

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF A REGULATORY AMENDMENT IDENTIFYING INORGANIC LEAD AS A TOXIC AIR CONTAMINANT

The Air Resources Board (ARB) will conduct a public hearing at the time and place noted below to consider the adoption of a regulatory amendment identifying inorganic lead as a toxic air contaminant (TAC). In addition to identifying inorganic lead as a TAC, the proposed regulatory amendment specifies that there is not sufficient available scientific evidence to support the designation of a threshold exposure level below which no significant adverse health effects are anticipated.

DATE: April 24, 1997

TIME: 9:30 a.m.

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

This item will be considered at a two-day meeting of the ARB, which will commence at 9:30 a.m., April 24, 1997, and may continue at 8:30 a.m., April 25, 1997. This item may not be considered until April 25, 1997. Please consult the agenda for the meeting, which will be available at least 10 days before April 25, 1997, to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION AND PLAIN ENGLISH POLICY STATEMENT OVERVIEW

Section Affected: section 93000, Title 17, California Code of Regulations.

Background

Assembly Bill 1807 (Stats. 1983, ch. 1047; Health and Safety Code section 39650 et seq., Food and Agriculture Code section 14021 et seq.) sets forth procedures for the identification and control of toxic air contaminants in California. In accordance with those procedures, staff is proposing that the ARB amend section 93000 of Title 17, California Code of Regulations, by adding inorganic lead to the list of toxic air contaminants with no identified threshold exposure level below which no significant adverse health effects are anticipated.

In accordance with Health and Safety Code sections 39660 and 39661, the Office of Environmental Health Hazard Assessment (OEHHA) staff has prepared an evaluation of the health effects of inorganic lead and the ARB staff has prepared a report on inorganic lead which

includes the OEHHA health effects evaluation. The OEHHA staff found that at relatively low air lead concentrations, the adverse health effects that may occur are neurodevelopmental effects in children, increased blood pressure and related cardiovascular conditions in adults, and cancer. The neurodevelopmental effects are of greatest public health significance since a large number of children could be affected, no threshold has been clearly identified, and the effects may be irreversible. The OEHHA staff also found that there was no sufficient scientific evidence to support the identification of an exposure level below which carcinogenic and non-carcinogenic effects would not have some probability of occurring and recommended that inorganic lead be treated as having no identified threshold.

The Scientific Review Panel (SRP), established pursuant to Health and Safety Code section 39670, has reviewed the report, and has submitted written findings to the ARB, in accordance with Health and Safety Code section 39661. The SRP found the report on inorganic lead to be without serious deficiency. The SRP agreed with the ARB staff recommendation that inorganic lead be listed by the ARB as a TAC. The SRP also found that, based on available scientific information, a level of inorganic lead exposure below which no carcinogenic and non-carcinogenic effects are anticipated cannot be identified.

Description of Proposed Regulatory Action

In accordance with Health and Safety Code section 39662, the ARB staff prepared a proposed regulation identifying inorganic lead as a TAC with no identified threshold exposure level. No control measures for inorganic lead are proposed for adoption at this hearing. If inorganic lead is listed as a TAC, a report on the need for, and appropriate degree of, control measures to reduce inorganic lead emissions will be developed in a full open public process and in accordance with Health and Safety Code section 39665 and 39666.

Comparable Federal Regulations

Lead compounds have been identified as hazardous air pollutants (HAP) in section 112 of the Clean Air Act (section 7412 of Title 42 of the United States Code) and are subject to control by the U.S. Environmental Protection Agency. On April 8, 1993, the ARB identified, by regulation, the 189 HAPs as TACs as required by Assembly Bill 2728 (AB 2728, Tanner, stats. 1992, ch. 1161). However, the federal HAPs list does not include elemental lead in the definition of lead compounds. Elemental lead is included in the ARB/OEHHA definition of inorganic lead and is therefore being considered for identification in accordance with Health and Safety Code section 39662.

