

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

INITIAL STATEMENT OF REASONS**CALIFORNIA CODE OF REGULATIONS**

Title 8: Division 1, Chapter 4, Subchapter 7, Article 107, Section 5155
of the General Industry Safety Orders

Airborne Contaminants: Naphthalene**SUMMARY**

Labor Code, Section 144.6 requires that the Occupational Safety and Health Standards Board (Board), when dealing with standards for toxic materials and harmful physical agents, adopt standards which most adequately assure, to the extent feasible, that no employee suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard for the period of their working lifetime. This section also requires that the Board base standards on research, demonstrations, experiments and other information as may be appropriate. Labor Code, Section 144.6 also lists other considerations such as the latest scientific literature, the reasonableness of the standards, and experience gained under this and other health and safety laws.

Existing Section 5155 establishes minimum requirements for controlling employee exposure to specific airborne contaminants. This section specifies several types of airborne exposure limits, including limits on exposures as an 8-hour time-weighted average (TWA), short term exposure limits, and ceiling limits. Section 5155 also requires that, for specified substances which may be absorbed into the bloodstream through the skin, mucous membranes or the eye, appropriate clothing be provided for and used by employees as necessary to prevent skin absorption. Section 5155 also contains requirements for measurement of workplace airborne exposures and, in certain situations, medical surveillance.

On an ongoing basis with the assistance of an advisory committee, the Division of Occupational Safety and Health (Division) develops proposals to amend these airborne exposure limits known as Permissible Exposure Limits (PELs). This ongoing review is necessary to take into account changes in the information available to assess the health effects of exposures to airborne substances that can be present in the workplace.

The Board is proposing to reduce the existing 8-hour TWA PEL of 10 parts per million in air (ppm) to 0.1 ppm for Naphthalene. An equivalent 8-hour TWA PEL for Naphthalene in units of

milligrams per cubic meter (mg/M^3) is also proposed based on the physical conditions listed in footnotes (e) and (f) of Table AC-1 in Section 5155. The Board believes that this PEL is necessary to protect employees from excess risk of cancer and non-cancer health effects. Due to feasibility issues, the Board is not at this time proposing a PEL of 0.03 ppm, which would control the excess cancer risks to 1/1000. The Board is further proposing to eliminate the existing short term exposure limit (STEL) of 15 ppm, because adoption of a 0.1 ppm 8-hour TWA creates a de facto STEL of 3.2 ppm, and there is currently no evidence of a need for a lower STEL. The Board is also proposing to add an "S" notation, indicating that substantial exposure may occur due to contact with the skin mucous membranes and/or eyes.

This proposal was developed by the Division pursuant to its mandate in Labor Code Section 147.1 to maintain surveillance and propose standards to the Standards Board. This proposal is a result of an identification of Naphthalene by the Office of Environmental Health Hazard Assessment (OEHHA) as a substance that should be regulated in the workplace based on its potential to cause cancer. Naphthalene was also on a July 2007 list of recommendations to the Division for new and revised PELs developed by the Hazard Evaluation System and Information Service of the California Department of Health Services (HESIS).

The Division, in developing this and past proposals for amendments to Section 5155, has convened advisory committees of technical experts to discuss and make recommendations on the substances under consideration. These advisory committees assist the Division in evaluating and interpreting the studies and other scientific information listed in the Documents Relied Upon section that formed the factual basis of proposals for revisions to Section 5155. The advisory committees for PELs also provide an additional avenue for involvement in the rulemaking process by employer and worker representatives, and by other communities that can be affected by revisions to Section 5155.

The health basis of the PEL for Naphthalene was taken up by the Division's Health Expert Advisory Committee (HEAC) for PELs at its meetings on March 25, June 24, and September 10, 2009. With assistance from OEHHA, the HEAC discussed scientific information on both cancer and non-cancer risks presented by exposures to Naphthalene. After the HEAC discussions on Naphthalene concluded, feasibility and cost issues were taken up at a meeting of the Division's Feasibility Advisory Committee (FAC) on December 8, 2009. Minutes of the HEAC and FAC meetings are posted on the Internet. The website address for 2009 meetings is http://www.dir.ca.gov/dosh/DoshReg/5155Meetings_2009.htm

SPECIFIC PURPOSE AND FACTUAL BASIS OF THE PROPOSED ACTION

This regulatory proposal is intended to provide worker safety at places of employment in California.

