

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE EMISSION CONTROL REGULATIONS FOR 1995 AND LATER UTILITY AND LAWN AND GARDEN EQUIPMENT ENGINES

The Air Resources Board (the "Board" or "ARB") will conduct a public hearing at the time and place noted below to consider amendments to the regulations and test procedures related to the control of emissions from utility and lawn and garden equipment engines.

DATE: January 25, 1996

TIME: 9:30 a.m.

PLACE: Air Resources Board
Hearing Room, Lower Level
2020 L Street
Sacramento, California

This item will be considered at a two-day meeting of the Board, which will commence at 9:30 a.m., January 25, 1996, and may continue at 8:30 a.m., January 26, 1996. This item may not be considered until January 26, 1996. Please consult the agenda for the meeting, which will be available at least 10 days before January 25, 1996, to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION/PLAIN ENGLISH POLICY STATEMENT OVERVIEW

Sections Affected: Amendment of the following chapter and section of Title 13, California Code of Regulations (CCR), and the documents incorporated by reference therein; Chapter 9, Off-Road Vehicles and Engines Pollution Control Devices; Article 1, Utility and Lawn and Garden Engines; Section 2403, Exhaust Emission Standards and Test Procedures and Part I, section 9 of the incorporated "California Exhaust Emission Standards and Test Procedures for 1995 and Later Utility and Lawn and Garden Equipment Engines".

The ARB was granted authority to regulate off-road mobile sources of emissions in the California Clean Air Act (CCAA) of 1988 as codified in the Health and Safety Code (HSC) Sections 43013 and 43018. Included in the off-road category are construction and farm equipment, marine vessels, locomotives, utility engines, off-road motorcycles, and off-highway vehicles.

The utility and lawn and garden equipment engines (utility engines) regulations were originally approved by the ARB on December 14, 1990, and were formally adopted on March 20, 1992. The utility engine regulations include exhaust emission standards, and provisions for emission test procedures, engine label requirements, warranty, and compliance programs. Among other

things, the regulations as initially adopted established a carbon monoxide (CO) emission standard of 300 grams per brake horsepower-hour (g/bhp-hr) for Class I and II engines. The ARB requested and received authorization to adopt and enforce the utility regulations pursuant to section 209(e) of the Federal Clean Air Act.¹

On or about July 26, 1995, the Briggs & Stratton Corporation, petitioned the ARB to amend the 300 g/bhp-hr CO standard in the Class I and II categories to 350 g/bhp-hr. In the petition, the company contended that the amendment is necessary because the present CO standard is not technologically feasible for the engines in Class I and II engine families. Furthermore, if the standard were not changed, Briggs and Stratton would not risk certifying their high volume, low cost lawnmower engine models in California which would operate too closely to the acceptable performance limit when calibrated to meet the 300 g/bhp-hr CO standard. Briggs and Stratton asserts that a significant amount of warranty claims to replace poorly operating new lawnmower engines would result if these low cost, high volume engine models are forced to meet the 300 g/bhp-hr CO standard. Therefore, a number of California businesses would be adversely affected by the unavailability of a full range of utility engines.

While staff does not agree that the 300 g/bhp-hr CO standard is technically infeasible, it does concur that warranty claims resulting from poorly operating new lawnmower engines operating too closely to the acceptable performance limit may have a significant economic impact on the manufacturer. The lack of available lawnmower engines could have a negative impact on many California small businesses such as landscaping and garden care businesses. Consequently, staff proposes that the Class I and II utility engine CO standard be amended from 300 g/bhp-hr to 350 g/bhp-hr.

Comparison with Similar Federal Requirements

Under Title II of the federal Clean Air Act (CAA), the United States Environmental Protection Agency (U.S. EPA) has promulgated comprehensive regulations to control emissions from new spark ignition engines under 19 kilowatts (25 horsepower). (See 40 CFR Parts 9 and 90, 60 Fed. Reg. 34582 (July 3, 1995).) However, both state law and section 209(e)(2) of the CAA allow California to establish its own standards if certain conditions are met. While both the California and federal standards for off-road engines are similar in purpose, the California standards generally have been more stringent than comparable federal standards due to the severity of California's air pollution problem. With the relaxation of the CO standard from 300 g/bhp-hr to 350 g/bhp-hr for Class I and II engines, the California CO standard will become less stringent for these engine classes than federal regulations due to the allowable use of reformulated gasoline for certification. The U.S. EPA presently does not allow the use of reformulated gasoline, a cleaner burning fuel, for certification, but instead specifies a non-

¹ "California State Nonroad Equipment Pollution Control Standards; authorization of State Standards Notice of Decision"; 59 Red. Reg. 37440 (July 20, 1995).

reformulated gasoline test fuel commonly referred to as Indolene.

The amendment herein modifying the CO standard for Class I and II engines, therefore, would not parallel the CO standard in the final federal rule for the same classes of engines. However, even with this change, the California standards, in the aggregate, would continue to be more stringent than comparable federal regulations.

AVAILABILITY OF DOCUMENTS AND CONTACT PERSON

The Board staff has prepared an initial statement of reasons for the proposed action which includes a summary of the environmental impacts of the proposal, if any. The Staff Report and the full text of the proposed regulatory language may be obtained from the Board's Public Information Office, 2020 L Street, Sacramento, CA 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing.

The Board staff has compiled a record which includes all information upon which the proposal is based. This material is available for inspection upon request to the contact person identified immediately below. The ARB has determined that the amendment may affect small businesses, and the amendment has been drafted in plain English. Moreover a plain English summary of the amendment is contained in the Staff Report. Further inquiries regarding this matter should be directed to Michael O'Connor, Staff Engineer, On-Road Controls Section, at (818) 575-6635.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The Executive Officer has determined that the proposed regulatory action will not create costs or savings, as defined in Government Code section 11346.5(a)(6), 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 savings to local agencies.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on private persons and businesses. The proposed amendment is intended to facilitate compliance with utility and lawn and garden regulations and to assure continued availability of a full range of products to California businesses and individuals. Thus, the Executive Officer has determined that there will be no, or an insignificant, potential cost impact, as defined in Government Code section 11346.5(a)(9), on private persons or businesses directly affected resulting from the proposed action.

The Executive Officer has further determined, pursuant to Government Code section 11346.5(a)(8), that adoption of the proposed regulatory action will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

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 California, or the expansion of businesses currently doing business within California. A more detailed assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

Finally, the Executive Officer has determined, pursuant to Government Code section 11346.5(a)(3)(B), that the regulation will affect small business.

Before taking final action on the proposed regulatory action, the Board must determine that no alternative considered by the agency 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

The public may present comments relating to this matter orally or in writing. To be considered by the Board, written submissions must be addressed to and received by the Board Secretary, Air Resources Board, P. O. Box 2815, Sacramento, CA 95812, no later than 12:00 noon, January 24, 1996, or received by the Board Secretary at the hearing.

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. 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.

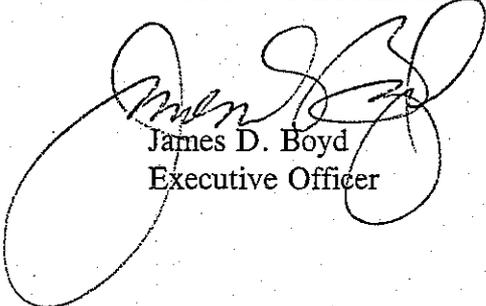
STATUTORY AUTHORITY AND HEARING PROCEDURES

This regulatory action is proposed under that authority granted in Health and Safety Code Sections 39600 and 39601. This action is proposed to implement, interpret and make specific Health and Safety Code Section 43013, and 43018.

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 Board's Public Information Office, 2020 L Street, Sacramento, CA 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD



James D. Boyd
Executive Officer

Date: November 28, 1995