

State of California
AIR RESOURCES BOARD

**Notice of Public Availability of Modified Text and
Availability of Additional Documents**

PUBLIC HEARING TO CONSIDER THE PROPOSED ADOPTION OF AIRBORNE
TOXIC CONTROL MEASURE AMENDMENTS LIMITING ONBOARD INCINERATION
ON CRUISE SHIPS AND OCEANGOING SHIPS

Public Hearing Date: November 16, 2006
Public Availability of Modified Text Date: March 5, 2007
Deadline for Public Comment: March 20, 2007

At its public hearing on November 16, 2006, the Air Resources Board (the Board or ARB) approved amendments to section 93119, title 17, California Code of Regulations (CCR). The amendments limit onboard incineration on cruise ships and oceangoing ships.

In 2004, Assembly Bill 471 (AB 471) was passed by the California Legislature and codified in Health and Safety Code (HSC) section 39630 *et seq.* AB 471 prohibits cruise ships from conducting onboard incineration while operating within three miles of the California coast. This law became effective January 1, 2005. On November 17, 2005, ARB adopted the Airborne Toxic Control for Measure for Cruise Ship Onboard Incineration (Cruise Ship ATCM). The Cruise Ship ATCM implements AB 471 by clarifying the three nautical mile limit for incineration along the California coast and establishing recordkeeping and reporting requirements.

In October 2005, Senate Bill 771 (SB 771) was passed by the California Legislature and codified in HSC section 39630 *et seq.* SB 771 expands the requirements of AB 471 to include oceangoing ships of 300 gross registered tons or more. An oceangoing ship is defined as a private, commercial, government, or military vessel of 300 gross registered tons or more calling on California ports or places. This law became effective January 1, 2006. ARB staff proposed amendments to the Cruise Ship ATCM to implement SB 771. The proposed amendments are expected to reduce public exposure to emissions of toxic air contaminants for residents and workers living or working in port communities and along the California coast.

The Board's Action

At its hearing on November 16, 2006, the Board adopted Resolution 06-38, in which it approved the originally proposed amendments with five modifications suggested by staff at the hearing. A copy of Resolution 06-38 is provided in Attachment 1. Attachment A to the Resolution contains the amendments initially proposed in the Staff Report released on September 29, 2006. The Resolution contains a narrative list of the five modifications suggested by staff and approved by the Board; Attachment B to the

Resolution contains the list of these modifications as distributed by staff at the hearing. The Board directed the staff to incorporate the approved modifications into the proposed regulatory text, along with such other conforming modifications as may be appropriate, and to make the modified text available for a supplemental comment period of at least 15 days.

The staff's modifications to the proposed text are discussed below and appended to this notice as Attachment 2. Additions to the initially proposed regulatory text are denoted by double underline and deletions by ~~double-strikeout~~.

Summary of Proposed Modifications

The following is a summary of the proposed substantive modifications to the regulation and staff's rationale for making them.

Recordkeeping Requirements: Staff deleted the requirement for recordkeeping while operating in California Regulated Waters and substituted a requirement to keep records while operating within three nautical miles of the California coast. (section 93119(d)(2)(A)1.) These changes, which were the first two modifications proposed by staff, were designed to minimize duplication since similar records are already required under federal and international law.

Inspection of Records: Staff added a requirement that ARB personnel be permitted access to, and review of, incineration records required by the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL). Records of incineration within 24 nautical miles of the California coast must be made available to ARB personnel or their delegates. (modified section 93119(d)(2)(B)2.) This assures inspectors will be permitted to review the records

Military vessels are exempt from these reporting requirements since the United States Coast Guard has exempted the military from incinerator recordkeeping requirements.

Definitions: In the last two modifications, staff deleted the definitions for "Regulated California Waters," and "Estuarine Waters" since these terms are not used in the modified regulation. (section 93119(c).)

Board Resolution 06-38 (Attachment 1) and the modifications to the proposed regulatory text (Attachment 2) may be downloaded from ARB's internet website at the following address:

<http://www.arb.ca.gov/regact/csoi06/csoi06.htm>

Printed copies of these documents may be obtained by contacting Ms. Michelle Komlenic at (916) 322-3926.

Comments and Subsequent Action

In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adopt amendments to section 93119, title 17, CCR, after making the modified regulatory language available to the public for a supplemental written comment 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 to the regulation as may be appropriate in light of comments received, and shall present the modified regulation to the Board for further consideration if she determines that this is warranted.

Written comments on the modifications approved by the Board must be submitted by postal mail, electronic mail, or facsimile 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>

Facsimile submittal: (916) 322-3928

In order to be considered by the Executive Officer, comments must be directed to the ARB in one of the three 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 regulation shall be considered by the Executive Officer.

If you have special language needs, please contact Alexa Malik, Regulations Coordinator, at (916)322-4011 or by email at amalik@arb.ca.gov. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

Attachments (2)