

State of California
AIR RESOURCES BOARD

**Notice of Public Availability of Modified Text and
Availability of Additional Documents**

**PUBLIC HEARING TO CONSIDER ADOPTING THE AIRBORNE TOXIC CONTROL
MEASURE FOR STATIONARY COMPRESSION IGNITION ENGINES**

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| Public Hearing Dates: | November 20, 2003 December 11, 2003 February 26, 2004 |
| Public Availability of Modified Text Date: | May 14, 2004 |
| Deadline for Public Comment: | June 1, 2004 |

At its February 26, 2004, public hearing, the Air Resources Board (the "Board" or ARB) approved the adoption of section 93115, title 17, California Code of Regulations (CCR). The approved section 93115 is an airborne toxic control measure (ATCM) for stationary compression ignition engines. This rulemaking was originally heard on November 20, 2003, continued to December 11, 2003, and continued again to February 26, 2004, to provide for the required review directed by Executive Order S-2-03.

The ATCM will reduce the public's exposure to diesel particulate matter (diesel PM), other toxic air contaminants (TACs), and other air pollutants by establishing best available control technology (BACT), which includes emission standards and operational requirements, for stationary compression ignition engines that operate in California, particularly diesel-fueled engines. The ATCM supports the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles, which was adopted by the Board on September 30, 2000.

The Board's Action

At the February 26, 2004, hearing, the Board adopted Resolution 03-30 (appended to this notice as Attachment 1), approving the adoption of the ATCM with modifications. In approving the proposed ATCM, the Board specifically included staff's suggested modifications to the initially noticed text, which were made available at the hearing. The suggested modifications were appended to the Resolution as Attachment B. In the Resolution, the Board directed the Executive Officer to incorporate the approved modifications into the proposed regulatory text, along with such other conforming modifications as may be appropriate, and to make such modifications available for a supplemental comment period of at least 15 days.

At the Board's direction, staff worked with members of the affected industries and associations. The proposed substantive modifications are discussed below and are set forth in detail in the document appended to this notice as Attachment 2. Additions to the

initially noticed regulatory text are denoted by **bold underline** and deletions by **~~bold~~ ~~strikeout~~**.

Attachment 2 may be downloaded from ARB's Internet website at the following address: <http://www.arb.ca.gov/diesel/dieselrrp.htm>. If you would like a hardcopy of Attachment 2 sent to you through postal mail, please call Ms. Linda Keifer at (916) 327-1505 and give your name, company name, if any, and mailing address.

Summary of Proposed Modifications

The following is a summary of the proposed substantive modifications and staff's rationale for making them:

Title 17, CCR, Section 93115(c) Exemptions

Military Training Engines: Staff modified the exemption for military training engines to apply to training engines used by the United States Department of Defense (U.S. DoD) or any other branch of the U.S. military.

Nuclear Facility Engines: Staff modified the exemption criteria for emergency standby engines operating at nuclear facilities to be automatically operative once the specified criteria are met.

Low-Use Prime Engines Outside of Schools: Staff reduced the applicable distance from school boundaries to 500 feet in accordance with the Board's expressed intent to provide additional protection for school children. The staff also modified the exemption criteria to allow district discretion for using an annual number of hours of operation other than 20 hours, for engines used solely to start cogeneration gas turbines, on a case-by-case basis under specified considerations.

National Aeronautics and Space Administration (NASA) Engines: Staff modified the exemption to apply to engines used solely at manned space flight facilities to be consistent with NASA terminology.

Remotely Located In-Use Prime Engines: Staff added a provision that allows a delay in implementation for remotely located in-use prime engines that are shown to have a health risk impact below specified levels.

Fuel Requirements Implementation Delay: Staff added a provision to allow districts to approve limited delays from the fuel requirements to allow owners and operators a reasonable time to use up fuel purchased prior to the ATCM's compliance dates; the extended date of compliance for the fuel requirements would be determined by the districts on a case-by-case basis with consideration of specified criteria.

Title 17, CCR, Section 93115(d) Definitions

Alternative Diesel Fuel: Staff modified the definition to be consistent with the definitions used in the Verification Procedure, Warranty, and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines (“Verification Procedure,” title 13, CCR, section 2701).

CARB Diesel Fuel: Staff modified the definition to be consistent with the definitions used in the Verification Procedure.

Cancer Risk: Staff added this definition as part of the new provision for Remotely Located In-Use Prime Engines (see above).

Cogeneration Gas Turbine Engine: Staff added this definition as part of the modified exemption for Low Use Prime Engines Outside of Schools (see above).

Demand Response Program (DRP): Staff added this definition as part of the new requirements for engines operating under DRPs (see below).

Diesel Fuel: Staff modified the definition to be consistent with the definitions used in the Verification Procedure.

Emergency Standby Engine: Staff modified this definition to clarify the circumstances under which an engine will be considered to be an emergency standby engine.