This proposed rulemaking action:

- Is based on the following authority and reference: Labor Code Section 142.3, which states, at subsection (a)(1) that the Board is “the only agency in the state authorized to adopt occupational safety and health standards.” When read in its entirety, Section 142.3 requires that California have a system of occupational safety and health regulations that at least mirror the equivalent federal regulations and that may be more protective of worker health and safety than are the federal occupational safety and health regulations.
- Differs from existing federal standards, in that the PEL value proposed for Naphthalene is lower than that found in the federal air contaminants standard at 29 CFR 1910.1000. Labor Code section 147.1(c) mandates with respect to occupational health issues not covered by federal standards that the Division maintain surveillance, determine the necessity for standards, and develop and present proposed standards to the Standards Board. For a variety of reasons, the federal standards for air contaminants have remained largely unrevised since their promulgation in the early 1970s, with the exception of substances for which individual comprehensive chemical hazard control standards have been promulgated, primarily for carcinogens. Since the federal standards were promulgated over 40 years ago, scientific studies with experimental animals have shown that Naphthalene has the potential to cause cancer. The Standards Board believes the Division appropriately carried out its mandate under Labor Code section 147.1 to present to the Standards Board the PEL proposed for Naphthalene in this rulemaking, including a determination of necessity for the proposed amendment. In addition, the Standards Board believes that with this proposal, it is carrying out its mandate under Labor Code section 144.6 to adopt standards dealing with toxic materials which most adequately assure, to the extent feasible, that no employee will suffer material impairment of health or functional capacity, taking into account the latest available scientific data in the field and the reasonableness of the standard.
- Is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system’s component regulations is provided by such things as the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts.

This rulemaking proposal was developed with the assistance of two technical advisory committees: one that considered scientific data on health risks associated with exposure to Naphthalene, and a second that considered concerns of cost and feasibility of implementation in the workplace. These committees were comprised of subject matter experts with expertise relevant to the concerns they were considering and from a range of different institutional orientations most notably health and chemical exposure science, industry, medicine, and government. In addition, a stakeholder organization with a specific interest in the subject under consideration, the Naphthalene Council, participated actively in the advisory process, sending a technical representative to present and discuss information and recommendations with the health committee. The PEL proposed is performance based and thus is consistent with the preference stated for this type of standard in Labor Code section 144.6 when dealing with toxic materials.

The PEL for Naphthalene is proposed to be lowered from 10 parts per million in air (ppm) as an 8-hour time-weighted average (TWA), to 0.1 ppm 8-hour TWA. The existing 15-minute STEL of 15 ppm is proposed to be deleted. The proposed 8-hour TWA of 0.1 ppm translates into a 15-minute exposure limit of 3.2 ppm and there is no evidence to support a STEL lower than this value. It is also proposed to add a "Skin" notation to reflect that exposure can occur through absorption through the skin, mucous membranes and/or eyes (NTP, 2000).

Naphthalene is today produced primarily from the fractional distillation of coal tar. The major use of Naphthalene in the United States has been as an intermediate in the production of phthalic anhydride. Naphthalene is also present in petroleum products, generally in the range of, or less than, one percent by weight.

For the purposes of the Division's PEL amendment process, Naphthalene was identified by OEHHA as a substance with potential for workplace exposure and presenting a risk of cancer (OEHHA, 2007). This document stated that because the PEL for Naphthalene was not based on prevention of cancer, the employees exposed to this substance at the current PEL may have an excess risk of more than one in one thousand of developing cancer.

In a letter to the Division dated March 16, 2009, OEHHA Deputy Director for Scientific Affairs George Alexeef detailed his agency's work on cancer risk assessment for Naphthalene (OEHHA, 2009). This letter noted that the OEHHA cancer risk assessment was based on findings of the U.S. National Toxicology Program of rare tumors in rats (NTP, 2000). Neoplastic effects in male rats were found in the NTP study at all levels of exposure evaluated (10, 30, and 60 ppm for 6 hours per day, 5 days per week for 105 weeks). Nonneoplastic effects in the respiratory system were also observed in both male and female rats at all three levels of exposure studied.

Dr. Alexeef's letter notes that OEHHA derived a cancer unit risk value for Naphthalene under the California Toxic Air Contaminants (TAC) program. This unit risk value was approved by the California Air Resources Board's Scientific Review Panel in 2004. In the course of this process, a final document detailing the risk assessment was developed (OEHHA, 2004a). Dr. Alexeef's letter also noted that the TAC cancer risk assessment was used as the basis for developing a No Significant Risk Level (NSRL) for Naphthalene under provisions of "Proposition 65," The Safe Drinking Water and Toxic Enforcement Act of 1986. A technical support document for the NSRL was developed in a process that Dr. Alexeef's letter indicates included three periods for public comment (OEHHA, 2005a). Dr. Alexeef's letter concluded with a table showing, based on the OEHHA cancer risk assessment, the occupational exposure levels that would be consistent with limiting increased cancer risk to 1 case in 1,000, 10,000, or 100,000 workers exposed over a working lifetime. This table indicated that a value of 0.03 ppm would be consistent with a 1 in 1,000 increased risk level for cancer.

An electronic message to HEAC members from then committee member Julia Quint (Julia Quint, 2008) mirrored the information provided by Dr. Alexeef with respect to cancer risk and the PEL level that would be consistent with limiting increased cancer risk to 1 case in 1,000 exposed workers. Dr. Quint also derived a PEL of 0.025 ppm (8-hour TWA) based on noncancer effects on the respiratory system reported in a 1992 NTP study. This study found

effects at the lowest level of exposure (10 ppm). In deriving the 0.025 ppm recommended 8-hour TWA, Dr. Quint applied correction factors related to study exposure compared to employee exposure, and applied uncertainty factors consistent with guidance in the OEHHA (2008) document for derivation of non-cancer reference exposure levels.

In attendance at all three HEAC meetings at which Naphthalene was discussed, was Naphthalene Council Executive Director Anne Lehuray. Dr. Lehuray raised questions on the relevance to humans of the NTP, 2000 findings used by OEHHA in its cancer risk assessment. Dr. Lehuray did not suggest an alternative PEL level and described a research program scheduled to run through 2011 sponsored by the Naphthalene Research Committee and the Electric Power Research Institute. Dr. Lehuray urged that consideration of a revised PEL for Naphthalene be postponed until this research program was completed.

The discussion at the third and final HEAC meeting on September 10, 2009 was the most detailed and extensive of the three meetings and focused particularly on questions of the relevance of the NTP, 2000 findings to human cancer risk and the risk assessment approach employed by OEHHA in its TAC program cancer risk assessment for Naphthalene. Questions discussed included the validity of applying the non-threshold linear model to the NTP, 2000 findings of cancer in male rats and the relevance of the NTP, 2000 cancer findings to humans in terms of metabolic differences between rats and humans and the species specificity of the mode of action of Naphthalene in causing the tumors observed in the test animals. No agreement was reached on these issues at the September 10 meeting. However, OEHHA responded to these and related issues in developing the TAC program cancer risk assessment, as well as in the development and adoption of the NSRL under Proposition 65 (see OEHHA, 2004b and OEHHA, 2005b). The HEAC discussion at the September 10, 2009 meeting concluded without agreement among committee members on a single value for a health-based PEL for Naphthalene.

Committee members' recommendations ranged from 0.03 ppm to 0.75 ppm. It should be noted that the larger number (0.75 ppm) was based on the non-cancer respiratory effects found in the 1992 NTP study addressed in Dr. Quint's analysis, in which she derived a recommendation for a PEL of 0.025 ppm (8-hour TWA). However, the 0.75 ppm value does not include any adjustment for inter-species and intra-species variation. The Division convened a feasibility advisory committee (FAC) to consider the 0.03 ppm recommendation, as well as values up to 0.75 ppm in terms of feasibility.

