

State of California
CALIFORNIA AIR RESOURCES BOARD

Notice of Public Availability of Modified Text

**PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE VERIFICATION
PROCEDURE, WARRANTY, AND IN-USE COMPLIANCE REQUIREMENTS FOR
IN-USE STRATEGIES TO CONTROL EMISSIONS FROM DIESEL ENGINES**

Public Hearing Date: August 23, 2012
Public Availability Date: May 29, 2013
Deadline for Public Comment: June 13, 2013

At its August 23, 2012, public hearing, the Air Resources Board (ARB or Board) approved for adoption the amendments to the Verification Procedure, Warranty, and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines (the Procedure), contained in Sections 2700-2711, Title 13, California Code of Regulations (CCR). The adopted modifications revise, clarify, and streamline the in-use compliance process, and provide guidance for specific requirements that pertain to the process for obtaining verification by ARB of devices or strategies to control emissions from in-use diesel engines. These proposed changes would reduce the cost to verification applicants while preserving the Procedure's goals and objectives.

The Board's Action

At the August 23, 2012, hearing, the staff presented, and the Board approved Resolution 12-30, approving the modifications to the Procedure as proposed by staff. The approved modifications were contained in the Resolution as Attachment A; additional suggested 15-day changes were presented to the Board at the August 23, 2012, hearing. The additional modifications were made in response to comments received after the Staff Report was published on July 5, 2012, as part of the 45-day notice. These modifications include changes to the submittal of a market ready diesel emission control strategy within 30 calendar days to include a process to grant an extension of time of up to an additional 15 days, clarifying language to the pre-conditioning requirements, and new Warranty Claim Resolution language, including application process provisions for the investigation and repair of the verified diesel emission control strategy's filter. The Board directed staff to modify the regulatory language provided in Attachment A of the Resolution with staff's suggested changes, along with other modifications as may be appropriate, and to make such modifications available for a supplemental comment period of at least 15 days. The Resolution and all other regulatory documents for this rulemaking approving the modifications to the Procedure are available online at ARB's website:

<http://www.arb.ca.gov/regact/2012/verdev2012/verdev2012.htm>

Background

In 1998 ARB identified diesel particulate matter (PM) as a toxic air contaminant (Title 17, CCR, Section 93000). In 2000, ARB adopted the Diesel Risk Reduction Plan (DRRP) with the goal of reducing PM emissions and their associated health risks by 85 percent by the year 2020. The DRRP identified a number of key measures to achieve this goal: more stringent standards for all new diesel-fueled engines and vehicles, retrofitting in-use diesel engines with diesel emission control strategies (Strategies or DECS), and the use of low-sulfur diesel fuel.

To support the DRRP, staff developed the Procedure for in-use DECS that was adopted by the Board in May 2002. The Procedure is used by staff to ensure that in-use DECS achieve real and durable PM and oxides of nitrogen emissions reductions. It specifies test procedures, warranty requirements, and in-use compliance testing requirements. Strategies that meet all of the Procedure's requirements are verified and thus become candidate compliance options for ARB fleet regulations that require the control of diesel emissions from in-use fleets.

In-use fleet regulations rely on having verified DECS available to fleet owners as compliance options. Diesel vehicles and equipment for which regulations have already been adopted include transit buses (Title 13, CCR, Section 2023, et seq.), solid waste collection vehicles (Title 13, CCR, Section 2021, et seq.), vehicles that belong to public agencies and utilities (Title 13, CCR, Section 2022, et seq.), mobile cargo handling equipment at ports and intermodal rail yards (Title 13, CCR, Section 2479), transport refrigeration units (Title 13, CCR, Section 2477), off-road diesel equipment (Title 13 CCR, Section 2449, et seq.), and private on-road diesel vehicles (Title 13, CCR, Section 2025 et seq.). These regulations provide several paths to compliance, one of which is the installation of verified DECS. To support the successful implementation of these regulations, it is therefore critical for the Procedure to be an effective and efficient means to evaluate DECS.

Although applying for verification is voluntary, several DECS manufacturers have experienced reduced sales of DECS due to the global recession and recent changes to ARB's fleet regulations that extended deadlines to install DECS. In response, ARB staff reviewed the Procedure and proposed amendments to reduce certain of the Procedure's testing requirements. Staff believes that a number of amendments to the Procedure can be made while still ensuring that it serves the needs of the in-use fleet regulations and device end-users.

Modified Text Now Available for Comment

Staff has completed the modified regulatory text and is making the text available for public comment as set forth in Attachment 1 to this notice. The modifications being made available include both those in Attachment A to the Resolution and additional conforming or related modifications prepared by staff subsequent to the hearing.

Some of the proposed modifications are either identical to text in Attachment A to the Resolution or implement a specific and approved modification in Attachment 1; additional proposed modifications are new conforming modifications. Staff is proposing clarifying technical modifications to the regulatory text as needed to reflect the intent of the amendments as approved by the Board.

A more complete discussion of these proposed modifications is provided below. The proposed regulatory text, including staff's modifications, is attached to this notice as Attachment 1. Additions to the initially noticed regulatory text are denoted by double underline and deletions by ~~double-strikeout~~.

Summary of Proposed Modifications

The following explains and identifies the modifications by section number, and is provided to give stakeholders the opportunity to review and respond with comments.

Modifications to Title 13, CCR, Section 2702 Preliminary Verification Application

Section 2702(b): Staff modified the language for clarification and added the submittal of a market-ready DECS within 30 calendar days to include a process to grant an extension of time of up to an additional 15 days.

Modifications to Title 13, CCR, Section 2706 Other Requirements

Section 2706(a)(4)(A)(2) and (a)(4)(A)(3): Staff modified the text to clarify the pre-conditioning requirements.

Modifications to Title 13, CCR, Section 2707 Warranty Requirements

Section 2707(b)(3) Warranty Claim Resolution: Staff added a new section regarding investigating warranty claims that provides the applicant an option to install a temporary replacement center body in place of the verified DECS' filter, provided that it meets all terms and conditions in the Procedure.

Section 2707(b)(3)(A) - (b)(3)(J): These new subsections specify the terms and conditions that need to be met for an applicant that elects to use a temporary replacement center body.

Section 2707(b)(4) Temporary Replacement Center Body Application Process: Staff added this language to provide an application process for an applicant that wants to use temporary replacement center bodies to investigate warranty claims.

Section 2707(b)(4)(A) - (b)(4)(M): These new subsections specify the information that needs to be included in the Temporary Replacement Center Body Application Process if an applicant opts to use a temporary replacement center body. The applicant must submit this information and receive approval from the Executive Officer.

Staff also made minor, non-substantive modifications throughout the regulation to provide additional clarity. Other non-substantive changes include correcting formatting and grammatical errors, and minor administrative changes and corrections.

Comments and Subsequent Action

In accordance with Government Code, Section 11346.8, the Board directed the Executive Officer to adopt the modifications to Sections 2700-2711, Title 13, CCR, after making them available to the public for comment for a period of at least fifteen 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 comments received, and shall present the regulations to the Board for further consideration if warranted.

Written comments will only be accepted on the modifications identified in this notice and may be submitted by postal mail or electronic mail 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 (For example: your address, phone, email, etcetera) become part of the public record and can be released to the public upon request.

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 or another language, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 no later than 5 business days from the release date of this notice. Teletypewriter/ Telecommunications Device for the Deaf (TDD) /Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alternativo 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.

Attachment