

NEGATIVE DECLARATION IN LIEU OF RULES TO ADOPT CERTAIN FEDERAL EMISSION GUIDELINES AND NEGATIVE DECLARATION FINDINGS ON:

TITLE 40 CODE OF FEDERAL REGULATIONS, PART 60, SUBPARTS:

- **Cb, Emissions Guidelines and Compliance Times (Guidelines) for Large Municipal Waste Combustors That Are Constructed on or Before September 20, 1994 [60.30b]**
- **Cd, Guidelines for Sulfuric Acid Production Units [60.30d]**
- **Ce, Guidelines for Hospital/Medical/Infectious Waste Incinerators [60.30e]**
- **BBBB, Guidelines for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999 [60.1500]**
- **DDDD, Guidelines for Commercial and Industrial Solid Waste Incineration Units Constructed on or Before November 30, 1999 [60.2500]**
- **FFFF, Guidelines for Other Solid Waste Incineration Units Constructed After December 9, 2004 [60.2980]**
- **HHHH, Guidelines for Coal-Fired Electric Steam Generating Units [60.4101]**

Pursuant to California Health and Safety Code Section 40727, the Board makes a negative declaration in lieu of rules to adopt federal emission guidelines (Guidelines) specified in Title 40 Code of Federal Regulations (CFR), Part 60, Subparts Cb, Cd, Ce, BBBB, DDDD, FFFF, and HHHH and makes the following findings on the negative declaration.

Necessity

The Board determines that it is necessary to adopt the negative declaration in lieu of rules concerning the U.S.EPA Guidelines cited above (“negative declaration”) pursuant to Title 40 Code of Federal Regulations, Section 60.23, before transmitting the negative declaration in lieu of rules to the State Air Resources Board for consideration of inclusion into the State Plan. In addition, the Board has determined that there are no “designated facilities,” as defined in 40 CFR Part 60, section 60.21(b), located within the District that are subject to the U.S.EPA Guidelines cited above. Therefore, rulemaking for these source categories is unnecessary.

Provisions in 40 CFR Part 60, Subpart B, Adoption and Submittal of State Plans for Designated Facilities, section 60.23(b), indicate that if there are no sources subject to a Guideline in a state, then the state will submit a letter of certification to that effect to the U.S.EPA within 9 months of the publication of the final Guideline in the Federal Register. The District is unable to confirm that such a letter of certification was submitted to the U.S.EPA in a timely manner for each of the Guidelines cited above. Hence, the District will submit the negative declaration as an alternative to letters of certification to confirm that there are no designated facilities in Santa Barbara County subject to the Guidelines cited above.

In a letter dated December 15, 1994, Daniel Meer of the U.S.EPA, clarified the agency's policy regarding the negative declaration process. This letter indicates, in part, “. . . the negative declaration must go through the same public review requirements as any other SIP submittal because, while the negative declaration itself is not specifically required by the CAA, it is replacing a required program element. Therefore, the negative declaration would be subject to the same administrative procedures as any other SIP submittal.” Although this U.S.EPA policy is relative to State Implementation Plan (SIP) submittals, negative declarations in lieu of rules for the State Plan replace program elements (i.e., a local rule or a letter of certification) in a similar manner and need to undergo the same public review process as any other State Plan submittal undertakes.

Authority

The Board is authorized under state law to adopt, amend, or repeal rules and regulations pursuant to Health and Safety Code Section 40000, and 40725 through 40728 which assigns to local and regional authorities the primary responsibility for the control of air pollution from all sources other than exhaust emissions from motor vehicles. In addition, Health and Safety Code Section 40702 requires the District Board to adopt rules and regulations and to do such acts as necessary and proper to execute the powers and duties granted to it and imposed upon it by state law.

Section 111 of the Clean Air Act, 40 Code of Federal Regulations, Part 60, Subpart B (adoption and submittal of State Plans for designated facilities), and the U.S.EPA policy require that the negative declaration in lieu of rules adoption follow the same process as an Air Pollution Control District rule action.

Clarity

The Board finds that the resolution for the negative declaration in lieu of rules is sufficiently clear. The proposed negative declaration in lieu of rules was publicly noticed. The resolution for the negative declaration in lieu of rules is written or displayed so that its meaning can be easily understood by persons directly affected by it.

Consistency

The Board determines that proposed negative declaration in lieu of rules is consistent with, and not in conflict with or contradictory to, existing federal or state statutes, court decisions, or regulations.

Nonduplication

The Board finds that the proposed negative declaration in lieu of rules does not impose the same restrictions as any existing state or federal regulation, and the proposed negative declaration is necessary and proper to execute the powers and duties granted to, and imposed upon, the Air Pollution Control District.

Reference

The Board finds that we have authority under State law to adopt the negative declaration in lieu of rules pursuant to Health and Safety Code Section 39002 which assigns to local and regional authorities the primary responsibility for the control of air pollution from all sources other than exhaust emissions from motor vehicles. Additionally, pursuant to the federal Clean Air Plan Section 111, 40 Code of Federal Regulations, Part 60, Subpart B (adoption and submittal of State Plans for designated facilities), and the U.S.EPA policy, the Board is required to adopt rules, regulations, and negative declarations in lieu of rules, and to do such acts as are necessary and proper to execute the powers and duties granted to it and imposed upon it by State law.