

BOARD MEETING DATE: October 7, 2016

AGENDA NO. 31

REPORT: California Air Resources Board Monthly Meeting

SYNOPSIS: The California Air Resources Board met on September 22, 2016, in Sacramento, CA. The following is a summary of this meeting.

RECOMMENDED ACTION:
Receive and File.

Judith Mitchell, Member
SCAQMD Governing Board

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The Air Resources Board's (ARB or Board) September meeting was held on September 22, 2016 in Sacramento at the California Environmental Protection Agency Headquarters Building. Key items presented are summarized below.

Consent Item

1. Public Meeting to Consider Ozone Designation Recommendations for the Revised National Ozone Standard of 70 Parts per Billion.

The Board approved staff recommendations for the area designations needed to comply with the revised national ambient air quality 8-hour ozone standard of 70 parts per billion (ppb). ARB staff recommended 19 areas be designated as nonattainment. These recommendations include all 16 areas currently designated nonattainment for the 75 ppb ozone standard, as well as 3 additional areas that were previously nonattainment for the 80 ppb standard.

Discussion Items

1. Public Meeting to Consider the 2016 State Strategy for the State Implementation Plan

The Board heard an informational update on the Proposed 2016 State Strategy for the State Implementation Plan (State SIP Strategy). The State SIP Strategy identifies measures for mobile sources, fuels, and consumer products needed to attain health-based federal air quality standards over the next 15 years. In combination with the current control program, the measures will reduce mobile source NOx emissions 80 percent from today's levels in the South Coast by 2031 and provide significant ozone benefits in the San Joaquin Valley over the same timeframe. This was the first of two planned Board meetings on the item. Based on input from stakeholders and Board direction, ARB staff will issue a revised State SIP Strategy for Board consideration in January 2017.

SCAQMD Staff Comments/Testimony: Staff provided comments that the State SIP Strategy is needed to help the South Coast Air Basin and Coachella Valley attain federal air quality standards. In order to meet near-term air quality standard deadlines, there is a need for additional financial incentives to turnover older vehicles to the cleanest technologies feasible. Staff stated the need to deploy zero-emission vehicles wherever feasible and near-zero emission technologies everywhere else. Staff indicated that the SCAQMD staff is proposing 15 mobile source measures to help implement the State SIP Strategy "Further Deployment of Cleaner Technologies" measures. Staff will be proposing in the next iteration of the Draft 2016 AQMP, that the measures be implemented through a collaborative process to identify actions that potentially result in emission reduction benefits and to identify additional financial incentives. The SCAQMD staff will report back to the SCAQMD Governing Board within one year on the progress. If actions are not identified or funding is not sufficient, staff will recommend that the Board proceed with formal rulemaking. Finally, staff commended the close working relationship between the two agency staffs.

2. Public Hearing to Consider Proposed Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions

The Board heard the proposed amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions needed to support California's Cap-and-Trade Regulation and other greenhouse gas programs. The amendments will harmonize the program with the Cap-and-Trade Regulation and update requirements for several sectors including agriculture, petroleum and natural gas, and electric power entities. The

amendments will also update global warming potential values to agree with the 4th assessment report of the Intergovernmental Panel on Climate Change (IPCC) beginning in 2021, and provide revisions to implement reporting for the U.S. EPA Clean Power Plan. The Board directed staff to develop 15-day revisions to the proposed amendments that will further clarify reporting and requirements for nitric acid facilities, change of ownership, and incomplete reporting for fuel suppliers. Staff anticipates presenting a final regulation to the Board in spring 2017.

3. Public Hearing to Consider Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation (Cap-and-Trade Regulation)

The Board heard the proposed amendments to the Cap-and-Trade Regulation (Regulation). The proposed amendments would extend the major provisions of the Regulation beyond 2020; link the Regulation with Ontario, Canada; continue cost-effective prevention of emission leakage through allowance allocations to entities; and enhance Program implementation and oversight. The amendments also demonstrate how the Regulation meets California's compliance with the federal Clean Power Plan. Members of the Environmental Justice Advisory Committee, in addition to other EJ community groups, expressed concerns as to whether the Regulation adequately protects residents living in disadvantaged communities from increases in local criteria and toxics pollutants. The Board directed staff to provide an assessment of alternatives to Cap-and-Trade as part of the ongoing work on the 2030 Target Scoping Plan in addition to an update on the adaptive management program associated with the Regulation. The Board further directed staff to work with stakeholders on 15-day revisions to the amendments to address new leakage assessments, post-2020 allocations, and adjustments for the post-2020 Renewable Portfolio Standard, and further clarifications. Staff anticipates presenting a final regulation to the Board in spring 2017.

