

State of California  
AIR RESOURCES BOARD

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

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

Public Hearing Date: December 8, 2005  
Public Availability of Modified Text Date: May 18, 2006  
Deadline for Public Comment: June 2, 2006

At its December 8, 2005, public hearing, the Air Resources Board (Board or ARB) approved the adoption of section 2479, title 13, California Code of Regulations (CCR). The approved section 2479 is a regulation for mobile cargo handling equipment at ports and intermodal rail yards.

The proposed regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards is designed to use the best available control technology (BACT) to reduce the general public's exposure to diesel particulate matter and oxides of nitrogen emissions from mobile cargo handling equipment at ports and intermodal rail yards. The regulation supports the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles, which was approved by the Board on September 30, 2000.

**The Board's Action**

At the December 8, 2005, hearing, the Board adopted Resolution 05-62 (appended to this notice as Attachment 1), approving the adoption of the regulation with modifications. In the Resolution, the Board directed the Executive Officer to incorporate the approved modifications into the proposed regulatory text, along with such other conforming modifications as may be appropriate, and to make such modifications available for a supplemental comment period of at least 15 days.

**Modified Text Being Made Available**

At the Board's direction, staff worked with members of the affected industries and associations to develop the proposed modifications. A discussion of the proposed modifications is provided below. The proposed regulatory text, including staff's proposed modifications, is appended to this notice as Attachment 2. Additions to the initially noticed regulatory text are denoted by underline and deletions by ~~strikeout~~.

Board Resolution 05-62 and the revised regulatory text, as provided in Attachment 2, may be downloaded from ARB's Internet website at the following address:  
<http://www.arb.ca.gov/regact/cargo2005/cargo2005.htm>. If you would like a hardcopy of

Attachment 2 sent to you through postal mail, please call Ms. Linda Keifer at (916) 327-1505 and give your name, company name, if any, and mailing address.

### **Summary of Proposed Modifications**

As a result of public comments and testimony received prior to and during the December 8, 2005 hearing, the Board directed staff to propose changes to the regulation that would primarily allow for public comment during the Alternative Compliance Plan application process and address the Department of Defense's concerns regarding military tactical support equipment. In addition, staff has proposed changes that would clarify specific provisions of the regulation and correct clerical errors.

The following is a summary of the proposed substantive modifications and staff's rationale for making them:

#### **Title 13, CCR, Section 2479(c) Exemptions**

**Military Tactical Support Cargo Handling Equipment:** At the Board's direction, staff added an exemption for military tactical support cargo handling equipment.

#### **Title 13, CCR, Section 2479(d) Definitions**

**Alternative Diesel Fuel:** Staff modified this definition relative to the inclusion of biodiesel to be consistent with the treatment of certain biodiesel blends meeting the definition of CARB diesel fuel.

**California Air Resources Board (CARB) Diesel Fuel:** Staff added this definition to support the existing fuel requirements of the regulation.

**Cargo Handling Equipment:** Staff modified this definition to clarify the inclusion of maintenance equipment that is used routinely or for predictable process upsets.

**Contiguous Properties:** Staff added this definition to support the revised definition for port.

**Intermodal Rail Yard:** Staff modified the definition to include additional clarification, since the previous definition could have been interpreted to include intermodal distribution centers, which was not the intent.

**Military Tactical Support Cargo Handling Equipment:** Staff added this definition as part of the new exemption for military tactical support cargo handling equipment (see above).

**Ocean-going Vessel:** Staff added this definition as part of the revised definition for port.

**Port:** Staff revised this definition to clarify the inclusion of military terminals and docks that are part of, or on contiguous properties with, non-military terminals and docks.

**Terminal:** Staff modified this definition to include facilities owned and/or operated by the Department of Defense.

**Top Handler or Top Pick:** Staff modified this definition to correct a clerical error.

**Verification Procedure:** Staff modified this definition to correct a clerical error.

### **Title 13, CCR, Section 2479(e) Requirements**

**In-Use Performance Standards for Yard Trucks: Compliance Schedules for In-Use Yard Trucks.** Staff modified the date used to determine the percentage of yard trucks that must meet the requirements for each compliance deadline. The percentage will be determined based on the total population of yard trucks for a specific model year or model year group that exist in the owner's or operator's fleet as of January 1 of the first compliance deadline year for that model year or model year group. This change allows for early compliance without penalty and is consistent with staff's original intent.

