

## UPDATED INFORMATIVE DIGEST

### AIRBORNE TOXIC CONTROL MEASURE TO LIMIT SCHOOL BUS IDLING AND IDLING AT SCHOOLS

**Sections Affected:** Adoption of Chapter 10 - Mobile Source Operational Controls, Article 1- Motor Vehicles, section 2480, title 13, California Code of Regulations (CCR).

#### Background

The Airborne Toxic Control Measure to Limit School Bus Idling and Idling at Schools (ATCM) was adopted by the Air Resources Board (ARB or the Board) on December 12, 2002, in accordance with the California Toxic Air Contaminant Identification and Control Program (Program), established under California law by Assembly Bill 1807 (Stats. 1983, Ch. 1047) and set forth in Health and Safety Code (HSC) sections 39650–39675 (as amended).

Following the identification of a substance as a toxic air contaminant (TAC), Health and Safety Code section 39665 requires the ARB, with participation of the air pollution control and air quality management districts (districts), and in consultation with affected sources and interested parties, to prepare a report on the need and appropriate degree of regulation for that substance. Health and Safety Code section 39665(b) requires that this “needs assessment” address, among other things, the technological feasibility of proposed airborne toxic control measures and the availability, suitability, and relative efficacy of substitute products or processes of a less hazardous nature.

Once the ARB has evaluated the need for and appropriate degree of regulation of a TAC, Health and Safety Code section 39667 requires the ARB to adopt regulations to achieve the maximum possible reduction in public exposure to TACs. The regulation of in-use motor vehicles is to apply the best available control technology (BACT) or a more effective control method, in consideration of cost, risk, environmental impacts, and other specified factors.

The Board identified diesel exhaust particulate matter (diesel PM) as a TAC in August 1998. A needs assessment for diesel PM was published in October 2000 as the "Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles." In the Risk Reduction Plan, the ARB indicated that idling measures could be used to "limit the amount of time heavy-duty vehicle engines are allowed to operate while not performing useful work, e.g., moving the vehicle or operating essential equipment."

In October 2001, the Office of Environmental Health Hazard Assessment (OEHHA) published the "Prioritization of Toxic Air Contaminants Under the Children's Environmental Health Protection Act." The Children's Environmental Health Protection Act (Stats. 1999, Ch. 731) requires the California Environmental Protection Agency to specifically consider children in setting Ambient Air Quality Standards and in developing

criteria for TACs. OEHHA identified diesel PM and several other TACs associated with motor vehicle exhaust among the top priority pollutants affecting children's health. The OEHHA's health effects assessment for TACs are provided to ARB for use in risk management activities.

ARB staff notified nearly 17,000 potentially affected individuals and organizations about the ATCM and worked with many of these individuals and organizations during its development. In the spring and summer of 2002, staff conducted surveys of 50 state air quality regulators, more than 800 California school district transportation officials, and 13 of the largest school bus contractors in the State. The purpose of these surveys was to determine the status of anti-idling measures in California and other states. Staff also consulted with the California Department of Education (CDE), California Highway Patrol (CHP), and northern and southern California school districts; developed and frequently updated a web page with list serve (<http://www.arb.ca.gov/toxics/sbidling/sbidling.htm>) describing the ATCM, its status, and contact information; arranged and held personal meetings and conference calls with affected parties; submitted articles to organization newsletters; observed school bus loading at a combination middle school and high school; made presentations and discussed the ATCM at meetings of seven affected organizations, and held one Public Consultation Meeting and two Public Workshops. As a result of public input and its own investigation, ARB staff prepared an Initial Statement of Reasons (ISOR) for the ATCM that, together with the needs assessment, served as the report on the need and appropriate degree of regulation for school bus idling and idling at schools.

In accordance with Health and Safety Code section 39665 and Government Code section 11346.4, the ISOR and proposed regulatory text were made available for a 45-day public review and comment period that began on October 25, 2002, and ended at a public hearing on December 12, 2002. At the hearing, the staff presented and the Board approved the ATCM and the modifications that staff had proposed in response to public comments. The modified regulatory language was made available for a 15-day public review and comment period that began on March 7, 2003 and ended on March 24, 2003.

