

Off-Road Implementation Advisory Group (ORIAG) Teleconference Minutes

Thursday, March 5, 2009
9:30 a.m. – 11:00 a.m. (PST)

SAFETY AND OSHSB: Regarding the Occupational Safety and Health amendments to Title 8, ARB staff has developed a proposal for potential safety issues related to VDECS, and has submitted the proposal to OSHSB. This letter was sent out to the ORIAG members at the beginning of the teleconference. The letter addressed the following proposed amendments:

Section 1590

- Regarding the requirement to direct exhaust gases away from the operator during vehicle operation: ARB agrees with this provision and did not have any proposed changes.
- Regarding risk to operators or the environment from the temperature of the VDECS: ARB's proposal recommends modifying the language to explicitly allow mitigation of thermal hazards with "thermal insulating material" or otherwise guarding against contact. This amendment is aligned with Title 8, CCR, §3308.

ORIAG Members: Will manufacturers allow insulation to be placed over the devices, or will this cause overheating?

Beth White: Staff has not heard of any problems caused by thermal shields, but if anyone has information on this subject please bring it to our attention.

Claire Representative: In general, Claire does not have a problem with insulation on the device or a thermal shield surrounding it; the devices generally operate best at higher temperatures.

Section 1591

- We propose not allowing modifications, if a Professional Engineer (with an applicable license type), certifies that the retrofit cannot be performed without violation of ISO 5006. This provides more objective criteria for determining visibility impairment. This would also provide the added benefit, for retrofits that can be safely installed, of decreasing the diesel particulate matter that the operator is exposed to.
- ARB considered different standards, European Directives, SAE J1091, and others, but felt ISO 5006 was the most comprehensible and applicable.

Members request copies of the ISO standards, as they must be purchased, or are otherwise difficult to acquire (in English). A member believes that this is a problem in part because the United States is not a member of ISO. Beth White stated that she can not provide copies to the group due to copyright infringement

and that ISO standards are available in English. Ms. White also stated the US is a member and that many US companies use ISO standards. Other ORIAG members representing manufacturers also state that many global manufacturers use the standards, and that their company is also restricted from distributing the information.

ARB staff will make the ISO standards available for viewing to anyone who can visit our Sacramento offices. While staff understands there may be difficulty in reviewing the applicable standards, we cannot take additional actions to make the standards more available to group members.

- Amendments proposed for §1591(b) will also be proposed for the following sections:
 - 1593 (haulage vehicles)
 - 3650 (industrial trucks)
 - 4966 (cranes)
 - 7016 (haulage vehicle, construction and maintenance)

Section 1597

Regarding the definition of jobsite vehicles: Ms. White stated that this definition is already supplied in section 1594, as is referenced at the beginning of section 1597, and does not need to be repeated in this section.

Discussion of ARB Letter Sent to OSHSB Regarding Proposed Title 8 Amendments

- ARB included a reference to operator exposure, in addition to field safety, in the letter. ARB staff proposed amendments that will help ensure a safe and healthful workplace for all Californians, and in particular construction site workers. In addition, Cal/OSHA regulations indicate that engineering controls, such as diesel retrofits, are preferred relative to other types of controls whenever feasible.

ORIAG Member: Exposure levels in terms of occupational hazards is Cal/OSHA authority and not ARB's, hence ARB may not want to propose standards for occupational exposure.

Beth White: We agree that protecting workers from toxic air contaminants such as diesel PM falls within Cal/OSHA's and MSHA's mandates and staff did not have a proposal for Cal/OSHA regarding operator exposure. It was only mentioned in the letter for the purpose of pointing out that amendments proposed in Petition 507 may inadvertently rule out engineering controls such as safe retrofit installations, which is inconsistent with existing Cal/OSHA regulations.

ARB staff will update ORIAG members once they have reviewed the proposal in person with OSHSB and amendments proposed by OSHSB are available for public comment.

Guy Prescott noted that this proposal was not approved by the Safety Subcommittee and was not agreed on by all subcommittee members. Ms. White acknowledged that

the proposal was indeed an ARB proposal and that ORIAG members provided input prior to its submission.

DOORS

ARB staff gave a brief update on the status of DOORS development and initial reporting so far.

OUTREACH

- ARB is continuing to provide training sessions statewide, and by March 19th staff will have had 22 trainings, which now includes half- hour individualized DOORS training sessions after each presentation. Over 2,000 individuals have attended the training seminars.
- Staff has mailed letters notifying golf courses, cemeteries, and the largest construction firms in California about their inclusion in the regulation. Staff would appreciate any recommendations as to who else may need to be contacted.
- Staff has also developed a poster after incorporating input from the last ORIAG and Outreach Subcommittee meetings. The poster is available online, however staff can also send it to members in the mail if they would like to display it.
- Staff supplied public service announcements on many country music stations.

ORIAG Member: Did ARB send out notices with the annual California contractor's renewal notice?

ARB: Staff is working with the state printing office and hopes to have those out soon.

- More enforcement advisories are going to be posted within the next few days, regarding the ban on idling Tier 0s, and the written idling policy. Staff will also be releasing an enforcement advisory regarding reporting in the near future.