In the FAC meeting at which Naphthalene was discussed on December 8, 2009, the discussion focused first on a comment received on the ease of use of the NIOSH air sampling and analysis methods for Naphthalene. However, the FAC members present did not believe that the NIOSH or OSHA air sampling methods present a significant feasibility issue at the 0.03 ppm level or above.

The main discussion in the FAC meeting was on a study that reviewed occupational exposures to Naphthalene in a range of industries (Price and Jayjock, 2008). A FAC member suggested this study indicated that a PEL of 0.03 ppm (8-hour TWA) could be problematic to achieve. The Price and Jayjock study suggested that, based on the data available, occupational exposures to

Naphthalene appear to fall into two general ranges: 10 to 300 ug/M³ (0.002 to 0.06 ppm) and 100 to 3,000 ug/M³ (0.02 to 0.6 ppm). The lower range of exposures noted in the Price and Jayjock study was reported to have been found in refining and petroleum industries, asphalt paving and roofing, and industries using pitch to manufacture refractory materials or graphite electrodes. The higher range of exposures was reportedly found for workers in creosote production and use, in workers exposed to jet fuels, in coal tar and coke industries, in production of Naphthalene from coal tar, in production of mothballs, and in chemical industries using Naphthalene as a raw material. In California, Naphthalene is no longer registered for use as a pesticide and information provided by the U.S. Environmental Protection Agency indicates that none of the three known manufacturers of mothballs in California use Naphthalene as an active ingredient for manufacture of products sold outside of California (EPA, 2011). Similarly, creosote is no longer registered as a pesticide for use in California.

Of the operations noted by Price and Jayjock as being in the higher range of worker exposures, the only one with apparent significant presence in California is workers exposed to jet fuels. The Price and Jayjock paper noted the study of Egeghy et al., 2003 finding exposures ranging up to a maximum of 3,900 ug/M³ (0.78 ppm) among U.S. Air Force fuel system maintenance personnel. The Egeghy study details that this group's activities included entry into aircraft fuel tanks, with a median exposure level of 485 ug/M³ (approximately 0.1 ppm). Among workers conducting fueling and other operations with moderate levels of handling and exposure to jet fuel the highest level of exposure reported in the Egeghy study was 932 ug/M³ (approximately 0.2 ppm), with a median exposure level of 10.3 ug/M³ (approximately 0.002 ppm). These findings suggest that a PEL of 0.1 ppm (8-hour TWA) as recommended by the FAC should be reasonably achievable for most operations in which employees are exposed to jet fuel other than those involving work in enclosed or confined spaces such as aircraft fuel tanks. In the latter type of operation with potential for significant exposure to Naphthalene and other health and safety hazards, respiratory protection, including air-supplying respirators in confined spaces, would be expected to be used and to be sufficient to control inhalation exposures to the level of the PEL being proposed.

The Board accepts the FAC recommendation of 0.1 ppm (8-hour TWA) in proposing to amend the existing PEL for Naphthalene. The Board believes that amending the PEL is necessary to reduce cancer risk and is the lowest feasible level to which the PEL can be reduced at the current time.

DOCUMENTS RELIED UPON

1. OEHHA, California Environmental Protection Agency. Occupational Health Hazard Risk Assessment Project for California: Identification of Chemicals of Concern, Possible Risk Assessment Methods, and Examples of Health Protective Occupational Air Concentrations. December 2007. <http://www.cdph.ca.gov/programs/hesis/Documents/riskreport.pdf>
2. George Alexeef, Deputy Director for Scientific Affairs, OEHHA. Letter to Len Welsh, Chief, Division of Occupational Safety and Health. March 16, 2009. <https://www.dir.ca.gov/dosh/DoshReg/OEHHAletterNaphthalene03162009.pdf>

