



Air Resources Board



Linda S. Adams
Secretary for
Environmental Protection

Mary D. Nichols, Chairman
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Sacramento, California 95812 • www.arb.ca.gov

Arnold Schwarzenegger
Governor

December 17, 2008

James E. Enstrom, Ph.D., M.P.H.
Jonsson Comprehensive Cancer Center
University of California
Los Angeles, California 90095-1772

Dear Dr. Enstrom:

Your inquiry to Board member Sandra Berg has been referred to my office for a response. I understand that Jim Behrmann of the ARB staff has spoken to you about your inquiry and about your June 17, 2008, letter to Senator Don Perata that you provided to Ms. Berg. As Mr. Behrmann explained, we would like to clarify the various issues you raised in your letter, and your interest in petitioning the Air Resources Board (ARB) to review its 1998 decision to list particulate emissions from diesel-fueled engines as a toxic air contaminant. This letter summarizes our understanding of your request and the information we ask be included as part of any petition to reconsider the listing of a toxic air contaminant.

Your June 17 letter outlined your petition request, and also raised concerns about the ARB's health effects estimates and calculation of the economic costs relating to the Goods Movement Emission Reduction Plan. You also noted a separate concern that ARB has allowed members of its advisory Scientific Review Panel (Panel) on Toxic Air Contaminants to serve longer than their three-year terms and a related concern about how appointments to the Panel are made. It is my understanding that your issues relating to ARB's Goods Movement Emission Reduction Plan were the subject of a conference call with ARB staff last July and that those discussions are ongoing.

Your concerns regarding appointments to the Panel were addressed in a July 21, 2008, letter to you from our Board Chairman Mary Nichols. New appointments by the Secretary for Environmental Protection are made from a pool of nominees created by the President of the University of California as required by law. As explained in Ms. Nichols' letter, the law does not require that members be replaced every three years and in fact provides that members may continue to serve until they are reappointed, resign or are replaced. In your conversation with Mr. Behrmann, you stated that your interpretation of the law is that reappointments also require that nominations be sought from the President of the University of California. We have examined that particular issue and respectfully disagree with your interpretation.

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website: <http://www.arb.ca.gov>.

California Environmental Protection Agency

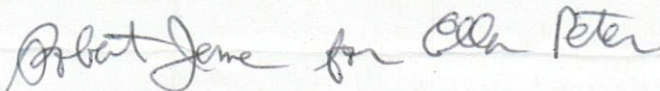
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Regarding your petition request, as Mr. Behrmann explained, the Panel has a process it requests be followed for evaluating and responding to submittals of new scientific evidence that may warrant reconsidering the decision to list a substance as a toxic air contaminant. The process is described in the enclosure. Petitions should be addressed to the Chairman of the ARB and describe specifically what in the original risk assessment will be qualitatively or quantitatively changed. The new evidence should be peer reviewed and the petition should answer whether the evidence changes the determination of the health effects of the compound, the threshold determination, or the potency that was the basis of the original risk assessment. The petition should explain the importance of the new evidence and how it relates to the science in the original risk assessment.

Once received, the petition and the new evidence is first screened by ARB and the Office of Environmental Health Hazard Assessment staff to determine if it meets the necessary criteria to warrant the Panel's attention. If so, it is forwarded to the Panel for its review and recommendation as to whether the original risk assessment should be reviewed.

If you have any further questions of a legal nature, please call or email Kirk Oliver, Senior Staff Counsel, at 916-324-4581 or koliver@arb.ca.gov. Please review the enclosure regarding the submission of new scientific information relating to toxic air contaminants and call or email Linda Smith, Chief, Health and Exposure Assessment Branch, at 916-327-8225 or lsmith@arb.ca.gov if you have any questions about the process. I expect that our responses to the other questions you raised will be addressed in the ongoing discussions about the Goods Movement Emission Reduction Plan. Thank you again for your inquiry.

Sincerely,



Ellen M. Peter
Chief Counsel

Enclosure

cc: Linda Smith, Chief
Health and Exposure Assessment Branch
Research Division

Kirk Oliver
Senior Staff Counsel
Office of Legal Affairs

Final – Approved by the Scientific Review Panel on December 12, 1989

Scientific Review Panel Process for Evaluation and Response to Submittals
of New Scientific Information as Evidence for
Review of Toxic Air Contaminant Risk Assessments

I. Statement of need

It is anticipated that submittal of information pertaining to a toxic air contaminant (TAC) risk assessment could result in a request from the Chairperson of the ARB, for the SRP to provide a formal evaluation and recommendation. A procedure is needed for the SRP to process the submittal and evaluation of such information. The following elements have been identified by the SRP for inclusion in such a procedure:

- Screening submittals of new scientific evidence.
- Performing SRP/DHS* analysis of newly submitted scientific evidence to determine the need to review an original TAC risk assessment.

II. Process

A. Screening submittals of new scientific evidence

To prevent a misuse of valuable SRP time and resources, the submittal of new scientific evidence should first be screened by the staff of the ARB and DHS to determine whether the material contains the necessary elements to warrant the SRP's attention. The screening criteria shall include the following:

1. The submittal shall describe specifically what in the original risk assessment will be qualitatively and/or quantitatively changed. At a minimum, the following three points shall be addressed:
 - a. Does the new evidence, if accepted, change the determination of the health effects of the compound?
If so, how?
 - b. Does the new evidence, if accepted, change the threshold determination adopted by the Board and contained in the regulation? If so, how?
 - c. Does the new evidence, if accepted, change the potency which was the basis of the original risk assessment?
If so, How?
2. The submittal shall describe the importance of the new evidence as it relates to the science (e.g. evidence, data, calculations, assumptions, and procedures) used to establish the original risk assessment.

*DHS: Changed in 1991 to Office of Health Hazard Assessment (OEHHA).

3. The submittal shall demonstrate that the new evidence is peer reviewed, either in the form of acceptance for publication by an academically or scientifically reputable journal, or documented acceptance by a recognized group of scientific experts (such as the International Agency for Research on Cancer, National Cancer Institute, National Toxicology Program, Environmental Protection Agency, or National Academy of Science).

B. DHS review of newly submitted scientific evidence.

1. If DHS finds in its review of the submitted material that there is not a need for review of the original risk assessment, that finding may be used in future evaluation of the submitted material by the SRP.
2. If DHS finds in its review of the submitted material there is a need for further review of the original risk assessment, this finding will be transmitted back to the ARB Chairperson.

C. Process for SRP/DHS review of newly submitted scientific evidence to determine the need to review an original (TAC) risk assessment.

1. If the submitted material meets the criteria in II A above, and the DHS staff finds that the material does not warrant a need for further review of the original risk assessment, the ARB Chairperson would formally request the SRP to review the material, and the evaluation by DHS, and advise the ARB Chairperson whether, in light of the quality of the new information and the effect the new information would have on the original risk assessment, there is a need to review the original TAC risk assessment.
2. The SRP Chairperson would assign a leadperson(s) to evaluate the new material.
3. The leadperson(s), after consulting with DHS and other appropriate agencies and individuals, would submit his/her evaluation to the SRP Chairperson for full Panel review and discussion at the next scheduled meeting.
4. The Panel would review the leadperson's evaluation along with supporting material and recommend to the ARB Chairperson, through the SRP Chairperson, whether on the basis of the submitted material a review of the original risk assessment is warranted.