

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF PROPOSED AMENDMENTS TO THE AIRBORNE TOXIC CONTROL MEASURE FOR STATIONARY COMPRESSION IGNITION ENGINES

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adoption of amendments to the Airborne Toxic Control Measure for Stationary Compression Ignition Engines (Stationary Diesel Engine ATCM or ATCM).

DATE: October 21, 2010

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., October 21, 2010, and may continue at 8:30 a.m., on October 22, 2010. This item may not be considered until October 22, 2010. Please consult the agenda for the hearing, which will be available at least 10 days before October 21, 2010, to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to title 17, California Code of Regulations (CCR), sections 93115.3, 93115.4, 93115.6, 93115.7, 93115.8, 93115.9, 93115.10, and 93115.13, the Stationary Diesel Engine ATCM.

Background:

In 2004, the Board adopted the Stationary Diesel Engine ATCM (title 17, CCR section 93115). The ATCM established emission controls on stationary diesel-fueled compression ignition (diesel) engines that were greater than 50 horsepower (hp). For new emergency standby engines, the ATCM requires these engines to meet a 0.15 grams per brake horsepower (g/bhp-hr) particulate matter (PM) emission limit or the Off-Road Compression Ignition Engine Standard (title 13, CCR, section 2423)(Off-Road Standards), whichever is more stringent. In California, the Off-Road Standards will become more stringent than the ATCM 0.15 g/bhp-hr PM emissions requirement beginning with Tier 4 engines. The Tier 4 emissions limits will most likely cause engine manufacturers to require after treatment technologies such as a diesel

particulate filter (DPF) and a selective catalytic reduction (SCR) system on their engines to meet the PM and oxides of nitrogen (NOx) standards.

Effective July 11, 2006, the United States Environmental Protection Agency (U.S. EPA) promulgated Standards of Performance for Stationary Compression-Ignition Internal Combustion Engines (NSPS)¹. However, the NSPS final rule does not require manufacturers of new emergency standby diesel engines to meet the Tier 4 emission standards if after-treatment controls must be installed.

In the summer of 2009, representatives from the Engine Manufacturers Association (EMA) requested that ARB staff consider harmonizing the requirements for new emergency standby engines in the ATCM with those in the NSPS. ARB staff agreed to investigate the feasibility, costs, and emissions impacts associated with aligning the ATCM with the federal NSPS. Based on this work, ARB staff is proposing amendments to the ATCM to closely align with the federal NSPS requirements. The proposed amendments will reduce the cost of complying with the ATCM while still providing health protective emission limits for new emergency standby engines. The proposed amendments primarily affect the requirements for new stationary diesel engines used in non-agricultural operations.

DESCRIPTION OF THE PROPOSED REGULATORY ACTION

ARB staff is proposing amendments to the Stationary Diesel Engine ATCM to closely align the emissions standards with those in the federal NSPS, to help clarify provisions in the ATCM and address new information, and to remove provisions no longer needed. A summary of the proposed amendments is presented below. A more detailed description can be found in the Initial Statement of Reasons for Rulemaking at <http://www.arb.ca.gov/regact/2010/atcm2010/atcm2010.htm>.

Exemptions: ARB staff is proposing to remove the exemption that creates a sell-through provision in the ATCM. This provision was originally included in the regulation to help ensure an adequate supply of complying engines was available for installation and to minimize the adverse economic impacts to dealers as the new engine standards transitioned from one tier to the next. Since the regulation will now only require new emergency standby engines that meet a 0.15 g/bhp-hr emission standard, and engines that meet this standard have been available for several years, the sell-through provision is no longer needed. As will be discussed later, a new sell-through provision for prime engines, consistent with that in the NSPS, is being proposed as part of this rulemaking.

Definitions: ARB staff is proposing to add a new criterion to the “emergency standby engine” definition to clarify that any diesel engine that supplies power to an electric grid or that supplies power as part of a financial arrangement with any entity, except for those engines enrolled in a demand response program (DRP) as defined in the ATCM,

¹U.S. Environmental Protection Agency, Final New Source Performance Standards for Stationary Compression Ignition Internal Combustion Engines, 71 FR 39154, July 11, 2006.

is not considered an emergency standby engine. This amendment will make the emergency standby engine definition consistent with the NSPS final rule.

