

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE CURRENT SPARK-IGNITION MARINE ENGINE AND BOAT REGULATIONS

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider adoption of amendments to the California regulations and test procedures for new spark-ignition marine engines and boats, to the California regulations for in-use compliance regarding new spark-ignition marine engines and boats, and to the California procedures for exemption of add-on and modified parts for new spark-ignition marine engines and boats. The purposes of staff's proposed amendments are to provide greater compliance flexibility to the regulated industry, specifically manufacturers of high performance sterndrive/inboard engines, and to enhance alignment with proposed United States Environmental Protection Agency (U.S. EPA) regulations. A summary of the amendments proposed by staff is provided in the section "Description of the Proposed Regulatory Action" later in this notice.

DATE: July 24, 2008

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, CA 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., July 24, 2008, and may continue at 8:30 a.m., July 25, 2008. This item may not be considered until July 25, 2008. Please consult the agenda for the meeting, which will be available at least 10 days before July 24, 2008, to determine the day on which this item will be considered.

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

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed adoption of amendments to sections 2111, 2112, and Appendix A, within Chapter 2, Article 2.1, Title 13, California Code of Regulations (13 CCR); section 2139 within Chapter 2, Article 2.3, 13 CCR, section 2147 within Chapter 2, Article 2.4, 13 CCR; sections 2440, 2441, 2442, 2443.1, 2443.2, 2443.3,

2444.1, 2444.2, and 2445, and proposed repeal of Section 2448, within Chapter 9, Article 4.7, 13 CCR; and proposed adoption of amendments to the following documents incorporated by reference in Section 2447, 13 CCR: "California Exhaust Emission Standards and Test Procedures for 2001 Model Year and Later Spark-Ignition Marine Engines," as last amended September 22, 2006, and in Section 2474, 13 CCR: "Procedures for Exemption of Add-On and Modified Parts for Off-Road Categories," as adopted July 14, 2000.

Background: Health and Safety Code sections 43013 and 43018 direct ARB to achieve the maximum feasible and cost effective emission reductions from all mobile source categories, including spark-ignition marine engines, through the setting of emission standards and other requirements.

The U.S. EPA first promulgated exhaust emission standards for new outboard and personal watercraft (OB/PWC) engines in 1996. However, the benefits of the federal rulemaking were insufficient to meet California's air quality goals and State Implementation Plan (SIP) requirements. Therefore, ARB adopted exhaust emission regulations for these OB/PWC spark-ignition recreational marine engines in 1998. At that time the Board approved regulations that accelerated the 2006 federal standards to begin in 2001 in California. The regulations also set more stringent standards for these engines to be implemented in 2004 and 2008. As of this current year 2008, OB/PWC engines in California will meet exhaust emission standards that are numerically 65 percent less (i.e., more stringent) than federal exhaust emission standards.

On July 26, 2001, the Board approved amendments to the spark-ignition marine regulations (Title 13, CCR, section 2440 et seq.) to include new sterndrive and inboard (SD/I) engines. Those amendments included the adoption of two sets of exhaust standards and the incorporation of on-board diagnostics (OBD-M) for SD/I engines. The first set of standards capped hydrocarbons plus oxides of nitrogen (HC+NOx)¹ emissions at 16.0 grams per kilowatt-hour (g/kW-hr) for all 2003 through 2006 model year engines. This is equivalent to California's most stringent exhaust standard for OB/PWC engines. The second set of standards required the phase-in of a catalyst-based 5.0 g/kW-hr HC+NOx standard from 2007-2009 (45/75/100 percent) and OBD-M.

On November 17, 2005, the Board approved amendments to the original SD/I regulations to provide engine manufacturers with an emissions neutral option to delay the 2007 introduction of engines meeting the catalyst-based second tier standards by one year in exchange for full product line compliance in 2008 and limited evaporative permeation control. The Board also provided temporary relief to manufacturers of high performance SD/I engines greater than 373 kilowatts (>373 kW) by delaying the second tier standard (5.0 g/kW-hr HC+NOx) for these engines until 2009, and by allowing them to meet the standard through averaging. The Board adopted other relief provisions during this rulemaking such as revised durability periods and default certification levels for high performance engines. The Board also directed staff to track U.S. EPA's

¹ Includes only the nonmethane portion of hydrocarbons.

progress and to consider proposing CO standards and to consider harmonizing with other U.S. EPA requirements if appropriate for California.

Description of the Proposed Regulatory Action:

Staff's proposed amendments to the emission standards and test procedures for spark-ignition marine engines are meant to address issues that have developed since the Board's 2005 rulemaking and to enhance alignment with other ARB and U.S. EPA regulations. Primarily, staff is proposing to modify the high performance (>373 kW) SD/I engine exhaust emissions standards to address concerns regarding the use of catalytic converters on high performance engines and to address the resulting change in emissions benefits by considering other measures, including enhanced evaporative controls for those engines.

