

TITLES 13 AND 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF PROPOSED AMENDMENTS TO THE REGULATIONS TO REDUCE EMISSIONS FROM DIESEL ENGINES ON COMMERCIAL HARBOR CRAFT OPERATED WITHIN CALIFORNIA WATERS AND 24 NAUTICAL MILES OF THE CALIFORNIA BASELINE

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider the adoption of amendments to the regulations affecting commercial harbor craft (title 17, California Code of Regulations (CCR) section 93118.5 and title 13, CCR section 2299.5).¹ These amendments will further reduce emissions of diesel particulate matter (PM) and oxides of nitrogen (NO_x) from diesel engines on commercial harbor craft operating in any California port, roadstead or terminal facility, or within all California inland waters; all California estuarine waters; and within 24 nautical miles, except as otherwise specified in this proposal, of the California baseline (collectively referred to hereinafter as "Regulated California Waters"). The Board adopted regulations affecting Commercial Harbor Craft (CHC) on November 17, 2007. These regulations became effective on January 1, 2009. The primary purpose of the proposed amendments is to require that diesel-fueled engines on crew and supply, barge, and dredge vessels be subject to in-use engine requirements of the CHC regulation (title 17, CCR section 93118.5). The proposed amendments also include several additional clarifying and/or editorial amendments to the CHC regulation. Minor conforming amendments are proposed to the Low Sulfur Fuel Requirement Regulation for Commercial Harbor Craft (title 13, CCR section 2299.5) to align numbering changes to the CHC regulation.

DATE: June 24, 2010

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium, Second Floor
1001 I Street
Sacramento, California 95814

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., June 24, 2010, and may continue at 8:30 a.m., June 25, 2010. This item may not be considered until June 25, 2010. Please consult the agenda for the meeting, which will be available at least 10 days before June 24, 2010, to determine the day on which this item will be considered.

¹Title 17, CCR section 93118.5. is known as the Commercial Harbor Craft Regulation (CHC regulation) and establishes emission standards, reporting, record keeping, fuel, and monitoring requirements for certain categories of marine vessels. Title 13, CCR section 2299.5 is the corresponding Low Sulfur Fuel Regulation for Commercial Harbor Craft.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendment of title 13, California Code of Regulations (CCR) section 2299.5 and title 17, CCR section 93118.5. The following documents would be incorporated in the amendments by reference: (1) the following National Oceanic and Atmospheric Administration (NOAA) Nautical Chart, as authored by the NOAA Office of Coast Survey: (G) Chart 18740, San Diego to Santa Rosa Island (March 2007); (2) U.S. Environmental Protection Agency (U.S. EPA) Tier 2 Nonroad Emission Standards, set forth in Title 40, Code of Federal Regulations (CFR) Part 89.112(a), (as it existed on April 27, 2010); (3) the U.S. EPA Tier 2 Family Emissions Limit set forth in Title 40, CFR Part 89.112(d), (as it existed on April 27, 2010); (4) U.S. EPA Tier 3 Nonroad Emission Standards set forth in Title 40, CFR Part 89.112(a), (as it existed on April 27, 2010); (5) the U.S. EPA Tier 3 Family Emissions Limit set forth in Title 40, CFR Part 89.112(d) (as it existed on April 27, 2010); (6) the U.S. EPA Final Tier 4 Nonroad Emission Standards, set forth in Title 40, CFR section Part 1039.101, (as it existed on April 27, 2010); (7) the U.S. EPA Tier 4 FEL set forth in Title 40, CFR Part 1039.101 (as it existed on April 27, 2010); (8) the U.S. EPA Interim Tier 4 Nonroad Emission Standards, set forth in Title 40, CFR Part 1039.101, (as it existed on April 27, 2010); (9) The methods and procedures set forth in Title 40, CFR Parts 94 and 1042 (as they existed on April 27, 2010); and (10) The methods and procedures set forth in Title 40, CFR Parts 89 and 1039 (as they existed on April 27, 2010).

Background: Over 90 percent of Californians breathe unhealthful air at times. To improve air quality and human health, ARB establishes requirements to reduce emissions from new and in-use on-road and off-road vehicles, engines, and other sources. The CHC regulation (title 17, CCR section 93118.5) and the corresponding Low Sulfur Fuel Requirement for Commercial Harbor Craft (title 13, CCR section 2299.5) are part of ARB's ongoing effort to reduce PM and NO_x emissions from diesel-fueled engines and vehicles and improve air quality associated with goods movement.