4. Public Hearing to Consider California's Proposed Compliance Plan for the Federal Clean Power Plan

The Board heard an informational update on California's Proposed Compliance Plan for the federal Clean Power Plan, which requires that California limit greenhouse gas emissions from large power plants. California's current policies and climate goals will result in emissions well below the 2030 federal targets. The proposed "state measures" plan for California relies on the Cap-and-Trade Regulation, with appropriate amendments to support compliance. Incorporation of the Cap-and-Trade Regulation provides a mechanism to meet federal targets, while supporting economy-wide greenhouse gas reductions. Staff anticipates presenting a final plan to the Board in spring 2017.

Attachment

CARB September 22, 2016 Meeting Agenda

LOCATION:

California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium, 2nd Floor
1001 I Street
Sacramento, California 95814

PUBLIC MEETING AGENDA

September 22, 2016

[Webcast](#)

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**Thursday
September 22, 2016
9:00 a.m.**

CONSENT CALENDAR:

The following item on the consent calendar will be presented to the Board immediately after the start of the public meeting, unless removed from the consent calendar either upon a Board member's request or if someone in the audience wishes to speak on it.

Consent Item #

16-8-1: Public Meeting to Consider Ozone Designation Recommendations for the Revised National Ozone Standard of 70 Parts Per Billion

The Board will consider recommendations for initial nonattainment areas for the revised national ambient air quality 8-hour ozone standard of 70 parts per billion to be submitted to the United States Environmental Protection Agency.

[More Information](#)

[Proposed Resolution](#)

DISCUSSION ITEMS:

Note: The following agenda items may be heard in a different order at the Board meeting.

Agenda Item #

16-8-3: Public Hearing to Consider Proposed Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions

Spanish translation will be provided at the Board Meeting for this item, Item 16-8-3.

The Board will consider proposed amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions needed to support California's Cap-and-Trade Regulation and other greenhouse gas programs. This is the first of two planned Board hearings on the item, and the Board will not take action to adopt the proposed amendments at this hearing. Staff anticipates presenting a final regulation to the Board in spring 2017.

[More Information](#)

[Staff Presentation](#)

16-8-4: Public Hearing to Consider Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation (Cap-and-Trade Regulation)

Spanish translation will be provided at the Board Meeting for this item, Item 16-8-4.

The Board will consider proposed amendments to the Cap-and-Trade Regulation. The proposed amendments would extend the major provisions of the Program beyond 2020; link the Program with Ontario, Canada; continue to cost-effectively prevent emissions leakage through allowance allocations to entities; and enhance Program implementation and oversight. Amendments also propose how the Program can be used to demonstrate California's compliance with the federal Clean Power Plan. A draft environmental analysis prepared under the California Environmental Quality Act is included with the Staff Report. This is the first of two planned Board hearings on the item, and the Board will not take action to adopt the proposed amendments at this hearing. Staff anticipates presenting a final regulation to the Board in spring 2017.

[More Information](#)

[Staff Presentation](#)

16-8-5: Public Hearing to Consider California's Proposed Compliance Plan for the Federal Clean Power Plan

Spanish translation will be provided at the Board Meeting for this item, Item 16-8-5.

The Board will consider California's Proposed Compliance Plan for the Federal Clean Power Plan, which requires that California limit greenhouse gas emissions from many large power plants. A draft environmental analysis prepared under the California Environmental Quality Act is included with the proposed Plan. This is the first of two planned hearings on the item, and the Board will not take action to adopt the proposed Plan at this hearing. Staff anticipates presenting a final Plan along with the finalized environmental documents to the Board in spring 2017.

