

## TITLE 13. CALIFORNIA AIR RESOURCES BOARD

### NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF THE DIESEL EMISSION CONTROL STRATEGY VERIFICATION PROCEDURE, WARRANTY AND IN-USE COMPLIANCE REQUIREMENTS FOR ON-ROAD, OFF-ROAD, AND STATIONARY DIESEL-FUELED VEHICLES AND EQUIPMENT

The Air Resources Board (the "Board" or "ARB") will conduct a public hearing at the time and place noted below to consider adoption of the Diesel Emission Control Strategy Verification Procedure, Warranty and In-Use Compliance Requirements for on-road, off-road, and stationary diesel-fueled vehicles and equipment.

DATE: May 16, 2002

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency  
Air Resources Board  
Central Valley Auditorium  
1001 "I" Street  
Sacramento, CA 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., May 16, 2002, and may continue at 8:30 a.m., May 17, 2002. This item may not be considered until May 17, 2002. Please consult the agenda for the meeting, which will be available at least 10 days before May 16, 2002, to determine the day on which this item will be considered.

This facility is accessible to persons with disabilities. If accommodation is needed, please contact the ARB's Clerk by May 2, 2002, at (916) 322-5594 or TDD (916) 324-9531 or (800) 700-8326 for TDD calls from outside the Sacramento area, to ensure accommodation.

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

**Sections Affected:** Proposed adoption of new sections 2700-2710, chapter 14, title 13, California Code of Regulations ("CCR") and the procedures incorporated by reference therein. The following American Society for Testing and Materials methods for measuring fuel properties are incorporated herein by reference: D5453-93, D5186-96, D4629-96, D613-84, D287-82, D445-83, D93-80, and D86-96.

In 1998 the ARB identified diesel particulate matter emissions from diesel-fueled engines as a toxic air contaminant (title 17 CCR Section 93000). The ARB adopted the Diesel Risk Reduction Plan (“DRRP” or “Plan”) in 2000 which establishes a goal of reducing emissions in virtually all in-use diesel engines within the State of California by the year 2010. This Plan envisions that particulate emissions from diesel-fueled engines (“diesel particulate matter”) should be reduced by 85 percent or to 0.01 grams per brake horsepower-hour. The ARB is reviewing various methods under review for achieving the goals in the Plan including new, more stringent standards for all new diesel-fueled engines and vehicles, the use of diesel emission control strategies, and the use of low sulfur diesel fuel. After the ARB adopted the DRRP, it became apparent that a method of evaluating diesel emission control strategy systems would be needed. Towards this end, staff has developed a verification procedure, warranty and in-use compliance requirements which could be used to verify reductions of diesel particulate matter and/or oxides of nitrogen (“NOx”) from in-use diesel engines using a particular emission control strategy, when and if such strategies are required in future regulations. At this time, however, use of the proposed verification procedure, warranty and in-use compliance requirements would be totally voluntary.

At the May 16, 2002 hearing, staff will present the verification procedure, warranty, and in-use compliance requirements. This procedure will specify the information that manufacturers would submit to the ARB to verify their diesel emission control strategies. The verification procedure for in-use strategies to control emissions from diesel engines is designed to ensure that emission reductions derived from the use of these strategies are both real and durable. To verify a diesel emission control strategy, the applicant would perform emission reduction testing, conduct a durability demonstration, conduct a field demonstration, and submit the results along with other information in an application to ARB following a prescribed format. Prior to performing any testing, the applicant would submit a proposed verification testing protocol and have it approved by ARB. If, after reviewing the application, ARB verifies the diesel emission control strategy, it would issue an Executive Order to the applicant describing the verified emission reduction and any conditions that must be met for the diesel emission control strategy to function properly. The applicant would also provide a warranty to the end-user and conduct in-use compliance testing.

### **COMPARABLE FEDERAL REGULATIONS**

The U.S. Environmental Protection Agency (U.S. EPA) has published a draft document, “General Verification Protocol for Diesel Exhaust Catalysts, Particulate Filters, and Engine Modification Control Technologies for Highway and Nonroad Use Diesel Engines,” but has not promulgated formal regulations for this verification protocol. This verification protocol is intended to support the

voluntary retrofit programs initiated by the U.S. EPA, while the staff's proposal is to support the ARB's Diesel Risk Reduction Plan.

### **AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS**

The ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action that includes a summary of the environmental and economic impacts of the proposal.

Copies of the Staff Report and the full text of the proposed regulatory language may be accessed on the ARB's web site listed below, or may be obtained from the ARBs Public Information Office, Environmental Services Center, 1001 "I" Street, First Floor, Sacramento, CA 95814, (916) 322-2990 at least 45 day prior to the scheduled hearing (May 16, 2002).

Upon its completion, the Final Statement of Reasons (FSOR) will also be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the web site listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Dr. David Chou, Air Resources Engineer, Retrofit Assessment Section, at (626) 450-6109, or Mr. Scott Rowland, Manager, Retrofit Assessment Section, at (626) 575-6972.

Further the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or Marie Kavan, Regulations Coordinator, (916) 322-6533. The Board staff has compiled a record for this rulemaking action, which includes all information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

If you are a person with a disability and desire to obtain this document in an alternative format, please contact the ARB ADA Coordinator at (916) 232-4916, or TDD (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR when completed, will be available on the ARB Internet site for this rulemaking at <http://www.arb.ca.gov/regact/dieselrv/dieselrv.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 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 non-discretionary savings to State or local agencies.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. The 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 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 businesses directly affected.

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. An assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

The Executive Officer has also determined, pursuant to Government code section 11346.5(a)(3)(B), that the proposed regulatory action will not affect small businesses because participation in the procedure is purely voluntary with respect to any businesses. There are no cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the ARB's 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 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 at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions must be received by **no later than 12:00 noon, May 15, 2002** and addressed to the following:

Postal Mail is to be sent to:

Clerk of the Board  
Air Resources Board  
1001 "I" Street, 23rd Floor  
Sacramento, California 95814

Electronic mail is to be sent to: [dieselrv@listserv.arb.ca.gov](mailto:dieselrv@listserv.arb.ca.gov) and received at the ARB **no later than 12:00 noon, May 15, 2002**.

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB **no later than 12:00 noon, May 15, 2002**.

The Board requests, but does not require, that 30 copies of any written statement be submitted at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The ARB encourages members of the public to bring to the attention of the 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 sections 39002, 39003, 39500, 39600, 39601, 39650-39675, 40000, 43000, 43000.5, 43011, 43013, 43018, and 43105, 43600, 43700 of the Health and Safety Code. This action is proposed to implement, interpret and make specific sections 39650-39675, 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107, and 43204-43205.5 of the Health and Safety Code and Title 17 California Code of Regulations section 93000.

## **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 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 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, 1001 "I" Street, Sacramento, CA 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Michael P. Kenny  
Executive Officer

Date: March 19, 2002

*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).*