Teleconference Attendee (Clayton Miller): At CIAQC, we have been passing out information as much as possible. CIAQC members requested training sessions in places like San Diego - does ARB intend to continue these sessions? Or will local air districts handle this training?

ARB: Staff intends to continue these training programs, although the locations for future sessions have not yet been determined.

ORIAG Member: Local air districts have mentioned that ARB was not allowing them to participate.

ARB: Staff would like to work with any air district that is interested, however staff has not heard that many have the resources or, sometimes, the expertise level, to assist in training. If an ORIAG member hears of an air district that is interested, staff encourages them to call us.

REGULATORY AMENDMENTS APPROVED BY ARB

The application of double credit for VDECS was extended to January 1, 2010; this amendment was approved by the board in our January report to the Board members. This change was proposed in order for more fleets to take advantage of the early double credit provisions.

Additionally, staff simplified or clarified the requirements for changing fleet sizes, the disclosure of applicability, the delay of Tier 1 turnover, and the VDECS reporting requirements.

AMENDMENTS MANDATED BY THE CALIFORNIA LEGISLATURE

As part of the recent California budget agreement, ARB was required to make certain changes which will, in most cases, make it easier to meet the requirements of the regulation in the initial years, including:

- More credit for early vehicle retirement
- Credit for a reduction in activity in the last few years
- A relaxing of the 2011 and 2012 requirements and an increase in stringency in 2013 to compensate.

ARB will be inviting all interested parties to a public workshop within the next month to discuss how to implement these legislatively directed changes to the Off-Road Regulation and ways to mitigate the potential loss in emission benefits resulting from these changes.

ORIAG Member: The fact that the 2010 requirements still are unchanged could cause problems as the recession is the largest seen by California and the US in a long time.

ARB: Staff believes that the amendments will result in the majority of fleets having very few requirements in 2010, aside from fleets which have not been impacted by the recession.

Members question whether the state recognizes the emission reductions due to the recession, or if the only reductions that matter are those achieved by regulations. Members express concern that the model of emissions does not reflect the reduced activity, and just shows reductions achieved by the regulation(s).

ARB: Staff expects, and hopes, that by 2014 the majority of the effects of the recession will have been corrected. However, the reduced requirements will mean that in 2014, fleets will have older, dirtier vehicles than if the requirements had not been relaxed. Hence, although we recognize that reduced activity results in emissions reductions, this can't always be applied to future years. Reduced activity currently does not necessarily mean reduced emissions in 2014 or future years.

ORIAG Member: Will ARB be changing their model based on the reporting information acquired this year, as certainly there will be some differences between the reported data and the assumptions.

ARB: Regarding updating the state model to reflect the reported information, staff will be monitoring the situation, and agree the model should reflect the best information on hand.

ORIAG Member: Could ARB clarify the difference in the legislative amendment language vs. the current language, as in how will the changes to early retirement will apply?

ARB: Staff will be developing specific language, but in general the new language would seem to indicate that you would get credit for all Tier 0 retirements, not just those exceeding 8 percent of the fleet's horsepower in that year.

ORIAG Member: The regulation should credit retirement for T1 or higher tier retirements as some fleets have had to retire those vehicles; as they are the only ones worth anything still, hence they are the ones being sold to sustain companies.

ARB: Staff have not considered awarding credit for non Tier 0 retirements, but could consider this and ORIAG member can also discuss it with us at the public workshop tentatively scheduled in early April 2009.

Members request a timeline for the proposal of the legislatively driven changes..

ARB: Staff hope to have a workshop by the first week of April, but will be going through the full public process, including the 45 day requirements. Staff do not have an expected deadline for the final regulation language, although ARB does understand the urgency in planning out actions to meet the 2010 requirements.

ORIAG Member: Regarding the legislative changes, will early retirement affect carryover credit for PM, or how will the amendments work?

ARB: Staff understand the amendment to mean that the early retirement would carryover and would not disappear in 2010, but staff definitely understand the need to provide very specific language to clarify the amendments. During the workshop in April staff may provide examples.

Other Concerns

Low Use:

Members request that certain provisions related to low use be clarified in the low-use advisory, including that the low-use provision may extend past 2020 (i.e. low use Tier 0s do not have to be retired in 2020), and the requirements to add a low use vehicle back to the fleet.

1441 Assembly Bill:

Members request that ARB staff look into the proposed modifications to the Moyer Program this bill proposes, in which fleets are asked to use relatively new equipment fewer hours, which is nonsensical.

ORIAG Member: The Board directed staff to meet with AGC, could staff clarify that meeting?

ARB: Staff have worked with the AGC lawyers, however as the immediate requirements have been greatly influenced by the recent legislative changes, discussions have mostly been on hold pending those changes. The petition to repeal the regulation has been put on hold until further notice, which is why ARB has not issued a response. The AGC petition to the EPA to not award California with a waiver for the regulation has not been withdrawn as far as ARB staff know.

Next ORIAG meeting is tentatively scheduled for May 8, 2009.