Health and Safety Code (H&SC) sections 43013 and 43018 direct ARB to adopt standards and regulations that the Board has found to be necessary, cost-effective, and technologically feasible for all mobile source categories, including off-road diesel engines and equipment such as marine vessels, through the setting of emission control requirements. Specifically, H&SC 43013 directs ARB to adopt such standards and regulations on marine vessels to the extent permitted by federal law.

The California Toxic Air Contaminant Identification and Control Program, established under California law by Assembly Bill 1807 (Stats. 1983, Ch. 1047) and set forth in H&SC sections 39650-39675, requires ARB to identify and control air toxicants in California. In 1998, the Board identified diesel PM as a toxic air contaminant (TAC) with no Board-specified threshold exposure level.

Following the identification of a substance as a TAC, H&SC section 39665 requires ARB, with participation of the air pollution control and air quality management districts (districts) and in consultation with affected sources and interested parties, to prepare a report on the need and appropriate degree of regulation for that substance. Health and Safety Code section 39665(b) requires that this “needs assessment” address, among other things, the technological feasibility of proposed airborne toxic control measures (ATCMs) and the availability, suitability, and relative efficacy of substitute products or processes of a less hazardous nature.

A needs assessment for diesel PM was conducted between 1998 and 2000, which resulted in ARB’s development of the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles (Diesel RRP). The Diesel RRP presented information that identified the available options for reducing diesel PM and recommended control measures to achieve further reductions. The scope of the Diesel RRP was broad, addressing all categories of engines, both mobile and stationary.

Once ARB has evaluated the need and appropriate degree of regulation for a TAC, H&SC section 39666(c) requires ARB to adopt regulations to reduce emissions of the TAC from nonvehicular sources to the lowest level achievable through the application of best available control technology (BACT) or a more effective control method, in consideration of cost, risk, environmental impacts, and other specified factors. In developing the proposed amendments, State law also requires an assessment of the appropriateness of substitute products or processes.

The purpose of this proposed regulatory action is to reduce emissions of diesel PM and NO_x from in-use engines on crew and supply, barge and dredge vessels. Diesel PM emission reductions from commercial harbor craft are needed to reduce cancer risk, premature mortality, and other adverse health impacts from exposure to people who live in the vicinity of California’s major ports and shipping lanes. The proposed amendments help to achieve the 2020 goals set forth in the 2000 Diesel RRP and the 2006 Emission Reduction Plan for Ports and Goods Movement of reducing diesel PM emissions and health risks by 85 percent. Reductions in diesel PM and NO_x (which forms “secondary” nitrate PM in the atmosphere as well as contributes to the formation of ozone) will also assist California in its goal of achieving and maintaining State and federal air quality standards.

Staff estimates about a 55 percent reduction in diesel PM emissions and a 25 percent reduction in NO_x emissions from crew and supply, barge, and dredge vessels due to the proposed amendments in 2025. The proposed amendments will reduce about 275 tons of diesel PM and 3,475 tons of NO_x emissions between 2011 and 2025. These emission reductions will occur in areas along waterways and near ports where environmental justice concerns are especially prevalent.

ARB staff has prepared a Staff Report: Initial Statement of Reasons (Staff Report) as part of this rulemaking. Together with the needs assessment (i.e., the Diesel RRP), this document serves as a report on the need and appropriate degree of regulation of diesel

engines used on in-use crew and supply boats, barges, and dredges operating in Regulated California Waters.

DESCRIPTION OF THE PROPOSED REGULATORY ACTION

The ARB staff is proposing to amend the CHC regulation (title 17, CCR section 93118.5) that the Board adopted on November 17, 2007, and became effective January 1, 2009. The amendments primarily subject the diesel-fueled engines on crew and supply, barge, and dredge vessels to in-use engine requirements in the CHC regulation. Other clarifying and/or editorial amendments are also included. A more detailed description of the proposed amendments is presented below. Minor amendments to align section numbering are also proposed to the Low Sulfur Fuel Regulation for Commercial Harbor Craft (title 13, CCR section 2299.5).

Commercial Harbor Craft Regulation (title 17, CCR section 93118.5)

Applicability

The proposed amendments would extend the applicability of in-use engine requirements of the CHC regulation to in-use (existing) crew and supply, barge, and dredge vessels operating within any of the Regulated California Waters. Regulated California Waters include all California inland waters, all California estuarine waters, and all waters within a zone 24 nautical miles seaward of the California coastline, except for specified areas along the Southern California coastline.

Emission Limits

The proposed amendments would require in-use diesel engines on crew and supply, barge, and dredge vessels to meet United States Environmental Protection Agency (U.S. EPA) Tier 2 or Tier 3 marine or off-road (nonroad) engine standards in effect at the time the engine is required to comply under the proposed requirements.