AVAILABILITY OF DOCUMENTS AND CONTACT PERSON

The ARB staff, with the participation of the OEHHA staff, has prepared a Staff Report which serves as the Initial Statement of Reasons (ISOR) for this proposal. The Staff Report summarizes the basis for the proposed regulation, the environmental and economic impacts of

the proposal, and the findings of the SRP. The Technical Support Document reviewed by the SRP is referenced in the Staff Report. The Technical Support Document consists of Part A, Exposure Assessment, prepared by the ARB staff; Part B, Health Assessment, prepared by the OEHHA staff; and Part C, Staff Responses to Comments, prepared by the ARB and OEHHA staff. Copies of the Staff Report, Technical Support Document, the full text of the proposed regulation, and any other information on which the proposal is based, will be available and may be obtained at the ARB's Public Information Office, 2020 L Street, Sacramento, California 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing. The Staff Report or the ISOR contains the full text of the proposed action. The staff has also compiled a record which includes all information upon which the proposal is based. This material is available for inspection upon request to the contact person identified immediately below. The ARB has determined that it is not feasible to draft the regulation in plain English due to the technical nature of the regulation; however a plain English summary of the regulation is available from the agency contact person named in this notice, and is also contained in the ISOR for this regulatory action.

Further inquiries regarding this matter should be directed to Jacqueline Johnson, Air Pollution Specialist, Substance Evaluation Section, Air Quality Measures Branch, Stationary Source Division, at (916) 323-1077.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determination of the Board's Executive Officer concerning the costs or savings necessarily incurred in reasonable compliance with the proposed regulatory action are presented below.

The ARB's Executive Officer has determined that the regulation will not create cost 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 pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code; or any other nondiscretionary savings to local agencies.

The ARB finds that the identification of inorganic lead as a TAC will not require any private person or business, including any small business, to incur any cost in reasonable compliance with the proposed action. If, and when, the need and appropriate degree of control for inorganic lead are considered by the ARB during the risk management process, all costs of compliance will be described and considered.

The recommended OEHHA cancer risk number for inorganic lead is approximately seven times lower and, therefore, less stringent than the cancer risk number that has been used historically by the local air pollution control districts and the California Environmental Protection Agency for cancer risk assessments. The ARB does not anticipate any adverse economic impacts on small businesses. For noncancer risks, the ARB and the OEHHA staff propose to develop, in a full open public process, further risk management guidance in this area.

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, including the ability of California businesses to compete with businesses in other states, or on directly-affected private persons. In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed amendments should have minor or no impacts on the creation or elimination of jobs within the State of California, minor or no impacts on the creation of new businesses and the elimination of existing business within the State of California, and minor or no impacts on the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed amendments can be found in the ISOR.

The Board's Executive Officer has also determined, pursuant to Government Code section 11346.5(a)(3)(B), that the regulation will not affect small business because this action will have no regulatory effect on business.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing. To be considered by the ARB, written comments must be addressed to and received by the Clerk of the Board, Air Resources Board, P.O. Box 2815, Sacramento, CA 95812 or 2020 L Street, 5th Floor, Sacramento, CA 95814, no later than 12:00 noon April 23, 1997, or received by the Clerk of the Board at the hearing.

The ARB requests, but does not require, that 20 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing. 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.

Before taking final action on the proposed regulatory action the ARB , 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 or businesses that the proposed action.

STATUTORY AUTHORITY AND HEARING PROCEDURES

This regulatory amendment is proposed under the authority granted in sections 39600, 39601, and 39662 of the Health and Safety code. This action is proposed to implement, interpret, or make specific, sections 39650, 39660, 39661 and 39662 of the Health and 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, section 11340 et seq. of the Government Code. Following the public hearing, the ARB may adopt the regulatory language as originally

proposed or with nonsubstantial or grammatical modifications. The ARB may also adopt the

proposed regulatory language with other modifications if the modifications are 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 ARB's Public Information Office, 2020 L Street, Sacramento, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Michael P. Kenny
Executive Officer

Date: