

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC COMMENT PERIOD ON PROPOSED AMENDMENTS TO THE AREA DESIGNATIONS FOR STATE AMBIENT AIR QUALITY STANDARDS

The Air Resources Board (ARB) is proposing amendments to the regulations designating areas of California as attainment, nonattainment, nonattainment-transitional, or unclassified for pollutants with State ambient air quality standards.

ARB has not scheduled a public hearing on this proposed action. However, ARB will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

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

Sections Affected: Proposed amendments to California Code of Regulations (CCR), title 17, sections 60201, 60203, 60205, 60207, and 60210.

Background and Effect of the Proposed Rulemaking

ARB is charged with the responsibility of adopting ambient air quality standards in consideration of the public health, safety, and welfare (Health and Safety Code [H&SC] section 39606). To date, ARB has adopted State ambient air quality standards (State Standards) for ten pollutants, set forth in CCR, title 17, section 70200. In addition, H&SC section 39607(e) requires ARB to establish designation criteria which provide the basis for designating areas of California as attainment or nonattainment with respect to the State Standards. The designation criteria are set forth in CCR, title 17, sections 70300 through 70306, and appendices 1 through 3 thereof. Based on these designation criteria, H&SC section 39608 further requires ARB to establish and annually review area designations for State Standards.

Objectives and Anticipated Benefits of the Proposed Amendments

During the annual review, ARB determines whether changes to the existing area designations are warranted based on an evaluation of recent air quality data. The proposed amendments to the area designations classify the air quality in communities as to whether it meets the State Standards. Based upon the area designations, every three years, the districts must assess their progress toward attainment of the State Standards and upon adoption of the triennial plan revision at a public hearing, submit the triennial plan revision to ARB. Districts may modify the emission reduction strategy or alternative measure of progress in the triennial plan if the district demonstrates to ARB's satisfaction that the modified strategy is at least as effective in improving air quality as the strategy in the triennial plan.

The annual review and update of the area designations gives the public, businesses, and government an indication of whether the health-based standards are being met. This information allows the public to make more educated decisions regarding personal health and residency, as well as participation in outdoor activities. In addition, businesses and government are given the opportunity to make informed decisions regarding worker health and safety.

Objectives:

This year's review of the area designations is based on air quality data from 2010 through 2012. The proposed amendments provide for the following changes:

Ozone:

- Designate Colusa and Glenn Counties in the Sacramento Valley Air Basin as Attainment. These areas are currently designated as Nonattainment-Transitional.
- Designate Yolo County and that portion of Solano County in the Sacramento Valley Air Basin from Nonattainment-Transitional to Nonattainment.

Nitrogen Dioxide:

- Designate the South Coast Air Basin as Attainment. This area is currently designated as Nonattainment.

Lead (particulate):

- Designate Los Angeles County in the South Coast Air Basin as Attainment. This area is currently designated as Nonattainment.

PM₁₀ (Suspended Particulate Matter):

- Designate Del Norte and Trinity Counties in the North Coast Air Basin as Attainment. These areas are currently designated as Nonattainment.

PM_{2.5} (Fine Particulate Matter):

- Designate that portion of the Salton Sea Air Basin located outside of the City of Calexico, as Attainment. This area is currently designated as Unclassified.
- Designate Glenn County in the Sacramento Valley Air Basin as Attainment. This area is currently designated as Unclassified.
- Designate Sacramento County in the Sacramento Valley Air Basin as Attainment. This area is currently designated as Nonattainment.

Benefits:

Environmental Justice. Some communities experience higher exposures to air pollutants, and it is a priority of ARB to ensure that full protection is afforded to all Californians. ARB's designations provides members of these communities with updated information about the air quality of their communities, which, as stated, allows them to make more educated decisions regarding personal health and residency, as well as participation in outdoor activities.

Safeguarding the quality of the physical environment. An area's designation status provides a classification that assists local districts to more accurately assess local air quality. As discussed above, depending on the proposed changes to areas' designations, the district may be required to adopt and submit a triennial plan to correct for deficiencies in meeting the Standards ozone, carbon monoxide, nitrogen dioxide, and sulfur dioxide. As a result, indirect benefits to the quality of the physical environment may result if the district adopts or amends its regulations with a goal toward achieving the Standards.