In-Use Vessels

The proposed amendments would require that currently unregulated ("Tier 0") and Tier 1 in-use propulsion and auxiliary engines on crew and supply, barge, and dredge vessels meet emission limits equal to or more stringent than the U.S. EPA engine standards in effect for the year that in-use engine compliance is required under this proposal. Separate compliance schedules are proposed for crew and supply vessels and for barge and dredge vessels. The compliance schedules are based on engine model and horsepower and designed to remove the oldest, dirtiest engines first.

Allowing Certified Off-Road or Nonroad Engines to be used as Auxiliary Engines

The proposed amendments would allow vessel owners/operators more flexibility to comply with the CHC regulation by allowing currently available Tier 2 or higher certified off-road engines to meet the regulatory requirements for auxiliary engines.

Owners/operators may elect to install a Tier 3 (marine or off-road) engine on a vessel as a replacement auxiliary engine after Tier 4 marine, interim Tier 4 and final Tier 4 off-road standards are in effect, but only if the engine being replaced is not a Tier 4 certified engine.

Adding “Swing Engine” Recordkeeping Requirements

The proposed amendments add a definition and reporting and recordkeeping requirements for swing engines. A swing engine is used to replace an existing engine that has to be removed from service for maintenance or repair. Swing engines would be considered in-use engines and must meet the applicable in-use engine compliance requirements.

Delete Multipurpose Harbor Craft Definition and Low Use Exemption

The “multipurpose harbor craft” term and definition, and the low use exemption in section (c)(12) have been removed in the proposed amendments. Instead, language has been added that allows a vessel owner/operator to operate vessel engines for up to 300 hours per year in any single category or combination of categories that are subject to in-use requirements. Barge and dredge vessels are limited to operating less than 80 hours per year to be exempt from the in-use engine compliance.

Special Circumstances to Use Non-CARB Diesel Fuel

The current CHC regulation requires CARB diesel fuel or specific alternative diesel fuel to be used. The proposed amendments would allow the use of U.S. EPA on-road diesel fuel or U.S. EPA nonroad diesel fuel (after June 1, 2010), in those situations where the vessel operator cannot obtain CARB diesel fuel prior to operating in Regulated California Waters.

Deadline for Alternative Control of Emission Plans

The current CHC regulation does not specify the date by which a vessel owner/operator must submit an annual Alternative Control of Emission (ACE) Plan. The proposed amendments would require the ACE to be submitted prior to or before February 28 of the year the vessel engine compliance is required.

Out-of-State Vessels Operating in California

The proposed amendments clarify that out-of-state CHC vessel owners/operators must complete an initial report within 30 days of a vessel being brought into California to operate in Regulated California Waters and to submit a Compliance Plan within 90 days demonstrating how the in-use engine requirements shall be met. All other applicable requirements of the CHC regulation shall be met upon initial operation of a vessel in Regulated California Waters.

Replacement Engine Exemption

The current CHC regulation requires that if an engine is replaced, the replacement engine must meet the U.S. EPA current model year marine engine standards. The proposed amendments provide the vessel owner/operator an exemption, in specific cases, to install a non-compliant engine if the owner/operator can demonstrate that a suitable engine replacement is not available, or that a new engine will not operate properly with the existing engines. The Executive Officer must approve any exemption request.

Allowing the Use of an Available Engine to Replace an Older Engine Subject to In-use Requirements

The proposed amendments would allow, in certain situations, an engine that does not meet the Tier 2 or Tier 3 requirements to be used on a temporary basis. The engine must be within the same fleet, and the original compliance date of the older, replaced engine must be kept.

Clarification of Requirements Applicable to Newly Acquired Ferry Vessels

The proposed amendments have been reworded to clarify existing requirements that owners/operators of new ferries having the capacity to transport 75 or more passengers are required to equip diesel propulsion engines that meet either Tier 2 or Tier 3 marine standards with BACT. BACT is not required for diesel propulsion engines that are certified to Tier 4 marine standards.

Compliance Extensions

The proposed amendments would expand the availability of the current compliance extension of subsection (e)(6)(E)4 to allow an owner to also request a compliance extension in situations where that owner has multiple vessels that are subject to compliance dates of 2011 or 2012 for crew and supply, barge, and dredge vessels, similar to the current compliance extension allowed for ferries, excursion vessels, tugboats, towboats, and push boats.

Exemptions

The proposed amendments would eliminate the exemption in section (c)(7)(C) of the current CHC regulation. This change will make harbor craft engines registered in the Portable Equipment Registration Program (PERP) or permitted by air districts prior to January 1, 2009 subject to the CHC regulation. This amendment aligns the CHC regulation with recent amendments to PERP, making all commercial harbor craft vessels, including barge and dredge vessels, subject to a single statewide regulation.

