

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

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

PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE VERIFICATION
PROCEDURE, WARRANTY AND IN-USE COMPLIANCE REQUIREMENTS FOR
IN-USE STRATEGIES TO CONTROL EMISSIONS FROM DIESEL ENGINES

Public Hearing Date: January 24, 2008
Public Availability Date: September 16, 2008
Deadline for Public Comment: October 1, 2008

Introduction: The Original Proposal

At its January 24, 2008 public hearing, the Air Resources Board (Board or ARB) approved the adoption of modifications to the Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines (the Procedure), contained in sections 2700-2706 and 2708-2710, title 13, California Code of Regulations (CCR). The adopted modifications revise, clarify and make specific requirements that pertain to the process for obtaining the ARB's verification of devices or strategies to control emissions from diesel engines.

The Board's Action

At the January 24, 2008, hearing, the Board adopted Resolution 08-13 (the Resolution, Appendix I), approving the modifications to the Procedure as proposed by staff. The approved modifications were contained in the Resolution as the Proposed Regulation Order (Attachment A), as modified by Attachment B. The Board directed staff to modify the regulatory language provided in Attachment A of the Resolution with the amendments provided in Attachment B of the Resolution, along with other modifications as may be appropriate, and to make such modifications available for a supplemental comment period of at least 15 days. The Resolution and its attachments approving the modifications to the Procedure as proposed by staff are available online at the following ARB Internet site:

www.arb.ca.gov/regact/2008/verdev2008/verdev2008.htm

Background

In 1998, ARB identified diesel particulate matter (PM) as a toxic air contaminant (title 17, CCR, section 93000). In 2000, ARB adopted the Diesel Risk Reduction Plan (DRRP) with the goal of reducing PM emissions and their associated health risks by 85 percent by the year 2020. The DRRP identified a number of key measures to achieve this goal: more stringent standards for all new diesel-fueled engines and

vehicles, retrofitting in-use diesel engines with diesel emission control systems, and the use of low-sulfur diesel fuel.

To support the DRRP, in May 2002, the Board approved the Procedure to verify the performance of in-use diesel emission control systems (systems). The Procedure is used by staff to ensure that in-use diesel emission control systems achieve real and durable PM (and oxides of nitrogen or NOx if appropriate) emissions reductions. It specifies test procedures, warranty requirements, and in-use compliance testing requirements. Systems that meet all of the Procedure's requirements are verified and thus become candidate compliance options for ARB fleet regulations that require the control of diesel emissions from in-use fleets.

In-use fleet regulations both adopted by the Board and currently under development rely on having verified diesel emission control systems available to fleet owners as compliance options. In-use diesel vehicles and equipment for which regulations have already been adopted include transit buses (title 13, CCR, section 2023, et seq.), solid waste collection vehicles (title 13, CCR, section 2021, et seq.), vehicles that belong to public agencies and utilities (title 13, CCR, section 2022, et seq.), in-use off-road diesel vehicles (title 13, CCR, 2449, et seq.), mobile cargo handling equipment at ports and intermodal rail yards (title 13, CCR, section 2479), and transport refrigeration units (title 13, CCR, section 2477). In addition, far-reaching in-use regulations are currently under development to control emissions from the remaining population of in-use on-road heavy-duty diesel vehicles not currently under regulation. These regulations provide several paths to compliance, one of which is the installation of verified diesel emission control systems. To support the successful implementation of these regulations, it is therefore critical for the Procedure to be an effective and efficient means to evaluate diesel emission control systems. However, as the verification program has matured, staff has found that a number of amendments to the Procedure are necessary to better serve the needs of the in-use fleet regulations.

Modified Text Now Available for Comment

The staff has completed the modified regulatory text and is making it available for public comment; it is attached as Appendix II. The modifications being made available include both those in Attachment B to the Resolution (appearing in Appendix I) and additional conforming or related modifications prepared by staff subsequent to the hearing. Some of the proposed modifications are either identical to text in Attachment B or implement a specific and approved modification in Attachment B; additional proposed modifications are new conforming modifications. Staff is proposing clarifying, technical modifications to the regulatory text as needed to reflect the intent of the amendments as approved by the Board.

