

State of California
AIR RESOURCES BOARD

Notice of Public Availability of Modified Text

PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE REGULATIONS “FUEL SULFUR AND OTHER OPERATIONAL REQUIREMENTS FOR OCEAN-GOING VESSELS WITHIN CALIFORNIA WATERS AND 24 NAUTICAL MILES OF THE CALIFORNIA BASELINE”

Public Hearing Date: June 23, 2011
Public Availability of Modified Text Date: July 25, 2011
Deadline for Public Comment: August 9, 2011

At its June 23, 2011, public hearing, the Air Resources Board (ARB or the Board) approved amendments to the regulations “Fuel Sulfur and Other Operational Requirements for Ocean-Going Vessels within California Waters and 24 Nautical Miles of the California Baseline” (title 13, California Code of Regulations [CCR], section 2299.2, and title 17 California Code of Regulations, section 93118.2). Section 2299.2 is a regulation for ocean-going vessels (OGV) and section 93118.2 is a substantively identical airborne toxic control measure (ATCM). Both sections will be referred to collectively hereafter as the “OGV Clean Fuel Regulations” or “regulations”. Information regarding the amendments to the regulations can be found in the Initial Statement of Reasons (ISOR) at the following link:

<http://www.arb.ca.gov/regact/2011/ogv11/ogv11.htm>.

The OGV Clean Fuel Regulations reduce the public’s exposure to air pollutants from the use of marine diesel fuel in main and auxiliary engines, and auxiliary boilers, on ocean-going vessels operating within 24 nautical miles of the California shoreline (baseline). The emissions from the engines and boilers on ocean-going vessels are transported onshore where they contribute to higher levels of diesel particulate matter (diesel PM), other PM (e.g., secondarily formed nitrate and sulfate PM), and ozone pollution in California’s coastal air basins. The OGV Clean Fuel Regulations require the use of cleaner marine distillate fuels which substantially reduce emissions from ocean-going vessels. These emission reductions help to improve regional ambient air quality and provide significant health benefits. The regulations also provide critical emission reductions needed by the South Coast Air Quality Management District to fulfill State Implementation Plan obligations and attain the PM_{2.5} standard in the South Coast Air Basin.

The Board’s Action

At the June 23, 2011 hearing, the Board adopted Resolution 11-25 in which it approved the originally proposed amendments with modifications. The modifications had been suggested by ARB staff in a document entitled “Staff’s Suggested Modifications to the Original Proposal” that was distributed at the hearing as Attachment B to the Resolution.

These suggested modifications were made in response to comments on staff's initial proposal that were received before the Board hearing. In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adopt amendments to title 13, CCR section 2299.2 and title 17, CCR section 93118.2, with the modifications as described in Attachment B to Resolution 11-25, after making the modified text available to the public for comment for a period of at least 15 days. The Board further provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make such modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if warranted.

Resolution 11-25 and all other regulatory documents for this rulemaking are available online at the following ARB website:
<http://www.arb.ca.gov/regact/2011/ogv11/ogv11.htm>.

Summary of Proposed Modifications

A summary of the modifications and the rationale for the modifications to the originally proposed regulatory amendments are set forth below. Substantively identical changes are made to both regulations. All references to CCR, section 2299.2 and section 93118.2 are to titles 13 and 17, respectively, unless otherwise noted. For a complete account of all modifications in the proposed regulations, please refer to the underline and strikeout text in Attachment 1.

At the public hearing, ARB staff suggested that another amendment be incorporated into the regulations to help further align the OGV Clean Fuel Regulations with the recently adopted North American Emission Control Area (ECA). As background, the United States and Canada jointly applied for an ECA designation in July, 2009. On March 26, 2010, the International Maritime Organization officially designated waters of the United States and Canadian coastlines as an ECA, referred to as the North American ECA. Under the North American ECA, OGVs traveling within a 200 nm zone of the North American coastline are required to use fuels with no more than 1.0 percent sulfur beginning on August 1, 2012 and no more than 0.1 percent sulfur beginning on January 1, 2015. The North American ECA does not specify what type of fuel must be used; it only establishes a fuel sulfur limit. To align California's Phase 1 fuel requirements with the North American ECA's August 2012 fuel sulfur requirement, ARB staff suggested that a 1.0 percent fuel sulfur limit for the Phase 1 marine gas oil be included in the regulations and that this limit begin August 1, 2012 to coincide with the North American ECA implementation date. This modification will ensure that there is no conflict between the Phase 1 requirements of the North American ECA and those in the OGV Clean Fuel Regulations.