[More Information](#)

[Staff Presentation](#)

16-8-6: Public Meeting to Consider the 2016 State Strategy for the State Implementation Plan

The Board will receive public comment and consider the Proposed 2016 State Strategy for the State Implementation Plan (State SIP Strategy). The State SIP Strategy identifies measures for mobile sources and consumer products needed to attain health-based federal air quality standards over the next 15 years. The measures in the State SIP Strategy describe the regulatory and programmatic approaches necessary to deploy cleaner technologies and fuels in a manner sufficient to meet air quality standards by deadlines established in the Clean Air Act. In combination with the current control program, the measures will reduce mobile source NOx emissions 80 percent from today's levels in the South Coast by 2031 and provide significant ozone benefits in the San Joaquin Valley over the same timeframe. This is the first of two planned Board meetings on the item, and the Board will not consider approving the State SIP Strategy at this meeting. Staff anticipates presenting the SIP Strategy to the Board for approval in December 2016 or January 2017.

[More Information](#)

[Staff Presentation](#)

CLOSED SESSION

The Board will hold a closed session, as authorized by Government Code section 11126(e), to confer with, and receive advice from, its legal counsel regarding the following pending or potential litigation, and as authorized by Government Code section 11126(a):

POET, LLC, et al. v. California Air Resources Board, et al., Superior Court of California (Fresno County), Case No. 15CECG03380.

American Fuels and Petrochemical Manufacturers, et al. v. Jane O’Keeffe, et al., U.S. District Court (D. Ore. Portland), Case No. 3:15-CV-00467; Plaintiffs’ appeal, U.S. Court of Appeals, Ninth Circuit, Case No. 15-35834.

POET, LLC, et al. v. Corey, et al., Superior Court of California (Fresno County), Case No. 09CECG04659; plaintiffs’ appeal, California Court of Appeal, Fifth District, Case No. F064045; California Supreme Court, Case No. S213394 [remanded to trial court]; plaintiff’s appeal of trial court order discharging peremptory writ of mandate, Court of Appeal, Fifth District, Case No. F073340.

Rocky Mountain Farmers Union, et al. v. Corey, U.S. District Court (E.D. Cal. Fresno), Case No. 1:09-CV-02234-LJO-DLB; ARB interlocutory appeal, U.S. Court of Appeals, Ninth Circuit, Case No. 09-CV-02234 [remanded to trial court].

American Fuels and Petrochemical Manufacturers, et al. v. Corey, et al., U.S. District Court (E.D. Cal. Fresno), Case No. 1:10-CV-00163-AWI-GSA; ARB’s interlocutory appeal, U.S. Court of Appeals, Ninth Circuit, Case No. 10-CV-00163 [remanded to trial court].

California Chamber of Commerce et al. v. California Air Resources Board, Sacramento Superior Court, Case No. 34-2012-80001313; plaintiffs’ appeal, California Court of Appeal, Third District, Case No. C075930.

Morning Star Packing Company, et al. v. California Air Resources Board, et al., Sacramento Superior Court, Case No. 34-2013-800001464; plaintiffs’ appeal, California Court of Appeal, Third District, Case No. C075954.

Kimberly-Clark Worldwide, Inc. v. California Air Resources Board, et al., Sacramento County Superior Court, Case No. 34-2015-80002246.

Sowinski v. California Air Resources Board, et al., United States District Court for the Central District of California, Case No. 8:15-cv-02123.

State of West Virginia et al. v. United States Environmental Protection Agency, U.S. Court of Appeals, District of Columbia Circuit, Case No. 15-1363.

Murray Energy Corporation v. United States Environmental Protection Agency, U.S. Court of Appeals, District of Columbia Circuit, Case No. 15-1385.

State of North Dakota, et al. v. United States Environmental Protection Agency, U.S. Court of Appeals, District of Columbia Circuit, Case No. 16-1242.

Truck and Engine Manufacturers Association v. California Air Resources Board, Sacramento Superior Court, Case No. 34-2013-00150733.

Alliance of Automobile Manufacturers v. California Air Resources Board; Sacramento Superior Court, Case No. 34-2013-00152974.

Alliance for California Business v. California Air Resources Board, et al., Glenn County Superior Court, Case No. 13CV01232.