ARB staff is also proposing to modify the definition of “emergency use.” The current definition of “emergency use” includes the operation of emergency standby engines on the day of rocket launch tracking performed by the U.S. Department of Defense at Command Destruct sites. This provision was originally included to address engines at Command Destruct sites supporting military operations at the Vandenberg Air Force Base. The base is now responsible for space plane landing and ARB staff is proposing to amend the definition of emergency use to specify that the operation of engines during rocket launch and space plane re-entry/landing is considered emergency use.

ARB staff is also proposing to amend the definition of “maintenance and testing” to add “uninterruptible power supply” to the list of supported equipment that may be tested during maintenance and testing operations.

Other minor amendments to the definitions are being proposed to reflect revised terminology or improve clarity.

Emission Limits for New Emergency Standby Engines: ARB staff is proposing to retain the 0.15 g/bhp-hr PM emissions limit for new emergency standby engines, align the other pollutant emission standards with the NSPS requirements, and, consistent with the NSPS requirements, require any new emergency standby engine to be 2007 model year or newer. This amendment will eliminate the existing requirement in the ATCM that would have required new emergency standby engines to meet the after-treatment based Tier 4 standards when they are more stringent than 0.15 g/bhp-hr. It will also require that any new emergency standby engine must meet the 2007 model year or newer emissions limits in the Off-Road Standards for all pollutants. No changes are proposed to the restrictions on the hours of operation for maintenance and testing or to the provisions that allow Districts to impose more stringent requirements.

Emission Limits for New Emergency Standby Direct-Drive Fire Pump Engines: ARB staff proposes to amend the ATCM to harmonize the PM and other pollutant emission standards with those in the NSPS for new emergency standby direct-drive fire pump engines. The NSPS final rule requires stationary fire pump diesel engines to meet emission standards similar to the NSPS stationary emergency standby engine standards with delays in implementation up to three years for most engines. There are also special extensions for engines with greater than 2,650 revolutions per minute. This decision was based on the timeframe required for these engines to meet National Fire Protection Association specifications, and the significant costs to require after-treatment when compared to amount of pollutant reduced. These amendments will not require new emergency standby direct drive fire pump engines to meet Tier 4 after-treatment based standards. Rather they will meet either Tier 2 or Tier 3 standards based on the horsepower and model year of the engine.

Tier 4 Emissions Limit and Sell-Through Requirements for Prime Engines: The current ATCM requires new prime engines to meet a 0.01 g/bhp-hr PM emissions limit. This emission limit is the Tier 4 final PM limit for most horsepower ranges. However, for certain horsepower ranges, the Tier 4 final PM emissions limit is 0.02 g/bhp-hr.² To address this difference in emission standards, in an earlier rulemaking, the Board approved an alternative compliance provision that allows engines certified to the 0.02 g/bhp-hr PM emissions standards to be in compliance with the ATCM. To simplify the regulatory language in the ATCM, ARB staff is proposing to align the PM emissions limits for these engines with the NSPS standard of 0.02 g/bhp-hr. In addition, ARB staff is proposing to align with the NSPS final rule deadlines for installing prime engines manufactured during the prior model year. This change essentially allows for a 2-year sell-through for engines when the new engine standards transition from one tier to the next.

Emissions Limit and Reporting for Less than or Equal to 50 Horsepower Engines: ARB staff proposes to exempt less than or equal to 50 hp direct drive fire pump engines from the requirement to meet the Off-Road Standards and instead rely on the federal NSPS requirements for these engines. To align the ATCM with the NSPS, ARB staff also proposes to not require after-treatment based Tier 4 standards for new emergency standby engines less than or equal to 50 hp. In addition, ARB staff proposes to delete the ATCM provision that requires sellers and dealers of less than or equal to 50 hp stationary engines to annually report to ARB the number of engines sold. This data is no longer needed to support ARB's emission inventory program.

Reporting: ARB staff is proposing an amendment to require the owners or operators of emergency standby engines used in demand response programs to annually report information on engines and hours of operation to the local district and the Executive Officer of ARB. The current ATCM requires this information to be provided to the District upon request. This amendment will ensure that both ARB and the Districts will obtain this data annually and will enable more routine monitoring of the hours that engines are operating during demand response programs.

