

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE CALIFORNIA REGULATIONS FOR NEW 1997 AND LATER OFF-HIGHWAY RECREATIONAL VEHICLES AND ENGINES

The Air Resources Board (the "Board" or "ARB") will conduct a public hearing at the time and place noted below to consider the amendments to the California regulations for new 1997 and later off-highway recreational vehicles and engines.

DATE: December 10, 1998
TIME: 8:30 a.m.
PLACE: Board Hearing Room, Lower Level
2020 L Street
Sacramento, California 95814

This item will be considered at a two-day meeting of the Board, which will commence at 8:30 a.m., December 10, 1998, and will continue at 8:30 a.m., December 11, 1998. This item may not be considered until December 11, 1998. Please consult the agenda for the meeting, which will be available at least 10 days before December 10, 1998, 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 Clerk of the Board at (916) 322-5594 or TDD (916) 324-9531 or (800) 700-8326 for TDD calls from outside the Sacramento area, by November 25, 1998.

INFORMATIVE DIGEST OF PROPOSED ACTION/PLAIN ENGLISH POLICY STATEMENT OVERVIEW

Sections Affected: Adoption of the following sections 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 3, Off-Highway Recreational Vehicles and Engines; Sections 2410-2414, and the incorporated adoption of Section 2415, Title 13, CCR.

The California Clean Air Act as codified in the Health and Safety Code sections 43013 and 43018 grants the ARB authority to regulate off-road mobile source categories. Included are marine vessels, locomotives, utility engines, off-road motorcycles, and off-highway vehicles. In 1994, the Board approved regulations to control emissions from off-highway recreational vehicles. These regulations were implemented on off-road motorcycles and all-terrain vehicles manufactured on/after January 1, 1997. At this time, there is far less California-certified product available than anticipated in 1994 when the Board approved the regulations. In crafting the proposal, the ARB staff met with user group representatives, dealer representatives, public land management agencies, the Department of Motor Vehicles, off-highway vehicle manufacturers, and other

interested parties in numerous individual meetings. The staff also held a public workshop on October 7, 1998.

STAFF PROPOSAL

The proposal seeks to modify the existing off-highway recreational vehicle regulations to allow limited usage of vehicles that do not meet the applicable emissions standards in California's off-highway vehicle riding areas. The amended Article 3 would apply to all California off-road motorcycles and all-terrain vehicles manufactured on/after January 1, 1997 (on/after January 1, 1999 - for vehicles under 90cc engine displacement). The proposal does not change existing emissions standards, but does provide more flexibility and opportunities for the use of vehicles that do not meet emissions standards.

The goal of the proposal is to provide relief to off-highway vehicle dealers and user groups while maintaining air quality goals. The proposal consists of a regional/seasonal approach for determining riding seasons at off-highway vehicle (OHV) riding areas for vehicles that exceed the applicable emissions standards. Specifically, those OHV riding areas that are located within regions that have been classified as in "attainment" for the State's one-hour ozone air quality standard would be considered an "unlimited-use" area. In these unlimited-use areas, vehicles meeting the emissions standards as well as those that exceed the emissions standards would have the opportunity to be operated year-round. The OHV riding areas located within regions that have been classified as "nonattainment" for ozone would be considered "limited-use" areas. In limited-use areas, only vehicles meeting emissions standards would have the opportunity to operate year-round. Vehicles exceeding the emissions standards would be subject to the seasonal riding restrictions. The riding season for a given limited-use area would be determined by considering historical data for ozone exceedences and meteorological conditions. This would translate into a riding season that allows vehicles that exceed the emissions standards to operate during non-peak ozone times of the year.

The amendments will incorporate certification and vehicle identification requirements for vehicles that exceed emissions standards. Complying and noncomplying vehicles will be designated by their vehicle identification number. Staff is also proposing nonsubstantive, clarifying corrections to the regulations. In order to identify whether a vehicle is subject to limited-use restrictions, a two-sticker system (OHVGreen / OHV Red) will be incorporated by the Department of Motor Vehicles to register vehicles. Currently, only one sticker is available which allows access to OHV riding areas. The creation of an alternate sticker for vehicles that exceed the emissions standards will serve to distinguish the status of the vehicle as well as assist with enforcement in limited-use OHV riding areas by managers of the OHV riding areas on public lands.

The proposal will produce modest HC emissions reductions over existing conditions, primarily concentrated in critical ozone areas, and will also provide necessary relief to impacted dealers and user groups.

RELATED FEDERAL ACTIONS

The U.S. EPA does not currently have emission control regulations for the types of vehicles that this proposal seeks to regulate. There are no anticipated federal actions related with this measure.

BENEFITS OF THE PROPOSAL

The staff analysis of the proposal indicates that an additional 4 tons per day of HC will be reduced at no additional cost beyond the current estimated emissions inventory associated with the off-highway recreational vehicle regulations.

AVAILABILITY OF DOCUMENTS AND CONTACT PERSON

The Board staff has prepared the staff report for the proposed action that includes a summary of the environmental impacts of the proposal. 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, California 95814, (916) 322-2990 at least 45 days before the scheduled hearing. The ARB staff has compiled a record which includes all information upon which the proposal is based. The ARB has determined that it is not feasible to draft the regulation in plain English due to the technical nature of the regulation; however, a plain English summary of the regulation is available from the agency contact person named in this notice, and/or is also contained in the staff report for this regulatory action.

To obtain this document in an alternative format, please contact the Air Resources Board ADA Coordinator at (916) 322-4505, TDD (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area.

Further inquiries regarding this matter should be directed to Ms. Jackie Lourenco, Manager, Off-Road Controls Section at (626) 575-6676 of the Air Resources Board, Mobile Source Control Division, 9528 Telstar Avenue, El Monte, California 91731.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determination of the Board's Executive Officer concerning the costs or savings necessarily incurred in reasonable compliance with the proposed regulations are presented below.

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

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.

Finally, the Executive Officer has determined that the proposed regulatory action will not negatively 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. Assessment of the economic impacts of the proposed regulatory action can be found in the staff report.

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.

SUBMISSION OF COMMENTS

A written report and oral statements will be presented by staff at the meeting. Interested members of the public may also present comments orally or in writing. To be considered by the Board, written comments must be filed with the Clerk of the Board, Air Resources Board, P.O. Box 2815, Sacramento, California 95812, no later than 12:00 noon December 9, 1998, or received by the Clerk of the Board at the hearing.

It is requested but not required that twenty 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 modifications of the proposed regulatory action.

STATUTORY AUTHORITY AND HEARING PROCEDURES

This regulatory action is proposed under the authority granted in Health and Safety Code sections 39600, 39601, 43013, 43018, 43101, 43102, 43104, 43105. This action is proposed to implement, interpret, and make specific Health and Safety Code sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150-43154, 43205.5, and 43210-43212. 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, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Michael P. Kenny
Executive Officer

Date: October 13, 1998