

[Date of Mail-Out]

Mail Out MSC# 00-XX

State of California  
AIR RESOURCES BOARD

Third Notice of Public Availability of Modified Text

PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE CERTIFICATION  
PROCEDURES FOR ALL AFTERMARKET PARTS AND CONVERSION SYSTEMS  
FOR OFF-ROAD VEHICLES, ENGINES, AND EQUIPMENT

Public Hearing Date: November 19, 1998

Public Availability Date: May 5, 2000

Deadline for Public Comment: May 22, 2000

This notice announces a third supplemental period during which the public may comment on additional proposed modifications to the "Certification Procedures for Aftermarket Parts for Off-Road Vehicles, Engines, and Equipment." No action by the public is necessary unless persons wish to comment on the additional modifications.

At a public hearing held November 19, 1998, the Air Resources Board (the "Board") considered the adoption of sections 2470 through 2476, Title 13, California Code of Regulations ("CCR"), and amendments to sections 2405 and 2425, Title 13, CCR. The purpose of those regulations is to establish certification procedures that will allow off-road aftermarket parts manufacturers to demonstrate, through emissions testing, that their aftermarket parts would not increase off-road vehicle/engine/equipment emissions. These procedures would therefore allow manufacturers to sell, offer for sale, and install aftermarket parts for off-road vehicles/engines/equipment provided such parts have been certified in accordance with the adopted procedures. The proposed regulatory action is described in detail in the initial statement of reasons (Staff Report), released September 1998 as part of Mail-Out MSC 98-26.

At the hearing, the Board approved the adoption of sections 2470 through 2476, Title 13, CCR, and the amendments to sections 2405 and 2425, Title 13, CCR, with some modifications to the originally proposed regulatory language. The modified language was sent out for public comment on August 30, 1999, as Mail-Out MSC 99-23.

On November 16, 1999, the Office of Administrative Law (OAL) disapproved the proposed regulations. A second notice of public availability of modified text was issued on February 16, 2000 (Mail-Out MSC# 00-02). However, due to staff oversight, the notice package was issued with a draft, not the final version of the proposed regulatory text. While addressing this oversight, staff noticed that several definitions had been modified by recent amendments to the Board's off-highway recreational vehicle

regulations, and that several minor corrections needed to be made to the associated procedures.

This notice contains further modifications and clarifications to reflect the modifications discussed in the second 15 day notice that were not contained in the regulatory text transmitted with the second notice, to amend definitions for consistency with amendments to the off-highway recreational vehicle regulations that were filed with OAL on December 8, 1999, and to incorporate minor needed corrections to the associated procedures. In addition, this notice transmits revisions to Resolution 98-56.

One reason cited by OAL for disapproving this rulemaking was that Resolution 98-56 did not contain language delegating authority from the Board to the Executive Officer to adopt the regulations after making modifications to the regulations available for public comment, and after considering such comments. Due to a clerical error, the text of Resolution 98-56 did not include this language. However, the Board clearly intended to delegate this authority, evidenced by the fact that the Board was informed during the public hearing that staff was considering modifications to the proposed regulations which would require making such modifications available for public comment. Therefore, Resolution 98-56 has been amended by adding language explicitly delegating authority from the Board to the Executive Officer to adopt the proposed regulations and conforming modifications, after making the modifications available for public comment and after considering such comments. The revised text of Resolution 98-56, which corrects this clerical error, is contained in Enclosure 1.

The regulatory and procedural sections that have been further modified are contained in Enclosure 2. The following describes the additional modifications, by Section number:

## **Regulations**

### **§ 2471 – Definitions**

The definition of “all-terrain vehicle” was modified to be consistent with the definition in Title 13, California Code of Regulations section 2411(a)(1) as last amended December 8, 1999.

The definition of “alternative fuel conversion system” was modified by adding nonsubstantive, clarifying language. (This modification was discussed in the second notice of public availability of modified text).

