are two options under the designation criteria: air basin or county. The ARB staff is proposing to add PM2.5 to the list of pollutants that are designated by air basin. Similar to ozone and PM10, PM2.5 is a regional pollutant that can impact a large area. However, similar to other pollutants, the designation criteria allow the Board to designate a smaller area, if justified. In several areas of the State, ARB staff is proposing PM2.5 designations for areas smaller than an air basin.

The ARB staff is also proposing several other minor changes to the designation criteria. These amendments would not change the way in which the Board makes the area designations for State standards. These changes include: (1) clarifying how ozone nonattainment-transitional designations are applied to air districts that span more than one air basin, (2) adding additional language to clarify the data representativeness and data completeness requirements, and (3) minor language changes to provide clarification and consistency among the various provisions of the designation criteria. These changes would amend sections 70302, 70303, 70303.1, 70303.5, and 70304, and appendices 1, 2, and 3 to sections 70300 through 70306, title 17, CCR.

Area Designations: Based on the designation criteria, H&SC section 39608 requires the Board to designate areas of California for State standards and to update these designations annually. The area designations comprise sections 60200 through 60209, title 17, CCR. This year's review of the area designations is based on air quality data from 2000 through 2002. The amendments include new area designations for PM2.5, which are proposed to be included in a new section 60210, as well as changes to the existing area designations for several areas for ozone, carbon monoxide, and sulfates. Note that although the Board modified the State annual PM10 standard, a review of the air quality data indicated no change to the existing State PM10 area designations was necessary. In addition to the area designation changes, the staff proposes amending section 60200, title 17, CCR, which contains descriptions of non-county areas that are designated. The proposed changes would update the area boundary description for the city of Calexico and add new area boundary descriptions for Central San Bernardino County (consistent with the San Bernardino County portion of the federal Southeast Desert Modified AQMA for ozone) and the Portola Valley area of Plumas County.

PM2.5:

Based on a review of 2000 through 2002 area quality data, staff proposes the following designations for the State PM2.5 standard. Since this is the first year for these area designations, they would be included in a new section 60210:

- ◆ *Attainment:* Lake County Air Basin
- ◆ *Nonattainment:* San Diego Air Basin, San Francisco Bay Area Air Basin, San Joaquin Valley Air Basin, South Coast Air Basin, a portion of Sacramento Valley Air Basin (Butte and Sacramento counties and the portion of Placer County within

the air basin), a portion of Imperial County (the city of Calexico), Ventura County, Central San Bernardino County (consistent with the San Bernardino County portion of the federal Southeast Desert Modified AQMA for ozone), and the Portola Valley area of Plumas County.

- ◆ *Unclassified*: remaining areas of the State based on a review of 2000 through 2002 air quality, the staff proposes the following changes to the existing area designations for ozone, carbon monoxide and sulfates:

Ozone:

- ◆ Designate San Luis Obispo County and the portion of Sonoma County in the North Coast Air Basin as attainment. These areas are currently designated as nonattainment-transitional.
- ◆ Designate Butte County and the North Central Coast Air Basin as nonattainment. These areas are currently designated as nonattainment-transitional. These designations occur by operation of law, based on data for record for the applicable time period.
- ◆ Designate Colusa County as nonattainment-transitional. The County is currently designated as nonattainment. This change occurs by operation of law, based on data for record for the applicable time period.

Carbon Monoxide:

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

Sulfates:

- ◆ Designate the San Bernardino County portion of the Searles Valley Planning Area as attainment. This area is currently designated as nonattainment.

COMPARABLE FEDERAL REGULATIONS

The proposed changes are amendments to existing State regulations. There are no comparable federal or local regulations.

AVAILABILITY OF DOCUMENTS AND CONTACT PERSONS

The ARB staff has prepared a Staff Report for the proposed regulatory action. This "Initial Statement of Reasons" (ISOR), includes a summary of the potential environmental and economic impacts of the proposal, environmental justice considerations, and supporting technical documentation. The Staff Report is entitled: "Initial Statement of Reasons for Proposed Rulemaking: Proposed Amendments to the Area Designation Criteria and Area Designations for State Ambient Air Quality Standards and Maps of Area Designations for State and National Ambient Air Quality Standards."

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 the ARB's web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 "I" Street, Visitors and Environmental Services Center, First Floor, Sacramento, CA 95814, (916) 322-2990, at least 45 days prior to our scheduled January 22, 2004, hearing.

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 the web site listed below.

Inquires concerning the substance of the proposed regulations may be directed to the designated agency contact persons: Ms. Marcella Nystrom, Staff Air Pollution Specialist at (916) 323-8543 or via email at mnystrom@arb.ca.gov, or Ms. Gayle Sweigert, Manager, Air Quality Analysis Section, Planning and Technical Support Division, (916) 322-6923 or via email at gsweiger@arb.ca.gov.

Further, the agency representative and designated back-up contact persons to whom non-substantive inquiries concerning the proposed administrative action may be directed are Ms. Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or Ms. Alexa Malik, Regulations Coordinator, (916) 322-4011. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. The material is available for inspection upon request to the contact persons.

If you are a person with disability and desire to obtain this document in an alternative format, please contact the ARB's Clerk of the Board at (916) 322-5594, or sdorias@arb.ca.gov as soon as possible. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at www.arb.ca.gov/regact/area04/area04.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 amendments are presented below.

The proposed amendments to the designation criteria and area designation regulations do not contain any requirements for action. Subsequent requirements for action may result after additional steps, such as plan preparation and approval, are taken. The designation criteria provide the basis for determining the appropriate area designations

for State standards, and 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.

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 under 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, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB is not aware of any 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 Staff Report (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.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of 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.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by email before the hearing. To be considered by the Board,

written submissions not physically submitted at the hearing must be received no later than 12:00 noon, January 21, 2004, and addressed to the following:
Postal Mail is to be sent to:

Clerk of the Board
Air Resources Board
1001 "I" Street, 23rd Floor
Sacramento, California 95814

Electronic mail is to be sent to area04@listserv.arb.ca.gov and received at the ARB no later than 12:00 noon, January 21, 2004.

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB no later than 12:00 noon, January 21, 2004.

The Board requests, but does not require, that 30 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 ARB 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 authority granted in Health and Safety Code sections 39600, 39601, 39606, 39607, 39608, and 40925.5. The amendments to the regulations are proposed to implement, interpret, and make specific sections 39606, 39607, 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 nonsubstantive 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 ARB's Public Information Office, Air Resources Board, 1001 "I" Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

/s/

Catherine Witherspoon
Executive Officer

Date: November 25, 2003

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs see our Web site at www.arb.ca.gov.