

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED MODIFICATIONS TO THE EXHAUST EMISSION STANDARDS AND TEST PROCEDURES - 1985 AND SUBSEQUENT MODEL YEAR HEAVY-DUTY URBAN BUS ENGINES AND VEHICLES, THE FLEET RULE FOR TRANSIT AGENCIES, AND ZERO-EMISSION BUS REQUIREMENTS

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 urban bus engine exhaust emission standards, the fleet rule for transit agencies, and the zero emission bus requirements. The amendments would establish a new standard for the certification of diesel hybrid-electric buses, require transit agencies purchasing these diesel hybrid-electric buses to offset the increased emissions of oxides of nitrogen (NO_x), and modify the zero emission bus demonstration project requirements. This notice summarizes the significant amendments. The Initial Statement of Reasons, or staff report, presents all of the proposed amendments in greater detail.

DATE: June 24, 2004

TIME: 9:00 a.m.

PLACE: Air Resources Board
Auditorium
9530 Telstar Ave.
El Monte, CA 91731

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., June 24, 2004, and may continue at 8:30 a.m., June 25, 2004. This item may not be considered until June 25, 2004. Please consult the agenda for the meeting, which will be available at least 10 days before June 24, 2004, to determine the day on which this item will be considered.

This facility is accessible to persons with disabilities. If you have special accommodation or language needs, please contact the ARB's Clerk of the Board at (916) 322-5594 or landreon@arb.ca.gov as soon as possible. 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 amendment to title 13, California Code of Regulations, sections 1956.1, 1956.2, 1956.3, and 1956.4.

Background: In February 2000 the Board confirmed its continued commitment toward improving emissions from public transportation by establishing a new fleet rule for transit agencies and more stringent emission standards for new urban bus engines and vehicles. The rule also promoted advanced technologies by adopting a zero-emission bus (ZEB) demonstration and ZEB acquisition requirements for transit agencies.

Recognizing the progressive nature of the regulations, the Board directed staff to report back regularly on implementation progress and to develop a test procedure to certify hybrid-electric urban buses (HEBs). Staff reported back to the Board at its September 20, 2001, and March 21, 2002, public meetings. As instructed by the Board, staff brought modifications to the fleet rule for transit agencies and a test procedure for certification of HEBs to the Board, which were adopted at the October 24, 2002, public hearing.

Staff is bringing this proposal to the Board to make amendments not addressed in the October 24, 2002, hearing. Staff is proposing modifications to the exhaust emission standards and test procedures for heavy-duty urban bus engines and vehicles, to the fleet rule for transit agencies, and to the ZEB requirements.

This rulemaking has two purposes. First, staff is proposing a mechanism in this rulemaking to allow the purchase by certain transit agencies of diesel HEBs for the 2004 through 2006 model years (MY). Second, staff is proposing modifications to the ZEB program to conform with current and potential future market conditions and availability of ZEBs. Staff is not, at this time, proposing to modify the 2007 engine exhaust emission standards for urban bus engines and vehicles.

Staff expects a small positive effect on emissions from the amendments it is proposing to the engine exhaust emission standards for urban buses and vehicles. Staff's proposal would allow manufacturers to sell a MY 2004 through 2006 diesel HEB certified to standards of 1.8 grams per brake horsepower-hour (g/bhp-hr) oxides of nitrogen (Nox) and 0.01 g/bhp-hr particulate matter (PM). Transit agencies on the diesel path would be allowed to purchase those diesel HEBs, provided they offset the difference between 1.8 g/bhp-hr NOx and the current diesel urban bus engine standard of 0.5 g/bhp-hr NOx. Offsets can be obtained through installing a retrofit device that reduces NOx emissions or repowering to a lower emitting diesel or alternative-fuel engine.

In addition to the changes to the urban bus engine standards, staff also is proposing to revise the ZEB demonstration program by reducing the number of concurrent fuel cell buses and extending the time period for the demonstration projects. At the time the transit bus regulation was developed, staff believed that the research and development of fuel cells would result in their application in transit buses before their application in light duty vehicles. The reverse has

occurred, and manufacturers are focusing their efforts on developing light duty vehicle fuel cell applications. Despite the exemplary efforts of the transit agencies, the demonstration program is therefore behind schedule and staff is proposing changes to match the program goals with the current status of technology.

The proposed regulation amendments have no associated costs for implementation because the changes do not mandate purchases. Rather, the amendments provide the opportunity for transit agencies to purchase new diesel HEBs from 2004 through 2006. In addition, there is no added cost to the proposal to modify the ZEB demonstration. Staff expects there will be benefits to businesses that produce or sell diesel HEBs.

COMPARABLE FEDERAL REGULATIONS

California's urban bus emission standards are more stringent than the federal requirements until 2010. Currently there are no federal emission standards for zero-emission or hybrid-electric buses.

AVAILABILITY OF DOCUMENTS AND CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons for the proposed regulatory action (ISOR), which includes a summary of the economic and environmental impacts of the proposal. The report is titled: "Proposed Modifications to the Exhaust Emission Standards and Test Procedures - 1985 and Subsequent Model Year Heavy-Duty Urban Bus Engines and Vehicles, the Fleet Rule for Transit Agencies, and Zero-Emission Bus Requirements."

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, California 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing June 24, 2004.

Upon its completion after the Board hearing, 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 Ms. Kathleen Mead, Air Pollution Specialist, by email at kmead@arb.ca.gov or by phone at (916) 324-9550, or to Dr. Nancy L.C. Steele, Manager, by email at nsteele@arb.ca.gov or by phone at (626) 350-6598.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or Alexa Malik, Regulations Coordinator, (916) 322-4011. 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.

If you are a person with a disability and desire to obtain this document in an alternative format, please contact the ARB's Clerk of the Board at (916) 322-5594 or landreon@arb.ca.gov as soon as possible. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

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/bus03/bus03.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 will 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 savings to state or local agencies.

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 will 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 will 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 will not affect small businesses because the modifications are discretionary and do not affect any small businesses.

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.

FINDING OF NECESSITY FOR REPORTS

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

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received **no later than 12:00 noon, June 23, 2004**, and addressed 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: **bus03@listserv.arb.ca.gov** and received at the ARB **no later than 12:00 noon, June 23, 2004**.

Facsimile transmissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB **no later than 12:00 noon June 23, 2004**.

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, 39659, 39667, 39701, 41511, 43013, 43018, 43100, 43101, 43104, and 43806, and section 28114 of the Vehicle Code. This action is proposed to implement, interpret and make specific sections 39002, 39003, 39017, 39018, 39033, 39500, 39650, 39657, 39667, 39700, 39701, 40000, 41510, 41511, 43000, 43000.5, 43009, 43013, 43018, 43102, 43701(b), 43801, 43806 of the Health and Safety Code, and section 233 and 28114 of the Vehicle Code.

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 approve 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, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Catherine Witherspoon
Executive Officer

Date: