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State of California
AIR RESOURCES BOARD

Notice of Public Availability of Modified Text

PUBLIC HEARING TO CONSIDER 15-DAY CHANGES TO THE PARTICULATE CONTROL MEASURE FOR ON-ROAD HEAVY-DUTY RESIDENTIAL AND COMMERCIAL SOLID WASTE COLLECTION VEHICLES

Public Hearing Date: September 25, 2003
Public Availability Date: February 26, 2004
Deadline for Public Comment: March 12, 2004

At its September 25, 2003, public hearing, the Air Resources Board (ARB or Board) approved the particulate control measure for on-road heavy-duty residential and commercial solid waste collection vehicles, by adopting sections 2020, 2021, 2021.1, and 2021.2 of article 4, title 13 of the California Code of Regulations (CCR). The proposed regulation seeks to reduce public exposure to particulate matter (PM) from the exhaust of diesel-fueled heavy-duty residential and commercial solid waste collection vehicles by using best available control technology (BACT), which is defined in the proposed rule. The proposed regulations support the Diesel Risk Reduction Plan, which was adopted by the Board on September 30, 2000.

The Board's Action

At the hearing, the Board adopted Resolution 03-21 (appended to this notice as Attachment 1), approving the particulate control measure for on-road heavy-duty residential and commercial solid waste collection vehicles. Within the resolution, the Board directed the Executive Officer to adopt the proposed regulations after making available for public comment all changes specifically directed by the Board and any other necessary changes to the regulatory language as originally proposed in the Staff Report released on June 6, 2003. At the Board's direction, staff worked with members of the affected industries and associations. The proposed substantive modifications are summarized below, and are set forth in detail in Attachment 2. For a copy of Attachment 2, please see "Availability of Modified Text."

Summary of Proposed Modifications:

Title 13, California Code of Regulations
Section 2020 Purposes and Definitions for Diesel Particulate Matter Control Measures

(b) Definitions: Staff moved definitions in section 2020, for Active Fleet, Backup Vehicle, Contract, Contractor, Residential and Commercial Solid Waste, Roll Off Vehicle, and Solid Waste Collection Vehicle to section 2021. These definitions are specific to the Solid Waste Collection Vehicle regulation, whereas the section 2020 definitions apply generally to regulations that control diesel PM emissions. In addition some definitions have been modified for clarity.

Alternative Fuel: Staff repeated the definition from section 1956.2(b)(1) here in section 2020 because staff intends to make structural changes to section 1956.2, which will include moving some of the section 1956.2(b) definitions to section 2020. Because the definition of Alternative Fuel is pertinent to the Solid Waste Collection Vehicle rule, staff made this duplication in advance of the structural change, which is planned for later in 2004.

Level: Staff added language to the description of Level 3 to expand and clarify how the definition applies to engines that emit 0.01 grams per brake horsepower-hour or less of diesel PM.

Retirement: Staff added language the term applies to the word "engine" as well as "vehicle" and to clarify that a retired engine may be used in a backup vehicle.

Section 2021. Solid Waste Collection Vehicles
Staff simplified the title of this section.

(a) Scope and Applicability: Staff revised language in this section in line with the new definition of "contract."

(b) Definitions: Staff added a new sentence to clarify that the definitions in this section apply only to the Solid Waste Collection Vehicles rule and picks up the definitions that were deleted from Section 2020. Those definitions moved to section 2021 that contain modified language, or new definitions added to the regulation, are:

Active Fleet: Staff added the word "collection" before "vehicle" to clarify that vehicles that are not solid waste collection vehicles are excluded from the "active fleet" regulated by this rule.

Backup Vehicle: As with the "active fleet definition, staff added the word "collection" in front of "vehicle" to clarify that vehicles other than collection vehicles are not included in the definition.

Contract: Staff changed this definition from a verb to a noun and simplified the language to more closely match the generally accepted definition of a contract, while

specifying that in the case of the contracts referred to in the proposed rule the level of compensation, or a means of setting compensation, must be identified. Thus contracts that do not specify the compensation, or a formula for determining compensation, would not be included in this definition.

Contractor: Staff simplified the definition in line with the new definition of "contract."

