

State of California
AIR RESOURCES BOARD

Third Notice of Public Availability of Modified Text

**PUBLIC HEARING TO CONSIDER THE ADOPTION OF THE REGULATORY
PROPOSAL TO DETERMINE AND CONTROL EVAPORATIVE EMISSIONS FROM
OFF-HIGHWAY RECREATIONAL VEHICLES**

Public Hearing Date: July 25, 2013
First Public Availability Dates: January 14, 2014 – January 29, 2014
Second Public Availability Dates: April 28, 2014 – May 13, 2014
Third Public Availability Date: August 7, 2014
Deadline for Public Comment: August 22, 2014

At its July 25, 2013 public hearing, the Air Resources Board (ARB or Board) approved for adoption the proposed changes to California Code of Regulations (CCR), title 13, sections 2416, 2417, 2418, 2419.1, 2419.2, 2419.3, 2419.4, and 2419.5, which expand evaporative emission control requirements for off-highway recreational vehicles (OHRV) to include a whole vehicle diurnal evaporative emission standard, certification, labeling, enforcement, anti-tampering, recall, and use restrictions. A new test procedure to measure evaporative emissions, TP-933 "Test Procedure for Determining Evaporative Emissions from Off-Highway Recreational Vehicles," (TP-933) was also approved for adoption and is incorporated by reference in CCR, title 13, sections 2417, 2418, and 2419.5.

At the hearing, the Board approved modifications to the regulatory language originally proposed in the Staff Report released on June 5, 2013, in response to comments received after the Staff Report was published. The new sections 2416-2419.5 were approved, as modified, in Board Resolution 13-33. The resolution and all other regulatory documents for this rulemaking are available online at the following ARB website: <http://www.arb.ca.gov/regact/2013/ohrv2013/ohrv2013.htm>

In accordance with the Government Code, section 11346.8, the Board directed the Executive Officer to adopt the proposed regulatory language as modified after making them available to the public for comment for a period of at least 15 days. The Board further directed the Executive Officer to 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.

As directed by the Board on July 25, 2013, the First Notice of Public Availability of Modified Text and Availability of Additional Documents and Information (1st 15-day Change Notice) was issued on January 14, 2014. The Second Notice of Public Availability of Modified Text (2nd 15-day Change Notice) corrected section enumeration

and made minor changes to improve clarity.

The regulation was sent to the Office of Administrative Law (OAL) for review and was disapproved, the details of which can be found on the OHRV rulemaking website: <http://www.arb.ca.gov/regact/2013/ohrv2013/ohrv2013.htm>

This Third Notice of Public Availability of Modified Text (3rd 15-day Change Notice) addresses the concerns raised by OAL in their notice of disapproval and includes additional modifications to improve clarity and correct minor errors in the regulatory text and incorporated TP-933.

This notice is an announcement of the opening of a third 15-day public comment period for proposed modifications to control evaporative emissions from OHRVs. The additional proposed modifications will improve clarity while preserving the intent of the Board approved amendments.

Summary of Proposed Modifications

Subsequent to the release of the second 15-day change notice, staff identified the need for more specific certification requirements and some minor wording and citation changes to improve clarity in the proposed regulatory language and proposed test procedure. The errors in the regulatory language and test procedure, described below, are being corrected in this third 15-day change notice.

The modifications include adding more specific certification language to sections 2419.4 that is similar to OHRV exhaust certification requirements in section 86.416-80 “Application for Certification” of the “California Exhaust Emissions Standards and Test Procedures for 1997 and Later Off-Highway Recreational Vehicles and Engines.” The updated section provides more specificity to the certification requirements, application content, label format, and grounds for approval and disapproval of Executive Orders of Certification for OHRV manufacturers, small volume OHRV manufacturers, and evaporative emissions control component manufacturers. Furthermore, the updated section provides more specificity to the administrative requirements for the maintenance of records. The changes improve the overall clarity of the regulation and allow the evaporative emission certification application to be harmonized with the exhaust application where appropriate.

The manufacturer’s warranty coverage was amended to include unapproved modifications as a condition to void the warranty in section 2419.1, providing for consistency with the warranty statement language required in section 2419.2. To improve clarity and specificity throughout the regulation, new definitions for “Auxiliary Emission Control Device,” “Component Executive Order of Certification,” “Evaporative Emissions Control Component Manufacturer,” “Evaporative Emissions Control Component,” and “Independent Laboratory.” Other minor language changes were made. These modifications include correcting the authority and reference citations.

All references to the “Smog Check” program, including sections 44004, 44010, 44011, 44012, 44014, 44015, and 44017, Health and Safety Code, were removed. References to section 43204, Health and Safety Code, were also removed. Additional authority was cited from section 43824, Health and Safety Code. Corrections to reference citations and minor language changes were also made to the test procedure.

Modified Text Being Made Available

The third 15-day modifications are set forth in Attachment 1 (sections 2416, 2417, 2418, 2419, 2419.1, 2419.2, 2419.3, and 2419.4, tit. 13, Cal. Code Regs.) and Attachment 2 (TP-933) of this notice. They contain relevant portions of title 13, California Code of Regulations and the documents incorporated by reference that are affected by the modifications being proposed with this notice. The proposed adoption of the new sections is shown in plain text in the 45-day notice. The first 15-day proposed changes, released on January 14, 2014, are shown in single underline to indicate additions and ~~single strikeout~~ to indicate deletions from the originally proposed regulatory text. The second 15-day proposed changes, released on April 28, 2014, are shown in double underline and ~~double strikeout~~, respectively. Changes proposed in this third 15-day notice are shown in **double underline bold italics** and ~~double strikeout bold italics~~, respectively. The symbol “*****” means that intervening text not proposed for modification is not shown.

Written Comments

Written comments will only be accepted on the modifications and document identified in this notice and may be submitted by postal mail or electronic mail submittal 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 section 6250 et seq.), your written and verbal comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) 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 and additional document 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 five (5) business days from the release date of this notice. TTY/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.