Definitions

The proposed amendments revise section (d) of the existing regulation by adding several definitions and deleting one to clarify the proposed amended language. Definitions that were added include, “certified nonroad engine”, “dredge”, “family emission limit”, “permanently affixed to a harbor craft”, “regulated in-use vessel”, “swing engine”, “tier 2 off-road or nonroad emission standards”, “tier 3 off-road or nonroad emission standards”, “tier 4 final off-road or nonroad emission standards”, “tier 4 interim off-road or nonroad emission standards” and deleting the definition of “multipurpose harbor craft.” The amendments would also update a new chart incorporated by reference in “California Baseline” - “Chart 18740, San Diego to Santa Rosa Island” (March 2007 for April 2005).

Low Sulfur Fuel Requirements for CHC (title 13, CCR section 2299.5)

The proposed amendments to the CHC regulation will change the section numbers that are referenced in the Low Sulfur Fuel Requirement for CHC regulation. Proposed amendments to section 2299.5, title 13, CCR would align section numbers with proposed amendments to section 93118.5, title 17, CCR.

COMPARABLE FEDERAL REGULATIONS

U.S. EPA has already promulgated Tier 3 and Tier 4 standards for new marine and off-road (nonroad) engines. However, no federal standards have been promulgated addressing emission reductions from in-use commercial harbor craft engines. Under federal Clean Air Act (CAA) section 213, U.S. EPA is without authority to adopt in-use standards for off-road (nonroad) engines, including marine engines.²

California is the only governmental entity in the United States authorized by the CAA, in the first instance, to adopt emission requirements for in-use off-road engines.³ Section 209(e)(1) of the CAA conclusively preempts states, including California, from adopting requirements for new off-road engines less than 175 horsepower that are used in farm or construction equipment. However, the proposed amendments address off-

² The California term “off-road” and the federal term “nonroad” refer to the same sources and are used interchangeably.

³ See *Engine Manufacturers Association v. U.S. EPA* (D.C. Cir. 1996) 88 F.3d 1075, 1089-1091.

road engines used in marine vessels, rather than those used in farm or construction equipment. Under section 209(e)(2), California may adopt and enforce emission standards and other requirements for off-road engines and equipment not conclusively preempted by section 209(e)(1), so long as California applies for and receives authorization from the Administrator of U.S. EPA.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposed regulatory amendments and which also describes the basis of the proposed action in more detail. The Staff Report is entitled, "Staff Report: Initial Statement of Reasons for the Proposed Rulemaking – Proposed Amendments to the Regulations to Reduce Emissions from Diesel Engines on Commercial Harbor Craft Operated Within California Waters and 24 Nautical Miles of the California Baseline."

Copies of the ISOR with the full text of the proposed regulatory language may be accessed on the ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on June 24, 2010.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the ARB's website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Todd Sterling, Air Pollution Specialist, at (916) 445-1034, or Carolyn Suer, Staff Air Pollution Specialist in the Control Strategies Section, at (916) 327-5985.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Lori Andreoni, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-4011, and Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the Staff Report, and all subsequent regulatory documents, including the FSOR, when completed, are also available on the ARB website for this rulemaking at <http://www.arb.ca.gov/regact/2010/chc10/chc10.htm>.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

Costs to Businesses and Private Individuals

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed amendments are presented below.

The total regulatory cost of compliance with the proposed amendments to the CHC regulation is expected to be about \$15 million in 2009 expenditure-equivalent dollars (2009 dollars). Regulatory costs are the estimated costs resulting from the proposed amendments taking into consideration the residual value of the in-use engine being replaced, the residual value of the most recent engine rebuild work, recordkeeping and reporting costs, and the time value of money associated with the early engine replacement. These costs would be spread over the years 2011 to 2022. On an annual basis, the cost would vary between approximately \$178,000 and \$2.7 million per year, averaging about \$1.3 million per year. Approximately 60 percent of the compliance costs will be incurred by the crew and supply boat fleets and 40 percent by the barge and dredge fleets.

New equipment costs are the total out-of-pocket costs of complying with the regulation, not taking into consideration the remaining useful life of the engine being replaced. New equipment costs are estimated to be approximately \$46 million (2009 dollars) spread over the years 2011 to 2022, with an average annual cost of about \$3.9 million. Specifically, the new equipment costs for purchasing and installing a new engine – are costs that the vessel owner would eventually pay, but the proposed amendments require this service to be performed earlier than normal.

