

## **CALIFORNIA AIR RESOURCES BOARD**

### **NOTICE OF PUBLIC COMMENT PERIOD ON PROPOSED AMENDMENTS TO THE QUORUM DEFINITION IN CALIFORNIA CODE OF REGULATIONS, TITLE 17, SECTION 60003**

The Executive Officer of the Air Resources Board (ARB or Board) is proposing to amend the quorum definition in California Code of Regulations (Cal. Code Regs.) title 17, section 60003.

Written comments on the proposed regulatory amendments must be received by October 9, 2017 in order to be considered by the Executive Officer. A public hearing is not currently scheduled; however, you may request the Executive Officer to conduct a public hearing. The process for requesting a public hearing is explained in the Written Comment Period and Submittal of Comments section of this notice. If a request for a public hearing is received by September 25, 2017, the public hearing will be conducted by the Executive Officer or his delegate pursuant to the authority set forth in Health and Safety Code (Health & Saf. Code) sections 39515 and 39516. The time, date, and place of the hearing will be provided by separate notice.

Following the close of the comment period, the Executive Officer may adopt the regulatory language as originally proposed or with non-substantial or grammatical modifications. The Executive Officer 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 and 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 additional written comment, at least 15 days before it is adopted. The public may request a copy of the modified regulatory text, if applicable, from ARB's Public Information Office, Visitor and Environmental Services Center, 1001 I Street, First Floor, Sacramento, California 95814.

#### **INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW PURSUANT TO GOVERNMENT CODE SECTION 11346.5(a)(3)**

**Section Affected:** Proposed amendment to the California Code of Regulations, title 17, section 60003 to clarify the quorum definition to the effect that only voting members count toward the quorum, and to update the reference citations for that section.

### **Existing Laws and Effect of the Proposed Rulemaking**

Assembly Bill (AB) 197 (Stats. 2016, ch. 250) amended Health and Safety Code section 39510 effective January 1, 2017 to provide for the addition of two ex officio, nonvoting positions to the Board, to be occupied by members of the Legislature. The existing definition of a quorum for Board meetings pre-dates the addition of the nonvoting positions; i.e., all Board members were voting members and qualified for quorum. Left unchanged, the existing definition may lend itself to an interpretation that would count the ex officio members toward the quorum despite their status as nonvoting members. Such an interpretation could lead to inconsistent voting scenarios and other undesirable consequences, since ARB's regulation provides that formal decisions shall be made by vote of a majority of the quorum, and nonvoting members cannot vote. This rulemaking would clarify the regulatory language giving it the effect that only voting members count towards the quorum, and it would update reference citations for that section.

### **Objectives and Benefits of the Proposed Amendments to the Regulation**

The amendment would clarify and update the quorum definition to provide that voting members only can count toward the quorum. The amendment is in alignment with Health and Safety Code section 39510 subdivision (i), which provides that ex officio members are nonvoting members. The amendment maintains the status quo for the voting members and does not impact the voting rights of the ex officio members because their status as nonvoting members is governed by Health and Safety Code section 39510 subdivision (i). The reference citations for section 60003 would also be updated to delete inapplicable and outdated citations, and to add Health and Safety Code section 39510, as that is the specific statutory provision interpreted in section 60003.

### **DETERMINATION OF INCONSISTENCY AND INCOMPATIBILITY WITH EXISTING STATE REGULATIONS**

ARB staff has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

### **COMPARABLE FEDERAL REGULATIONS**

There are no federal regulations that are directly comparable to California's regulation, which governs the Board's specific voting process.

### **AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS**

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed action, which includes a detailed explanation of the proposed amendments and a finding that the proposal has no environmental or economic impacts. The report is titled, *Staff Report: Initial Statement of Reasons for Proposed Amendments to the Quorum Definition*.

Copies of the ISOR, the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, and all the information upon which the proposal is based (the rulemaking record), may be accessed on ARB's website listed below under the Internet Access section, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, beginning on August 22, 2017.

#### **Final Statement of Reasons Availability**

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 ARB's website listed below under the Internet Access section.

#### **Agency Contact Persons**

Inquiries concerning the substance of the proposed amendments may be directed to the designated agency contact person, Ms. Claudia Nagy, Senior Attorney, (916) 445-5507. Further, the agency representative to whom nonsubstantive inquiries concerning the proposed administrative action may be directed is Ms. Trini Balcazar, Regulations Coordinator, (916) 445-9564.

