

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF A REGULATION AND CRITERIA FOR EQUIPMENT AND PROCESS PRECERTIFICATION

The Air Resources Board (the "Board" or "ARB") will conduct a public hearing at the time and place noted below to consider the adoption of a regulation and criteria for the precertification of simple, commonly used equipment and processes.

DATE: June 14, 1996

TIME: 8:30 am

PLACE: Board of Supervisors Chambers, Room 310
County Administration Center
1600 Pacific Highway, San Diego

This item will be considered at a one-day meeting of the Board, which will commence at 8:30 a.m. on June 14, 1996. Please consult the agenda for the meeting, which will be available at least 10 days before June 14, 1996, to determine the order of items to be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION/PLAIN ENGLISH POLICY STATEMENT OVERVIEW

Sections Affected: Proposed adoption of new section 91400 and the incorporated Air Resources Board's "Criteria for Equipment and Process Precertification, of Title 17, California Code of Regulations ("CCR").

Background.

As part of the mandate to coordinate efforts to attain and maintain ambient air quality standards, Section 39620 of the Health and Safety Code (H&SC) establishes requirements for the Board to implement a program to assist local air districts to improve efficiencies in the issuance of permits to equipment or processes which may cause the emission of air contaminants. Section 39620 was amended by the legislature (effective 1/1/95) to require the permit streamlining program to include a process, developed in coordination with the air districts, for the Board to precertify simple, commonly used equipment and processes as being in compliance with applicable air quality rules and regulations. The Board is required to develop criteria and guidelines for precertification which would include a reasonable fee for precertifications to recover the estimated costs to the Board.

Precertification is an evaluation of the performance and regulatory requirements for equipment or processes, and recommendations for operating conditions to be utilized by district permitting staff to assist in processing permit applications. Existing state law gives districts the primary responsibility for controlling air pollution from non-vehicular sources, including simple, commonly used equipment and processes. The proposed adoption of the criteria for precertification does not affect the existing authority or responsibility of local air districts to issue permits to construct and operate and to ensure that equipment continues to operate in compliance with local district rules and regulations.

The proposed ARB precertification program is one component of a larger effort underway at the California Environmental Protection Agency (Cal/EPA) to establish environmental technology certification programs at the various Cal/EPA boards and departments. This proposed precertification program will complement a similar program being implemented at the Department of Toxic Substances Control and will coordinate with the Office Of Environmental Technology which was recently established at the ARB.

Proposed Regulation.

The Board's staff is proposing to add a new section 91400, Title 17, CCR to incorporate by reference the Criteria for Equipment and Process Precertification (Criteria). The proposed Criteria outlines the process which will be followed and the requirements which must be met for the Executive Officer to precertify equipment and processes. The proposed Criteria establishes a flexible process to deal with a wide variation in the types of equipment and processes and a potentially large number of facilities which may install and operate precertified equipment. The proposed precertification process has been structured to distinguish between performance and regulatory precertification. Performance precertification is an evaluation by Board staff of the performance of the equipment against the claims of the manufacturer. Regulatory precertification is a separate identification and evaluation of the regulatory requirements associated with the use of the equipment in specified districts. The regulatory evaluation is conducted by both ARB and district staff.

The proposed Criteria for precertification consists of four general areas: pre-application procedures, application package requirements, precertification procedures, and administrative procedures and requirements. During the pre-application procedures, the manufacturer or distributor (applicant) requests that its equipment or process be evaluated against the eligibility and priority criteria for the program. Upon determination by ARB staff that the equipment is eligible for the precertification program, an exchange of preliminary information will occur. Based upon the initial information, a precertification fee will be estimated to enable the applicant to make an informed decision on the potential costs and benefits of precertification.

Eligible applicants then submit an application package which consists of several major components. The first part is a written application describing: the equipment and process; how the equipment operates; the potential emissions from the equipment; and other equipment specific information. The package must also contain a scope of the precertification which outlines the manufacturer's claims for the equipment consisting of standards and specifications and how the claims will be demonstrated including the test procedures, data quality objectives, and calculation procedures. The remainder of the application package includes specific testing protocols and test reports for the independent verification testing conducted to support the issuance of a precertification.

Precertification procedures include the process and schedules that ARB staff will follow in order to review the applications, evaluate the data, and issue precertifications. The procedures include the evaluation of the testing protocols, oversight of independent verification testing, and evaluation of test reports and test data. Upon determination that the application is complete, a draft evaluation report will be prepared and provided to the

applicant and applicable air districts for review. A final report will be prepared and an Executive Order will be issued upon payment of remaining fees.

The Criteria includes several sections of administrative procedures which impact applicants and precertification holders. The proposed Criteria includes limitations and disclaimers on how precertifications may be used in marketing, other certification programs, and permitting programs.