Solid Waste Collection Vehicle: Staff has equated the definition of "solid waste collection vehicle" with "collection vehicle" to allow the reduction of words used later in the rule.

Total Fleet: Staff added this new definition to clarify cases in which the rule applies to all of an owner's collection vehicles versus his "active fleet."

Section 2021.1. Methods for Determining Compliance for a Municipality that Contracts with Owners for Solid Waste Collection.

(a) Compliance Requirement: Staff removed the requirement that municipalities ensure wastehauler compliance and added the requirement that each municipality include language in its contracts requiring that the contractor be in compliance with all California state laws in any new contract that has an effective date of December 31, 2004 or later.

(b) Reporting Requirement: Staff changed the date of the initial report from August 1, 2004, to January 1, 2005, and reduced the information required to be reported to ARB each year by municipalities.

(b)(1): Staff removed much of the previously requested information while retaining other reporting requirements.

(b)(1)(B): Staff eliminated some of the reporting requirements here and added "contact electronic mail address" and "the address of each terminal in the jurisdiction that houses collection vehicles."

(b)(1)(C): Staff deleted this paragraph based on public comments and Board direction.

(b)(2): Staff deleted this paragraph based on public comments and Board direction.

(c) Non-Compliance by a Contractor: Staff deleted this subsection based on public comments and Board direction that this section should only apply to municipalities.

(c) Non-Compliance: Formerly subsection (d); staff removed the phrase "by a municipality" because the entire preceding section now applies only to municipalities, making the language removed redundant.

Section 2021.2. Methods for Determining Compliance for an Owner of Solid Waste Collection Vehicles

Based on public comments and Board direction, staff removed the language that included municipalities in responsibility for compliance, thus section 2021.2 only applies to owners.

(a): Compliance Requirements: Staff removed language applying to municipalities and made other modifications for simplicity and clarity.

(a)(1) through (a)(6): Staff made minor wording changes for simplicity and clarity in these six sections.

(b) Best Available Control Technology: Staff has added "or collection vehicle" to clarify that BACT applies to the engine or collection vehicle.

(b)(1): Staff removed the language referring to an engine in combination with a verified diesel engine control system to a new section (following) for clarity.

(b)(2): Staff added this new section to clarify under what conditions an owner could comply with BACT. This option was originally included in paragraph (1) but commentors said it was confusing as originally written.

(b)(3): Renumbered from (b)(2), staff added some words for clarity.

(b)(4): Renumbered from (b)(3); staff added one word for clarity.

(c) Implementation Schedule:

Table 1: Staff made changes to Table 1 based on public comment and direction from the Board, including direction to work with witnesses on details of the changes. After working with the interested parties, staff made the following changes to the implementation schedule: staff split Group 2 (model year 1960 to 1987) vehicles into two subgroups, 2a and 2b. The implementation schedule for the new Group 2a is advanced by two years for owners with 15 or more collection vehicles. The implementation schedule for the new Group 2b remains the same as the original Group 2, which provides companies with fewer than 15 collection vehicles more time for compliance. Staff placed dual-fuel and bi-fuel engines into Group 3 to give owners of

these vehicles additional compliance time, in recognition of their early efforts to reduce oxides of nitrogen emissions voluntarily. The new proposed Table 1 is shown below:

Group	Engine Model Years	Percentage of Group to Use Best Available Control Technology	Compliance Deadline
1	1988 – 2002	10 25 50 100	December 31, 2004 December 31, 2005 December 31, 2006 December 31, 2007
2a[a]	1960 – 1987 (Total fleet ≥ 15 collection vehicles)	15 40 60 80 100	December 31, 2005 December 31, 2006 December 31, 2007 December 31, 2008 December 31, 2009
2b	1960 – 1987 (Total fleet < 15 collection vehicles)	25 50 75 100	December 31, 2007 December 31, 2008 December 31, 2009 December 31, 2010
3	2003 – 2006 (Includes dual-fuel and bi-fuel engines)	50 100	December 31, 2009 December 31, 2010

[a]**Group 2a:** Staff changed the wording of this footnote to specify that Level 1 technology may not be used as BACT for any vehicles in Group 2a fleets.

(c)(1)(A), (B) and (C): Staff made numerous revisions to these paragraphs to ensure that all collection vehicles are implemented in conformity with the compliance schedule in Table 1 and to clarify the methods for determining the number of vehicles to be implemented each year. Public comments convinced staff that the original directions for calculating implementation may have inadvertently allowed some owners to double-count vehicles or otherwise intentional delay compliance beyond the final compliance deadlines. Staff also noted that the number of vehicles required to be in compliance at any point in the schedule would have been different depending on whether the owner was retiring an engine or vehicle or retrofitting an engine. The revised sections correct these problems.

(c)(1)(D): Staff replaced "is expected to" with "shall" to require rounding up for compliance purposes when the fraction of a vehicle is equal to or greater than one-half. The words "solid waste" were removed as unnecessary.

(d) Compliance Extensions: Staff made changes to this section to conform to the changes brought about in Table 1 as the result of Board direction and public comments, and also changed the language to clarify that compliance extensions are granted to the owner. The changes intend to assure compliance extensions where they are legitimately earned or needed while also preventing extensions that could unnecessarily delay implementation.

(d)(1): New language has been added to require an owner, when he intends to comply with an early compliance deadline, to submit a notification of intent to comply to the Executive Officer. The notification letter ensures that ARB will have a record of the delay in intermediate and final compliance deadlines afforded by early compliance. Staff does not intend to send letters granting the compliance extension for early implementation but does intend to keep a record of owners who have registered their intent to implement early.

(d)(1)(A): Staff has extended the amount of time for early compliance with Group 1 engines (model years 1988 to 2002) from December 31, 2004, to July 1, 2005, which will give owners approximately one year from the operative date of the rule to implement early. In addition, language is added to clarify that the total fleet must comply early, rather than the active fleet, and to specify that at least half of the vehicles must be the oldest in the owner's fleet.

(d)(1)(B): Staff changed the wording to conform with the splitting of Group 2 vehicles into two groups and moved up compliance deadlines for Group 2a fleets to match the new implementation schedule. Staff also made changes to clarify that the total fleet must comply early, rather than the active fleet, and that the intermediate and final compliance deadlines receive the delay, not just the final compliance deadline.

(d)(1)(C): Staff added this new section to add compliance deadlines for vehicles in the new Group 2b fleet.

(d)(2)(A)(ii): Staff added this new section to add compliance extensions for the new Group 2a vehicles.

(d)(2)(A)(iii): Staff made language changes for clarity and to include vehicles in the new Group 2b.

(d)(1)(B): Staff removed redundant language that duplicated requirements stated in paragraph (b)(4) and added language to require an owner to apply verified control technology to all collection vehicles in his fleet for which verified technology exists before asking the Executive Officer for a compliance extension for which there is no verified control technology.

(d)(1)(B)(i), (ii), & (iii): Staff added language to these sections requiring more forms of vehicle identification to facilitate tracking of vehicles that may be granted compliance extensions.

(d)(1)(B)(iv): Staff added this section to require that an owner applying for an extension describe the reason he is requesting the compliance extension, which will better allow the Executive Officer to rule on an application.

(d)(1)(B)(v): Renumbered from (iv); staff shortened and clarified this paragraph so that it refers to documentation required elsewhere in the rule.

(d)(1)(B)(vi): Renumbered from (v); staff tightened requirements to enable effective enforcement and made changes clarifying language relating to compliance extension application dates for Group 2a and 2b vehicles and to state that compliance extensions for engines in these groups will be granted for no more than one year, as requested by the Board at the September 24, 2003 meeting.

(d)(3): Staff clarified the language regarding compliance extensions for very small fleets.

(d)(4): Staff added this new section to specify that owners of dual-fuel or bi-fuel engines comply with the Group 3 implementation schedule.

(d)(5): Staff moved this paragraph from (e)(4) "Special Circumstances" to (d)(5) "Compliance Extensions" because it fits more logically in "Compliance Extensions." Staff modified the language require that an owner has applied BACT to all applicable engines in his fleet before he can be granted an extension of no more than one year for an engine to be retired within 12 months.