Encouraging a regional approach to the State ambient air quality, whenever possible. The proposed designations by discrete areas allow each local district to assess the air quality of individual areas and address their unique situations and needs. This approach allows each local district to identify the most cost-effective, efficient, and acceptable approach to achieve the State Standards.

Consistency with the State goal of providing a decent home and suitable living environment. The annual review and update of the area designations gives local districts an indication of whether the health-based standards are being met. This information allows local districts to make informed decisions regarding appropriate actions to meet the State Standards.

DETERMINATION OF INCONSISTENCY AND INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The proposed changes, as well as the process for effecting those changes, to the area designations are consistent and compatible with existing State regulations. In designating Colusa and Glenn Counties in the Sacramento Valley Air Basin as attainment for ozone; the South Coast Air Basin as attainment for nitrogen dioxide; Los Angeles County in the South Coast Air Basin as attainment for lead (particulate); Del Norte and Trinity Counties in the North Coast Air Basin as attainment for PM₁₀ (suspended particulate matter); and the Salton Sea Basin located outside of the City of Calexico, Glenn County in the Sacramento Valley Air Basin, and Sacramento County in the Sacramento Valley Air Basin as attainment for PM_{2.5} (fine particulate matter), ARB has considered the data for record (defined in California Code of Regulations, title 17,

section 70301(a)),¹ which meet the representativeness and completeness criteria and which demonstrate that the respective State Standards were not violated in these areas. The representativeness criteria are set forth in Appendix A to this Notice (see Appendix 1) and in California Code of Regulations, title 17, Division 3, Chapter 1, Subchapter 1.5, Article 3, Appendix 1. The completeness criteria are set forth in Appendix A to this Notice (see Appendix 3) and in California Code of Regulations, title 17, Division 3, Chapter 1, Subchapter 1.5, Article 3, Appendix 3. Therefore, consistent with State regulations, ARB is proposing to designate the areas noted above as attainment. In addition, ARB has considered the data for record (defined in California Code of Regulations, title 17, section 70301(a)), which meet the representativeness and completeness criteria and which demonstrate that the State Standards for ozone were violated in Yolo County and the Sacramento Valley Air Basin (SVAB) portion of Solano County. Therefore, ARB is proposing to designate these areas as nonattainment for ozone.

COMPARABLE FEDERAL REGULATIONS

There are no comparable federal or local regulations that address area designations for the State Standards.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: "Initial Statement of Reasons for Rulemaking: Proposed 2013 Amendments to Area Designations for State Ambient Air Quality Standards."

Copies of the ISOR and the full text of the proposed regulatory language, in underline (to indicate additions) and ~~strike-out~~ (to indicate deletions) format to allow for comparison with the existing regulations, may be accessed on ARB's website listed below, 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, (916) 322-2990, on October 23, 2013.

¹ California Code of Regulations, title 17, section 70301(a) provides, "Except as otherwise provided in this article, designations shall be based on 'data for record.' ¶(1) Data for record are those data collected by or under the auspices of the state board or the districts for the purpose of measuring ambient air quality, and which the Executive Officer or his or her delegate has determined comply with the siting and quality assurance procedures established in Part 58, Title 40, Code of Federal Regulations or other equivalent procedures. ¶(2) Any other data which are provided by a district or by any other person will be data for record if the Executive Officer or his or her delegate determines within 90 days of submittal of complete supporting documentation that the data comply with the siting and quality assurance procedures established in Part 58, Title 40, Code of Federal Regulations or other equivalent procedures..."

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.

Agency Contact Persons

Inquiries concerning the substance of the proposed regulations may be directed to the designated agency contact persons: Mr. Webster Tasat, Manager, Central Valley Air Quality Planning Section, at (916) 323-4950 or Ms. Theresa Najita, Air Pollution Specialist, Central Valley Air Quality Planning Section, at (916) 322-7297.

Further, the agency representative to whom nonsubstantive inquiries concerning the proposed administrative action may be directed is Ms. Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board staff 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.

