

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE ON-ROAD HEAVY-DUTY DIESEL-FUELED RESIDENTIAL AND COMMERCIAL SOLID WASTE COLLECTION VEHICLES REGULATION TO INCLUDE HEAVY CRANES

The California Air Resources Board (CARB or Board) will conduct a public hearing at the time and place noted below to consider approving for adoption the Proposed Amendments to the Solid Waste Collection Vehicle (SWCV) Regulation.

DATE: January 24, 2019

TIME: 9:00 A.M.

LOCATION: The Grand 1401
1401 Fulton St, 10th Floor Ballroom
Fresno, California 93721

This item will be considered at a meeting of the Board, which will commence at 9:00 a.m., January 24, 2019, and may continue at 8:30 a.m., on January 25, 2019. Please consult the agenda for the hearing, which will be available at least ten days before January 24, 2019, to determine the day on which this item will be considered.

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

Interested members of the public may present comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will begin on December 7, 2018. Written comments not physically submitted at the hearing must be submitted on or after December 7, 2018, and received **no later than 5:00 p.m. on January 22, 2019**. CARB requests that, when possible, written and email statements be filed at least ten days before the hearing to give CARB staff and Board members additional time to consider each comment. The Board also 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. Comments submitted in advance of the hearing must be addressed to one of the following:

Postal mail: Clerk of the Board, California 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, the Board requests, but does not require, that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

AUTHORITY AND REFERENCE

This regulatory action is proposed under the authority granted in California Health and Safety Code, sections 39600, 39601, and 39658. This action is proposed to implement, interpret, and make specific sections 39002, 39003, 39650 through 39675, 43000, 43013, 43018, 43101, 43102, 43104, 43105 and 43700.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW (GOV. CODE, § 11346.5, subd. (a)(3))

Sections Affected: Proposed amendments to California Code of Regulations, title 13, sections 2021, 2021.1, and 2021.2 Proposed adoption of California Code of Regulations, title 13, section 2021.3,

Background and Effect of the Proposed Regulatory Action:

Overview

The Board approved the SWCV regulation in September 2003. The regulation became effective under California law on July 20, 2004. The regulation applies to diesel trucks that haul waste for a fee that have a gross vehicle weight rating greater than 14,000 pounds. As of January 1, 2010, all 1960 to 2006 model year diesel engines were required to be equipped with the best available control technology to reduce diesel particulate matter (PM) following a phased-in schedule from 2004 through 2010. Vehicles subject to the SWCV regulation do not currently have reporting requirements. The SWCV regulation was one of several early regulations adopted by CARB to reduce adverse health effects from PM and smog-forming emissions from trucks operating in communities.

The Board approved the Truck and Bus regulation in 2008. This regulation applies to nearly all privately- or federally-owned trucks and buses that operate annually in California, including cranes. The rule requires vehicles to meet PM and oxides of nitrogen (NOx) emissions requirements to achieve California's air quality goals. To comply with the regulation, fleet owners must transition from older higher emitting vehicles to newer lower emitting vehicles through a combination of PM filter retrofits and vehicle replacements starting January 1, 2012, and running through January 1, 2023. The regulation was subsequently amended in 2011 and 2014. The 2014 amendments included a compliance option for heavy cranes to upgrade to 2010 engines at a rate of 10 percent of the crane fleet each year starting in 2018 and did not require further upgrades for those equipped with PM filters. The 2014 amendments were challenged in court on procedural grounds and are being rescinded.

At present, heavy cranes face unique circumstances and challenges to be retrofitted or replaced. CARB staff has worked closely with crane operators, crane manufacturers, and other organizations to investigate and collect data on specialized crane operations and ultimately determined that retrofitting or repowering most specialized cranes was not feasible. Some cranes could not be safely retrofitted with PM filters, and thus CARB granted heavy crane owners annual PM filter extensions under the Truck and Bus regulation, until the extensions ended January 1, 2018. These heavy cranes must now be retired or replaced, often at a cost of several hundred thousand dollars.