3. National Toxicology Program (NTP). Technical Report on the Toxicology and Carcinogenesis Studies of Naphthalene (CAS No. 91-20-3) in F344/N Rats (Inhalation Studies). NTP Technical Report 500. U.S. Department of Health and Human Services. National Institutes of Health Publication No. 01-4434. December 2000.
http://ntp.niehs.nih.gov/ntp/htdocs/LT_rpts/tr500.pdf
4. OEHHA. Long-Term Health Effects of Exposure to Naphthalene. Background and status of Naphthalene as a Toxic Air Contaminant and Potential Carcinogen (including derivation of a cancer inhalation unit risk value for the Toxic Air Contaminants Program). 2004a.
http://www.oehha.ca.gov/air/hot_spots/pdf/naphth080304.pdf
Source page: http://www.oehha.ca.gov/air/hot_spots/naphth.html/
5. OEHHA. No Significant Risk Level (NSRL) for the Proposition 65 Carcinogen Naphthalene. June 2005 (2005a).
http://www.oehha.ca.gov/prop65/law/pdf_zip/Naphthalene_NSRL.pdf
Source page: <http://www.oehha.ca.gov/prop65/law/set5regs.html>
6. Julia Quint. Naphthalene HEAC Health-Based Assessment. October 27, 2008 Draft. Electronic message to HEAC members.
7. OEHHA. Air Toxics Hot Spots Risk Assessment Guidelines, Technical Support Document For the Derivation of Noncancer Reference Exposure Levels. June 2008.
http://oehha.ca.gov/air/hot_spots/pdf/TSDbundle071808.pdf
Source page: http://oehha.ca.gov/air/hot_spots/crn071808.html
8. OEHHA. Chronic Toxicity Summary for Naphthalene. April 2000. Pages 413-419 in Appendix D.3, Chronic RELs and toxicity summaries using the previous version of the Hot Spots Risk Assessment guidelines (OEHHA 1999).
http://www.oehha.ca.gov/air/hot_spots/2008/AppendixD3_final.pdf#page=413
Source page: http://oehha.ca.gov/air/hot_spots/rels_dec2008.html
9. National Toxicology Program. Technical Report on the Toxicology and Carcinogenesis Studies of Naphthalene (CAS No. 91-20-3) in B6C3F₁ Mice (Inhalation Studies). Technical Report No. 410. National Institute of Health Publication No. 92-3141. April 1992.
http://ntp.niehs.nih.gov/ntp/htdocs/LT_rpts/tr410.pdf
10. OEHHA. Comments of the *ad hoc* Naphthalene Coalition (American Chemistry Council (ACC) Naphthalene Panel and others). 2004b.
http://www.oehha.ca.gov/air/toxic_contaminants/pdf_zip/naphthcom32004.pdf
Source page: http://www.oehha.ca.gov/air/toxic_contaminants/naphthd2.html
11. OEHHA. Revised Final Statement of Reasons, 22 California Code of Regulations, Section 12705(b), Specific Regulatory Levels Posing No Significant Risk (for Naphthalene). 2005b.
http://www.oehha.ca.gov/prop65/law/pdf_zip/FSRSet5Naphth0805.pdf

Source page: <http://www.oehha.ca.gov/prop65/law/set5regs.html>

12. Price, P. S., and Jayjock, M. A. Available data on Naphthalene exposures: Strengths and limitations. ScienceDirect. Regulatory Toxicology and Pharmacology 51 (2008). S15-S21.
13. U.S. EPA Region IX, electronic message dated January 24, 2011, reporting no record of use of Naphthalene in mothball manufacturing in California. Forwarded to the Division of Occupational Safety and Health, by the Worker Health and Safety Branch of the California Department of Pesticide Regulation.
14. Egeghy, P. P. et al. Benzene and Naphthalene in air and breath as indicators of exposure to jet fuel. Occup Environ Med 2003. 60:969-976.
15. Draft Meeting Summary of the HEAC on March 25, 2009, with a list of Members, Assisting Agencies, and Interested Parties.
16. Draft Meeting Summary of the HEAC on June 24, 2009, with a list of Members, Assisting Agencies, and Interested Parties.
17. Draft Meeting Summary of the HEAC on September 10, 2009, with a list of Members, Assisting Agencies, and Interested Parties.
18. Meeting Summary of the FAC on December 8, 2009, with a list of FAC and HEAC Members, Assisting Agencies, and Interested Parties.

These documents are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California. For those documents that are available on the internet, the website links to these documents are listed for your convenience.

