

State of California
AIR RESOURCES BOARD

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

**PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE REGULATION
FOR MOBILE CARGO HANDLING EQUIPMENT AT PORTS AND
INTERMODAL RAIL YARDS**

Public Hearing Date: September 22, 2011
Public Availability of Modified Text Date: June 15, 2012
Deadline for Public Comment: July 2, 2012

At its September 22, 2011, public hearing, the Air Resources Board (Board or ARB) considered proposed amendments to the "*Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards*" (Cargo Handling Regulation or regulation), California Code of Regulations (CCR), title 13, section 2479. The Cargo Handling Regulation reduces the public's exposure to air pollutants from the operation of mobile cargo handling equipment at ports and intermodal rail yards. Information regarding the initially proposed amendments to the Cargo Handling Regulation can be found in the Initial Statement of Reasons (ISOR) at the following link:

<http://www.arb.ca.gov/regact/2011/cargo11/cargo11.htm>

The Board's Action

At the September 22, 2011 hearing, the Board adopted Resolution 11-30. Consistent with section 11346.8 of the Government Code, the Board delegated to the Executive Officer authority to take final action on the proposed amendments to title 13, CCR section 2479, with the modifications as described in Attachment B to Resolution 11-30, after making the modified text available to the public for comment for a period of at least 15 days. The Board further provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make such modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if warranted. The modifications had been suggested by ARB staff in a document entitled "Staff's Suggested Modifications to the Proposed Amendments to the Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards" that was made available at the hearing as Attachment B to the Resolution. These suggested modifications were made in response to comments on staff's initial proposal that were received before the Board hearing.

Resolution 11-30 and all other regulatory documents for this rulemaking are available online at the following ARB website:

<http://www.arb.ca.gov/regact/2011/cargo11/cargo11.htm>

Summary of Proposed Modifications

A summary of the modifications and the rationale for the modifications to the originally proposed regulatory amendments are set forth below. For a complete account of all modifications to the regulation, please refer to the underline and strikeout text in Attachment 1.

The proposed modifications have been made to encourage introduction and use of ultra clean technologies such as electric and hybrid equipment; ensure fleets are brought into compliance prior to granting low-use compliance extensions; provide access to the Alternative Compliance Plan provisions for both yard truck equipment and non-yard truck equipment; revise the opacity-based monitoring program requirements to exempt newer equipment; and require additional disclosure by the sellers of equipment and engines subject to this regulation. The following sections were either modified or added.

Section 2479(c)(3)(A) and (e)(5)(B): The initially proposed amendment that would allow an engine that has failed during its warranty period to be replaced with an engine meeting the emission standards of the warranted engine rather than those dictated by the standards required for newly purchased, leased, or rented equipment was moved from section 2479(c)(3)(a) to section 2479(e)(5)(B).

Section 2479(d)(29): A definition for “Hybrid” was added to support modifications to section 2479(f)(2).

Section 2479(e)(1)(A)1.b.iii. and (e)(2)(A)4.: These sections were added to allow alternative power systems to be used as a compliance option in newly purchased, leased, or rented yard trucks not registered as motor vehicles .

Section 2479(e)(1)(B)4. and (e)(3)(B)1.d., 2.d., and 3.d.: These sections were modified to clarify data requirements for demonstrating that an engine or power system meets the performance requirements and to clarify for which model year the engine or power system must meet the applicable standards.

Sections 2479(e)(2)(A)5.j. and (e)(3)(A)3.k.: These sections were added to exempt equipment less than four years old from the initially proposed amendments to require opacity monitoring of in-use cargo handling equipment.

Section 2479(e)(5)(A): This section was added to clarify that, except for the case provided for in section 2479(5)(B), equipment that is repowered with a replacement engine is considered to be newly purchased, leased, or rented equipment and as such must meet the requirements of section 2479(e)(1).

Sections 2479(f)(2) and (f)(2)(D): These sections were further modified to require owners or operators who request a compliance extension after the initial two annual compliance extensions to either elect to have the equipment subject to the extension request be replaced with electric or hybrid cargo handling equipment, if such equipment

is available and operationally feasible for the intended use, or to have a different piece of equipment or yard truck replaced with an electric or hybrid model. In addition, if a requesting owner or operator elects to replace the piece of equipment specifically subject to extension request, language was added that would require, in certain circumstances, for the owner or operator to install a safe and feasible Verified Diesel Emission Control Strategy (VDECS) if one becomes available. The owner or operator would not be required to install the VDECS if it is certain that the equipment will be replaced with electric or hybrid equipment at the end of the final extension period or if the owner or operator has replaced or will replace a secondary piece of equipment with electric or hybrid equipment.

