

**STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
AIR RESOURCES BOARD**

**FINAL STATEMENT OF REASONS
FOR CHANGES TO THE DESIGNATION CRITERIA,
THE AREA DESIGNATIONS,
AND
THE SAN JOAQUIN VALLEY AND SOUTHEAST DESERT
AIR BASIN BOUNDARIES**

INCLUDING SUMMARY OF COMMENTS AND AGENCY RESPONSES

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State of California
Environmental Protection Agency
AIR RESOURCES BOARD

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

PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE CRITERIA
FOR DESIGNATING AREAS OF CALIFORNIA
AS NONATTAINMENT, ATTAINMENT, OR UNCLASSIFIED,
AMENDMENTS TO THE AREA DESIGNATIONS
FOR THE STATE AMBIENT AIR QUALITY STANDARDS,
AND AMENDMENTS TO THE SAN JOAQUIN VALLEY
AND SOUTHEAST DESERT AIR BASIN BOUNDARIES

Public Hearing Date: 11/16/95
Agenda Item No.: 95-12-1

I. GENERAL

The Staff Report: Initial Statement of Reasons for Rulemaking (staff report) entitled "Proposed Amendments to the Designation Criteria and to the Area Designations for State Ambient Air Quality Standards, Proposed Amendments to the San Joaquin Valley and Southeast Desert Air Basin Boundaries, and Maps of Area Designations for the State and National Ambient Air Quality Standards," released September 29, 1995, is incorporated by reference, herein.

Following a public hearing on November 16, 1995, the Air Resources Board (Board), by Resolution 95-46, approved amendments to three separate, but related, regulations. The affected regulations are: (1) the criteria for designating areas of California as nonattainment, attainment, or unclassified for the State ambient air quality standards (State standards); (2) the area designations for State standards; and (3) the air basin boundaries for the San Joaquin Valley and Southeast Desert Air Basins. The *designation criteria regulations* provide a set of rules for the Board to follow in determining the appropriate designation status for various pollutants for each area of the State. The *area designation regulations* comprise labels that describe the healthfulness of the air quality in each area. Finally, the *air basin boundary regulations* define areas with similar characteristics and air quality. The amended regulations are contained in the California Code of Regulations (CCR), Title 17, sections 60107, 60109, 60200, 60201, 60202, 60203, 70303, 70303.5, 70304, and 70306 and Appendix 2 to sections 70300 through 70306, of Title 17, CCR. The amendments the Board adopted are identical to those initially proposed by the staff and made available in the staff report released September 29, 1995.

The affected regulations do not contain any requirements for action, and as a result, they have no direct economic impact. Therefore, the Board made the following general findings:

The Board determined that the amendments to the regulations 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 savings to local agencies, except as discussed, below (refer to the discussion of the Amendments to the Area Designations in subsection B, below).

The Board also determined, in accordance with Government Code section 11346.5(a)(8), that the amendments to the regulations will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. Finally, the Board determined that there will be no, or an insignificant, potential cost impact, as defined in Government Code section 11346.5(a)(9), on private persons or businesses directly affected as a result of amending the regulations.

In accordance with Government Code section 11346.3, the Board determined that amending the regulations 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 Board determined 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 than the proposed action (Government Code section 11346.14(b)).

A. Amendments to the Designation Criteria

Although the amendments to the designation criteria regulations will not have a direct economic impact, the Board determined that the amendments to Appendix 2 of the designation criteria may indirectly result in some economic benefits to the districts and local businesses. Maintaining an area's attainment or unclassified designation based on the exclusion of exceedances affected by an unusual concentration event would serve to delay the consequences of a nonattainment designation. In this situation, the district might for a time, avoid the costs associated with developing and implementing an attainment plan. Similarly, local businesses might avoid the costs incurred by complying with the resulting emission control measures. In addition, businesses operating nonvehicular sources that emit at least 500 tons per year of a nonattainment pollutant or its precursors would avoid increased permit

fees that might have been assessed. The economic benefit from a delay in designation as nonattainment would be temporary, if subsequent data showed that a nonattainment designation was appropriate. Nevertheless, potential adverse economic impacts would be identified at the time the nonattainment designation was proposed.

B. Amendments to the Area Designations

The amendments to the area designations will not have any direct adverse economic impacts because they do not, by themselves, require any regulatory action. The area designations are labels which define the healthfulness of air quality in each area of the State. Although the amendments to the area designations will not have any direct economic impacts, the Board determined that the amendments redesignating the City of Calexico in Imperial County as nonattainment for the State carbon monoxide standards may indirectly result in some adverse economic impacts. These indirect adverse economic impacts would result from the planning requirements specified in State law and are described, below.

