

REQUEST FOR EARLY EFFECTIVE DATE

Pursuant to Government Code section 11343.4(b)(3), the California Air Resources Board (CARB or Board) requests that the Office of Administrative Law (OAL) prescribe an “earlier effective date” for the amendments to the State Area Designations Regulation that were approved for adoption by the Board at the February 21, 2019. The following demonstrates “good cause” for OAL to allow the amendments to be effective upon submission to the Secretary of State.

DEMONSTRATION OF GOOD CAUSE

In this rulemaking, the Board adopted amendments to the State Area Designations Regulation to amend (1) the non-county areas to include the smaller sub-county areas of Sutter Buttes in Sutter County and a portion of CA 60 freeway in San Bernardino, Riverside, and Los Angeles Counties in the South Coast Air Basin, (2) the North Central Coast Air Basin’s ozone designation from nonattainment to nonattainment-transitional, (3) the Sutter and Yuba Counties’ (outside of the Sutter Buttes sub-county area) ozone designation from nonattainment to attainment, (4) the Yolo and Solano Counties’ ozone designation from nonattainment to nonattainment-transitional, and (5) the CA 60 portion of San Bernardino, Riverside, and Los Angeles Counties in the South Coast Air Basin from attainment to nonattainment.

As discussed in the Staff Report (or ISOR) entitled “Proposed 2018 Amendments to Area Designations for State Ambient Air Quality Standards” (released December 31, 2018), California law requires CARB to establish State ambient air quality standards in consideration of public health, safety, and welfare. These standards define the maximum amount of pollutant that can be present in the ambient air. State law requires CARB to establish and periodically review criteria for designating areas as attainment or nonattainment for the State standards. State law further requires CARB to use the designation criteria to designate areas of California as attainment, nonattainment, or unclassified for the State standards.

Each year, CARB monitors air pollutants in California in cooperation with local air pollution control, air quality management districts, and with other agencies. CARB then annually designates each area for each State ambient air quality standard. CARB uses the latest three years’ worth of complete monitoring data for each annual designation. For the current amendments, the data indicated that the previous designations for certain pollutants in certain air basins were no longer applicable. Therefore, the healthfulness of the air quality in these affected air basins is not accurately portrayed to the public and the districts.

The public uses this information to make educated life decisions, such as participation in outdoor activities, residency, and work. The districts use this information for planning purposes, such as proposals of new or additional requirements to reduce pollution.

To fulfill the requirement to review and amend the area designations for 2019, CARB plans to take any additional amendments to the Board in November 2019. If an early effective date for the current amendments is not granted, there is a possibility that the proposed November 2019 rulemaking may result in confusion, because the current amendments will not be effective before the next proposed amendments are released in late 2019. In addition, districts designated as nonattainment for the current amendments may be designated as attainment for the 2019 amendments before the 2018 amendments are finalized, causing confusion as to requirements for planning purposes, fee requirements under H&SC 39612, 44223, and 44225, as well as requirements of Assembly Bill 617 (Garcia) outlined in H&SC 39607.

An early effective date would thus benefit the air districts, public, and the State of California in the following ways:

1. Correct/proper area designations allow the districts to notify local residents of the status of their air quality, develop plans, and adopt rules and regulations sufficiently effective to achieve and maintain the State ambient air quality standards.
2. Correct/proper area designations will provide the public with an indication of whether the health-based standards are being met.
3. Correct/proper area designations will assist the public in making informed decisions regarding personal residency, work, and other outdoor activities.
4. Identification of unavailable data that might identify areas with unhealthful air quality assists the public, air districts, and the state in planning new monitoring sites to measure the air quality.

For the foregoing reasons, CARB hereby requests that OAL approve these amendments to be effective upon submission to the Secretary of State.



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Date