

## TITLE 13. CALIFORNIA AIR RESOURCES BOARD

### NOTICE OF PUBLIC HEARING TO ADOPT GASEOUS POLLUTANT MEASUREMENT ALLOWANCES FOR CALIFORNIA'S HEAVY-DUTY DIESEL IN-USE COMPLIANCE REGULATION

The Air Resources Board (ARB or the Board) will conduct a public hearing at the time and place noted below to consider adoption of amendments to California's heavy-duty diesel engine (HDDE) test procedures. The proposed amendments would modify the measurement allowances for the regulated gaseous pollutants during heavy-duty diesel in-use compliance testing, when using Portable Emissions Measurement Systems (PEMS). The proposed amendments are essentially identical to the modifications planned by the United States Environmental Protection Agency (U.S. EPA).

DATE: December 6, 2007

TIME: Air Resources Board  
Auditorium

PLACE: 9530 Telstar Avenue  
El Monte, California 91731

This meeting location may change. This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., December 6, 2007, and may continue at 8:30 a.m., December 7, 2007. This item may not be considered until December 7, 2007. Please consult the agenda for the meeting, which will be available at least 10 days before December 6, 2007, to determine the location and day on which this item will be considered.

If you have a disability-related accommodation need, please go to <http://www.arb.ca.gov/html/ada/ada.htm> for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please contact the Bilingual Coordinator at (916) 324-5049. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

### **INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW**

**Sections Affected:** Proposed amendments to title 13, California Code of Regulations (CCR), 1956.8, and the following document incorporated by reference therein: "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," as last amended July 26, 2007.

**Background:** Health and Safety Code section 43104 directs ARB to adopt test procedures to ensure compliance with emission standards for new heavy-duty motor vehicles. In 2006, ARB adopted a new in-use compliance regulation and test procedures that allow for a more efficient and cost-effective test method to conduct in-

use compliance testing of HDDEs. This new testing method, called the manufacturer-run heavy-duty diesel in-use testing program, requires manufacturers to emissions test a set number of their certified engine families each year using PEMS installed on selected test vehicles. These test vehicles would be tested with PEMS when placed in normal revenue service. Because testing will be conducted in the field instead of an environmentally controlled laboratory, ARB, U.S. EPA, and the engine manufacturers agreed to determine a “measurement allowance” for each pollutant to account for any potential difference in measurement accuracy. The Southwest Research Institute (SwRI), in San Antonio, Texas was contracted to develop PEMS measurement allowances for gaseous emissions, under the direction of a measurement allowance steering committee (MASC) comprised of members from ARB, U.S. EPA and the engine manufacturers.

**Proposed Action:** SwRI has completed testing and published a MASC approved final report establishing appropriate measurement allowances for oxides of nitrogen, non-methane hydrocarbons and carbon monoxide. The measurement allowances will be used when conducting heavy duty diesel in-use compliance testing using PEMS. Staff is proposing that the Board adopt the measurement allowances recommended by SwRI.

### **COMPARABLE FEDERAL REGULATIONS**

Staff is proposing amendments to adopt the measurement allowances used when conducting heavy duty diesel in-use compliance testing using PEMS. U.S. EPA is expected to adopt the same measurement allowances for its essentially identical heavy-duty in-use compliance testing program within the next six months.

### **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 environmental and economic impacts of the proposal. The report is entitled: “Staff Report: Initial Statement of Reasons for the Proposed Rulemaking – Public Hearing to Adopt Gaseous Pollutant Measurement Allowances For California’s Heavy-Duty Diesel In-Use Compliance Regulation.”

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on the ARB’s web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1<sup>st</sup> Floor, Sacramento, CA 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on December 6, 2007.

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 ARB’s web site listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons: Mr. Stephan Lemieux, Manager, On-Road Heavy Duty Diesel Section, at (626) 450-6162 or [slemieux@arb.ca.gov](mailto:slemieux@arb.ca.gov), or Mr. Dipak Bishnu, Air Resources Engineer, On-Road Heavy Duty Diesel Section, at (626) 575-6696 or [dbishnu@arb.ca.gov](mailto:dbishnu@arb.ca.gov).

Further, the agency representative and designated back-up contact persons to whom non-substantive inquiries concerning the proposed administrative action may be directed are Alexa Malik, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-4011, or Amy Whiting, Regulations Coordinator, (916) 322-4011. 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.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at [www.arb.ca.gov/regact/2007/hdiuc07/hdiuc07.htm](http://www.arb.ca.gov/regact/2007/hdiuc07/hdiuc07.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 by public agencies, private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action will not create costs or savings to any state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary cost or savings to state or local agencies. The proposed amendments do not affect state or local agencies.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons and businesses. ARB is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action. The proposed amendments will have economic impacts on the manufacturers of HDDEs, however these impacts are expected to be slight and absorbable.

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons. The amendments would apply to all manufacturers of HDDEs and make California requirements consistent with federal law. None of the manufacturers of HDDEs is located in California.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. Any impact on businesses in California is expected to be slight and positive. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, California Code of Regulations, section 4, that the proposed regulatory action will not affect small businesses. There will be no incremental costs associated with staff's proposal in addition to those already needed to comply with the federal regulation. Any impact on businesses in California is expected to be slight, absorbable and positive.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board 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 than the proposed action.

### **SUBMITTAL OF COMMENTS**

Interested members of the public may also present comments orally or in writing at the meeting, and in writing or by e-mail before the meeting. To be considered by the Board, written comments submissions not physically submitted at the meeting must be received **no later than 12:00 noon, December 5, 2007**, and addressed to the following:

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>

Facsimile submittal: (916) 322-3928

Please note that under the California Public Records Act (Government Code section 6250 et seq.), your written and oral 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. Additionally, this information may become available via Google, Yahoo, and any other search engines.

The Board requests but does not require that 30 copies of any written statement be submitted and that all written 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 Board 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 AND REFERENCES**

This regulatory action is proposed under that authority granted in Health and Safety Code sections 39600, 39601, 43013, 43018, 43100, 43101, 43104, 43105, and 43806; and Vehicle Code section 28114. This action is proposed to implement, interpret and make specific Health and Safety Code sections 39002, 39003, 39500, 43000, 43013, 43018, 43100, 43101, 43102, 43104, 43106, 43202, 43204, 43206, 43210, 43211, 43212, 43213, and 43806; and Vehicle Code section 28114.

### **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 Board may adopt the regulatory language as originally proposed, or with nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is 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 such event 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, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1<sup>st</sup> Floor, Sacramento, CA 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

/s/

Tom Cackette  
Acting Executive Officer

Date: October 9, 2007

*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](http://www.arb.ca.gov).*