

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE ASSESSMENT OF THE IMPACTS OF TRANSPORTED POLLUTANTS ON OZONE CONCENTRATIONS IN CALIFORNIA

The Air Resources Board (Board or ARB) will conduct a public hearing at the time and place noted below to consider amendments to the regulations identifying downwind areas affected by the transport of ozone and/or ozone precursors and the upwind areas which are the sources of the pollution.

DATE: April 26, 2001

TIME: 9:00 a.m.

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

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., April 26, 2001, and may continue at 8:30 a.m., April 27, 2001. This item may not be considered until April 27, 2001. Please consult the agenda for this meeting, which will be available at least 10 days before April 26, 2001, to determine the day on which this item will be considered.

This facility is accessible to persons with disabilities. If accommodation is needed, please contact the ARB's Clerk of the Board at (916) 322-5594, or TDD (916) 324-9531 or (800) 700-8326 for TDD calls from outside the Sacramento area, by April 12, 2001 to ensure accommodation.

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to title 17, California Code of Regulations (CCR), sections 70500 and 70600, pursuant to section 39610(b) of the Health and Safety Code.

Background: The California Clean Air Act of 1988 (the Act), in Health and Safety Code section 39610(b), directs the Board to identify downwind areas affected by transported pollutants and the upwind air basins or regions which are the sources of the pollutants. The Act also requires the Board to assess the relative contributions of the upwind emissions to downwind exceedances of the State ambient air quality standard for ozone as "overwhelming," "significant," "inconsequential," or some combination thereof, to the extent permitted by available data. Section 40912 of the

Health and Safety Code requires air districts responsible for transport to provide for attainment and maintenance of state and federal ambient air quality standards in both the upwind and downwind districts to the extent of the pollution contribution.

The assessments establish ozone transport couples, which are air basins or air pollution control districts from which transported pollution originates and in which transported ozone and ozone precursors affect air quality. The assessments are a preliminary step in determining appropriate mitigation requirements. The Board approved the first assessment in August 1990, with updates in August 1993 and November 1996. This report is the third update to the original assessments of August 1990.

This update includes assessments of established transport couples where new information is available and updates are warranted. It also establishes new transport couples based upon new data.

Staff Proposal: There are several areas where the Board's staff recommends changes to the assessments. First, the staff proposes to reinstate the "inconsequential" transport classification from the Broader Sacramento Area to the Upper Sacramento Valley. This means that on some days, local emissions from the Upper Sacramento Valley are responsible for exceedances in the Upper Sacramento Valley.

Second, the staff proposes to identify the San Francisco Bay Area Air Basin as "overwhelming" the northern Sonoma County portion of the North Coast Air Basin. This assessment was done because in November of 1999 the Board redesignated the Northern Sonoma district from attainment to nonattainment of the State ambient air quality standard for ozone. All violations of the State standards for 1996 through 1998 were determined to be caused by transport from the San Francisco Bay Area Air Basin. Based on available data, the staff does not believe that the emissions in northern Sonoma County are sufficient to cause ozone violations.

Third, the staff proposes to identify the San Francisco Bay Area Air Basin as an upwind contributor to ozone violations in San Luis Obispo County in the South Central Coast Air Basin. The staff has determined that emissions from the San Francisco Bay Area Air Basin, in combination with the emissions from the San Joaquin Valley Air Basin, collectively can overwhelm San Luis Obispo County. The data are not sufficient to quantify the contribution from the two upwind areas. Therefore, the staff recommends that the San Francisco Bay Area Air Basin and the San Joaquin Valley Air Basin are individually responsible for significant transport impacts to San Luis Obispo County.

In the Staff Report, the staff references the Board's 1990, 1993, and 1996 transport documents for historical perspective on transport couple identification, assessment, and mitigation developments. The staff does not recommend amending the transport mitigation requirements at this public hearing.

COMPARABLE FEDERAL REGULATIONS

There are no comparable federal regulations.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the potential environmental and economic impacts of the proposal, if any. The Staff Report is entitled, "Assessment of the Impacts of Transported Pollutants on Ozone Concentrations in California."

Copies of the Staff Report 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 obtained from the Public Information Office, Air Resources Board, 1001 I Street, 1st Floor, Sacramento, CA 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing (April 26, 2001).

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.

Inquiries concerning the proposed administrative action or substance of the proposed regulations may be directed to the designated agency contact persons, Debora Popejoy, Manager of the Air Quality Analysis Section, Air Quality Data Branch, Planning and Technical Support Division at (916) 323-5123, or Steve Gouze at (916) 323-6627.

