

State of California
AIR RESOURCES BOARD

**Final Statement of Reasons for Rulemaking,
Including Summary of Comments and Agency Response**

PUBLIC COMMENT PERIOD TO CONSIDER THE PROPOSED AMENDMENTS
TO THE QUORUM DEFINITION
California Code of Regulations, Title 17, Section 60003

Public Comment Period: August 25, 2017 – October 9, 2017

I. GENERAL

- A.** The Staff Report: Initial Statement of Reasons for Rulemaking (Staff Report), “Proposed Amendments to the Quorum Definition, California Code of Regulations, Title 17, Section 60003” released August 22, 2017, which is incorporated by reference herein, contained a description of, and rationale for, the proposed amendments.

This regulatory amendment updates the quorum definition in California Code of Regulations, title 17, section 60003 to clarify that only *voting* members count toward the quorum. This amendment is in alignment with Health and Safety Code section 39510 subdivision (i) ¹ which provides for 2 legislators as nonvoting ex officio members to the Board, in addition to the 14 existing voting members. This statutory provision was added by Assembly Bill 197 (Stats. 2016, ch. 250) and became effective January 1, 2017.

This regulatory amendment is necessary to avoid an interpretation of the current quorum definition that would be inconsistent with the amended statute and the existing regulatory scheme. The change would avoid inconsistent voting scenarios and potential confusion at Board meetings.

A notice of public comment period on the proposed amendments was issued on August 25, 2017. The public comment period spanned from August 25, 2017 to October 9, 2017. The notice explained that no public hearing was scheduled, but instructions on how to request a hearing were provided.

¹ Health and Safety Code section 39510 subdivision (i) provides: “In addition to subdivision (a), two Members of the Legislature shall serve as ex officio, nonvoting members of the state board. One member shall be appointed by the Senate Committee on Rules. One member shall be appointed by the Speaker of the Assembly.”

B. MANDATES AND FISCAL IMPACTS TO LOCAL GOVERNMENTS AND SCHOOL DISTRICTS

California Air Resources Board (CARB) has determined that this regulatory action will not result in a mandate to any local agency or school district, the costs of which are reimbursable by the State pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code.

C. CONSIDERATION OF ALTERNATIVES

The only alternative to this regulation was to do nothing. This alternative was rejected because left unchanged, the existing quorum definition lends itself to an interpretation that would count the ex officio members toward the quorum, enlarging the current quorum from 8 to 9 members, and leading to inconsistent voting scenarios.

For the reasons set forth in the Staff Report, the Executive Officer determined that no alternative considered by CARB would be more effective in carrying out the purpose for which the regulatory action was proposed, would be as effective and less burdensome to affected private persons, would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law, or would lessen an adverse economic impact on small businesses.

II. MODIFICATIONS MADE TO THE ORIGINAL PROPOSAL

A. MODIFICATIONS APPROVED BY THE EXECUTIVE OFFICER AND PROVIDED FOR COMMENT PERIOD

No modifications were made to the regulatory text from the version originally made available to the public on August 25, 2017. Therefore, CARB did not hold a 15-day comment period.

B. NON-SUBSTANTIAL MODIFICATIONS

There were no non-substantial modifications made to the original proposal.

III. DOCUMENTS INCORPORATED BY REFERENCE

No documents were incorporated by reference into the regulation.

IV. SUMMARY OF OBJECTIONS AND RECOMMENDATIONS, AND AGENCY RESPONSE

No relevant comments were received during the 45-day comment period, which began on August 25, 2017, and ended on October 9, 2017.

There were no requests for a public hearing as a result of the notice for public comment released on August 25, 2017.

V. PEER REVIEW

Health and Safety Code Section 57004 sets forth requirements for peer review of identified portions of rulemakings proposed by entities within the California Environmental Protection Agency, including CARB. Specifically, the scientific basis or scientific portion of a proposed rule may be subject to this peer review process. Here, CARB determined that the rulemaking at issue does not contain a scientific basis or scientific portion subject to peer review, and thus no peer review as set forth in Section 57004 was or needed to be performed.