DOCUMENTS INCORPORATED BY REFERENCE

None.

REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Standards Board or otherwise brought to its attention would lessen the impact on small businesses.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies and equipment.

COST ESTIMATES OF PROPOSED ACTION

This rulemaking proposes revisions of the PEL for the chemical substance Naphthalene. The primary users of this substance are the private industrial and chemical sectors and it is present in a wide variety of petroleum products. The PEL proposed is consistent with recent scientific findings, of which professional health and safety staff and consultants of these employers and others with significantly exposed employees should be aware. Many of these entities already seek to control employee exposures to chemicals to levels below existing PELs in the interest of business continuity and minimization of tort and workers compensation liability. In light of this, the additional expenditures by these entities to comply with the proposed amended PEL are estimated to be insignificant to none.

The only written comment received for the meeting of the FAC on the PEL for this substance was with respect to the ease of use of an air sampling method to monitor compliance with the existing and revised PEL for Naphthalene. However, this was deemed by the Committee not to be a significant problem, or to impose potentially significant costs on employers. Based on the information discussed above, the cost estimate of the PEL recommended by the FAC and proposed in this rulemaking is not believed to be significant.

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Standards Board has made an initial determination that this proposal will not significantly affect housing costs.

Economic Impact Analysis

The Board has made a determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

As noted above, at the FAC meeting addressing this substance the discussion of the one written comment received on Naphthalene concluded that acceptable workplace air sampling methods to assess compliance with the proposed PEL are available for Naphthalene. The FAC's review of a study of Naphthalene exposure levels in a range of industries resulted in a consensus

recommendation for the proposed PEL of 0.1 ppm (8-hour TWA), higher than the 0.03 ppm lower end of the range of health based levels discussed in the HEAC.

In light of the limited economic impact of the proposal (as a result of the FAC feasibility determination), the adoption of the proposed amendments to these standards will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

This regulatory proposal is intended to provide worker safety at places of employment in California.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, the standard does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed standard does not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. However, no adverse economic impact is anticipated. The feasibility and cost of implementation of the proposed PEL for Naphthalene was discussed by the FAC. This committee concluded that no information had been presented supporting a conclusion that a PEL of 0.1 ppm would be infeasible in any particular industrial sector or operation. In light of this, the Board believes there will be no adverse economic impact on small businesses as a result of the PEL proposed for Naphthalene.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The proposed regulation will not have any effect on the creation or elimination of California jobs or the creation or elimination of California businesses or affect the expansion of existing California businesses as a result of the PEL proposed for Naphthalene. The economic impact of the proposed PEL for Naphthalene was discussed by the FAC. This committee concluded that no information had been presented supporting a conclusion that a PEL of 0.1 ppm would be infeasible in any particular industrial sector or operation. In light of this, the Board believes there will be no adverse economic impact as a result of the PEL proposed for Naphthalene.

Benefits of the Regulation:

Setting a Permissible Exposure Limit for Naphthalene that is up-to-date and consistent with current scientific information and state policies on risk assessment will send appropriate market signals to employers with respect to the costs of illness and injury which chemicals can impose on workers and their families, the government, and society at large. With appropriate market signals, employers may be better able to choose chemicals for use in the workplace that impose less of a burden on workers and society.

ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified

and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Labor Code section 144.6 provides that standards dealing with toxic materials be adopted that are most adequately protective of employee health “to the extent feasible.” Discussions were held in public meetings with advisory committees for both health and feasibility assessment. These discussions addressed a number of factors relevant to consideration of a particular value for the PEL proposed in this rulemaking. These discussions are described in the minutes included in Attachment No. 4. Labor Code section 144.6 also provides that whenever practicable, standards for toxic materials be expressed in terms of objective criteria and of the performance desired. The proposal in this rulemaking is consistent with that stated preference in that it does not require particular specified equipment or methods for exposure level control, but rather provides an objectively stated performance criteria with affected employers determining the alternatives to use to achieve compliance in their particular operations involving employee exposure to the toxic material. The preference of Labor Code section 144.6 for performance based standards for toxic materials is consistent with the same stated preference contained in such Government Code section 11340.1(a).