A more complete discussion of these proposed modifications is provided below. The proposed regulatory text, including staff's modifications, is appended to this notice as Appendix II. Additions to the initially noticed regulatory text are denoted by underline and deletions by ~~strikeout~~.

Summary of Rationale for the Proposed Modifications

The following explains and identifies the modifications by section number, and is provided to give stakeholders the opportunity to review it and respond with comments.

Modifications to Title 13, CCR, Section 2701

Section 2701(a) Definitions

(11) Staff provided a definition to “Common Ownership Fleet” in order to provide clear guidance to fleet operators in situations when the need to move components arises.

(12) Staff provided a definition for “Component Swapping” in order to provide clear guidance to fleet operators in situations when the need to move components arises.

(17) Staff provided a definition to “Donor Vehicle/Engine” to clarify instances when a DECS device can be re-designated.

(29) Staff provided a definition for “Re-designation” to help provide clear guidance in instances where a DECS needs to be transferred to a different engine/application.

(34) Staff provided a definition for “Unidirectional Device Design and Installation” for clarification during the device verification application process.

(35) Staff provided a definition for “Used Device” to clarify the differences between a new and used DECS.

Modifications to Title 13, CCR, Section 2702

Section 2702(d) Application Format

(2.1.5) Reverse Flow Installation: Staff included a requirement for applicants to fully explain system design features that prevent reverse flow installation

Modifications to Title 13, CCR, Section 2703

Section 2703 Quality Control of Test Data

(l) Staff modified the text by removing previously existing Section 2703 Part l, the language in this part was unnecessarily repeated in Section 2703 Part m.

Modifications to Title 13, CCR, Section 2706

Section 2706 Other Requirements

(i)(1) Staff modified the language to provide a pathway for end-users to swap specific DECS components between the original installed configuration and other vehicles within the commonly owned fleet.

(i)(2) Staff modified the language in order to give applicants the opportunity to allow DECS end-users to re-designate complete DECS systems from one vehicle to another. This section outlines the specific steps applicants and end-users must follow in order to ensure compliance with the terms of the executive order and other applicable regulations.

(i)(3) Staff provided language to clarify the specific requirements for swapping specific DECS components and complete system re-designation in (i)(2) and (i)(3) above, this section outlines the requirements for applicants and end-users that apply to both component swapping and complete DECS systems re-designation.

(i)(4) Staff modified the language to reiterate warranty requirements as outlined in section 2707. Additionally, staff included a provision that requires installers to issue a one (1) year warranty to protect against installation defects in cases where the original device warranty has expired.

(j)(1) Staff modified to language to provide a pathway for applicants to issue a replacement label for an in-use DECS whose label has been damaged or destroyed. This section outlines the requirements for applicants to issue the label clearly identified as a "Replacement Label"

Staff has made other non-substantial modifications throughout the regulation to correct grammatical and typographical errors, correct references and citations, and improve the overall clarity of the document.

Availability of Documents and Agency Contact Persons

This notice, the Initial Statement of Reasons (ISOR) and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at www.arb.ca.gov/regact/2008/verdev2008/verdev2008.htm

Comments and Subsequent Action

In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adopt the modifications to sections 2700, 2701, 2702, 2703, 2704, 2705, 2706, 2708, 2709, and 2710, title 13, California Code of Regulations (CCR), after making them available to the public for comment for a period of at least 15 days. The Board further provided that the Executive Officer (EO) 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 warranted.

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

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>

Facsimile submittal: (916) 322-3928

Please note that under the California Public Records Act (Government Code section 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.

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 must be received by the 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 above-described modifications to the text of the regulations and relating to Attachments to this notice shall be considered by the Executive Officer.

For individuals with sensory disabilities, this document and other related material can be made available in Braille, large print, audiocassette, or computer disk. For assistance, please contact ARB's Reasonable Accommodation/Disability Coordinator at (916) 323-4916 by voice, or through the California Relay Services at 711 to place your request for disability services, or go to <http://www.arb.ca.gov/html/ada/ada.htm>.

Appendices (2)

I – Resolution 08-13

II –Staff's Modifications to the Proposed Regulation Order