

State of California
AIR RESOURCES BOARD

Notice of Public Availability of Modified Text

**PUBLIC HEARING TO CONSIDER ADOPTION OF CALIFORNIA'S HEAVY-DUTY
DIESEL IN-USE COMPLIANCE REGULATION**

Public Hearing Date: September 28, 2006
Public Availability Date: March 16, 2007
Deadline for Public Comment: March 31, 2007

The Board's action. At a September 28, 2006 public hearing, the Air Resources Board (the Board or ARB) approved regulatory amendments pertaining primarily to the creation of an in-use compliance program for heavy-duty diesel engines (HDDE) conducted by the engine manufacturers. The proposed program is essentially identical to a comparable United States Environmental Protection Agency (U.S. EPA) program and includes amendments to the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines" (Heavy-Duty Diesel Engine Test Procedures). The amendments originally proposed by staff also included a minor amendment to the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Otto-Cycle Engines" (Heavy-Duty Otto-Cycle Engine Test Procedures). This amendment added California language allowing alternative label content and formats for 2007 and later model-year heavy-duty otto-cycle engines with advance Executive Officer approval. This language was consistent with U.S. EPA's intent in making technical amendments to the federal regulations in December 2005.

At the conclusion of the hearing, the Board adopted Resolution 06-27 in which it approved the originally proposed amendments with one minor modification. The modification, suggested by staff, added a California provision on alternative label content and formats to the Heavy-Duty Diesel Engine Test Procedures in addition to the Heavy-Duty Otto-Cycle Engine Test Procedures. U.S. EPA had intended that the alternative label provision be applicable to both otto-cycle and diesel engines, but through an oversight staff's original proposal only added the language to the Heavy-Duty Otto-Cycle Engine Test Procedures. The text of the suggested modification was contained in a 2-page document entitled "ARB Staff's Suggested Modifications to the Original Proposal," which was distributed at the hearing and was Attachment D to the Resolution. The Resolution directed the Executive Officer to incorporate the modification into the proposed regulatory text, with such other conforming modifications as may be appropriate, and to make the modified text available for a supplemental comment period.

Modified text being made available. Subsequent to the Board hearing, staff discovered that on August 30, 2006, U.S. EPA had published a new Direct Final Rule

(71 Fed.Reg. 51481, 51487) that included adding a new paragraph "(j)" to 40 CFR section 86.007-35 (Labeling) specifically containing the alternate labeling language that U.S. EPA had intended to add in December 2005. Since the alternative labeling language is now expressly contained in the federal regulation, staff concluded there is no need to have a separate California provision. Changing the date of the incorporated federal labeling provisions to August 30, 2006 is all that is needed to fulfill the intent of staff's modifications presented at the September 28, 2006 Board hearing.

Accordingly, staff has drafted conforming modifications that eliminate the originally proposed California language on alternative labels in the Heavy-Duty Otto-Cycle Engine Test Procedures. In both those Test Procedures and the Heavy Diesel Engine Test Procedures, the modified text incorporates the federal labeling provisions for 2007 and later engines in section 86.007-35 as amended August 30, 2006. These modifications have the same effect as those presented at the September 28, 2006 hearing.

The Attachment to this Notice shows the text of the proposed modifications to the Heavy-Duty Diesel Engine Test Procedures and the Heavy-Duty Otto-Cycle Engine Test Procedures. The text of the amendments originally proposed in the Staff Report: Initial Statement of Reasons is shown in single underline to indicate additions and ~~single strikeout~~ to indicate deletions. Modifications to the test procedures language proposed with this 15-Day Notice are shown in double underline for additions and ~~double strikeout~~ for deletions.

Resolution 06-27 is available at the ARB's Internet site for this rulemaking at <http://www.arb.ca.gov/regact/inuse06/inuse06.htm>. Printed copies may be obtained from Mr. Dipak Bishnu, Air Resources Engineer, On-Road Heavy-Duty Diesel Section, at (626) 575-6696.

Comments and subsequent action. Consistent with section 11346.8 of the Government Code, in the Resolution the Board directed the Executive Officer to adopt the modified amendments after making the modifications 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.

Written comments on the proposed modifications may be submitted by postal mail, electronic mail, or facsimile as follows:

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

Facsimile submissions are to be transmitted to: (916) 322-3928

In order to be considered by the Executive Officer, comments must be directed to ARB in one of the three forms described above and received by ARB by 5:00 p.m. on the last day for public comment listed at the beginning of this notice. Only comments relating to the modifications to the text of the Heavy-Duty Diesel Engine Test Procedures and the Heavy-Duty Otto-Cycle Engine Test Procedures being made available will 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.

Attachment

Attachment

Staff's Proposed 15-Day Notice Modifications to the Original Proposal

PUBLIC HEARING TO CONSIDER ADOPTION OF CALIFORNIA'S HEAVY-DUTY DIESEL IN-USE COMPLIANCE REGULATION

Agenda Item No.: 06-08-05

The original proposal includes amendments to the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," and an amendment to the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Otto-Cycle Engines." Shown below are the proposed modifications to the originally proposed amendments to these two documents. Only provisions being modified are shown. The text of the amendments originally proposed in the Staff Report: Initial Statement of Reasons is shown in single underline to indicate additions and ~~single strikeout~~ to indicate deletions. The proposed modifications to the originally proposed amendments are shown in double underline for additions and ~~double strikeout~~ for deletions.

CALIFORNIA EXHAUST EMISSION STANDARDS AND TEST PROCEDURES FOR 2004 AND SUBSEQUENT MODEL HEAVY-DUTY DIESEL-ENGINES AND VEHICLES

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35. Labeling. §86.xxx-35,

A. Federal Provisions.

1. **§86.001-35** ~~January 18, 2004~~ April 6, 1994.

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2. **§86.007-35** ~~January 18, 2004~~ ~~July 13, 2005~~, August 30, 2006

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**CALIFORNIA EXHAUST EMISSION STANDARDS AND TEST PROCEDURES FOR
2004 AND SUBSEQUENT MODEL HEAVY-DUTY OTTO-CYCLE ENGINES**

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35. Labeling. §86.xxx-35,

A. Federal Provisions.

1. **§86.001-35** April 6, 1994.

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2. **§86.007-35** ~~January 18, 2001~~ ~~June 29, 2004~~, August 30, 2006

B. California Provisions

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2. ~~For 2007 and later model year engines, the Executive Officer may approve in advance other label content and formats provided the the alternative label contains information consistent with this section 35.~~