

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE CURRENT INBOARD AND STERNDRIVE BOAT REGULATIONS

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adopting amendments to the California regulations and test procedures for new 2007 and later spark-ignition (gasoline) inboard and sterndrive pleasurecraft. The amendments would allow engine manufacturers an option to delay the introduction of the 5.0 gram per kilowatt-hour (g/kW-hr) standard for combined hydrocarbon and oxides of nitrogen (HC+NOx) currently required for 45 percent of engines sold in model year 2007. Manufacturers choosing to certify to this option would thereafter be required to certify 100 percent of engines sold in the 2008 and later model years to the 5.0 g/kW-hr HC+NOx standard; this full 100 percent phase-in would be one year earlier than currently required. Additionally, the manufacturers certifying to this option would be required to implement a supplemental means of emission control in 2007 to compensate for the shortfall in emission benefits that year. This notice summarizes the proposed regulatory amendments. The staff report presents the proposed amendments in greater detail.

DATE: November 17, 2005

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Central Valley Auditorium
1001 I Street
Sacramento, California 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., November 17, 2005, and may continue at 8:30 a.m., November 18, 2005. This item may not be considered until November 18, 2005. Please consult the agenda for the meeting, which will be available at least 10 days before November 17, 2005, to determine the day on which this item will be considered.

If you have a disability-related accommodation need, please go to <http://www.arb.ca.gov/html/ada/ada.htm> for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please contact the Bilingual Coordinator at (916) 324-5049. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed adoption of amendments to sections 2111, 2112, 2441, 2442, 2444.2, 2445.1, 2446, and 2447, title 13, California Code of Regulations (CCR), and to the following document incorporated by reference therein: "California Exhaust Emission Standards and Test Procedures for 2001 Model Year and Later Spark-Ignition Marine Engines," as last amended June 7, 2002.

Background: Health and Safety Code sections 43013 and 43018 direct ARB to achieve the maximum feasible and cost-effective emission reductions from all mobile source categories, including marine pleasurecraft engines, through the setting of emission control and other requirements.

On July 26, 2001, the Board amended the spark-ignition marine regulations (title 13, CCR, section 2440 et. seq.) to include inboard and sterndrive engines. Those amendments included the adoption of two sets of exhaust standards and the incorporation of on-board diagnostics for inboard and sterndrive engines. The first set of standards capped HC+NO_x emissions at a 16.0 g/kW-hr level for all 2003 through 2006 model year engines. This is equivalent to California's most stringent exhaust standard for engines used in personal watercraft and outboard boats. The second set of standards required the phase-in of a catalyst-based 5.0 g/kW-hr HC+NO_x standard for model years 2007 through 2009. The percentages of phase-in engines that are required to meet the 5.0 g/kW-hr HC+NO_x standard are 45 percent for 2007, 75 percent for 2008, and 100 percent for 2009 and later model years. Additionally, the incorporation of on-board diagnostics (OBD-M) was required for the phase-in engines beginning in 2007.

On October 24, 2004, staff presented to the Board its status review of the 2001 Inboard/Sterndrive rulemaking at its meeting at the San Joaquin Valley Unified Air Pollution Control District in Fresno, California. There the marine industry expressed concerns regarding the timeframe for introducing engines meeting the 5.0 g/kW-hr HC+NO_x standard and demonstrating the compliance of engines with rated power levels greater than 373 kW (500 horsepower). Industry representatives also requested a revision to the OBD-M requirements such that the catalyst monitoring portion would be postponed until the 2012 model year. As this was a non-regulatory update to the Board, no Board action was taken. However, the Board requested staff to continue following industry's progress in developing the technology to comply with the 5.0 g/kW-hr HC+NO_x standard, and, if necessary, to return to the Board to propose reasonable relief provisions.

Description of the Proposed Regulatory Action: Staff is proposing amendments to California's existing Inboard/Sterndrive regulations to provide industry with additional lead-time for complying with the 5.0 g/kW-hr HC+NO_x exhaust standard, while preserving the emission benefits of the existing regulation. The amendments would allow engine manufacturers to choose from two implementation options to comply with

the Inboard/Sterndrive standards. This is intended to reduce the cost of compliance to the industry by giving each manufacturer an opportunity to choose a deployment strategy best suited to its production roll-out plan. The first option proposed by staff allows manufacturers to comply with the existing Inboard/Sterndrive regulations. The second option allows manufacturers to replace the current 2007-2009 phase-in of the 5.0 g/kW-hr HC+NO_x standard with full compliance by all engines in 2008, one year earlier than currently required. Manufacturers certifying to the second option would also be required to achieve additional reductions of HC and/or NO_x in 2007 to compensate for the loss of emission benefits in that year.