Staff estimates the cost-effectiveness of the proposed amendments in terms of dollars per pound of PM emission reduction to be about \$35 per pound (2009 dollars) if all the total annualized cost is attributed solely to the PM reduction. Since the proposal would also result in NO_x emission reductions, staff also evaluated cost-effectiveness by attributing half the total annualized cost to the PM emission reductions and half to the NO_x emission reductions. The resulting cost-effectiveness values using the latter method are about \$17 per pound of PM and \$2,700 per ton of NO_x. These values are based on the cost of regulatory compliance.

California businesses are affected by the proposed annual cost of the amendments to the extent that the implementation of the proposed amendments reduces their profitability. Overall, most affected businesses will be able to absorb the costs of the proposed amendments with no significant adverse impacts on their profitability. This finding is based on the staff's analysis of the estimated change in "return on owner's equity" (ROE). Dun and Bradstreet financial data were used for the analysis, when available, to determine the change in ROE for typical businesses from each industry category. The staff found that the average overall change in ROE was a 0.95 percent

decline. This range in ROE reduction is not considered to represent a significant impact on profitability. Because the proposed amendments would not alter significantly the profitability of most businesses, we do not expect a noticeable change in employment, business creation, elimination, or expansion, and business competitiveness in California for these industries. The change in ROE is expected to be larger for a small business.

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons based on the estimated change in ROE. A number of businesses are integrally linked to California ports. However, we do not believe that the added costs of the proposed amendments are high enough for crew and supply, barge, and dredge vessel operators to consider alternate ports outside of California. The ARB staff has considered proposed alternatives and evaluated the economic impact on businesses.

Alternatives that staff considered are described in more detail in the Staff Report.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action may affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. Some businesses that provide vessel repower services could expand due to the volume of business created by the regulatory requirements. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action would affect small businesses.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the proposed amended regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

In accordance with Health and Safety Code sections 43013(a) and (b), the Executive Officer has determined that the standards and other requirements in the proposed amended regulation are necessary, cost-effective, and technologically feasible for diesel engines on all commercial harbor craft and specifically crew and supply, barge, and dredge vessels operated within Regulated California Waters.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

Costs to Local and State Government Agencies

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would create costs to one State agency, one federal agency, and two local agencies. The California Department of Parks and Recreation operates two crew and supply vessels service Angel Island in the San Francisco Bay area and would be impacted by the in-use engine requirements. Regulatory cost to this state agency is estimated to be about \$60,000. Barge and dredge vessels are owned and operated by two local agencies in Santa Cruz and Monterey and by the federal agency, the United States Army Corps of Engineers. The estimated regulatory costs range from approximately \$1,900 to \$45,000 over the life of the regulation for these agencies that operate barge and dredge vessels. ARB may incur an additional cost of less than \$200,000 per year for implementation and enforcement beginning in 2011. The Executive Officer has also determined that the proposed regulatory action would not create savings to any State agency or in federal funding to the State, costs or mandate to any local agency or school district, whether or not reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and comments may be submitted by postal mail or by electronic submittal before the meeting. The public comment period for this regulatory action will begin on May 10, 2010. To be considered by the Board, written comments, not physically submitted at the meeting must be submitted on or after May 10, 2010 and received **no later than 12:00 noon, Pacific Standard Time, June 23, 2010**, and must be addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

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

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g.,

your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

The Board requests, but does not require, that 20 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board members have time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted to ARB in Health and Safety Code sections 39600, 39601, 39650, 39658, 39659, 39666, 41511, 43013, and 43018. This action is proposed to implement, interpret, or make specific Health and Safety Code sections 39000, 39001, 39515, 39516, 39650, 39658, 39659, 39666, 41510, 41511, 43013, 43016, and 43018; and *Western Oil and Gas Ass'n v. Orange County Air Pollution Control District*, 14 Cal.3rd 411, 121 Cal.Rptr. 249 (1975).

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with §11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990.

To request a special accommodation or language needs for any of the following:

- An interpreter to be available at the hearing.
- Have documents available in an alternate format (i.e. Braille, Large print) or another language.
- A disability-related reasonable accommodation.

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 10 business days before the

scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Para solicitar alguna comodidad especial o necesidad de otro idioma para alguna de las siguientes:

- Un intérprete que esté disponible en la audiencia
- Tener documentos disponibles en un formato alternativo (por decir, sistema Braille, o en impresión grande) u otro idioma.
- Una acomodación razonable relacionados con una incapacidad.

Por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de diez (10) días laborales antes del día programado para la audiencia. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

CALIFORNIA AIR RESOURCES BOARD

James N. Goldstene
Executive Officer

Date: April 27, 2010

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 at www.arb.ca.gov.