(d)(6): Staff moved this section from (e)(5) "Special Circumstances" to (d)(6) "Compliance Extensions" because it fits more logically in "Compliance Extensions." The language has been tightened to ensure that experimental tests or demonstrations under this paragraph operate for no longer than two years and that vehicles are brought into compliance within six months of the experimental test or demonstration ending. Additional requirements for documentation are detailed and a limit to testing and evaluation of December 31, 2010, is added.

(e) Diesel Emission Control Strategy Special Circumstances: This heading contains minor wording changes for clarity with the word "vehicle" twice being changed to "engine" and "as follows:" added at the end.

(e)(2): Staff reworked this section to improve clarity and tighten requirements. Changes reduce from 60 to 30 days the time allowed to inform the Executive Officer of discontinuing the use of fuel as BACT and require the use of new BACT within 30 days or the submittal of a compliance plan to the Executive Officer. The compliance plan must show how vehicles will be brought into compliance within six months of the date of discontinuance of fuel as BACT. Staff believes that an owner who discontinues use of a fuel as BACT should plan before making the change to install another BACT, thus the shortened timeframe for compliance. However, staff allows the owner to submit a compliance plan because we recognize that the discontinuance of usage of fuel may, under some circumstances, have been abrupt and unplanned for by the owner.

(e)(3)(B): Staff changed the language to address the split of Group 2 into 2a and 2b and prohibited the use of a Level 1 control strategy on vehicles by owners of 15 or more collection vehicles.

(e)(3)(C): Staff changed the language to address the new Group 2b and specified a limitation on the use of Level 1 control strategy.

(e)(4): This paragraph has been deleted and moved to (d)(5).

(e)(5): This paragraph has been deleted and moved to (d)(6).

(f) Record Keeping Requirement: A number of changes are made throughout this paragraph to tighten and clarify language, the main goal being to ensure proper compliance with record keeping.

(f)(1)(A), (B), & (E): Staff made wording changes in these paragraphs to clarify or expand records requirements to ensure better enforcement.

(f)(1)(F): Staff modified this paragraph to conform with changes in (d)(5).

(f)(1)(G): Staff modified this paragraph to conform with changes in (d)(6).

(f)(1)(H)(i), (ii), & (iii): Staff added these paragraphs to ensure that owners have made a declaration of compliance each year.

(f)(2): Staff made nonsubstantive wording changes in paragraph (f)(2) and deleted the original paragraph (D) to eliminate duplication.

(f)(2)(F): Staff made changes in the former paragraph (G) to conform with (d)(6).

(f)(3): Staff added a sentence clarifying that when ownership of a collection vehicle is transferred, the records required in subsection (f) transfer with the vehicle. In other words, the owner does not have to maintain records for collection vehicles he no longer owns, but he is obligated to transfer the records to the new owner.

Availability of Modified Text

Attachment 1 (Resolution 03-21) and Attachment 2 (text of the modified language) are available online at the ARB's internet site for the regulatory documents in this rulemaking at http: //www.arb.ca.gov/regact/dieselswcv/dieselswcv.htm.

Attachment 2 contains the text of the regulations affected by the modifications being proposed with this notice. Additions to the originally proposed language is shown in underline and deletions are shown in ~~strikeout~~.

Printed copies may be obtained by contacting Ms. Neidy Pinuelas, Secretary, Heavy-Duty Diesel In-Use Strategies Branch, at (626) 350-6454, or via email at npinuela@arb.ca.gov, or by faxing or mailing the request form attached to the end of the notice at the number or address listed on the form.

Comments and Subsequent Action

In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adopt sections 2020, 2021, 2021.1, and 2021.2, title13, California Code of Regulations, 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 modifications approved by the Board must 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 must be sent to: dieselswcv@listserv.arb.ca.gov

Facsimile submissions must 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 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 modifications to the text of the regulations shall be considered by the Executive Officer.

If you have special accommodation or language needs, please contact Ms. Neidy Pinuelas, Secretary, Heavy-Duty Diesel In-Use Strategies Branch, at (626) 350-6454, or npinuela@arb.ca.gov. Teletypewriter/Telecommunications Device for the Deaf /Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

Sincerely,

Robert H. Cross, Chief
Mobile Source Control Division

Attachments