Beginning January 1, 2020, Senate Bill 1, the Road Repair and Accountability Act (SB 1), requires the California Department of Motor Vehicles (DMV) to register diesel vehicles only if they comply with the 2011 Truck and Bus Regulation. Because vehicles subject to the SWCV regulation do not have reporting requirements, CARB staff cannot distinguish vehicles subject to the SWCV regulation from vehicles subject to the Truck and Bus regulation, and so cannot identify, for the DMV, compliant vehicles that are not subject to SB1 requirements. This issue would potentially cause serious registration delays if not addressed.

Current Proposal

The proposed amendments would add reporting requirements for SWCVs. Specifically, the proposal would clarify the definition of vehicles subject to the SWCV regulation and would require reporting for all fleets that own or operate SWCVs with 1960 to 2006 model year diesel engines to improve enforceability and to avoid delays with California DMV registration starting in 2020.

The proposed amendments would also expand the scope of the regulation to include diesel-fueled on-road single engine heavy cranes (heavy cranes) with a newly-added phase in schedule to reduce PM and NOx emissions. The proposal would allow sufficient time for crane operators to upgrade equipment without disrupting business operations while meeting crane certification safety standards and protecting public health. This option would recognize the limited ability to safely upgrade existing cranes and the high cost of replacing this specialized equipment.

The proposal would also require heavy crane owners to report fleet information to ensure compliance with the proposed replacement schedule, to take advantage of proposed credits for early action, and to improve enforceability.

CARB may also consider other changes to the sections affected, as listed on page 2 of this notice, during the course of this rulemaking process.

Objectives and Benefits of the Proposed Regulatory Action:

The anticipated benefits from the regulatory action include avoiding delays with California DMV registration starting in 2020; improving enforcement effectiveness; allowing sufficient time for heavy crane owners to upgrade equipment without disrupting business operations; and protecting public health. Ultimately, the amendments will ensure a smooth reporting process and implement a feasible compliance option for

heavy cranes that will help California continue to reduce emissions and protect public health. There are no additional nonmonetary benefits expected, such as worker safety, as a result of this rulemaking.

Comparable Federal Regulations:

There are no comparable federal regulations to the proposed amendments.

An Evaluation of Inconsistency or Incompatibility with Existing State Regulations (Gov. Code, § 11346.5, subd. (a)(3)(D)):

During the process of developing the proposed regulatory action, CARB conducted a search of any similar regulations on this topic and concluded these regulations are neither inconsistent nor incompatible with existing state regulations.

MANDATED BY FEDERAL LAW OR REGULATIONS (Gov. Code, §§ 11346.2, subd. (c), 11346.9

The proposed regulatory action is not mandated by federal law or regulations.

DISCLOSURE REGARDING THE PROPOSED REGULATION

Fiscal Impact/Local Mandate Determination Regarding the Proposed Action (Gov. Code, § 11346.5, subs. (a)(5)&(6)):

The determinations of the Board's Executive Officer concerning the costs or savings incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below.

Under Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the Executive Officer has determined that the proposed regulatory action would 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 under Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

Housing Costs (Gov. Code, § 11346.5, subd. (a)(12)):

The Executive Officer has also made the initial determination that the proposed regulatory action will not have a significant effect on housing costs.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete (Gov. Code, §§ 11346.3, subd. (a), 11346.5, subd. (a)(7), 11346.5, subd. (a)(8)):

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.

Results of The Economic Impact Analysis/Assessment (Gov. Code, § 11346.5, subd. (a)(10)):

The proposed amendments to the SWCV regulation do not qualify as major regulations, because the costs or benefits are less than \$50 million in any 12 month period from implementation to 12 months post full implementation. The amendments are primarily expected to provide economic relief to the affected heavy crane fleets compared to the Truck and Bus regulation as amended in 2011. Accordingly, the proposed amendments will not have an adverse economic impact on California businesses and individuals compared to the 2011 Truck and Bus regulation, and formal requirements for major regulations do not apply. However, in the interest of transparency, staff have prepared a thorough economic analysis of these proposed amendments, available in the Economic Impact Analysis in the Initial Statement of Reasons (ISOR).

