

## TITLE 17. CALIFORNIA AIR RESOURCES BOARD

### NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE AIRBORNE TOXIC CONTROL MEASURE FOR STATIONARY COMPRESSION IGNITION ENGINES

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider amendments to the airborne toxic control measure for stationary compression-ignition engines. This notice summarizes the proposed amendments to the ATCM. The staff report presents the proposed amendments to the ATCM in greater detail.

DATE: May 26, 2005

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency  
Air Resources Board  
Byron Sher Auditorium, Second Floor  
1001 I Street  
Sacramento, California 95814

This item will be considered at a two-day meeting of the ARB, which will commence at 9:00 a.m., May 26, 2005, and may continue at 8:30 a.m., May 27, 2005. This item may not be considered until May 27, 2005. Please consult the agenda for the meeting, which will be available at least 10 days before May 26, 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 amendments to title 17, California Code of Regulations (CCR) section 93115.

#### **Background**

On February 26, 2004, the Board approved the Stationary Compression Ignition Engine ATCM to reduce diesel particulate matter (PM) emissions from new and in-use stationary diesel engines. Among other provisions, the ATCM contains a 0.15 grams

per brake horsepower-hour (g/bhp-hr) PM standard for new stationary compression ignition agricultural engines. Just prior to the effective date of the standard (January 1, 2005) local air districts and agricultural engine distributors notified ARB of their concern about the availability of compliant agriculture pump engines greater than 50 hp and less than 175 horsepower (hp).

ARB conducted an extensive investigation culminating in the Board taking emergency action at a regularly scheduled Board meeting on March 17, 2005. During the meeting, the Board heard a presentation from ARB staff and testimony from stakeholders within the agricultural industry, agriculture equipment distributors and dealers, engine manufacturers, and others. The testimony confirmed staff's findings that only a limited number of new stationary agricultural pump engines greater than 50 hp and less than 175 hp can meet the 0.15 g/bhp-hr PM standard. The Board took emergency action by removing the requirement that new stationary agricultural engines greater than 50 hp and less than 175 hp meet the 0.15 g/bhp-hr PM standard. Instead, such engines must meet the appropriate California and federal off-road certification standards for new engines. This action was based on the limited availability of 0.15 g/bhp-hr PM-compliant engines in the greater than 50 to less than 100 hp range and the limited number of manufacturers offering compliant engines in the 100 to less than 175 hp range.

The proposed revisions to the ATCM would ensure the continued availability of off-road California- and federal-compliant stationary agricultural pump engines, in all size ranges by all manufacturers, by making the emergency regulatory changes permanent.

### **Description of the Proposed Regulatory Amendments**

For new stationary agriculture diesel pump engines that are greater than 50 hp and less than 175 hp, the proposed amendments require compliance with the current Off-Road Compression Ignition Engine Standards (Title 13 CCR Section 2423) applicable to an engine of the same brake horsepower rating and model year. These standards represent best available control technology for this category of engines.

For new stationary agriculture diesel engines used in other types of agriculture operations or other applications, such as generators, no amendments are being proposed at this time. The ATCM requires that these engines continue to meet the 0.15 g/bhp-hr PM standard, which is more stringent than the current off-road compression ignited engine PM standards.

#### *Additional Provisions under Consideration*

As directed by the Board on March 17, 2005, the ARB staff will also consider amendments to the ATCM for other stationary applications using new or in-use diesel engines, such as standby generators. Staff may also propose various clarifying provisions, and make non-substantive and minor editorial changes to the stationary engine ATCM. During the 45-day comment period and leading up to the Board hearing

starting on May 26, 2005, staff plans to collect additional information on this issue. If staff believes that it is appropriate to modify the current staff recommendation, the ARB staff will present proposed changes for the Board's consideration at the hearing. As described below, an additional 15-day comment period will then be provided if the Board approves either the language proposed by ARB staff or a different version.

### **COMPARABLE FEDERAL REGULATIONS**

There are no federal regulations that require these stationary agricultural engines to meet emission standards. There are however federal emission standards for nonroad (off-road) mobile engines. In practice, the same engine models are typically used for both stationary and nonroad applications. Thus, though federal law does not require it, the nonroad standards can be reasonably applied to stationary agricultural engines. The proposed revisions to the ATCM will align the emission standards for stationary agricultural engines with these nonroad standards with which engine manufacturers have demonstrated an ability to comply. These Federal standards are set forth in the United States Code of Federal Regulations Title 40, Chapter 1, Part 89, Subpart B and Part 1039 Subpart B.

### **AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS**

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulation action, which includes a summary of the environmental and economic impacts of the proposal. The ISOR is entitled, "Staff Report: Initial Statement of Reasons for Proposed Revisions to the Airborne Toxic Control Measure for Stationary Compression Ignition Engines."

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, 1<sup>st</sup> Floor, Sacramento, CA 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing which will begin on May 26, 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 web site listed below.

Inquiries concerning the substance of the proposed regulations may be directed to the designated agency contact persons, Tony Andreoni, Manager of the Process Evaluation Section, at (916) 324-6021 or by email at [tandreoni@arb.ca.gov](mailto:tandreoni@arb.ca.gov), or Barbara Cook, Air Pollution Specialist, at (916) 327-1507 or by email at [bcook@arb.ca.gov](mailto:bcook@arb.ca.gov).

Further, the agency representative and designated back-up contacts, to whom nonsubstantive inquiries concerning the proposed administrative action may be

directed, are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, and 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 <http://www.arb.ca.gov/regact/statde05/statde05.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 amendments 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 savings to state or local agencies.

The proposed regulatory action will also impose a mandate upon and create costs to local agencies (i.e., local air pollution control and air quality management districts; the "districts"). However, in this case, such administrative costs to the districts are recoverable by fees that are within the districts' authority to assess (see Health and Safety Code sections 42311 and 40510). Therefore, the Executive Officer has determined that the proposed regulatory action imposes no costs on local agencies that are required to be reimbursed by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, and does not impose a mandate on local agencies that is required to be reimbursed pursuant to Section 6 of Article XIII B of the California Constitution.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons and 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 ATCM will not affect the creation or elimination of jobs

within the State of California, the creation of new businesses and the elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed ATCM can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory amendments will affect small businesses since the proposed amendments may have a beneficial impact on small businesses.

In accordance with H&SC 43013(c), the Executive Officer has determined that the proposed amendments are necessary, cost-effective, and technologically feasible.

Before taking final action on the proposed amendments, the Board must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency 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 amendments.

### **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 must be received **no later than 12:00 noon, May 25, 2005**, and addressed to the following:

Postal mail is to be sent to:

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

Electronic mail is to be sent to: [statde05@listserv.arb.ca.gov](mailto:statde05@listserv.arb.ca.gov), and received at the ARB **no later than 12:00 noon, May 25, 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, May 25, 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 ARB 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 to the ARB in Health and Safety Code sections 39600, 39601, 39650, 39658, 39659, 39665, 39666, 41511, and 43013. This action is proposed to implement, interpret, or make specific Health and Safety Code sections 39002, 39650, 39658, 39659, 39665, 39666, 40000, 41511, and 43013.

## **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 ARB may adopt the regulatory amendments as originally proposed or with non-substantial or grammatical modifications. The Board may also adopt the amendment 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 amendment language as modified could result from the proposed 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, 1<sup>st</sup> Floor, Sacramento, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Catherine Witherspoon  
Executive Officer

Date: March 29, 2005

*"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 our Web-site at [www.arb.ca.gov](http://www.arb.ca.gov)."*