TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF PROPOSED AIRBORNE TOXIC CONTROL MEASURE TO LIMIT SCHOOL BUS IDLING AND IDLING AT SCHOOLS

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adopting a regulation to reduce public exposure to diesel exhaust particulate matter (diesel PM) and other toxic air contaminants (TACs) by limiting unnecessary idling of specified vehicular sources. The regulation focuses on reducing school age children's exposure at and around schools and while riding school buses and other types of school transportation.

DATE: December 12, 2002

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Central Valley Auditorium
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., on Thursday, December 12, 2002, and may continue at 8:30 a.m., Friday, December 13, 2002. This item may not be considered until Friday, December 13, 2002. Please consult the agenda for the meeting, which will be available at least ten days before December 12, 2002, to determine the day on which this item will be considered.

This facility is accessible to persons with disabilities. If accommodation is needed, please contact ARB's Clerk of the Board by November 27, 2002, at (916) 322-5594, or Telecommunications Device for the Deaf (TDD) at (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed adoption of Chapter 10 - Mobile Source Operational Controls, Article 1- Motor Vehicles, section 2480, title 13, California Code of Regulations (CCR).

Background

The California Toxic Air Contaminant Identification and Control Program (Program), established under California law by Assembly Bill 1807 (Stats. 1983, Ch. 1047) and set forth in Health and Safety Code (HSC) sections 39650–39675 (as amended), requires

the ARB to identify and control TACs in California. Following the identification of a substance as a TAC, Health and Safety Code section 39665 requires the ARB, with participation of the air pollution control and air quality management districts (districts), and in consultation with affected sources and interested parties, to prepare a report on the need and appropriate degree of regulation for that substance. Health and Safety Code section 39665(b) requires that this “needs assessment” address, among other things, the technological feasibility of proposed airborne toxic control measures (ATCMs) and the availability, suitability, and relative efficacy of substitute products or processes of a less hazardous nature.

Once the ARB has evaluated the need for and appropriate degree of regulation of a TAC, Health and Safety Code section 39667 requires the ARB to adopt regulations to achieve the maximum possible reduction in public exposure to TACs. The regulation of used motor vehicles is to apply to the best available control technology (BACT) or a more effective control method, in consideration of cost, risk, environmental impacts, and other specified factors.

The Board identified diesel PM as a TAC in August 1998. A needs assessment for diesel PM was published in October 2000 as the "Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles." In the Risk Reduction Plan, the ARB indicated that idling measures could be used to "limit the amount of time heavy-duty vehicle engines are allowed to operate while not performing useful work, e.g., moving the vehicle or operating essential equipment."

In October 2001, the Office of Environmental Health Hazard Assessment (OEHHA) published the "Prioritization of Toxic Air Contaminants Under the Children's Environmental Health Protection Act." The Children’s Environmental Health Protection Act (Stats. 1999, Ch. 731) requires the California Environmental Protection Agency to specifically consider children in setting Ambient Air Quality Standards and in developing criteria for TACs. OEHHA identified diesel PM and several other TACs associated with motor vehicle exhaust among the top priority pollutants affecting children’s health. The OEHHA’s health effects assessment for TACs are provided to ARB for use in risk management activities.

ARB staff notified nearly 17,000 potentially affected individuals and organizations about the Proposed ATCM to Limit School Bus Idling and Idling at Schools and worked with many of these individuals and organizations during its development. In the spring and summer of 2002, staff conducted surveys of 50 state air quality regulators, more than 800 California school district transportation officials, and 13 of the largest school bus contractors in the State. The purpose of these surveys was to determine the status of anti-idling measures in California and other states. Staff also consulted with the California Department of Education (CDE), California Highway Patrol (CHP), and northern and southern California school districts; developed and frequently updated a web page with list serve (http://www.arb.ca.gov/toxics/sbidling/sbidling.htm) describing the Proposed ATCM, its status, and contact information; arranged and held personal meetings and conference calls with affected parties; submitted articles to organization

newsletters; observed school bus loading at a combination middle school and high school; made presentations and discussed the Proposed ATCM at meetings of seven affected organizations, and held one Public Consultation Meeting and two Public Workshops. As a result of public input and its own investigation, ARB staff has prepared an Initial Statement of Reasons (ISOR) for the Proposed ATCM that, together with the needs assessment, serves as the report on the need and appropriate degree of regulation for school bus idling and idling at schools.

Description of the Proposed Regulatory Action

The Proposed ATCM to Limit School Bus Idling and Idling at Schools is designed to reduce children's and the general public's exposure to diesel PM and other TACs and air pollutants from heavy-duty: 1) buses and vehicles whose purpose is the transport of children at or below 12th-grade level to and from school and other activities; and 2) transit buses and vehicles other than buses that operate at or near schools. For the purpose of the Proposed ATCM, a heavy-duty bus or vehicle is one that has a gross vehicle weight rating greater than 6,000 pounds, excluding a passenger vehicle designed to carry 10 or fewer persons including the driver.