The proposed amendments would also allow marine engine manufacturers to comply with the 5.0 g/kW-hr HC+NO_x standard for engines with power ratings above 373 kW by averaging emissions with those of engines less than or equal to 373 kW, which would need to meet the fixed 5.0 g/kW-hr HC+NO_x standard. Furthermore, industry would be allowed a choice to certify engines with power ratings greater than 485 kW (650 horsepower) by either providing actual emissions test data or by opting to use a default value of 30.0 g/kW-hr HC+NO_x. These changes may reduce the cost of compliance for large engines without reducing the benefits of the current regulation.

A marine engine manufacturer would decide which option to use. If any manufacturer determines that compliance with the existing regulation (Option 1) is more economically advantageous than the proposed amendments, that manufacturer may continue to comply with the existing regulation. Therefore, staff's proposed changes are not expected to impact implementation costs in a negative manner, but would likely benefit engine manufacturers by providing them with additional lead-time to comply with the 5.0 g/kW-hr HC+NO_x exhaust standard. A full description of the proposed amendments is presented in the "Staff Report: Initial Statement of Reasons," as described below.

COMPARABLE FEDERAL REGULATIONS

In August 2002, the United States Environmental Protection Agency (U.S. EPA) announced a proposed rulemaking aimed at controlling evaporative emissions from spark-ignition marine engines (including inboards, sterndrives, personal watercraft, and outboards; 67 FR 53049 (August 14, 2002)). However, the proposal did not address exhaust emission standards for inboard and sterndrive engines. Staff has since been told by U.S. EPA that it intends to promulgate exhaust emission standards equivalent to those required by California; U.S. EPA would also include an evaporative emission standard. Staff anticipates a final federal rule sometime in early 2007 and the implementation of the standards after some period of lead-time beyond that date.

BENEFITS OF THE PROPOSAL

Staff's proposed amendments do not require manufacturers to generate additional emission benefits, nor do they permit a decrease in benefits. The current and proposed amended regulations are expected to reduce HC+NO_x emissions by 56.8 tons per day, in 2020. Staff expects no net change in implementation costs from those identified in

the 2001 rulemaking, because an engine manufacturer may continue to comply with the existing regulation. Presumably, a manufacturer would choose the proposed option only if it was within its financial interests to do so. Therefore, the existing regulation remains an upper bound for cost-effectiveness, which is a favorable \$2.08 to 3.39/lb HC+NO_x reduced. The proposal would benefit manufacturers by providing additional flexibility, and may also benefit consumers if the flexibility results in reduced prices.

AVAILABILITY OF DOCUMENTS AND 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 proposal. The report is entitled: "Staff Report: Initial Statement of Reasons for Rulemaking: Public Hearing to Consider Amendments to the Current Inboard and Sterndrive Boat Regulations."

Copies of the ISOR and the full text of the proposed regulatory language, in underline and ~~strikeout~~ format to allow for comparison with the existing regulations, may be accessed on the ARB's web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on November 17, 2005.

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 web site listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Mr. Scott Rowland, at (626) 575-6676 or srowland@arb.ca.gov, or Mr. Jeff Lowry, at (626) 575-6841 or jlowry@arb.ca.gov.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or 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 ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at www.arb.ca.gov/regact/boatregs/boatregs.htm

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

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 regulations are presented below.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action will not create costs or 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 part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary costs or savings to state or local agencies. The ARB may incur additional implementation or enforcement costs at some future time.

In developing this regulatory proposal, the 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.

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.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action will not 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.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will not affect small businesses because there will be no incremental cost, or an insignificant cost, associated with staff's proposal in addition to those already needed to comply with the federal regulation.

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 regulation that apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

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

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received **no later than 12:00 noon, November 16, 2005**, and addressed to the following:

Postal mail is to be sent to:

Clerk of the Board
Air Resources Board
1001 I Street, 23rd Floor
Sacramento, California 95814

Electronic mail is to be sent to: boatregs@listserv.arb.ca.gov, and received at the ARB **no later than 12:00 noon, November 16, 2005**.

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB **no later than 12:00 noon, November 16, 2005**.

The Board requests but does not require 30 copies of any written submission. Also, the ARB requests that written, facsimile and e-mail 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 amendment is proposed under the authority granted in sections 39515, 39600, 39601, 43103, 43018, 43101, 43102, 43104, 43105, 43806, and 44036.2 of the Health and Safety Code. Sections 27156, 28114, and 38395 of the Vehicle Code. This action is proposed to implement, interpret, or make specific, sections 39002, 39003, 39500, 39667, 43000, 43004, 43008.6, 43009.543013, 43016, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43150-43154, 43202, 43205-43205.5, 43206, 43210, 43211, 43212, 43213, 43806, and 44036.2 of the Health and Safety Code. Sections 27156, 28114, 38391, and 38395 of the Vehicle Code.

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 section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with nonsubstantive 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 the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990 or at the following website www.arb.ca.gov/regact/boatregs/boatregs.htm.

CALIFORNIA AIR RESOURCES BOARD

Catherine Witherspoon
Executive Officer

Date: September 20, 2005