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 <http://www.arb.ca.gov/regact/2013/area13/area13.htm>.

DISCLOSURES REGARDING THE PROPOSED REGULATION

The determinations of ARB'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 mandate 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 reasonable compliance with the proposed action.

Results Of The Economic Impact Analysis/Assessment Prepared Pursuant to Government Code Sec. 11346.3(b)

Effect on Jobs/Businesses:

In accordance with Government Code section 11346.3, the Executive Officer has determined 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. An assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

Depending on the proposed changes to areas' designations, districts may be required to adopt and submit a triennial plan to correct for deficiencies in meeting the Standards for ozone, carbon monoxide, nitrogen dioxide, and sulfur dioxide. The area designations are simply labels that describe the healthfulness of the air quality in each area. Because these regulations by themselves are simply labels of an area's air quality, they do not contain any specific requirements for action, other than the review, adoption, and submittal of a triennial plan by the district. As a result, they have no specific, direct economic impact. However, this regional approach to categorizing air quality allows each district to identify the most cost-effective and efficient approach to achieve the ambient air quality standards. In addition, the annual review and update of the area designations gives the public an indication of whether the health-based standards are being met, thereby allowing the public to make more educated decisions regarding personal health and residency, as well as participation in outdoor activities. These personal health and residency decisions may translate into cost savings from reduced medical expenses, hospitalizations, and time off from work, as well as improved psychological benefits. It also allows businesses and government the opportunity to make informed decisions about worker health and safety. These business and government decisions may also translate into cost savings from reduced workers' expenses such as medical expenses, hospitalizations, time off from work, and worker's compensation, as well as improved worker morale.

Benefits of the Proposed Regulation:

The objective of the proposed amendments to the regulation is to review and update the area designations which give the public, businesses, and government, an indication of whether the health-based standards are being met.

A summary of these benefits is provided; please refer to "Objectives and Anticipated Benefits of the Proposed Amendments," under the Informative Digest of Proposed Action and Policy Statement Overview Pursuant to Government Code 11346.5(a)(3) discussion on page 1.

Effect On Small Business

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses because the proposed regulatory action are simply labels of an area's air quality; they do not contain any specific requirements for action, other than the review, adoption, and submittal of a triennial plan by the district. As a result, they have no specific, direct impact on small businesses.

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.

Alternatives

Before taking final action on the proposed amendments, the Executive Officer 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, or 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.

Environmental Analysis

In accordance with ARB's certified regulatory program, California Code of Regulations, title 17, sections 60006 through 60007, and the California Environmental Quality Act, Public Resources Code section 21080.5, ARB has conducted an analysis of the potential for significant adverse and beneficial environmental impacts associated with the proposed regulatory action. The environmental analysis of the proposed regulatory action can be found in the ISOR.

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

This regulatory proceeding will be conducted through the submittal of written documents. No public hearing is currently scheduled. However, a public hearing will be scheduled if any interested person or his or her duly authorized representative requests such a hearing by November 26, 2013, no later than 15 days prior to the close of the written comment period. The request must be in writing and must comply with the requirements of Government Code section 11346.8(a). If a public hearing is requested, a notice of the time, date, and place of the hearing, if requested, will be provided by separate notice.

The public comment period for this regulatory action will begin on October 28, 2013. Written comments on this regulatory proposal must be received no later than December 11, 2013, or if a hearing is conducted, at the hearing and 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>

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral 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.

AUTHORITY AND REFERENCE

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 39600, 39601, and 39608. This action is proposed to implement, interpret, and make specific Health and Safety Code sections 39608, 40718, and 40925.5.

REGULATORY AMENDMENT PROCEDURES

This regulatory proceeding will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

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 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

request a copy of the modified regulatory text, if applicable, from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322-2990.

SPECIAL ACCOMMODATION REQUEST

If you need this document in an alternate format 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 alterno 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.


RECEIVED FOR FILING PUBLICATION DATE

OCT 14 '13 OCT 25 '13

Office of Administrative Law

Date: October 8, 2013

CALIFORNIA AIR RESOURCES BOARD


Richard W. Corey
Executive Officer