Staff is also proposing to streamline the regulations by incorporating additional compliance flexibility provisions and by harmonizing requirements with U.S. EPA to the extent feasible while allowing California to attain its goals for improved air quality.

Staff's proposed amendments are of two general types, those:

1) To Be Harmonized with U.S. EPA, including

- Total Hydrocarbon Standards (all spark-ignition marine categories)
- Not-To-Exceed Limits (all spark-ignition marine, except SD/I > 373 kW)
- Revised Definitions for OB/PWC and SD/I Engines
- Revised Jet Boat Engine Standards
- Standardized Engine Rebuilding Practices (all spark-ignition marine categories)

For this group of amendments, staff is proposing that the Board direct staff to align with the final federally promulgated regulations (described in next section) where appropriate.

2) To Retain California-Specific Provisions, including

- Carbon Monoxide Standards (all spark-ignition marine categories)
- Revised High Performance Engine Requirements (SD/I >373 kW)
- Revised OBD-M Requirements (SD/I engines)
- Hardship Allowance Provisions (SD/I engines)
- Voluntary Five-Star Standards (all spark-ignition marine categories)
- Replacement Engine Provisions (all spark-ignition marine categories)
- Clarifications and Miscellaneous Requirements

For this group of amendments, staff is proposing that the Board direct staff to review the final federally promulgated regulations and align the final California regulations where possible while maintaining California-specific provisions.

A more detailed description of staff's proposal is included in the Staff Report: Initial Statement of Reasons for Rulemaking to Consider Amendments to the Current Spark-Ignition Marine Engine and Boat Regulations.

COMPARABLE FEDERAL REGULATIONS

U.S. EPA promulgated regulations in 1996 for OB/PWC engines; however, this regulation did not apply to SD/I pleasurecraft. On May 18, 2007, U.S. EPA published a Notice of Proposed Rulemaking (NPRM) in the Federal Register for nonroad spark-ignition engines and equipment that would institute a federal SD/I regulation generally harmonizing with the existing California exhaust standards for OB/PWC and SD/I engines. The NPRM also proposed the adoption of CO standards and evaporative control requirements for OB/PWC and SD/I engines and boats. Furthermore, the NPRM proposed to include the methane component of hydrocarbon in its certification standard for gasoline fueled engines and to incorporate general relief provisions for unforeseen technical and economic hardships that may befall engine or equipment manufacturers. U.S. EPA is expected to promulgate a final rulemaking for OB/PWC and SD/I standards this year.

BENEFITS OF THE PROPOSAL

Staff's objectives in recommending the revisions proposed herein to California's spark-ignition marine regulations and test procedures are to provide harmonization with proposed federal requirements and to address technical concerns regarding the use of catalytic converters on high performance engines. Because the proposal would be no more expensive to industry as a whole than meeting the current 2009 requirements, the estimated maximum California cost-effectiveness would remain at \$2.08 to 3.39/lb HC+NO_x reduced for all SD/I engines as calculated for the 2001 rulemaking. This cost-effectiveness continues to be well within the range of other control measures adopted by the Board. The cost effectiveness for OB/PWC engines would also remain unchanged by this proposal at \$0.32 to \$3.57 per pound of NMHC+NO_x reduced since no additional control technologies would be required to meet the proposed CO and NTE standards.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: "Staff Report: Initial Statement of Reasons for Rulemaking, Public Hearing to Consider Amendments to the Current Spark-Ignition Marine Engine and Boat Regulations."

Copies of the ISOR and the full text of the proposed regulatory language, in underline and ~~strikeout~~ format to allow for comparison with the existing regulations, may be accessed on the ARB's web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental

Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on July 24, 2008.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the ARB's web site listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Mr. Scott Rowland, at (626) 575-6676 or srowland@arb.ca.gov, or Mr. Jeff Lowry, at (626) 575-6841 or jlowry@arb.ca.gov.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Ms. Lori Andreoni, Board Administration & Regulatory Coordination Unit, (916) 322-4011, or Ms. Trini Balcazar, Regulations Coordinator, (916) 445-9564. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the 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/marine08/marine08.htm

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings 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 cost or savings to state or local agencies. The ARB may incur additional implementation or enforcement costs at some future time.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action would not affect small businesses because there will be no incremental cost, or an insignificant cost, associated with staff's proposal in addition to those already needed to comply with current regulations.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the board or that has otherwise been identified and brought to the attention of the board 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. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and in writing or by e-mail before the meeting. To be considered by the Board, written comments submissions not physically submitted at the meeting must be received **no later than 12:00 noon, July 24, 2008**, and addressed to the following:

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.

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

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

HEARING PROCEDURES

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 non-substantial 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 ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

/s/

James N. Goldstene
Executive Officer

Date: 5/27/08

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs see our Web –site at www.arb.ca.gov.