COMPARABLE FEDERAL REGULATIONS

On July 11, 2006, the U.S. EPA promulgated the NSPS for Stationary Diesel Engines. The emission standards required by the NSPS are modeled after U.S. EPA's standards for nonroad and marine diesel engines, which are phased in over several years (tiered standards) with increasing levels of stringency for NOx and PM. However, the NSPS final rule does not require manufacturers of new stationary emergency standby diesel engines to meet the Tier 4 interim and final standards if after-treatment controls must be installed.

² Engines in the 50 to 75 bhp range and those greater than 750 bhp have a 0.02 g/bhp-hr PM emissions limit. These engines are DPF-equipped to meet that limit.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: "Staff Report: Initial Statement of Reasons for Proposed Rulemaking – Proposed Amendments to the Airborne Toxic Control Measure for Stationary Compression Ignition Engines."

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 ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing on October 21, 2010.

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 ARB's website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Peggy Taricco, Manager of the Technical Analysis Section, at (916) 323-4882, or Ryan Huft, Air Resources Engineer, at (916) 327-5784.

Further, the agency representative and designated back-up contact persons, to whom nonsubstantive inquiries concerning the proposed administrative action may be directed, are Ms. Lori Andreoni, Manager, Board Administration and Regulatory Coordination Unit, (916) 322-4011, or Ms. 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.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB's website for this rulemaking at <http://www.arb.ca.gov/regact/2010/atcm2010/atcm2010.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 and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

ARB staff does not expect any adverse economic impacts associated with the proposed amendments. Rather, the proposed amendments will create a future cost savings to any business or public entity that will be purchasing new emergency standby engines.

ARB staff estimates the total economic impact from the proposed amendments to the ATCM to affected private businesses and public agencies would be a cost savings of approximately \$460 million between 2010 and 2020 or about \$46 million annually. Of this, private businesses and public agencies are each expected to realize cost savings of about \$23 million annually. These cost savings are due to the alignment of the ATCM emissions standards for new emergency standby engines with those in the NSPS which do not require after-treatment based emission standards. Foregoing the application of after-treatment technologies such as DPF and SCR for new emergency standby engines, results in cost savings of about \$118 per hp. This translates to about \$71,000 cost savings for a typical 600 hp emergency standby engine.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs 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 Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost to State or local agencies.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Executive Officer has made an initial determination that the proposed regulatory action would 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.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would not affect the elimination of jobs within the State of California, or elimination of existing businesses within the State of California. The proposed regulatory action may result in the creation of jobs or businesses, or expansion of businesses if the cost savings are invested in productive assets other than Tier 4 engines. 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 California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses, because the proposed amendment would create a net savings for some small businesses.

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 impose negligible costs and 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 comments may be submitted by postal mail or by electronic submittal before the meeting. The public comment period for this regulatory action will begin on September 6, 2010. To be considered by the Board, written comments, not physically submitted at the meeting, must be submitted on or after September 6, 2010, and received **no later than 12:00 noon, October 20, 2010**, and must be 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>

Please note that under the California Public Records Act (Gov. Code, § 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 20 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 the authority granted to ARB in Health and Safety Code sections 39600, 39601, 39658, 39659, 39666, 41511 and 43013,. This action is proposed to implement, interpret, and make specific Health and Safety Code sections 39002, 39650, 39658, 39659, 39666, 40000, 41511 and 43013.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non-substantial 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 and 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 ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990.

SPECIAL ACCOMMODATION REQUEST

Special accommodation or language needs can be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format (i.e. Braille, large print) or another language;
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Para solicitar alguna comodidade especial o si por su idioma necesita cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia.
- Documentos disponibles en un formato alternativo (es decir, sistema Braille, letra grande) u otro idioma.
- Una acomodación razonable relacionados con una incapacidad.

Por favor llame a la oficina del Consejo a (916) 322-5594 o envíe un fax a (916) 322-3928 lo mas pronto posible, pero no menos de 10 dias de trabajo antes del el dia programado para la audencia del Consejo. TTY/TDD/ Personas que nesessitan este servicion pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

CALIFORNIA AIR RESOURCES BOARD

/s/

James N. Goldstene
Executive Officer

Date: August 24, 2010