Precertifications are proposed to be valid for three years to enable staff to periodically reevaluate the equipment. The Criteria also provides simple procedures for the renewal of precertifications and for changes in ownership of the equipment. The Criteria outlines requirements for modifications to the equipment or operating conditions. The procedures are identified for potential suspensions or revocations of precertifications and the Criteria provides an administrative hearing procedure to enable parties to receive an impartial review of any actions taken. Finally, the procedures to assess and collect reasonable fees are included. Precertification fees will be based upon the estimated time needed to evaluate and issue each precertification. One-half of the fees are requested with the application package, with the remainder due prior to issuance of precertification.

Comparable Federal Regulations. There are no comparable Federal Regulations to precertify or certify simple, commonly used air pollution related equipment and processes. The U.S. Environmental Protection Agency has established various performance standards for emissions, efficiency, work practice or other specific criteria applicable to equipment and processes within general categories which may be included within an applicant's scope of the precertification.

AVAILABILITY OF DOCUMENTS AND CONTACT PERSON

The Board staff has prepared a Staff Report which includes the initial statement of reasons for the proposed action and a summary of the environmental impacts of the proposal. Copies of the Staff Report and the full text of the proposed regulatory language may be obtained from the Board's Public Information Office, 2020 L Street, Sacramento, CA 95814, (916) 322-2990. These documents are also available on the California Air Resources Board Information System (CARBIS) electronic bulletin board. These documents may be accessed via modem by calling (916) 322-2826 and choosing "Equipment Precertification Program" from the "Systems Features" menu. The documents are also available on the Internet at <http://www.arb.ca.gov/> (choose "CARB Programs" from the main menu and the "Equipment Precertification Program"). If you have any questions regarding access to the CARBIS, please contact the Business Assistance Hot Line at 1-800-ARB-HLP2 (in California) or (916) 323-3336.

The Board staff has compiled a record which includes all information upon which the proposal is based. This material is available for inspection upon request to the contact person identified immediately below.

The ARB has determined that it is not feasible to draft the regulation and Criteria in plain English due to the technical nature of the regulations. However, both the Executive Summary and Appendix D of the staff report, "Equipment and Process Precertification Program Guidelines" present a plain

English summary of the regulation and Criteria. Both the staff report and the Guidelines are available from the agency contact person named in this notice.

Further inquiries regarding this matter should be directed to Mike Tollstrup, Manager of the Program Support Section in the Stationary Source Division, at (916) 323-8473.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred in reasonable compliance with the proposed regulations are presented below.

The Executive Officer has determined that the proposed regulatory action 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.

The Executive Officer has also determined that adoption of the proposed regulatory action will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states, or on directly affected private persons.

The Board's Executive Office has also determined, pursuant to Government Code section 11346.5(a)(3)(B), that the regulation will have a minor or positive impact on small business due to streamlining of the permitting process.

The Executive Officer has determined that the proposed regulatory action will have no, or an insignificant, potential cost impact, as defined in Government Code section 11346.5(a)(9), on private persons or businesses directly affected, resulting from the proposed action.

In accordance with Government Code section 11346.3(b)(1), the Executive Officer has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within California, or the expansion of businesses currently doing business within California. An assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

Before taking final action on the proposed regulatory action, the Board must determine 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.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing. To be considered by the Board, written submissions must be addressed to and received by the Board Secretary, Air Resources Board, P. O. Box 2815,

Sacramento, CA 95812, no later than 12:00 noon, June 13, 1996, or received by the Board Secretary at the hearing.

The Board requests but does not require that 20 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

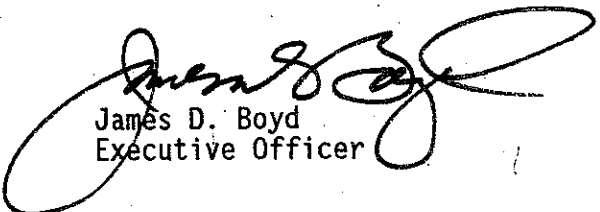
STATUTORY AUTHORITY AND HEARING PROCEDURES

This regulatory action is proposed under that authority granted in sections 39600, 39601, and 39620, Health and Safety Code. This action is proposed to implement, interpret, and make specific sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 39620, 41511, 41512, 42322, and 57001.

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if: the text as modified is sufficiently related to the originally proposed text; the public was adequately placed on notice; and 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 written comment, at least 15 days before it is adopted. The public may request a copy of the modified regulatory text from the Board's Public Information Office, 2020 L Street, Sacramento, CA 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD



James D. Boyd
Executive Officer

Date: April 16, 1996