Emergency Use: Staff added a provision to include as an emergency use the pumping of water to maintain water pressure at a facility when specified events occur that result in the reduction of the facility’s water pressure.

Enrolled: Staff added this definition as part of the new DRP requirements.

Hazard Index: Staff added this definition as part of the new provision for Remotely Located In-Use Prime Engines (see above).

Interruptible Service Contract: Staff added this definition as part of the new DRP requirements.

Maintenance and Testing: Staff modified this definition to specify additional circumstances that would qualify as “maintenance and testing.”

Maximum Rated Power: Staff added this definition for consistency with the Off-Road Compression-Ignition Engine Standards (title 13, CCR, section 2423).

New or New CI Engine: Staff modified this definition to clarify that engines installed at a facility prior to January 1, 2005, then subsequently moved to another location within the same facility after January 1, 2005, are not considered “new” engines.

Outer Continental Shelf (OCS): Staff added this definition as part of the exemption in subsection (c)(10) for OCS engines.

Prioritization Score: Staff added this definition as part of the new provision for Remotely Located In-Use Prime Engines (see above).

Rated Brake Horsepower: Staff clarified this definition to include any value for horsepower shown in the application for certification for that engine.

Rolling Blackout Reduction Program: Staff added this definition as part of the new DRP requirements.

School: Staff modified this definition to include the term “school grounds” and to include any building, structure, playground, athletic field, or other improved areas of school property.

Stage 2 Alert: Staff added this definition as part of the new DRP requirements.

Stage 3 Alert: Staff added this definition as part of the new DRP requirements.

Stationary Source: Staff modified this definition for consistency with the definition for “Stationary Source” in the Portable Diesel Engine ATCM rulemaking, which was heard by the Board at the February 26, 2004, hearing.

Title 17, CCR, Section 93115(e) Requirements

All Engines: Fuel and Fuel Additive Requirements. Staff extended the compliance date from January 1, 2005, to January 1, 2006, to account for the additional rulemaking time that was necessary to comply with Executive Order S-2-03.

New and In-Use Emergency Engines: At-School and Near-School Provisions. At the Board’s direction, staff modified this provision to add to the originally noticed on-school grounds provision a “buffer zone” of 500 feet from a school within which an engine would not be allowed to operate for non-emergency use between 7:30 a.m. and 3:30 p.m. Consistent with the Board’s direction to encourage use of the cleanest engines, staff also modified the language to provide an exemption to this buffer zone provision if the engine emits no more than 0.01 g/bhp-hr.

New and In-Use Emergency Engines: Rotating Outage Provisions. Staff modified the language to clarify that a qualifying engine must be located in a specific location within the control area that is subject to an ordered rotating outage, rather than merely being located in the entire control area.

Table 2. Staff added Footnote 3 for consistency with Table 1 and to clarify that the option to comply with the Tier 1 standards is available only if no off-road engine certification standards have been established for an off-road engine of the same model year and maximum rated power as the new stationary engine.

New and In-Use Emergency Engines: Additional Standards. Staff added the option for owners and operators of stationary engines to meet off-road engine standards of the same model year and maximum rated power, as specified in 13 CCR 2423. If no off-road standards are specified for the same model year and maximum rated power as the stationary engine, the owner or operator has the option of meeting the Tier 1 standards in 13 CCR 2423 for an off-road engine of the same maximum rated power, regardless of the stationary engine's model year.

Table 4. For controlling non-diesel PM emissions from engines with emission control strategies that have not been verified through the Verification Procedure, staff added the option of meeting either the off-road engine certification standards or the Tier 1 standards specified in 13 CCR 2423, depending on which specified criteria the stationary prime engine meets. Staff also added Footnote 1 to this table to clarify when this option applies. Finally, staff made modifications to this table to clarify that Options 1, 2, and 3 are available for in-use prime engines that are not certified with the off-road standards (13 CCR 2423).

In-Use Prime Engines: Additional Standards. Staff added the option for owners and operators of stationary engines to meet off-road engine standards of the same model year and maximum rated power, as specified in 13 CCR 2423. If no off-road standards are specified for the same model year and maximum rated power as the stationary engine, the owner or operator has the option of meeting the Tier 1 standards in 13 CCR 2423 for an off-road engine of the same maximum rated power, regardless of the stationary engine's model year.

Table 5. Staff modified Footnote 1 to clarify that the exemption for engines funded under State or federal incentive funding programs pertain to those programs identified in subsection (e)(2)(E)2.

New and In-Use Emergency Engines: Demand Response Programs (DRPs). At the Board's direction, staff added this provision to specify requirements for engines that are enrolled in either Interruptible Service Contracts (ISCs) or the Rolling Blackout Reduction Program (RBRP), two of the identified forms of DRPs.

Recordkeeping, Reporting, and Monitoring Requirements: Reporting. Staff modified the list of required engine information to include stack outlet diameter, direction of the outlet (horizontal or vertical), and whether the stack end is open or capped. Staff also modified the language to clarify that the information required pertaining to offsite receptors includes nearest receptor description (receptor type), distance to the nearest receptor (in feet or meters), and distance to the nearest school grounds. In addition,

staff modified the language to allow an exemption from reporting if the specified information that's required can be found in the permit application or in District records. For agricultural engines and engines less than or equal to 50 bhp, staff modified the reporting requirements to become effective on January 31, 2006, and January 31st of each subsequent year, and staff clarified that each year's report covers the previous calendar year.

Recordkeeping, Reporting, and Monitoring Requirements: Notification of Loss of Exemption. Staff modified the language to make it clear that owners and operators of engines used in agricultural operations that are exempt from subsection (e)(2)(E)1 must meet the requirements of that subsection if the exemption becomes ineffective on or prior to January 1, 2008.

Recordkeeping, Reporting, and Monitoring Requirements: Monitoring Equipment. Staff modified the language to provide Districts with flexibility to require a different minimum display capability than the specified requirement if the District determines on a case-by-case basis that a different display capability is appropriate based on an engine owner's compliance history and the historical use of the engine.

Recordkeeping, Reporting, and Monitoring Requirements: Reporting Requirements for Emergency Engines. Staff clarified the language to require the monthly usage log to include documentation of the nature of each use of the engine. Staff also added the hours of operation to comply with NFPA-25 requirements to the list of reportable activities in the monthly use log.

Recordkeeping, Reporting, and Monitoring Requirements: Reporting Requirements for DRP Engines. Staff added recordkeeping and reporting requirements that are unique to engines operating under a DRP. These requirements are applicable to the San Diego Gas and Electric Company, which runs the RBRP, and owners and operators with engines enrolled in ISC programs.

Recordkeeping, Reporting, and Monitoring Requirements: Monitoring Equipment. Staff deleted the superfluous reference to Health and Safety Code 39666(d).

Title 17, CCR, Sections 93115(f) and (g) Compliance Schedules

Compliance Schedules. Staff modified the titles for these subsections to make it clear that the threshold number of engines applies to engines located within the same district. Thus, the schedule that applies to "3 or Fewer Engines" applies to owners and operators of 3 or fewer engines that are all located within the same district. For owners and operators of four or more engines within the same district, staff also changed the compliance date for pre-1989 through 1989 model year engines from January 1, 2006, to July 1, 2006.

Title 17, CCR, Sections 93115(i) Test Methods

Staff deleted the superfluous reference to Health and Safety Code 39666(d).

Title 17, CCR, Section 93115(j) Severability

Staff added this provision to ensure that, if any portion of the ATCM is deemed invalid and unenforceable, the remaining regulatory requirements would still be valid and enforceable.

In addition to the modifications detailed in Attachment 2, staff made other minor modifications throughout the regulatory text to improve clarity; to correct spelling, typographical errors, and grammar; to make numbering adjustments; and to correct citations and references.

Supporting Documents and Information. In accordance with Government Code section 11347.1, staff has added to the rulemaking record the following documents, which are incorporated by reference in the ATCM:

- 1) ASTM D613-03b, Standard Test Method for Cetane Number of Diesel Fuel Oil, ASTM International, as modified on June 10, 2003;
- 2) The Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments, Office of Environmental Health Hazard Assessment (OEHHA), August 2003;
- 3) ASTM D975-81, Standard Specification for Diesel Fuel Oils, ASTM International, as modified in May 1982;
- 4) CAPCOA Air Toxics "Hot Spots" Program Facility Prioritization Guidelines, California Air Pollution Control Officers Association (CAPCOA), July 1990.

Staff has also added the following document that supports the proposed action:

Staff Incremental Risk Analysis for Near-School Diesel Engines

The document cited above relating to near-school diesel engines contains information that supports staff's testimony regarding those engines during the hearings on November 20, 2003, December 11, 2003, and February 26, 2004.

By this notice, the modified regulation and additional documents and information are being made available for public comment prior to the final action by the Board's Executive Officer. All of the documents referenced above are available for public inspection from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California, 95814.

Comments and Subsequent Action

In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adopt section 93115, title 17, CCR after making the modified regulatory language available to the public for a supplemental written comment period of at least 15 days. The Board further provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make such modifications as may be appropriate in light of comments received, and shall present the regulations to the Board for further consideration if she determines that this is warranted.

Written comments on the modifications approved by the Board must be submitted by postal mail, electronic mail, or facsimile as follows:

Postal mail is to be sent to:

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

Electronic mail must be sent to: statde@listserv.arb.ca.gov

Facsimile submissions must be transmitted to the Clerk of the Board at (916) 322-3928.

In order to be considered by the Executive Officer, comments must be directed to the ARB in one of the three forms described above and received by ARB by 5:00 p.m., on the deadline date for public comment listed at the beginning of this notice. Only comments relating to the modifications to the text of the regulation shall be considered by the Executive Officer.

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

Attachments (2)