Dalton Trucking, Inc. v. United States Environmental Protection Agency, U.S. Court of Appeals, District of Columbia Circuit, Case No. 13-1283 (dismissed), U.S. Court of Appeals, Ninth Circuit, Case No. 13-74019.

Owner-Operator Independent Drivers Association Inc. et al. v. Corey et al., U.S. District Court, (E.D. Cal. Fresno) Case No. 1:13-CV-01998-LJO-SAB (transferred by court to E.D. Cal. Sacramento, Case No. 2:14-CV-00186-MCE-AC), plaintiffs' appeal U.S. Court of Appeals, Ninth Circuit, Case Nos. 15-72101 and 15-16429.

Jack Cody dba Cody Transport v. California Air Resources Board, et al., Sacramento Superior Court, Case No. 34-2015-80002116.

John R. Lawson Rock & Oil, Inc. et al. v. California Air Resources Board et al., Fresno County Superior Court, Case No. 14-CECG01494.

Transportation Solutions Defense and Education Fund v. California Air Resources Board, Fresno County Superior Court, Case No. 14CECG01788 (plaintiff's transfer to Sacramento Superior Court, Case No. 34-2014-80001974-CU-WM-GDS).

Meeks v. California Air Resources Board, et al. Los Angeles County Superior Court, Case No. BC592558.

Adam Brothers Farming, Inc. v. California Air Resources Board, et al., Santa Barbara County Superior Court, Case No. 15 CV04432.

In re: Volkswagen "Clean Diesel" MDL, United States District Court, Northern District of California, Case No. 15-MD-2672-CRB (JSC).

American Coating Association, Inc. v. State of California and California Air Resources Board, Sacramento County Superior Court, Case No. 04CS01707.

Hamilton v. California Air Resources Board, et al., U.S. District Court for the Eastern District of California, Case No. 1:15-CV-01942-AWI-SKO.

Mahan v. California Air Resources Board, Sacramento County Superior Court, Case No. 34-2016-80002416.

California Air Resources Board v. Adam Brothers Farming Inc., Santa Barbara County Superior Court, Case No. 16CV01758.

California Air Resources Board v. SSA Containers, Inc., Los Angeles County Superior Court, Case No. BC628573 and No. BC628722.

People v. Southern California Gas Company, Los Angeles Superior Court, Case No. BC 602973.

California Air Resources Board v. BP West Coast Products LLC, Contra Costa County Superior Court, Case No. C12-00567.

California Air Resources Board v. West Coast Diesel, Inc., Fresno County Superior Court, Case No. 15 CECG 03337.

OPPORTUNITY FOR MEMBERS OF THE BOARD TO COMMENT ON MATTERS OF INTEREST

Board members may identify matters they would like to have noticed for consideration at future meetings and comment on topics of interest; no formal action on these topics will be taken without further notice.

OPEN SESSION TO PROVIDE AN OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO ADDRESS THE BOARD ON SUBJECT MATTERS WITHIN THE JURISDICTION OF THE BOARD

Although no formal Board action may be taken, the Board is allowing an opportunity to interested members of the public to address the Board on items of interest that are within the Board's jurisdiction, but that do not specifically appear on the agenda. Each person will be allowed a maximum of three minutes to ensure that everyone has a chance to speak.

TO ELECTRONICALLY SUBMIT WRITTEN COMMENTS ON AN AGENDA ITEM IN ADVANCE OF THE MEETING GO TO:

<http://www.arb.ca.gov/lispub/comm/bclist.php>

(Note: not all agenda items are available for electronic submittals of written comments.)

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT THE CLERK OF THE BOARD:

1001 I Street, 23rd Floor, Sacramento, California 95814

(916) 322-5594

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SPECIAL ACCOMMODATION REQUEST

Consistent with California Government Code Section 7296.2, special accommodation or language needs may be provided for any of the following:

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- Documents made available in an alternate format or another language;
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 7 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia
- Documentos disponibles en un formato alterno u otro idioma
- Una acomodación razonable relacionados con una incapacidad

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 7 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

SMOKING IS NOT PERMITTED AT MEETINGS OF THE CALIFORNIA AIR RESOURCES BOARD