

State of California
AIR RESOURCES BOARD

Notice of Public Availability of Modified Text

**PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE
CALIFORNIA DIESEL FUEL REGULATIONS**

Public Hearing Date: July 24, 2003
Internet Posting Date: March 11, 2004
Public Availability Date: March 11, 2004
Last Day for Supplemental Public Comment: March 29, 2004

At a public hearing held July 24, 2003, the Air Resources Board (the Board or ARB) approved amendments to the California diesel fuel regulations. The amendments will do the following: (1) reduce the maximum permissible sulfur content in vehicular diesel fuel from 500 ppm by weight (ppmw) to 15 ppmw starting in mid-2006; (2) revise the requirements for certification of alternative diesel fuel formulations; (3) adopt a new sulfur specification for certification diesel fuel for light- and medium-duty vehicles that is identical to U.S. EPA's; (4) improve the flexibility of the regulations by adopting new specifications for equivalency to the aromatic hydrocarbon limit for California diesel fuel; (5) establish standards for diesel fuel lubricity; (6) adopt an Air Toxics Control Measure to require the use of vehicular diesel fuel in all nonvehicular diesel engines except engines used to power locomotives and marine vessels; (7) adopt a more suitable method for testing low sulfur diesel; and (8) make other changes that clarify the applicability of the diesel fuel regulations to allow more effective enforcement. The proposed amendments were described in detail in the Staff Report (Initial Statement of Reasons for Proposed Rulemaking) released on June 6, 2003.

The Board's action. At the conclusion of the hearing, the Board adopted Resolution 03-17, in which it approved the originally proposed amendments with several modifications. These modifications had been suggested by staff in response to public comments made to staff after issuance of the original proposal. The text of the suggested modifications was contained in a 6-page document entitled "ARB Staff's Suggested Modifications to the Original Proposal," which was distributed at the hearing and was Attachment C to the Resolution. The Resolution and its Attachment C are attached to this Notice as Attachment I. The Resolution directed the Executive Officer to incorporate the modifications into the proposed regulatory text, with such other conforming modifications as may be appropriate, and to make the modified text available for a supplemental comment period.

The approved modifications would do the following: (1) allow the extended phase-in of the 2006 sulfur standard at low-throughput purchaser-consumer facilities and retail outlets; (2) revise the proposed new definition of diesel fuel to clarify that a product that is sold as diesel fuel and is a mixture primarily of organic compounds consisting of carbon and hydrogen – in other words liquid hydrocarbons – would be subject to the diesel fuel

standards; (3) delete the proposed restriction on downstream blending of vehicular diesel fuel with other distillates; (4) add criteria for determining the validity of previously certified alternative formulations where the candidate fuel did not meet the newly proposed specification requirements; (5) add a provision to sunset the proposed 2004 lubricity standard if it is adopted by the American Society for Testing and Materials, as it will then automatically be enforceable by the State Division of Measurement Standards under their regulations; and (6) delete the proposed amendment to heavy-duty engine test procedures. The Resolution provided that if the Executive Officer satisfactorily resolves with affected refiners issues regarding preexisting certified formulations that were to be addressed by the fourth modification listed above, she should delete that modification from the text distributed for supplemental public comment and from the Final Regulation Order.

Subsequent to the hearing, the Executive Officer continued discussions with affected refiners and satisfactorily resolved the issues regarding preexisting certified formulations that were to be addressed in the addition of subsection 2282(g)(2)(A)5, title 13, California Code of Regulations (CCR). Accordingly, as directed by Resolution 03-17, staff has drafted additional proposed modifications to delete the addition of subsection 2282(g)(2)(A)5, title 13, CCR.

After the hearing, the staff also identified a conforming modification that was needed in proposed section 2284(a)(5) of the lubricity regulation to make clear that multiple transfers of upstream unadditized gasoline by parties such as fuel brokers or traders are permitted before the gasoline is brought into compliance by the time it is supplied from the final distribution facility. The staff also has made conforming modifications to the test method references for the lubricity standard and sunset provisions. Both sets of conforming modifications are specifically identified and explained in the attached regulatory text.

Modified text being made available. Attachment II to this notice contains excerpts of the proposed regulatory text showing the modifications to the originally proposed text, along with “commentaries” explaining the modified language. The complete text of the diesel regulations showing the proposed amendments and modifications are available at the ARB’s Internet site for this rulemaking at <http://www.arb.ca.gov/regact/ulsd2003/ulsd2003.htm>. Printed copies are available from Mr. Valentine Montoya, Stationary Source Division, telephone (916) 327-1493 or fax (916) 322-6088.

Comments and subsequent action. In accordance with section 11346.8 of the Government Code, the Board’s Resolution directed the Executive Officer to make the modified regulations 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 regarding the modified text that may be submitted during this period, shall make modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if warranted.

Written comments on the proposed modifications may 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 is to be sent to: ulsd2003@listserv.arb.ca.gov.

Facsimile submissions are to be transmitted to: (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 the ARB by the end of the last day for supplemental comment listed at the beginning of this notice. Only comments relating to the modifications to the text of the regulations and additional information made available by this notice will be considered by the Executive Officer.

/s/

Peter D. Venturini, Chief
Stationary Source Division

Attachments