#### **Internet Access**

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB website for this rulemaking at <https://www.arb.ca.gov/regact/2017/quorum2017/quorum2017.htm>

#### **DISCLOSURES REGARDING THE PROPOSED REGULATION**

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 regulations are presented below.

#### **Fiscal Impact/ Local Mandate**

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings to any State agency or in federal funding to the State, costs or mandates to any local agency or school district, whether or not reimbursable by the State pursuant to Government Code, Title 2, Division 4, Part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

**Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete**

The Executive Officer has made an initial determination that the proposed regulatory action would 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.

**Cost Impacts on Representative Private Persons or Businesses**

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonably compliance with the proposed action.

**Results of the Economic Impact Analysis/Assessment Prepared Pursuant to Government Code Section 11346.3(b)**

**Effect on Jobs/Businesses:**

The Executive Officer has determined that the proposed regulatory action would 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. The ISOR provides the finding of no economic impact in Section VI.

**Benefits of the Proposed Amendments to the Regulation**

The objectives of the proposed amendments to the regulation are to harmonize the regulation to the statutory requirements, to eliminate regulatory ambiguity, and to update reference citations. A summary of these benefits is provided under "Objectives and Benefits," in the Informative Digest of Proposed Action and Policy Statement Overview pursuant to Government Code, section 11346.5(a)(3) discussion in this Notice.

**Effect on Small Business**

The Executive Officer has determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would not adversely affect small businesses because it has no economic impact.

**Housing Costs**

The Executive Officer has also made the initial determination that the proposed regulatory action will not have a significant effect on housing costs, because it has no economic impact.

### **Alternatives**

Before taking final action on the proposed regulatory action, ARB must determine that no reasonable alternative considered by ARB, or that has otherwise been identified and brought to the attention of ARB (which includes during preliminary workshop activities), would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. ARB has made the determination that no other reasonable alternative to this regulation exists, as discussed in section VII of the ISOR.

### **Environmental Analysis**

ARB, as the lead agency under the California Environmental Quality Act (CEQA), has reviewed the proposed regulatory action and concluded that it is exempt pursuant to CEQA Guidelines, California Code of Regulations, title 14, section 15061(b)(3), because it can be seen with certainty that there is no possibility that the proposed action may result in significant adverse impact on the environment. A brief explanation of the basis for reaching this conclusion is included in Section IV of the ISOR.

### **WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS**

Interested members of the public may provide comments in writing by postal mail or by electronic submittal. A public hearing is currently not scheduled. The public comment period for this regulatory action will begin on **August 25, 2017**.

To be considered by the Executive Officer, written comments must be submitted on or after August 25, 2017, and received **no later than 5:00 p.m., October 9, 2017**, and must be addressed to the following:

Postal mail: Clerk of the Board,  
Air Resources Board  
1001 I Street,  
Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

If a public hearing is not scheduled, any interested person may request a public hearing pursuant to section 11346.8 of the Government Code, no later than 15 days before the close of the written comment period. A public hearing will be scheduled if any interested person or his or her duly authorized representative requests such a hearing in writing by September 25, 2017. The request for a hearing may be submitted in the same manner as written comments.



Please note that under the California Public Records Act (Government Code, section 6250 et seq.), your written comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request or as part of the public review process for this regulatory action.

Additionally, ARB requests, but does not require, that persons who submit written comments to the Executive Officer reference the title of the proposal in their comments to facilitate review.

### **AUTHORITY AND REFERENCE**

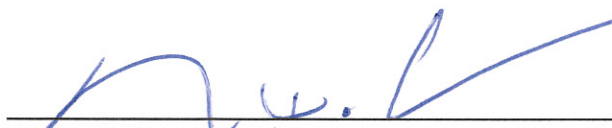
This regulatory action is proposed under the authority granted in Health and Safety Code, sections 39510, 39600 and 39601. This action is proposed to implement, interpret, and make specific Health and Safety Code Section 39510.

### **SPECIAL ACCOMMODATION REQUEST**

If you need this document in an alternate format (i.e., Braille, large print, etc.) or another language, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alternativo u otro idioma, por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de cinco (5) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

CALIFORNIA AIR RESOURCES BOARD



Richard W. Corey,  
Executive Officer

Date: *Aug. 15, 2017*

*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](http://www.arb.ca.gov).*