The definition of “exhaust emissions” was modified to clarify that it includes emissions from off-road vehicles, engines, and equipment. (This modification was discussed in the second notice of public availability of modified text).

The definition of “off-highway recreational vehicle engines” or “engines” was modified to be consistent with the definition in Title 13, California Code of Regulations section 2411(a)(13) as last amended December 8, 1999.

The definition of “off-road motorcycle” was modified to be consistent with the definition in Title 13, California Code of Regulations section 2411(a)(16), as last amended December 8, 1999.

The definition of “ultimate purchaser” was added. (Although this definition was present in the regulatory text transmitted with the second 15-day notice, the modification was not shown in the double underline format to indicate the proposed addition. Therefore, it is presented in *bold italicized underline* format in this mail-out.

### **§ 2473 – Replacement Parts**

Paragraph (b) was modified by adding language to clarify that a replacement part manufacturer may select the format for storing and maintaining required records, provided the format allows the records to be readily retrieved and displayed to the executive officer. The added language specifically recognizes that a replacement part manufacturer may elect to store its records on electronic or computer readable media. (This modification was discussed in the second notice of public availability of modified text).

## **Procedures for Exemption of Add-On and Modified Parts for Off-Road Categories**

### **Appendix A**

Nonsubstantive, clarifying language was added to section 10(e).

## **California Evaluation Procedures for New Aftermarket Non-Original Equipment Catalytic Converters for Off-Road Vehicles, Engines, and Equipment**

### **Section I- Applicability**

Changed the citation to the definition of “replacement parts” from Title 13, CCR section 1900(b)(13) to (b)(14), to be consistent with amendments to Title 13, section 1900 as last amended November 22, 1999.

### **Section IV.A 2)– Test Procedures for Off-Road Diesel Engines and Equipment**

Changed the reference from Appendix C to Appendix A; there is no appendix C to these procedures.

## California Certification and Installation Procedures for Systems Designed to Convert Off-Road Vehicles, Engines, and Equipment to Use Alternative Fuels

### Section III.C –Application for Approval

Added language to specify that the proposed procedures apply to vehicles/engines/equipment within the “off-road large spark-ignition engine” category.

### Section V.A 2)– Test Procedures for Off-Road Diesel Engines and Equipment

Changed the reference from Appendix C to Appendix A; there is no appendix C to these procedures.

As noted above, Enclosure 1 contains the revised text of Resolution 98-56, and Enclosure 2 contains the text of the modified regulatory language and associated procedures. The modifications presented in Mail-Out MSC# 99-23 are shown in underline to indicate additions to the original proposal and ~~strikeout~~ to indicate deletions. The second set of modifications presented in Mail-Out MSC# 00-02 are shown in double underline to indicate additions to the original proposal and ~~bold strikeout~~ to indicate deletions. The third set of modifications to the language presented in this mail-out are shown in ***bold italicized underline*** to indicate proposed additional text, and in ***bold italicized strikeout*** to indicate proposed deleted text. Printed copies may be obtained from Subhadra (Su) V. Nathan, Air Pollution Specialist, at (626) 575-6671.

The additional modifications are being made available for a third supplemental comment period in accordance with section 11346.8 of the Government Code. In Resolution 98-56, as modified, the Board directed the Executive Officer to adopt sections 2470 through 2476, Title 13, CCR, and to amend sections 2405 and 2425, Title 13, CCR, as approved, after making the modified regulatory language available to the public for comment for a period of at least 15 days, 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 he determines that this is warranted.

Written comments must be submitted to the Clerk of the Board, Air Resources Board, P.O. Box 2815, Sacramento, California 95812, no later than May 22, 2000, for consideration by the Executive Officer prior to final action. Only comments relating to the modifications described in this notice will be considered by the Executive Officer.

Technical questions concerning this regulatory item should be addressed to Subhadra (Su) V. Nathan, Air Pollution Specialist, at (626) 575-6671.

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Robert H. Cross, Chief  
Mobile Source Control Division

Attachments