

## TITLE 17. CALIFORNIA AIR RESOURCES BOARD

### NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF A STATEWIDE METHODOLOGY TO CALCULATE THE VALUE OF INTERCHANGEABLE EMISSION REDUCTION CREDITS

The Air Resources Board (the "Board" or "ARB") will conduct a public hearing at the time and place noted below to consider adoption of regulations to facilitate the interchangeable use of emission reduction credits as a compliance alternative for meeting specified control requirements of air pollution control and air quality management districts (districts).

DATE: May 22, 1997  
TIME: 9:30 a.m.  
PLACE: Air Resources Board  
Board Hearing Room  
2020 L Street  
Sacramento, California

This item will be considered at a two-day meeting of the Board commencing at 9:30 a.m., May 22, 1997, and may continue at 8:30 a.m., May 23, 1997, if necessary. This item may not be considered until May 23, 1997. Please consult the agenda for this meeting, which will be available at least ten days before May 22, 1997, to determine the day on which this item will be considered.

#### INFORMATIVE DIGEST OF PROPOSED ACTION AND PLAIN ENGLISH POLICY STATEMENT OVERVIEW

**Proposed Actions and Sections Affected:** Proposed regulation to be set forth in new Subchapter 5.5 of Chapter 1, Division 3 of Title 17, California Code of Regulations (CCR), sections 91500 through 91508.

**Background:** In 1995, the State Legislature enacted AB 1777, Brewer, Statutes of 1995, Chapter 805. This statute is now codified in California Health and Safety Code (H&SC) sections 39607.5 and 39617. As set forth in section 39607.5, the Air Resources Board (ARB) is required to develop and adopt a methodology for use by districts to calculate the value of stationary, mobile and area source credits when those credits are used to meet specified district regulatory requirements. The statute specifies a number of criteria which the methodology must meet, and directs the ARB to consider factors related to the interchangeability, generation, and use of the credits.

The first criterion in the statute requires the ARB to ensure that the methodology results in the maintenance and improvement of air quality consistent with the requirements of the Health & Safety Code. ARB is also required to ensure that any credit calculation

methodology does not result in the double-counting of emissions. Finally, the statute requires the ARB to consider credit life, banking, and overall trading viability when developing its methodology. Once adopted, the proposed regulation will serve as the general framework for interchangeable credit trading programs developed and implemented by districts.

### **Summary of Proposed Rule:**

The proposed regulation establishes a uniform trading unit and exchange mechanism for stationary, mobile and area source credits. The proposed regulation also establishes a regulatory framework based upon applicable State and federal requirements related to credit generation and use.

The purpose of the proposed regulation is to facilitate the use of emission credits as a compliance alternative for meeting district control requirements, consistent with district plans to achieve and maintain State and federal ambient air quality standards (district air quality plans).

Under a compliance-based trading program, a facility or source that voluntarily lowers its emissions to a greater extent than required under applicable rules or regulations could earn a credit equal to the “surplus” emissions reduced. That credit could be used or sold to another source for use as an alternative means of compliance with applicable rules and regulations.

The proposed regulation contains the following features:

- A uniform credit currency to standardize and facilitate credit exchange in a trading market (i.e., pounds of a pollutant generated in a specific year).
- General requirements and criteria that districts must meet in calculating, certifying, banking, and authorizing the use of credits to ensure that credits are granted only for emission reductions that are real, properly quantified, permanent, enforceable, and surplus to applicable federal and state requirements and district air quality plans. The proposed regulation allows districts to maintain a separate pool of credits not affected by the proposed regulation to ensure that new industrial growth can be accommodated within existing State and federal new source review permit requirements.
- Annual performance audits by districts to ensure that implementation of trading programs continues to comply with applicable State and federal requirements.

### Credit Exchange Function

The proposed regulation establishes a uniform currency, expressed in pounds of pollutant in the year generated. Districts would certify and register interchangeable credits in a district emissions bank prior to use. While banked, a credit would retain its full value. At the time of use credits would be subject to prevailing federal, state and district requirements. Credits could be used within the time period specified by districts, consistent with air quality plans and State and federal requirements.

### Criteria and Methodologies for Credit Generation and Use

The proposed regulation establishes requirements that districts must meet when they develop rules governing the generation and use of interchangeable credits. The requirements are intended to ensure the validity of certified credits and to protect the integrity of air quality plans, so that progress toward achieving clean air is not compromised. The key principle established by the regulation is that of equivalency; that is, the interchangeable use of credits must not result in greater emissions than would otherwise have occurred. This assessment of equivalency must take into account the seasonal nature of each air pollutant traded for compliance purposes.