Effect on Jobs/Businesses:

The Executive Officer has determined that the proposed regulatory action would not significantly 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. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Economic Impact Assessment chapter in the ISOR.

Benefits of the Proposed Regulation:

The objective of the proposed regulatory action is to avoid delays with California DMV registration starting in 2020 for SWCVs; improve enforcement effectiveness; allow sufficient time for heavy crane owners to upgrade equipment without disrupting business operations. Ultimately, the amendments will help California reach its long-term air quality and climate goals by achieving nearly the same PM emissions by 2027 and nearly the same NOx emissions level by 2035.

A summary of these benefits is provided, please refer to “Objectives and Benefits,” under the Informative Digest of Proposed Action and Policy Statement Overview Pursuant to Government Code 11346.5(a)(3) discussion beginning on page 3.

Business Report (Gov. Code, §§ 11346.5, subd. (a)(11); 11346.3, subd. (d)):

In accordance with Government Code sections 11346.5, subdivisions (a)(11) and 11346.3, subdivision (d), the Executive Officer finds the reporting requirements of the proposed regulatory action which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Cost Impacts on Representative Private Persons or Businesses (Gov. Code, § 11346.5, subd. (a)(9)):

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

Effect on Small Business (Cal. Code Regs., tit. 1, § 4, subds. (a) and (b)):

The Executive Officer has also determined under California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses because the proposed amendments applies equally to all businesses.

Alternatives Statement (Gov. Code, § 11346.5, subd. (a)(13)):

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, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

ENVIRONMENTAL ANALYSIS

CARB, as the lead agency for the proposed regulatory action, has prepared an environmental analysis (EA) under its certified regulatory program (California Code of Regulations, title 17, sections 60000 through 60008) to comply with the requirements of the California Environmental Quality Act (CEQA; Public Resources Code section 21080.5). The EA determined that the proposed regulatory action would not result in any significant adverse impacts on the environment. The basis for reaching this conclusion is provided in Chapter VI of the ISOR. Written comments on the EA will be accepted during a 45-day public review period starting on December 7, 2018, and ending at 5 p.m. on January 22, 2018.

SPECIAL ACCOMMODATION REQUEST

Consistent with California Government Code Section 7296.2, special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language; and
- 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 ten business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alterno u otro idioma; y
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

AGENCY CONTACT PERSONS

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative Beth White, Manager, On-Road Compliance Assistance Section, at (916) 324-1704, or (designated back-up contact) Jacqueline C. Johnson, Air Pollution Specialist, On-Road Compliance Assistance Section, Mobile Source Control Division at (916) 323-2750.

AVAILABILITY OF DOCUMENTS

CARB staff has prepared a Staff Report: the ISOR for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: "Public Hearing to Consider the Proposed Amendments to the On-Road Heavy-Duty Diesel-Fueled Residential and Commercial Solid Waste Collection Vehicle Regulation to Include Heavy Cranes."

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 CARB's website listed below, or may be obtained from the Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, on December 4, 2018.

Further, the agency representative to whom nonsubstantive inquiries concerning the proposed administrative action may be directed is Bradley Bechtold, Regulations Coordinator, (916) 322-6533. The Board staff 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.

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 take action to approve for adoption the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also approve for adoption 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. If this occurs, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15-days before final adoption.

The public may request a copy of the modified regulatory text from CARB's Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814.

FINAL STATEMENT OF REASONS AVAILABILITY

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 CARB's website listed below.

INTERNET ACCESS

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB's website for this rulemaking at <http://www.arb.ca.gov/regact/2018/swcv18/swcv18.htm>.

CALIFORNIA AIR RESOURCES BOARD



Richard W. Corey
Executive Officer

Date: *November 20, 2018*

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 website at www.arb.ca.gov.