### **Description of the Regulatory Action**

The ATCM is designed to eliminate the unnecessary idling of school buses and other commercial motor vehicles in order to reduce diesel PM and other TAC emissions and, children's and the public's exposure to these harmful substances. ARB staff estimated the potential cancer risk associated with diesel PM exposure based upon modeled idling school bus emissions that could occur at a school near a designated loading/unloading zone. Overall, estimated risk values were less than 10 potential cancer cases per million for most situations modeled and potential cancer risks were found to increase as the number of buses and idling time increased. The ATCM is a simple pollution prevention measure that can be easily implemented to significantly reduce children's, parents', teachers', and near-by residents' exposure to idling diesel PM and associated potential cancer risk and other adverse health effects.

The requirements of the ATCM affect the public and private transportation industry and their respective drivers. The public agencies affected are: school districts, transit agencies, and public agencies with commercial motor vehicles. The private businesses affected are private schools, school or other bus contractors, and commercial motor vehicle fleets. These agencies and businesses are affected to the extent they own, operate, or direct the operation of the following: school buses, school pupil activity buses, youth buses, general public paratransit vehicles transporting children, transit buses operating at or near schools, and other commercial motor vehicles (e.g., delivery, construction, or maintenance vehicles) operating at or near schools.

The ATCM requires a driver of a school bus, school pupil activity bus, youth bus, or general public paratransit vehicle to manually turn off the bus or vehicle engine upon arriving at a school and restart it no more than 30 seconds before departing. Such a driver is subject to the same requirement when operating within 100 feet of a school and is prohibited from idling more than five minutes in an hour each time the driver stops at locations beyond schools. A driver of a transit bus or other commercial motor vehicle is also prohibited from idling on school grounds except within 30 seconds before departure. In addition, a transit bus or other commercial motor vehicle driver is prohibited from idling more than five minutes in an hour each time the driver stops within 100 feet of a school. However, the ATCM contains no idling limits for transit bus or other commercial motor vehicle drivers at locations beyond schools.

In addition, the ATCM requires a motor carrier of an affected bus or vehicle to: ensure that drivers are informed of the idling requirements, track complaints and enforcement actions regarding the requirements, and keep records of these driver education and tracking activities.

The ATCM does not apply to buses or vehicles certified to meet zero emission standards because they do not emit TACs or other air pollutants and are not associated with cancer or other health risk. For affected buses or vehicles, the ATCM exempts specific idling situations where health, safety, or operational concerns take precedence. For example, exemptions are provided for idling: in the midst of traffic; to ascertain safe operating conditions of a bus or vehicle; for test, service, repair, or diagnostic purposes; to accomplish work, other than transportation, for which a vehicle was designed (e.g., controlling cargo temperature or operating a lift, drill, etc.); to operate equipment needed by persons with disabilities and heaters or air conditioners for children with exceptional needs; to operate defrosters or other equipment to ensure safety or health, or as otherwise required by federal or State motor carrier safety regulations; and to recharge a hybrid electric bus or vehicle.

### **Summary of Existing Laws and Regulations**

The ATCM contains a provision that describes its relationship to other laws. To avoid potential conflict with those laws, the ATCM clearly states that it does not allow idling in excess of other applicable limits, or in excess of more stringent limits. The remainder of

this section of the Updated Informative Digest contains a description of other anti-idling laws and regulations.

- Federal: There are no federal anti-idling laws or regulations; however, the United States Environmental Protection Agency (U.S. EPA) generally recommends that motor vehicles be turned off when not in motion.
- State: Health and Safety Code section 42403.5 (Bus Idling, Civil) specifies civil penalties for the owner of any idling diesel-powered bus that violates Health and Safety Code section 41700 (No Person Shall Discharge Pollutants) to cause injury, detriment, nuisance, etc. However, exemption is made for persons that can establish "by affirmative defense that the extent of harm caused does not exceed the benefit accrued to bus passengers as a result of idling the engine." With respect to school buses, Health and Safety Code section 42403.5 fails to address approximately 13 percent of the California school bus fleet that is not diesel powered. In addition, potentially due to the broad exemption it includes, staff is unaware of any routine enforcement of this statute.

In addition to Health and Safety Code section 42403.5, title 13, California Code of Regulations section 1226 and Vehicle Code section 22515 effectively limit school bus and other motor vehicle idling under special circumstances. When children are aboard and a school bus driver leaves the driver's compartment, title 13, California Code of Regulations section 1226 requires the driver to park the bus, turn off the engine, and remove the ignition keys. Vehicle Code section 22515 essentially requires the driver of any unattended vehicle on a highway to do the same thing.

- Local: A review of California air quality management and air pollution control district rulebooks and a staff survey of 882 school district transportation officials revealed no local anti-idling regulations or ordinances.