The following is a summary of proposed modifications to the regulatory text to incorporate the 1.0 percent fuel limit for marine gas oil.

Operational Requirements (subsections 2299.2[e] and 93118.2[e]): The requirements in subsection (e)(1)(A) and (B) were modified to incorporate a 1.0 percent sulfur by weight limit for marine gas oil that will become effective August 1, 2012.

Noncompliance Fee in Lieu of Meeting subsection (e)(1). (subsections 2299.2[h] and 93118.2[h]): The requirements in subsection (h)(5)(C) were modified to incorporate a 1.0 percent sulfur by weight limit for marine gas oil that will become effective August 1, 2012.

Based on the fuel availability analysis conducted for the OGV Clean Fuel Regulations 2008 original rulemaking and additional fuel sulfur content data collected from enforcement inspections since implementation of the regulations began in July 2009, ARB staff believes marine gas oil that meets the 1.0 percent fuel sulfur limit is readily available and is already being used by the vast majority of vessels visiting California ports. The data collected to investigate fuel availability reveals that over 95 percent of the marine gas oil available worldwide can meet a 1.0 percent fuel sulfur limit. The fuel inspection data indicates that on average, many of the most significant bunkering regions are providing fuel at or within a few tenths of a percent of 0.1 percent sulfur, far below 1.0 percent. In the rare cases where the fuel may not be available, the regulations include a provision to allow a ship operator to purchase the fuel in California and pay a reduced fee under the noncompliance fee provision. As such, ARB staff does not anticipate any adverse environmental impacts from the modification or any increased costs to the regulated industry above and beyond those costs already being incurred due to implementation of the regulation. Information on the fuel availability analysis conducted for the OGV Clean Fuel Regulations 2008 original rulemaking can be found in Appendix F located at:

<http://www.arb.ca.gov/regact/2008/fuelogv08/appffuel.pdf>. Information on the fuel inspection data is presented in Chapter II of the Initial Statement of Reasons for Proposed Rulemaking at: <http://www.arb.ca.gov/regact/2011/ogv11/ogv11isor.pdf>.

In addition to the changes discussed above, a proposed modification was made to the original implementation date of the auxiliary diesel engine fuel requirement. In the original rulemaking, the implementation date began upon the effective date of the regulation as approved by the Office of Administrative Law. To avoid any confusion between the effective date of the original rulemaking and the effective date of the amendments, the exact date of the original implementation was included in the modified text.

Modified Regulations Being Made Available

With this notice, the modified regulations are being made available for public comment prior to the final action by the Board's Executive Officer. As noted above, the modified regulations included in the attachment to this notice can be obtained from the ARB's website at the following address:

<http://www.arb.ca.gov/regact/2011/ogv11/ogv11.htm>, or from the Public

Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814. If you would like a paper copy of the attachment sent to you through postal mail, please call Ms. Bonnie Soriano at (916) 327-6888 and give your name, company name, if any, and mailing address.

Public Comments

Written comments will only be accepted on the modifications identified in this notice, and may be submitted by postal mail or electronic mail submittal as follows:

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.

In order to be considered by the Executive Officer, comments must be directed to ARB in one of the two forms described above and received by ARB by 5:00 p.m., on the deadline date for public comment listed at the beginning of this notice. Only comments relating to the above-described modifications to the text of the regulations shall be considered by the Executive Officer.

If you need this document in an alternate format (i.e., Braille, large print, etc.) or another language, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alternativo (por decir, sistema Braille, o en impresión grande) u otro idioma, 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 cinco (5) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

Attachments

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 ARB's website at www.arb.ca.gov.