Further, the agency representative and designated back-up contact persons to whom inquiries concerning the proposed administration action may be directed are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

If you are a person with a disability and desire to obtain this document in an alternative format, please contact the Air Resources Board ADA Coordinator at (916) 323-4916, or TDD (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area.

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 <http://www.arb.ca.gov/regact/trans01/trans01.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 in reasonable compliance with the proposed amendment are presented below.

The proposed amendments to the transport assessments by themselves do not contain requirements for action. Subsequent requirements for action may result after additional steps, such as plan preparation by the air districts and review by the ARB, are undertaken. Because these regulations by themselves contain no requirements for action, they have no direct economic impact, and the following general determinations are appropriate.

The Executive Officer has determined that adoption of the proposed amendments 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 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 other nondiscretionary costs or savings imposed upon local agencies.

The classification of "overwhelming" transport impact from the San Francisco Bay Area Air Basin to the northern Sonoma County portion of the North Coast Air Basin could result in costs to, and impose a mandate upon, the San Francisco Bay Area Air Basin, as an upwind area, but only after additional regulatory actions are taken. The Bay Area Air Quality Management District (Bay Area District), which is responsible for the San Francisco Bay Area Air Basin, may need to adopt additional control measures to mitigate the impact of their emissions within the Bay Area District and on downwind areas. The Bay Area District is already responsible for contributing to attainment in several downwind areas pursuant to section 40912 of the Health and Safety Code. As part of the attainment demonstrations anticipated in 2003, the Bay Area District plan will need to quantify the emission reductions needed to achieve attainment in the Bay Area itself and for all of the downwind areas for which it is responsible. Resulting control measures will be proposed as part of the Bay Area District air quality attainment plan for ozone under the California Clean Air Act, and will be adopted by the district pursuant to normal regulatory notice, hearing, and adoption procedures (see Health and Safety Code sections 40725-40728.5).

Additionally, the San Francisco Bay Area Air Basin and the San Joaquin Valley Air Basin are already required to mandate best available retrofit control technology for existing sources of air pollution in their districts pursuant to existing transport mitigation requirements because they are already identified as upwind areas.

Even if the amendments will impose a mandate upon, and create costs to, the air districts responsible for transport, reimbursements from the State to the districts are not required pursuant to Government Code sections 17500 et. seq., and section 6 of

article XIII B of the California Constitution because the districts have the authority to levy fees sufficient to pay for the mandated program upon permitted stationary sources which emit the pollutants (see Health and Safety Code section 42311).

The Executive Officer also has initially determined, in accordance with Government Code section 11346.5(a)(8), that adoption of the proposed amendments 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.

Furthermore, pursuant to Government Code section 11346.5(a)(9), the Executive Officer is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

In accordance with Government Code section 11346.5(a)(10), the Executive Officer has determined that adoption of the proposed amendments will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing businesses within California, or the expansion of businesses currently doing business within California.

Finally, the Executive Officer has also determined that the proposed regulatory action will not affect small business because the mitigation requirements have not changed, and there are no additional requirements as a result of the proposed amendments to the assessment.

Before taking final action on the proposed amendments to the regulations, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board 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. Since this action is based on scientific data and does not affect private persons or businesses, the staff will recommend that the Board make this determination.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions must be received **no later than 12:00 noon, April 25, 2001**, and addressed to the following:

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

To be considered by the ARB, e-mail submissions must be addressed to trans01@listserv.arb.ca.gov and received at the ARB **no later than 12:00 noon, April 25, 2001.**

To be considered by the ARB, facsimile submissions must be sent to (916) 322-3928 and received at the ARB **no later than 12:00 noon, April 25, 2001.**

The Board requests but does not require 30 copies of any written submission. Also the ARB requests that written and e-mail 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 that authority granted to the Board in sections 39600, 39601, and 39610 of the Health and Safety Code. The amendments to the regulations are proposed to implement, interpret, and make specific sections 39610, 40912, 40913, 40921, and 41503 of the Health and Safety Code.

HEARING PROCEDURES AND AVAILABILITY OF MODIFIED TEXT

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 nonsubstantial 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 the event 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 Public Information Office, Air Resources Board, 1001 I Street, 2nd Floor, Sacramento, CA 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Michael P. Kenny
Executive Officer

Date: February 27, 2001

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.