Under State law (Health and Safety Code (HSC) section 40911), a district with an area designated as nonattainment for ozone, carbon monoxide, nitrogen dioxide, or sulfur dioxide is required to prepare and submit an attainment plan to the Board. Redesignating the City of Calexico as nonattainment for the State carbon monoxide standards would invoke the planning requirement for the first time in this area. The development and implementation of an attainment plan might require additional district staff to evaluate the problem, develop an acceptable control strategy, and enforce emission control measures. The costs incurred by the districts in connection with the planning process are not reimbursable by the State pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code because the statute does not mandate a new program or higher level of service of an existing program within the meaning of section 6 of Article XIII B of the California Constitution. In addition, districts have the authority to levy fees sufficient to cover their costs for planning, enforcement, and other district programs. Although the planning requirements associated with the nonattainment designation could result in additional costs to the district, the Board will not impose such requirements unless there is evidence that a local planning effort would be effective in abating Calexico's carbon monoxide problem.

In addition to the potential indirect economic impacts on the district, the Board determined that redesignating the City of Calexico as nonattainment for carbon monoxide might result in some indirect adverse economic impacts on local businesses. Businesses would be affected differently, depending on the control measures identified in the attainment plan. Because all emission control measures are not "equal," the costs to businesses for implementing the control measures undoubtedly will vary. This cost differential will be considered in the planning process.

In developing their attainment plans, the districts complete cost-effectiveness analyses to determine which emission control measures will be the most effective. Those measures that are most cost-effective generally are implemented first, lessening the overall economic

impact on local businesses. However, in contrast, businesses with sources that are the most cost-effective to control usually will be the first to incur costs. Again, the Board will not require local emission control measures unless there is evidence that such controls would be effective in reducing the ambient carbon monoxide concentrations.

In addition to the emission control measures specified in an attainment plan, the Board may, under State law (HSC section 39612) require districts with areas designated as nonattainment to impose additional permit fees. These fees would apply to nonvehicular sources authorized by district permit to emit 500 tons per year or more of a nonattainment pollutant or its precursors. If new sources that would be permitted to emit 500 tons per year or more were to locate in the area while it was designated as nonattainment, they may be subject to these fees. This provision of State law becomes inoperative on July 1, 1997, and is repealed as of January 1, 1998, unless a later enacted statute deletes or extends these dates.

Under HSC sections 44223 and 44225, districts (except the Sacramento district) with areas designated as nonattainment for any pollutant emitted by motor vehicles may levy a fee of up to \$4.00 on motor vehicles registered within the district. Districts levying this fee also must adopt programs for reducing air pollution from motor vehicles and for related activities to implement the California Clean Air Act of 1988.

C. Amendments to the Air Basin Boundaries

The amendments to the air basin boundaries will not have any adverse economic impacts because they do not require any regulatory action. The air basin boundaries simply define areas with similar meteorological, geographical, and air quality characteristics. While the amendments do not require any regulatory action, they serve to make the air basin boundaries the same as the local district boundaries. As a result, the amendments should facilitate planning efforts in the affected local areas.

II. MODIFICATIONS TO THE REGULATIONS

At a public hearing on November 16, 1995, the Board adopted Resolution 95-46, amendments to the designation criteria regulations, the area designation regulations, and the air basin boundary regulations. Specifically, the Board adopted the staff's proposed amendments to CCR, Title 17, subsection(h) of section 60107, subsection(e) of section 60109, subsection(a) of section 60200, section 60201, section 60202, and section 60203. The Board also adopted the proposed amendments to CCR, Title 17, subsections(a), (b), and (c) of section 70303, section 70303.5, subsection(c) of section 70304, subsection(b) of section 70306, and Appendix 2 to sections 70300 through 70306 of Title 17, CCR.

In addition to these amendments, the Executive Officer made minor grammatical changes that are without regulatory effect to text in sections 60202, 60204, and 60208, and to text in sections 70301, 70303.5, 70305, 70306, and Appendices 1 and 4. The final regulation order reflects these changes, which do not alter the requirements, rights, responsibilities, conditions, prescriptions, or other regulatory elements of any CCR provision because they are renumbering or revising grammar, spelling, or punctuation.

III. SUMMARY OF COMMENTS AND AGENCY RESPONSES

After the release of the staff report, but before the public hearing, the Board received written comments from Mr. Scott Johnson (Johnson), the Imperial County Air Pollution Control District (Imperial APCD), and the Monterey Bay Unified Air Pollution Control District (Monterey APCD). The comments can be divided into two categories: (1) comments related to the designation criteria amendments, and (2) comments related to the area designation amendments. The substance of each of the comments and the agency's responses are summarized, below.

A. Comments Related to the Designation Criteria

1. Comment: While the exceedances proposed for exclusion as unusual concentration events represent limited, local, or one-time events, the effects of poor air quality during an event are quite serious. People with weak or vulnerable respiratory systems (for example, asthmatics) may experience an "unusual concentration event" as a life-threatening emergency. (Johnson)

Agency Response: Excluding an exceedance as an unusual concentration event will not result in a degradation of air quality or a threat to human health. In establishing the level of the State standards, the Board incorporates a margin of safety to protect sensitive populations, such as people with weak or vulnerable respiratory systems. While it is true that identifying and excluding an exceedance as an unusual concentration event may erode the margin of safety that is provided in the State standards, it should not pose a health threat. As a further safeguard, the amendments require the Board to evaluate the potential for adverse impacts on public health each time the Board considers identifying and excluding an exceedance as an unusual concentration event. If the Board finds a significant adverse impact, the Board must consider appropriate mitigation.

B. Comments Related to the Area Designations

2. Comment: The Calexico-Ethel Street site was established to assess the impacts of air pollution transport from Mexico, and data collected at this site should not be used for determining an area designation. (Imperial APCD)

Agency Response: The Board disagrees. The Board established the Calexico-Ethel Street site during June 1994. Although gathering information about the potential for the impact of pollutant transport from Mexico was one objective, it was not the only reason for establishing the site. The site also was established to determine the ambient concentrations in the local area. Air quality data collected at the Calexico-Ethel Street site meet all relevant criteria for monitoring ambient air quality. As a result, the measurements qualify as *data for record*. As stipulated in the designation criteria, data for record are appropriate for use in the designation process. Therefore, it is appropriate to use the Calexico-Ethel Street data in determining a designation for this area.

3. Comment: Although we appreciate the Board's proposal to limit redesignation as nonattainment to the City of Calexico, we believe no portion of the Calexico area should be designated as nonattainment. The carbon monoxide (CO) exceedances at the Calexico-Ethel Street site are caused by cross border vehicle traffic from Mexico. Therefore, the source of CO in Calexico is a foreign country over which Imperial County, the Board, or the United States Environmental Protection Agency has absolutely no control. Since the CO emissions affecting Calexico are generated in Mexico, they are beyond reasonable regulatory control. (Imperial APCD)

Agency Response: The Board does not agree that the City of Calexico should not be redesignated. The area designations are based on ambient air quality data and are intended to provide information about the healthfulness of the air. The nonattainment designation identifies areas with air quality problems, and based on the ambient data, there is no argument that Calexico has a CO problem. Based on its review of traffic, the Imperial APCD contends the CO problem is caused solely by emissions transported from Mexico. However, at this time, there is not enough data to support the district's conclusion. As a result of the nonattainment designation, the Board will recommend further study in the Calexico area. This study may include saturation monitoring, remote sensing, and traffic counts. The results of the studies will give us a better understanding of the Calexico CO problem and whether local control measures would be effective in abating the high CO concentrations.

4. Comment: If the Board redesignates the City of Calexico as nonattainment for CO, we request exemption from any planning requirements until after further studies have been done, as recommended by the Board staff. (Imperial APCD)

Agency Response: The Board agrees with this approach and will support additional study to increase our understanding of the CO problem while deferring planning requirements. The Board staff outlined this approach in a letter to the Imperial APCD dated November 2, 1995. In general, the letter states that given the potential impact of transport from Mexico on CO in the Calexico area, the Board staff does not believe that planning requirements should be immediately triggered. The Board staff further acknowledges that a better understanding of the nature of the problem is needed in order to determine whether a local planning effort is warranted.

5. Comment: The PM10 monitors at the Davenport and King City sites were established to monitor the impact of specific sources on air quality. Because these monitors are influenced by industrial sources, they reflect high concentrations and are identified as special purpose monitors. As a result, data collected at these sites do not represent regional conditions and should not be used in the designation process. (Monterey APCD)

Agency Response: The Board disagrees. The area designations are intended to provide information about the healthfulness of the air quality in each area of the State. How the site monitors are identified and whether the monitored air quality is impacted by a specific source are irrelevant to this objective. Under the designation criteria, the Board uses all monitoring data that qualify as data for record. Because the data from the sites at Davenport and King City qualify as data for record, they are appropriate for use in the area designation process.

6. Comment: During Fall 1993, a series of major wildfires impacted monitoring sites in our local area. In particular, the PM10 data collected on October 28, 1993, were unusually high, and the values for Hollister and Watsonville exceeded the State 24-hour PM10 standard. We understand that under the Board's exceptional events policy, data affected by a forest fire may be excluded from the designation process. Therefore, we request the Board delete these and several other fire-affected PM10 measurements from its database. (Monterey APCD)

Agency Response: The designation criteria specify that the Board may exclude, under the exceptional events procedure, data affected by a forest fire. However, as stated in the designation criteria, the Board will evaluate such data *only* if they would affect an area's designation status. In the Monterey situation, the PM10 values of concern are lower than PM10 values measured at other sites in the area. Therefore, the values of concern do not affect the area designation, and there is no need for the Board to evaluate or exclude them from the area designation process.

C. Comments Related to the Air Basin Boundaries

The Board did not receive any comments related to the amendments to the air basin boundaries.