**In-Use Performance Standards for Non-Yard Truck Mobile Cargo Handling Equipment: Compliance Option for Basic Container Handling Equipment, Bulk Cargo Handling Equipment, and Rubber-tired Gantry Cranes.** Staff modified the text for compliance option (c) for each equipment type to correct a clerical error, which had omitted pre-Tier 1 engines.

**In-Use Performance Standards for Non-Yard Truck Mobile Cargo Handling Equipment: Compliance Schedule for Non-Yard Truck Mobile Cargo Handling Equipment.** Staff modified the date used to determine the percentage of equipment that must meet the requirements for each compliance deadline. The percentage will be determined based on the total population of non-yard truck equipment for a specific model year or model year group that exist in the owner's or operator's fleet as of January 1 of the first compliance deadline year for that model year or model year group. This change allows for early compliance without penalty and is consistent with staff's original intent.

### **Title 13, CCR, Section 2479(h) Alternative Compliance Plan for Non-Yard Truck Cargo Handling Equipment**

**Requirements.** At the Board's direction, staff modified the alternative compliance plan (ACP) language to make it clear that qualifying equipment must be located at the same port or intermodal rail yard to which the ACP applies and cannot be included in more than one ACP.

**Application Process.** Numerous modifications were made to the ACP Application Process in the original proposal to address the Board's directive to require the ACP to

include provisions for public comment. Under the proposed modifications, all documents pertaining to ACP applications will be made available for public review. In addition, two separate public comment periods will be provided during the application process. The first will be provided after the Executive Officer has deemed the application to be “complete.” The second will be provided after the Executive Officer proposes to approve or disapprove the application. This comment period will allow the public to comment on the proposed decision by the Executive Officer before final action is taken, as well as a second opportunity to comment on the application.

**Revocation or Modification of Approved ACPs.** This provision was added to enable the Executive Officer to revoke or modify an ACP if there have been violations to the ACP, or if the Executive Officer has reason to believe that the applicant no longer meets the criteria for an ACP.

### **Title 13, CCR, Sections 2479(j) Reporting Requirements**

**Demonstration of Compliance.** This paragraph was revised to clarify that the Demonstration of Compliance pertains to each in-use cargo handling equipment engine or vehicle subject to the requirements of subsection (e).

**Annual Reporting.** This paragraph was revised to require annual reporting of the population (number) of equipment in each yard truck model year group and each non-yard truck model year group in order to determine compliance percentage requirements.

**Supporting Documents and Information.** In accordance with Government Code section 11347.1, staff has added to the rulemaking record the following documents, which are incorporated by reference in the regulation:

Diesel Particulate Matter Exposure Assessment Study for the Ports of Los Angeles and Long Beach

The document cited above is the final version of the draft document included as Appendix C in the Initial Statement of Reasons (Staff Report).

By this notice, the modified regulation and additional documents and information are being made available for public comment prior to the final action by the Board’s Executive Officer. All of the documents referenced above are available for public inspection at ARB’s Internet website at the following address: <http://www.arb.ca.gov/regact/cargo2005/cargo2005.htm>, or from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1<sup>st</sup> Floor, Sacramento, California, 95814.

### **Comments and Subsequent Action**

In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adopt section 2479, title 13, CCR after making the modified

regulatory language 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 as may be submitted during this period, shall make such modifications as may be appropriate in light of comments received, and shall present the regulations to the Board for further consideration if she determines that this is warranted.

Written comments on the modifications approved by the Board must 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, 23<sup>rd</sup> Floor  
Sacramento, California 95814

Electronic submittal : <http://www.arb.ca.gov/lispub/comm/bclist.php>

Facsimile submissions are to be transmitted to the Clerk of the Board at (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 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 modifications to the text of the regulation and other information made available by this notice shall be considered by the Executive Officer.

Attachments