State of California
AIR RESOURCES BOARD

Resolution 95-46

November 16, 1995

Agenda Item No.: 95-12-1

WHEREAS, Health and Safety Code sections 39600 and 39601 authorize the Air Resources Board (the Board or ARB) to adopt standards, rules, and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, the Legislature enacted the California Clean Air Act of 1988 (the Act; Stats. 1988, ch. 1568) declaring that it is necessary that the State ambient air quality standards (the State standards) be attained by the earliest practicable date to protect the public health, particularly the health of children, older people, and those with respiratory diseases;

WHEREAS, in order to attain the State standards, the Act mandates a comprehensive program of emission reduction measures and planning requirements for the State and the local air pollution control and air quality management districts (the districts) in areas where the State standards are not attained;

WHEREAS, the Act in Health and Safety Code section 39607(e) requires the Board to establish and periodically review criteria for designating an air basin as nonattainment or attainment for any State standard set forth in the California Code of Regulations, Title 17, section 70200 (ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, suspended particulate matter or PM10, sulfates, lead, hydrogen sulfide, and visibility reducing particles);

WHEREAS, on June 8, 1989, the Board adopted and on June 15, 1990, May 15, 1992, December 10, 1992, and November 18, 1993, the Board amended the California Code of Regulations, Title 17, sections 70300 through 70306, and Appendices 1 through 4, thereof, establishing designation criteria (the adopted criteria) consistent with the requirements of the Act;

WHEREAS, as a result of its periodic review of the adopted criteria, the ARB staff proposes amending Appendix 2 to include a third type of highly irregular or infrequent event called the unusual concentration event as a mechanism for excluding anomalous exceedances in areas already designated as attainment or unclassified at the time such an exceedance occurs;

WHEREAS, the ARB staff also proposes minor technical revisions to Appendix 2 and to sections 70303, 70303.5, 70304, and 70306 to clarify current practices in applying the adopted criteria, make the language of the regulations internally consistent, delete obsolete or unnecessary language, and correct grammatical errors;

WHEREAS, the ARB staff has provided opportunities for public comment and considered such comments before proposing to the Board amendments to the adopted criteria;

WHEREAS, the Act in Health and Safety Code section 39608(a) requires the Board, in consultation with the districts, to identify and classify each air basin in California as nonattainment, attainment, or unclassified on a pollutant-by-pollutant basis pursuant to the designation criteria established by the Board under Health and Safety Code section 39607(e);

WHEREAS, the Act in Health and Safety Code section 39608(c) also requires the Board to review the area designations annually and update them as new information becomes available;

WHEREAS, on June 9, 1989, the Board approved the initial area designations which are contained in the California Code of Regulations, Title 17, sections 60200 through 60209, and has updated the area designations during each subsequent year;

WHEREAS, in consultation with the districts and considering comments received from public agencies, industry representatives, and interested persons, the ARB staff has proposed amendments to the area designations for a number of specific areas of the State for ozone, carbon monoxide, and nitrogen dioxide;

WHEREAS, the proposed amendments to the area designations for ozone, carbon monoxide, and nitrogen dioxide are based on the designation criteria contained in the California Code of Regulations, Title 17, sections 70300 through 70306, and Appendices 1 through 4, thereof, including the proposed amendments and minor technical revisions summarized, above;

WHEREAS, section 39606(a) of the Health and Safety Code directs the Air Resources Board to divide the State into air basins based on similar meteorological and geographic conditions and with consideration for political boundary lines whenever practicable;

WHEREAS, sections 60107(h) and 60109(e) of Title 17 of the California Code of Regulations designate part of Kern County as within the San Joaquin Valley Air Basin and the remaining portion of Kern County as within the Southeast Desert Air Basin;

WHEREAS, the Kern County Air Pollution Control District and the San Joaquin Valley Unified Air Pollution Control District requested the Air Resources Board to change the boundary between the Southeast Desert Air Basin and the San Joaquin Valley Unified Air Basin to include the Kern River Valley and the Cummings Valley within the Southeast Desert Air Basin;

WHEREAS, on July 27, 1995, the Kern County Air Pollution Control District Board of Directors unanimously endorsed a proposal to change the District boundary by adding the Kern River Valley and the Cummings Valley to the Kern County Air Pollution Control District and removing those areas from the San Joaquin Valley Unified Air Pollution Control District;

WHEREAS, on September 20, 1995, the San Joaquin Valley Unified Air Pollution Control District endorsed the proposal to change the District boundary by adding the Kern River Valley and the Cummings Valley to the Kern County Air Pollution Control District and removing those areas from the San Joaquin Valley Unified Air Pollution Control District;

WHEREAS, based on a review of the air quality, meteorology, and geographic characteristics of the areas, the ARB staff proposes amending the Kern County portion of the San Joaquin Valley Unified Air Basin and the Southeast Desert Air Basin boundaries to include the Kern River Valley and the Cummings Valley within the area of the Southeast Desert Air Basin;

WHEREAS, the ARB staff has provided opportunities for public comment and considered such comments before proposing to the Board amendments to the Kern County portion of the San Joaquin Valley Unified Air Basin and the Southeast Desert Air Basin boundaries;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project which may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the provisions of Chapter 3.5 (commencing with section 11340), Part 1, Division 3, Title 2 of the Government Code, and the Board has considered the testimony presented by interested persons and the Board staff; and

WHEREAS, the Board finds that:

1. The proposed amendments to the designation criteria are necessary for the designation of areas as nonattainment, attainment, or unclassified for the State standards and comply with the specifications described in Health and Safety Code section 39607(e);

2. The proposed amendments to the designation criteria assure that the area designations will continue to be based on the most appropriate and reliable air quality information;

3. The proposed amendments to the area designations comply with the requirements of Health and Safety Code section 39608;

4. The proposed amendments to the area designations listed in the California Code of Regulations, Title 17, sections 60200 through 60209 are consistent with the designation criteria in the California Code of Regulations, Title 17, sections 70300 through 70306 and with the proposed amendments to sections 70303, 70303.5, 70304, and 70306 and to Appendix 2, thereto;

5. The proposed amendments to the Kern County portion of the San Joaquin Valley Unified Air Basin and the Southeast Desert Air Basin boundaries comply with the requirements of Health and Safety Code section 39606(a);

6. This regulatory action will not have a significant adverse impact on the environment. In fact, it should ultimately result in environmental benefits because it is part of a multiple step program designed to achieve and maintain the State standards;

7. This regulatory action may have an indirect economic impact on public agencies, small businesses, or private persons or businesses other than small businesses through future regulatory actions mandated by an area's designation status. However, any potential adverse economic impact will be considered at the time such regulatory actions are proposed; and

8. There is no alternative considered by the Board which would be more effective and less burdensome to public agencies, small businesses, or private persons or businesses other than small businesses than the proposed action.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts the amendments to the California Code of Regulations, Title 17, sections 60107, 60109, 60200, 60201, 60202, 60203, 70303, 70303.5, 70304, and 70306 and Appendix 2 to sections 70300 through 70306, as set forth in Attachment A, hereto.

I hereby certify that the above is a true and correct copy of Resolution 95-46, as adopted by the Air Resources Board.

Pat Hutchens

Pat Hutchens, Board Secretary

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Office of the Secretary

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RESOURCES AGENCY OF CALIFORNIA