To ensure that only valid credits are certified, districts must adopt calculation protocols based on criteria specified in the regulation. Consistent with state and federal law, emission reductions used to generate interchangeable credits must be real, permanent, enforceable, surplus, and quantifiable. Emission reductions must also be calculated using the most stringent of historic actual emissions, applicable local, state, or federal requirements, the district's air quality plan, or the federally approved State Implementation Plan. The regulation requires that district calculation protocols include specific technical elements that address emission factors, emission rates, operating parameters, emission certification standards, emission baselines in air quality plans, and other technical information. These requirements for calculation protocols should provide for the information necessary to determine that emission reductions meet the established criteria--real, permanent for the term of credit generation, enforceable, surplus, and quantifiable.

### Program Reporting Requirements

Finally, the proposed regulation would require districts that adopt and implement an interchangeable credit trading program to prepare an annual report that describes the quantity of credits that were generated and how these credits were used. The report would also identify any changes to the interchangeable credit trading program.

## AVAILABILITY OF DOCUMENTS AND CONTACT PERSON

The ARB has determined that it is not feasible to draft the regulations in plain English due to the technical nature of the regulations; however a non-controlling plain English summary of the regulations is contained in the Initial Statement of Reasons (ISOR), in the discussion of the proposed regulation, and is available from the contact person named in this notice. The ISOR, the full text of the proposed regulatory language, and a discussion of the potential environmental impacts of the proposal may be obtained from the Air Resources Board, Public Information Office, 2020 L Street, Sacramento, California 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing. The ARB staff has compiled a record which includes all information upon which the proposal is based. Copies of the documents may be obtained through the Air Resources Board, Public Information Office, 2020 L Street, Sacramento, California 95814.

Further inquiries regarding this matter should be directed to Lucille van Ommering, Staff Air Pollution Specialist, Office of Air Quality and Transportation Planning, P.O. Box 2815, Sacramento, California 95812, (916) 323-0296.

## COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The ARB's Executive Officer has determined that the proposed regulatory action 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 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 nondiscretionary savings to local agencies. The ARB's Executive Officer has also determined that the proposed regulatory action will create costs or savings, as defined in Government Code section 11346.5(a)(6), to local agencies (air pollution control districts) whether or not reimbursable by the State pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code. However, in this case, such administrative costs are recoverable by fees that are within an air pollution control/air quality management district's authority to assess.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on private persons and businesses. The Executive Officer has determined that the proposed regulatory action will not have a significant adverse economic impact on businesses, or on directly-affected private persons. In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action should have a positive impact on the creation or elimination of jobs within the State of California, positive impacts on the creation of new businesses or elimination of existing businesses within California, and positive impacts on the expansion of businesses currently doing business within California. The Executive

Officer has also determined that the proposed action will not directly affect the ability of California businesses to compete with businesses in other states. Businesses, including small businesses, that participate in a district trading program that complies with the proposed State regulation would do so voluntarily and are expected to experience cost savings. Therefore, the Executive Officer has determined, pursuant to Government Code section 11346.5(a)(3)(B), that the regulation will affect small businesses. An assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report/Initial Statement of Reasons.

Before taking final action on the proposed regulatory action, 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.

#### SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing. To be considered by the Board, written submissions must be addressed to and received by the Clerk of the Board, Air Resources Board, P.O. Box 2815, Sacramento, California 95812, no later than 12:00 noon, May 21, 1997, or received by the Clerk of the Board at the hearing.

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 ten days prior to the hearing. 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 HEARING PROCEDURES

Adoption of the Interchangeable Air Pollution Emission Reduction Credits regulation is proposed under the authority granted to ARB in sections 39600, 39601, and 39607.5 of the Health and Safety Code. The purpose of the Interchangeable Air Pollution Emission Reduction Credits regulation is to implement, interpret, and make specific sections 39607.5, 40001(d), 40709 through 40714.5, and 40920.6(c) and (d) of the Health & Safety Code.

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 ARB may adopt the regulatory language as originally proposed, or with nonsubstantive or grammatical modifications. The ARB 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 the event that such modifications are made, 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 Air Resources Board Public Information Office, 2020 L Street, Sacramento, California 95814, (916) 322-2990.

This is a statewide regulation. Once adopted by the Board, and approved by the Office of Administrative Law, the regulation will be applicable to all air pollution control districts or air quality management districts who have programs that allow the use of interchangeable credits to meet specified district requirements.

CALIFORNIA AIR RESOURCES BOARD

Michael P. Kenny  
Executive Officer

Date: