

BOARD MEETING DATE: December 7, 2018

AGENDA NO. 26

REPORT: California Air Resources Board Monthly Meeting

SYNOPSIS: The California Air Resources Board met on November 15 and 16, 2018 in Sacramento, CA. The following is a summary of the meeting.

RECOMMENDED ACTION:

Receive and file.

Judith Mitchell, Member
SCAQMD Governing Board

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The California Air Resources Board's (CARB or Board) held a meeting on November 15 and 16, 2018 in Sacramento at the California Environmental Protection Agency Headquarters Building. Key items presented are summarized below.

CONSENT ITEMS

18-9-1: Public Meeting to Consider the Ozone Attainment Plan for Western Nevada County

The Board adopted the Ozone Attainment Plan for Western Nevada County (Ozone Plan). The Ozone Plan addresses Clean Air Act (Act) requirements that California demonstrate attainment of the 75 part per billion 8-hour ozone national ambient air quality standard in Western Nevada County by 2021. The Ozone Plan also satisfies Act requirements for control measures, air quality modeling analysis, reasonable further progress, transportation conformity, and contingency measures. The Ozone Plan will be submitted to U.S. EPA as a revision to the California State Implementation Plan.

DISCUSSION ITEMS

18-9-3: Public Meeting to Hear an Informational Update on the Mobile Source Program: A Vision for Minimizing Real-World Emissions

The Board heard an informational update on the status of existing programs and the development of future programs to minimize emissions from mobile sources in California. While CARB has made impressive progress reducing pollution and greenhouse gas emissions from vehicles, California still faces the challenges of lowering oxides of nitrogen by an additional 80 percent from today's levels and achieving the Governor's 2030 target of reducing greenhouse gases by 40 percent below 1990 levels. CARB staff presented its vision to ensure that vehicles are designed, built, and operated to minimize emissions throughout the vehicle's life. To achieve these goals, staff is utilizing new approaches and technology to tighten emissions standards for new vehicles and strengthen in-use programs to ensure that vehicles operate as cleanly as possible.

18-9-4: Public Hearing to Consider Proposed Revisions to On Board Diagnostic System Requirements, Including the Introduction of Real Emissions Assessment Logging, for Heavy Duty Engines, Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines

The Board approved amendments to the heavy-duty (HD) On Board Diagnostic (OBD) and medium-duty OBD II requirements. These amendments will update the monitoring requirements for gasoline and diesel vehicles, require more data parameters to be tracked and reported by the engine and vehicle, increase deficiency fines, and clarify and improve the regulation where necessary. The Board also made conforming updates to the associated HD OBD enforcement regulation, and to modify the manufacturer self-testing requirements. The approval includes 15-day changes to clarify the regulatory language.

18-9-9 and 18-9-10: Public Hearing to Consider Proposed Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (agenda item 18-9-9), and to Consider Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation (agenda item 18-9-10)

The Board heard a combined presentation on the proposed amendments to the Mandatory Reporting of Greenhouse Gas (GHG) Emissions Regulation (MRR), and the proposed amendments to the Cap-and-Trade Regulation. The amendments to the MRR will clarify the existing requirements regarding how entities report their GHG emissions and will ensure the data collected for CARB's climate change programs are complete and accurate. The proposed amendments to the Cap-and-Trade Regulation will conform the Regulation to requirements in Assembly Bill 398 and enhance implementation and

oversight of the Regulation. The amendments also provide transition assistance and additional allowances for minimizing leakage from certain sectors, and revise assistance factors for 2018 to 2020. The amendments also update existing provisions to ensure appropriate allocation for new and covered entities, and make changes to system registration, auction processes, and provisions related to implementation of compliance offsets. In addition, the Regulation amendments propose to de-link from the recently revoked Ontario cap-and-trade program. The Board will consider approval of the amendments to the MRR and Cap-and-Trade Regulation at the December 2018 Board meeting.

18-9-5: Public Meeting to Hear an Informational Update on Reducing Emissions from Small Off-Road Engines: Operator Exposure, Health Risks, and Pathways to Zero Emissions

The Board heard an informational update on small off-road engines (SORE), which are primarily used in lawn and garden equipment. As the number of these engines increase in California, their ozone forming emissions, if left unchecked, are expected to exceed those of cars by the year 2020. Other health concerns related to emissions from these engines include operator exposure to toxic air pollutants and cancer-forming chemicals. Moving to zero-emission equipment (ZEE) reduces near-source cancer-risk and air toxic exposure for equipment operators, in addition to reducing regional air pollution. The update discussed the increasing availability of ZEE, their current use by businesses, colleges and cities, and incentives to accelerate the deployment of ZEE. To encourage their use, CARB is involved with ZEE demonstrations, collaborations with manufacturers and incentive programs. CARB staff plans to return to the Board in 2020 with lower exhaust and evaporative emissions standards for SORE.

18-9-2: Public Meeting to Hear the 2018 Legislative Update

The Board heard a review of air quality and climate change legislation in the 2018 Legislative Session. In 2018, CARB staff tracked over 450 bills and resolutions related to air quality and climate, 40 of which were signed by the Governor. These bills addressed a wide range of issues, including climate change and energy, expanding public accessibility to zero emission vehicles, reducing emissions from heavy-duty vehicles, funding for cleaner technology, and lowering air pollution from stationary sources and wildfires.

18-9-8: Public Meeting to Hear an Informational Update on the Natural and Working Lands Implementation Plan

The Board heard an update on the development of the Natural and Working Lands Implementation Plan (Implementation Plan) and the 2030 intervention-based goal for carbon sequestration and avoided greenhouse gas emissions in the Natural and Working Lands sector. The Implementation Plan follows the Governor's Executive Orders to

manage forests, enhance biodiversity, and achieve carbon neutrality, and is called for by the 2017 Climate Change Scoping Plan to develop near-term actions for meeting the long-term objectives to support lands as a net carbon sink. The 2017 Climate Change Scoping Plan directs the California Air Resources Board, together with the California Environmental Protection Agency, the California Natural Resources Agency, and California Department of Food and Agriculture, to develop the Implementation Plan to evaluate and identify actions to meet California's climate goals.

18-9-6: Public Meeting to Consider Endorsement of the California Tropical Forest Standard

The Board considered an endorsement of the proposed California Tropical Forest Standard (Standard). The Standard establishes criteria that implementing jurisdictions must meet to enable their sector-based programs reducing greenhouse gas (GHG) emissions from tropical deforestation to align with California regulatory emissions trading systems. The Standard includes requirements for direct participation by indigenous and local communities, and provides a detailed stepwise approach to quantify and track GHG emissions reductions. Endorsement of the Standard would not, however, result in regulatory amendments to the California Cap-and-Trade Regulation, linkage with any jurisdiction, or make tropical forest offset credits eligible for use in the California Cap-and-Trade Program.

18-9-7: Public Meeting to Present the Revised Draft Cap-and-Trade Auction Proceeds Third Investment Plan

The Board heard a staff update on the Revised Draft Third Investment Plan for Cap-and-Trade Auction Proceeds. The Plan identifies priority investments that will help achieve the State's greenhouse gas reduction goals, invest in disadvantaged and low-income communities, and provide other economic, public health, and environmental benefits. A key recommendation in the Revised Draft Third Investment Plan includes continued investment in successful existing programs that emphasize community engagement and align with legislative priorities. The Plan also recommends providing multi-year funding for additional existing programs to encourage better community engagement and more innovative projects. The Department of Finance will submit the Plan to the Legislature in January 2019, as required by Assembly Bill 1532.

18-9-11: Public Meeting to Consider Electrify America's Cycle 2 Zero Emission Vehicles Investment Plan

The Board heard a staff presentation and received public comment related to the Board's consideration of approval of Electrify America's Cycle 2 Zero Emission Vehicle (ZEV) Investment Plan. Electrify America, a subsidiary of Volkswagen (VW), is responsible for developing and implementing the ZEV-Investment Commitment required as part of the VW Diesel Settlement. The ZEV Investment Commitment

requires investment in ZEV market support activities like infrastructure and public awareness. The \$200 million Cycle 2 ZEV Investment Plan will include funding for fueling infrastructure in metropolitan areas and highway corridors in addition to ZEV awareness and education. Electrify America will also strive to ensure that at least 35 percent of their Cycle 2 Plan investments benefit low-income and disadvantaged communities and will evaluate heavy-duty hydrogen opportunities. The Board will take a final vote on the Investment Plan at the December meeting.

Attachment

CARB November 15 and 16, 2018 Meeting Agenda



PUBLIC MEETING AGENDA

**Thursday, November 15, 2018
and
Friday, November 16, 2018**

LOCATION:

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

This facility is accessible by public transit. For transit information, call (916) 321-BUSS, website:

<http://www.sacrt.com>

(This facility is accessible to persons with disabilities.)

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

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

**Thursday
November 15, 2018
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.

Consent Item #

18-9-1: Public Meeting to Consider the Ozone Attainment Plan for Western Nevada County

The Board will consider adopting the Ozone Attainment Plan for Western Nevada County as a revision to the California State Implementation Plan. The revisions address requirements that California demonstrate how Western Nevada County will attain the 2008 75 ppb 8-hour ozone standard by 2021 and satisfy other Clean Air Act requirements for control measures, air quality modeling analysis, reasonable further progress, transportation conformity, and contingency measures.

DISCUSSION ITEMS:

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

Agenda Item #

18-9-3: Public Meeting to Hear an Informational Update on The Mobile Source Program: A Vision for Minimizing Real-World Emissions

The Board will hear an update on how staff are updating existing programs and developing future programs to better ensure vehicles are designed, built, and operated to minimize emissions throughout the vehicle's life.

18-9-4: Public Hearing to Consider Proposed Revisions to On Board Diagnostic System Requirements, Including the Introduction Of Real Emissions Assessment Logging, for Heavy Duty Engines, Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines

The Board will consider amendments to the heavy-duty (HD) On Board Diagnostic (OBD) and medium-duty OBD II requirements to update the monitoring requirements for gasoline and diesel vehicles, to require more data parameters to be tracked and reported by the engine/vehicle, and to clarify and improve the regulation where necessary. Staff is also proposing to update the associated HD OBD enforcement regulation to align with the proposed changes to the HD OBD regulation and to modify the manufacturer self-testing requirements.

18-9-9: 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 18-9-9.

The Board will hear staff's proposed amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas (GHG) Emissions. The proposed amendments are targeted revisions to clarify the existing regulation related to how entities report their GHG emissions to support the Cap-and-Trade program, and to ensure the data that are collected for CARB's climate change programs are complete and accurate. The public comments for this item will be combined for purposes of the Board hearing with item 18-9-10. This hearing will be the first of two planned Board hearings on this proposal.

18-9-10: Public Hearing to Consider the Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation

Spanish translation will be provided at the Board Meeting for this item, Item 18-9-10.

The Board will hear staff's proposal for Cap-and-Trade Regulation amendments to conform with the requirements in Assembly Bill 398, respond to Board direction in Resolution 17-21, and enhance Program implementation and oversight. Specifically, the proposed amendments include changes to free allocation for minimizing leakage and transition assistance, offsets usage limits and criteria related to direct environmental benefits to the state, and cost containment, among others. The public comments for this item will be combined for purposes of the Board hearing with item 18-9-9. This hearing will be the first of two planned board hearings on this proposal.

18-9-5: Public Meeting to Hear an Informational Update on Reducing Emissions from Small Off-Road Engines: Operator Exposure, Health Risks, and Pathways to Zero Emissions

The Board will hear an update on small off-road engines, which are primarily used in lawn and garden equipment. The update will discuss incentive programs, case studies, and potential approaches to converting California's small off-road engine fleet to zero-emission equipment. Staff will also present an update on compliance testing results for model year 2015-2017 engines and a summary of findings from a recent exposure study, including estimates of potential maximum incremental cancer risk, underscoring the importance of reducing emissions.

18-9-2: Public Meeting to Hear the 2018 Legislative Update

The California Air Resources Board Legislative Office will present a review of air quality and climate legislation from the second year of the 2017-2018 Legislative Session.

Friday
November 16, 2018
8:30 a.m.

18-9-8: Public Meeting to Hear an Informational Update on the Natural and Working Lands Implementation Plan

The Board will hear an update on the development of the Natural and Working Lands Implementation Plan and the 2030 intervention-based goal for carbon sequestration and avoided greenhouse gas emissions in the sector. The 2017 Climate Change Scoping Plan identifies a preliminary goal and directs the California Air Resources Board, the California Environmental Protection Agency, the California Natural Resources Agency, and California Department of Food and Agriculture to refine the goal and develop the Implementation Plan to evaluate and identify actions to meet it.

18-9-6: Public Meeting to Consider Endorsement of the California Tropical Forest Standard

Spanish and Portuguese translation will be provided at the Board Meeting for this item, Item 18-9-6.

The Board will consider endorsing a California Tropical Forest Standard that would specify criteria to assess jurisdictional sector-based offset crediting programs that reduce emissions from tropical deforestation. The Standard could be used by jurisdictions that are taking action to reduce Greenhouse Gas emissions from tropical deforestation as well as for potential future inclusion within a Cap-and-Trade Program. Endorsement of the proposed standard would not result in any regulatory amendments to the California Cap-and-Trade Regulation, any immediate linkage with any jurisdiction, or in any tropical forest offset credits being eligible for use in the California Cap-and-Trade Program, without a future regulatory amendment process.

18-9-7: Public Meeting to Present the Revised Draft Cap-and-Trade Auction Proceeds Third Investment Plan

Spanish translation will be provided at the Board Meeting for this item, Item 18-9-7.

The Board will hear the proposed Third Investment Plan for Cap-and-Trade Auction Proceeds. The Plan identifies priority investments for California Climate Investments to help achieve the State's greenhouse gas reduction goals; invest in disadvantaged and low-income communities; and provide other economic, public health, and environmental benefits. The Department of Finance will submit the Plan to the Legislature, as required by Assembly Bill 1532.

18-9-11: Public Meeting to Consider Electrify America's Cycle 2 Zero Emission Vehicles Investment Plan

Electrify America, a subsidiary of Volkswagen (VW), is responsible for implementing the Zero Emission Vehicle (ZEV) Investment commitment required as part of the VW Diesel Settlement. The ZEV Investment commitment requires investment in ZEV market support activities like infrastructure and public awareness. The Board will hear a staff assessment of Electrify America's Cycle 2 ZEV Investment Plan and decide whether to approve or disapprove it, in whole or in part.

CLOSED SESSION

The Board may 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):

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.

California Air Resources Board v. United States Environmental Protection Agency, U.S. Court of Appeals, District of Columbia Circuit, Case No. 18-1085.

Electric Power Supply Association, et al. v. Star, et al., U.S. Court of Appeals, Seventh Circuit, Case No. 17-2445.

POET, LLC, et al. v. California Air Resources Board, et al., Fresno County Superior Court, 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.

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

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. 12-15131 [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].

Sowinski v. California Air Resources Board, et al., U.S. District Court, Central District of California, Case No. 8:15-CV-02123; Orange County Superior Court, Case No. 30-2018-00970852-CU-IP-CXC.

State of California, et al. v. United States Environmental Protection Agency, U.S. Court of Appeals, District of Columbia Circuit, Case No. 18-1114.

State of California, et al. v. United States Bureau of Land Management, et al., U.S. District Court, Northern District of California Circuit, Case No. 3:17-cv-07186-WHO.

State of New York, et al. v. United States Environmental Protection Agency, U.S. District Court, District of Columbia, Case No. 1:18-cv-00773.

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.

State of North Dakota v. United States Environmental Protection Agency, U.S. Court of Appeals, District of Columbia Circuit, Case No. 15-1381.

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.

State of Wyoming, et al. v. United States Department of the Interior, et al., U.S. District Court, District of Wyoming, Case No. 16-CV-285-SWS.

The Two Hundred, et al. v. California Air Resources Board, et al., Fresno County Superior Court, Case No. 18CECG01494.

Truck Trailer Manufacturers Association, Inc. v. United States Environmental Protection Agency, et al., U.S. Court of Appeals, District of Columbia Circuit, Case No. 16-1430.

Valero Refining Co. California v. Hearing Board of the Bay Area Air Quality Management District et al., Court of Appeal, First Appellate District, Case No. A151004.

Alliance for California Business v. California Air Resources Board, et al., Glenn County Superior Court, Case No. 13CV01232; plaintiffs' appeal, Court of Appeal, Third District, Case No. C082828.

Alliance for California Business v. California State Transportation Agency, et al., Sacramento County Superior Court, Case No. 34-2016-80002491.

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

Jack Cody dba Cody Transport v. California Air Resources Board, et al., Sacramento Superior Court, Case No. 34-2015-80002116; plaintiff's appeal, Court of Appeal, Third District, Case No. C083083.

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.

John R. Lawson Rock & Oil, Inc. et al. v. California Air Resources Board et al., Fresno County Superior Court, Case No. 14-CECG01494; ARB's appeal, Court of Appeal, Fifth District, Case No. F074003.

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

State of California, et al. v. United States Environmental Protection Agency et al., U.S. District Court, Northern District of California, Oakland Division, Case No. 4:17-cv-6936-HSG.

State of New York, et al. v. United States Environmental Protection Agency et al., U.S. Court of Appeals, District of Columbia Circuit, Case No. 17-1185.

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

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

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

Friends of Oceano Dunes, Inc. v. California Coastal Commission, et al., San Luis Obispo County Superior Court, Case No. 17CV-0576; U.S. District Court for the Central District of California, Case No. 2:17-cv-8733.

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:

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

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

PLEASE NOTE: No outside memory sticks or other external devices may be used at any time with the Board audio/visual system or any CARB computers. Therefore, PowerPoint presentations to be displayed at the Board meeting must be electronically submitted via email to the Clerk of the Board at cotb@arb.ca.gov no later than noon on the business day prior to the scheduled Board meeting.

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

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

(916) 322-5594

CARB Homepage: www.arb.ca.gov

SPECIAL ACCOMMODATION REQUEST

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

- An interpreter to be available at the hearing;
- 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 alternativo 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