

State of California
AIR RESOURCES BOARD

**Notice of Public Availability of Modified Text
and Supporting Documents and Information**

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

Public Hearing Date: May 26, 2005
Public Availability Date: June 21, 2005
Deadline for Public Comment: July 6, 2005

The Originally Proposed Amendments

At its May 26, 2005, public hearing, the Air Resources Board (ARB or Board) approved amendments to the Airborne Toxic Control Measure for Stationary Compression Ignition Engines (ATCM), title 17, California Code of Regulations, section 93115. These amendments, originally proposed in Appendix A of "Staff Report: Initial Statement of Reasons for the Proposed Revisions to the Airborne Toxic Control Measure for Stationary Compression Ignition Engines," April 8, 2005 (Staff Report), permanently revise title 17, California Code of Regulations, section 93115 to coincide with and expand upon temporary emergency regulatory changes adopted by the Board at its March 17, 2005 Board meeting (Resolution 05-29). The emergency amendments replaced the 0.15 grams per brake horsepower-hour (g/bhp-hr) particulate matter (PM) emission limit for greater than 50 to less than 175 horsepower (hp) new stationary diesel agricultural pump engines with ARB and federal new off-road engine PM certification standards for engines of the same horsepower and model year. The amendments also included several non-substantive changes to correct referencing errors or otherwise clarify the original intent of the ATCM.

The Board's Action

At the conclusion of the hearing, the Board adopted Resolution 05-33, in which it approved the originally proposed amendments with several modifications. All of the modifications had been suggested by staff in an 11-page document entitled "Staff's Suggested Modifications to the Original Proposal" that was distributed at the hearing and was Attachment B to the Resolution. The Resolution and its Attachment B are appended to this notice as Attachment 1. The Resolution directed the Executive Officer to incorporate the modifications into the proposed regulatory text, with other conforming modifications as may be appropriate, and to make the modified text available for a supplemental comment period.

Subsequent to the hearing, staff has identified some additional modifications that are appropriate to address issues raised by commenters at the hearing and to make the amended regulations work as effectively as possible. The most significant post-hearing modifications: 1) allow districts to approve up to 40 additional hours of in-use stationary

diesel emergency standby engine maintenance and testing at hospitals and other health care facilities, and 2) clarify the compliance requirements for new stationary diesel engines that were acquired or submitted for approval, but not installed, prior to the effective date of the new emission limits.

The Modified Text Being Made Available for Comment

Attachment 2 to this notice contains the proposed regulatory text showing the modifications now being proposed, including the modifications developed subsequent to the hearing. The modifications are shown in double underline to indicate additions and in ~~double strikethrough~~ to indicate deletions, compared to the originally proposed amendments shown in single underline and ~~single strikethrough~~. Attachment 3 contains a summary of the modifications now being proposed and their rationale.

Additional Supporting Documents and Information Being Made Available

In accordance with Government Code section 11347.1, the staff has added to the rulemaking file the additional documents identified in Attachment 4. Copies of these documents, which pertain to the regulatory modifications being made available in connection with this notice, may be requested from the Clerk of the Board, provided the reference does not contain confidential (i.e., proprietary) information. The Clerk of the Board may be contacted at (916) 322-5594, or at the postal and electronic mail addresses identified for the Clerk of the Board below. The regulatory documents for this rulemaking, including this notice and its attachments, are available online at <http://www.arb.ca.gov/regact/statde05/statde05.htm>.

Comments and Subsequent Action

In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adopt the proposed modifications to title 17, California Code of Regulations, section 93115 after making them 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 15-day modifications approved by the Board and on the documents identified in Attachment 4 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: statde05@listserv.arb.ca.gov

- Facsimile submissions are to be transmitted to the Clerk of the Board at (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 the 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 15-day modifications shown in Attachment 2 or to the documents identified in Attachment 4 shall be considered by the Executive Officer.

Future Proposed Amendments

Issues regarding new stationary diesel engine "sell-through" have been identified in conjunction with the scheduled phase in of more stringent emission limits. These issues will be addressed in future proposed amendments to title 17, California Code of Regulations, section 93115.

Staff understands that engine distributors/dealers typically anticipate the number and models of engines that will be sold annually. Orders or contracts for these engines must be in place one to two years in advance to ensure availability at peak demand. Engine distributors/dealers are responsible for the engines they order or contract for even if such engines become non-compliant, and thus non-saleable, with the advent of new, more stringent emission limits. Distributors/dealers need to complete the sale of (i.e., "sell-through") these engines just as automobile dealerships continue to sell car models from the previous year after new car models become available.

In the 15-day modifications, ARB staff has included proposed modifications that we believe, at least partially, address the "sell-through" issue for the 2004/2005 transition period. However staff is aware that these proposed modifications do not address all of the concerns about "sell-through." These concerns and issues are complex and require information gathering and extensive discussions with the districts, end-users, and engine manufacturers, distributors, and dealers. It is not possible to conduct extensive discussions within the timeframe for finalizing the original proposed amendments by August 2, 2005, before the associated emergency regulation (Resolution 05-29) expires. Therefore, ARB staff plans to return to the Board with proposed amendments to address "sell-through" in the late 2005 to early 2006 timeframe, if appropriate.

If you have any questions regarding the proposed modifications, please contact Mr. Tony Andreoni, Manager, Process Evaluation Section, at (916) 324-6021 or tandreoni@arb.ca.gov. If you have special language needs or would like a copy of this notice sent to you by postal mail, please contact Ms. Linda Keifer, Secretary, Emission Assessment Branch, at (916) 327-1505, or lkeifer@arb.ca.gov.

Attachments