Section 2479(f)(2)(B): Section 2479(f)(2)(B) has been further modified to specify that if during the first two years of a compliance extension a VDECS becomes commercially available for the engine that has been granted a compliance extension, then the owner or operator must install the VDECS or otherwise comply with subsection (e)(3).

Section 2479 (f)(2)(C): Section 2470(f)(2)(C) was added to restrict equipment from qualifying for more than two compliance extension years if a VDECS cannot be applied solely because of high engine exhaust opacity.

Section 2479(f)(3): This section was modified to allow the compliance extension for the use of experimental diesel particulate matter emission control strategies to apply to yard truck, as well as non-yard truck, equipment.

Section 2479(f)(6)(A): This section was modified to make Executive Officer approval of the low-use compliance extension contingent upon an owner or operator bringing into compliance all applicable non-yard truck equipment in its fleet for which compliance is feasible.

Section 2479(h): This section was modified to encourage the use of electric and hybrid yard trucks and non-yard truck equipment by allowing hybrid technology and electrification to be considered as alternative emission control strategies and by expanding the provision to allow cargo handling equipment owners and operators to include yard trucks, as well as non-yard truck equipment, in Alternative Compliance Plans.

Section 2479(j)(3)(F): This section was modified to require an owner or operator to include information in their annual report about any electric or hybrid equipment purchased in response to extension requirements.

Section 2479(p): This section was added to require any person selling an engine certified to the alternate Tier 4 family particulate matter emission limits either as part of a piece of cargo handling equipment or as an independent engine that will be used in cargo handling equipment, to disclose to the buyer that the engine is subject to retrofit requirements of the Cargo Handling Regulation.

Staff also made minor, non-substantive modifications throughout the regulation to provide additional clarity. Other non-substantive changes include correcting formatting and grammatical errors, and minor administrative changes and corrections.

Corrections to References and Additional Documents Added to the Record

Staff identified several typographical errors and other minor problems in some of the references that were listed in the ISOR. For clarity, the following is an identification of these errors and the necessary corrections.

1. In the Master Reference List for the Proposed Amendments to the Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards, on page 6 (Appendix B), reference 45. reads, 'Port of Long Beach (POLB), "Port of Long Beach Container Statistics-2010,"' should read, 'Port of Long Beach (POLB, 2011), "Container Trade in TEUs," 2011.'
2. In the Master Reference List for the Proposed Amendments to the Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards, on page 6 (Appendix B), reference 48. is identified incorrectly as, 'U.S. Environmental Protection Agency (USEPA), "NONROAD Model (nonroad engines, equipment, and vehicles)", 2004.' The correct reference is, 'U.S. Environmental Protection Agency (USEPA), "Exhaust and Crankcase Emission Factors for Nonroad Engine Modeling – Compression-Ignition," EPA420-P-04-009, NR-009, April 2004.'
3. In the Master Reference List for the Proposed Amendments to the Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards, on page 8 (Appendix C), reference 58., California Council on Diesel Education and Technology (CCDET, 2011) is dated June 2011. The actual date is July 2011.
4. In the Master Reference List for the Proposed Amendments to the Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards, on page 8 (Appendix C), reference 62., CARB Compliance Services, smoke Testing Pricing Information (CCS, 2011) is dated May 2011. The actual date is August 2011.
5. In the Master Reference List for the Proposed Amendments to the Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards, on page 8 (Appendix C), reference 63., the reference is identified as "California Air Resources Board (ARB)" and should be identified as California Air Resources Board (ARB, 2011I)."

Supplemental Information Being Made Available

ARB is making the proposed modifications to regulatory text and supplemental economic analysis, "Attachment 2, Potential Economic Impacts of Modifications to the "No VDECS Available" Compliance Extension for Mobile Cargo Handling Equipment Operating at Ports and Intermodal Rail Yards" (Attachment 2) available for public comment prior to final action being taken by the Board's Executive Officer. As noted above, the documents included in the attachment to this notice can be obtained from the ARB's website at the following link:

<http://www.arb.ca.gov/regact/2011/cargo11/cargo11.htm>, or from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California, 95814. If you would like a hard copy of the attachment sent to you through postal mail, please contact Mr. Kirk Rosenkranz at (916) 327-7843 and give your name, company name, if any, and mailing address.

Public Comments

Written comments will only be accepted on the modifications approved by the Board and may be submitted by postal mail or electronic mail submittal 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>

Please note that under the California Public Records Act (Gov. Code § 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.

In order to be considered by the Executive Officer, comments must be directed to ARB in one of the two forms described above and received by 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 shall be considered by the Executive Officer.

If you need this document in an alternate format or another language, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alternativo u otro idioma, por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de cinco (5) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

Attachments