The requirements of the Proposed ATCM would affect both the public and private transportation industry. The public agencies that could be affected are: school districts, transit agencies, and public agencies with heavy-duty vehicles. The private businesses that could be affected are private schools, school or other bus contractors, and heavy-duty vehicle fleets. These agencies and businesses would be affected to the extent they own, operate, or direct the operation of the following: school buses, school pupil activity buses, youth buses, general public paratransit vehicles transporting children, transit buses operating at or near schools, and other heavy-duty vehicles (e.g., delivery, construction, or maintenance vehicles) operating at or near schools.

The Proposed ATCM would require a driver of a school bus or other bus or heavy-duty vehicle to manually turn off the bus or vehicle engine upon arriving at a school and restart it no more than 30 seconds before departing. A driver of a bus or vehicle whose primary purpose is the transport of children (i.e., a school bus, school pupil activity bus, youth bus, or general public paratransit vehicle) would be subject to the same requirement when operating within 100 feet of a school and would be prohibited from idling more than five minutes at locations beyond schools. A driver of a transit bus or other heavy-duty vehicle, whose primary purpose is not the transport of children, would be prohibited from idling beyond five minutes within 100 feet of a school. Again, a transit bus or other heavy-duty vehicle would also be prohibited from idling on school grounds except within 30 seconds before departure.

In addition, the Proposed ATCM would require a motor carrier of an affected bus or vehicle to: ensure that drivers are informed of the idling requirements, track complaints and enforcement actions regarding the requirements, and keep records of these driver education and tracking activities.

The Proposed ATCM would exempt specific idling situations where health, safety, or operational concerns take precedence. For example, exemptions are provided for idling: in the midst of traffic; to ascertain safe operating conditions of a bus or vehicle; for test, service, repair, or diagnostic purposes; to accomplish work, other than transportation, for which a vehicle was designed (e.g., controlling cargo temperature or operating a lift, drill, etc.); to operate equipment needed by persons with disabilities and heaters or air conditioners for special needs children; to operate defrosters or other equipment to prevent a safety or health emergency; and to recharge a hybrid electric bus or vehicle. In addition, the Proposed ATCM contains a provision that describes its relationship to other laws. To avoid potential conflict with those laws, the Proposed ATCM clearly states that it does not allow idling in excess of other applicable limits, or in excess of more stringent limits.

There are no federal regulations comparable to the Proposed ATCM; however, the United States Environmental Protection Agency (U.S. EPA) generally recommends that motor vehicles be turned off when not in motion.

The Proposed ATCM's elimination of unnecessary idling of buses and other heavy-duty vehicles would reduce diesel PM and other TAC emissions and, as a result, would reduce children's and the public's exposure to these harmful substances. ARB staff estimated the potential cancer risk associated with diesel PM exposure based upon modeled idling school bus emissions that could occur at a school near a designated loading/unloading zone. Overall, estimated risk values were less than 10 potential cancer cases per million for most situations modeled and potential cancer risks were found to increase as the number of buses and idling time increased. The Proposed ATCM is a simple pollution prevention measure that can be easily implemented to significantly reduce children's, parents', teachers', and near-by residents' exposure to idling diesel PM and associated potential cancer risk and other adverse health effects.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the potential environmental and economic impacts of the proposal. The ISOR is entitled, “Staff Report: Initial Statement of Reasons for the Proposed Airborne Toxic Control Measure to Limit School Bus Idling and Idling at Schools.”

Copies of the ISOR and the full text of the proposed regulatory language may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing (December 12, 2002).

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, Beverly Werner, Manager of the Regulatory Assistance Section, Project Assessment Branch, Stationary Source Division at (916) 322-3984, and Barbara Cook, Air Pollution Specialist, Stationary Source Division at (916) 324-1840.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or 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.

If you are a person with a disability and desire to obtain this document in an alternative format, please contact the Air Resources Board ADA Coordinator at (916) 323-4916, or TDD (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area.

This notice, the ISOR and proposed regulatory text described therein, 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/sbidling/sbidling.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 in reasonable compliance with the proposed regulatory action are presented below.

Pursuant to Government Code section 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action will create costs to state agencies, local agencies, and school districts. Potentially affected state agencies include the ARB, Department of Motor Vehicles (DMV), CHP, and CDE. Public school districts, and local public transit and city or county agencies are also potentially affected.

Initial costs to State agencies primarily involve developing educational materials for affected parties and revising training and testing materials for school transportation bus and vehicle drivers. ARB is expected to incur initial costs to design, reproduce, and distribute educational materials to affected drivers, motor carriers, and others. The DMV is expected to incur minimal costs to revise and reproduce school bus driver certification tests. The CHP is expected to incur minimal costs to develop one or more certification test questions and could incur labor costs associated with amending

affected title 13 regulations. The CHP is not expected to incur significant enforcement costs as the ARB is the primary entity responsible for enforcement activities. The CDE is expected to incur minimal costs to revise the school bus driver training manual and other training materials.

Initial and annual costs for public school districts and local public transit and other agencies primarily involve driver training and clerical work associated with training and maintaining records. Public school districts and local public agencies are not expected to incur significant training and recordkeeping costs because the Proposed ATCM's training and recordkeeping requirements would be integrated into existing procedures. Public school districts that provide school pupil transportation service are already required to employ bus and vehicle drivers that are CDE-trained and CHP-certified. They are also already required to keep records on those drivers (13 CCR§1234 and 1236). Educational materials provided by the ARB are expected to assist transit agencies with driver training requirements and existing personnel files are expected to be used to fulfill recordkeeping requirements. Local public enforcement agencies (e.g., local peace officers) are not expected to incur significant enforcement costs as the ARB is the primary entity responsible for enforcement activities.

Staff anticipate that State agencies, public school districts, and local public transit and other agencies would be able to absorb these costs (estimated to amount to a maximum of $2 of labor per bus driver per year) within their existing budgets and would not need additional staff. The Executive Officer has also determined that the proposed regulatory action will not create costs or savings in federal funding to the State.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action may create costs to, and a mandate upon local agencies (i.e., regional transit agencies, cities, or counties) or school districts that operate buses or heavy-duty vehicles on or within 100 feet of school grounds, but will not create costs in federal funding to the state. Potential costs are associated with informational and recordkeeping needs per affected driver. The Executive Officer has determined that while these minimal costs are non-discretionary, they are not required to be reimbursed by the State pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code.

In developing this regulatory proposal, the ARB staff also evaluated the potential economic impacts on representative private persons or businesses. The Executive Officer has initially assessed that the proposed regulatory action will affect the student transportation industry (including school bus contractors and private schools that provide transportation) and businesses that operate heavy-duty vehicles within 100 feet of schools. The potential cost impact results from mandated recordkeeping of driver training, citations, and complaints, and will vary depending on the number of drivers employed. Similar to costs incurred by the public sector transportation industry, the costs for the private sector transportation industry are estimated to amount to a maximum of $2 of labor per bus driver per year for recordkeeping and annual training.

The ARB staff also evaluated the potential cost savings to private and public entities due to reduced fuel cost from elimination of excessive idling. For gasoline- and diesel-fueled school buses, staff assumed 2 to 20 minutes of idling per day would be avoided to estimate potential fuel cost savings from $2.70 to $27.00 per bus per year or $68,000 to $680,000 per year for the Statewide school bus fleet. The number of other heavy-duty vehicles (other than buses) operating at schools is not known; however, staff assumed such vehicles (e.g., food and supply delivery trucks, garbage trucks, construction/maintenance vehicles) make 10 to 15 trips per school per week and idle 2 to 4 minutes per trip to estimate potential fuel cost savings from 1 to 3 cents per trip or from $70,000 to $210,000 per year Statewide. Private and public sector entities may benefit from some lower, but unquantifiable, maintenance costs due to less wear on vehicle engines from decreased idling. The ARB staff estimate most affected engines may experience 3 to 5 additional warm starts per day due to the proposed regulatory action; however, maintenance costs generated by these additional warm starts are determined to be negligible.

In accordance with Government Code sections 11346.3 and 11346.5(a)(10), the Executive Officer has determined that the proposed regulatory action will have no significant impacts on the creation or elimination of jobs within the State of California, no significant impacts on the creation of new businesses or the elimination of existing businesses within the State of California, and no significant impacts on the expansion of businesses currently doing business within the State of California.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will affect small businesses.

Finally, pursuant to Government Code sections 11346.3(a)(2) and 11346.5(a)(8), the Executive Officer has made an initial determination that adoption of the proposed regulatory action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

A detailed assessment of the economic impacts of the proposed regulation can be found in the ISOR.

Before taking final action on the proposed regulatory action, 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 or businesses than the proposed action.

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 not physically submitted at the hearing must be received **no later than 12:00 noon, December 11, 2002,** and addressed to the following:

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: sbatcm@listserv.arb.ca.gov and received at the ARB **no later than 12:00 noon, December 11, 2002**.

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, December 11, 2002**.

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

This regulatory action is proposed under the authority granted to the ARB in Health and Safety Code sections 39600, 39601, 39658, 39667, 39674; and by Western Oil &Gas Assn. v. Orange County Air Pollution Control Dist. (1975) [14 Cal.3d.411]. This action is proposed to implement, interpret, or make specific, Health and Safety Code sections 39002, 39003, 39027, 39500, 39600, 39650, 39655, 39656, 39657, 39658, 39659, 39662, 39665, 39674, 39675, and 42403.5; Vehicle Code sections 305, 336, 350, 440, 445, 545, 546, 642, 680, 21400, 22452, 22515 and 27153; and Education Code 56026.

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 language as originally proposed or with non-substantial or grammatical modifications. The ARB may also adopt the proposed regulatory language with other modifications if the modifications are sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory 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, 1001 I Street, Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

MICHAEL P. KENNY
EXECUTIVE OFFICER

Date: October 15, 2002

"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."