

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF PROPOSED AIRBORNE TOXIC CONTROL MEASURE TO LIMIT DIESEL-FUELED COMMERCIAL MOTOR VEHICLE IDLING

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adopting a regulation to reduce public exposure to diesel exhaust particulate matter (diesel PM) and other toxic air contaminants (TAC) by limiting unnecessary idling from specified vehicular sources.

DATE: July 22, 2004

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Central Valley Auditorium
1001 I Street
Sacramento, California 95814

This item will be considered at a two-day meeting of the ARB, which will commence at 9:00 a.m., on Thursday, July 22, 2004, and may continue at 8:30 a.m., Friday, July 23, 2004. This item may not be considered until Friday, July 23, 2004. Please consult the agenda for the meeting, which will be available at least ten days before July 22, 2004, 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 go to <http://www.arb.ca.gov/as/eo/languageaccess.htm> or 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 Chapter 10 - Mobile Source Operational Controls, Article 1- Motor Vehicles, section 2485, title 13, California Code of Regulations (CCR).

Background

The Board identified diesel particulate matter (PM) as a toxic airborne contaminant (TAC) in August 1998. In September 2000, the Board adopted the "Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles (DRRP)" which established a goal of reducing emissions and the resultant health risk from virtually all diesel-fueled engines and vehicles in the state of California by the year 2020. The DRRP identified various methods for reducing emissions of diesel PM

including new, more stringent standards for all new diesel-fueled engines and vehicles, the replacement of older in-use engines with new cleaner engines, the use of diesel emission control strategies on in-use engines, and the use of low sulfur diesel fuel.

The major sources of diesel-PM are the approximately 1,250,000 diesel-fueled engines in vehicles and equipment used in California. Diesel exhaust from excessive idling imposes significant adverse health and environmental impacts on all Californians. Diesel exhaust is a complex mixture of thousands of gases and fine particles that contains more than 40 identified toxic air contaminants. These include many known or suspected cancer-causing substances, such as benzene, arsenic and formaldehyde. Diesel exhaust can irritate the eyes, nose, throat, and lungs. It can cause coughs, headaches, light-headedness, and nausea. Diesel exhaust is a major source of ambient particulate matter pollution as well, and numerous studies have linked elevated particle levels in the air to increased hospital admission, emergency room visits, asthma attacks, and premature deaths among those suffering from respiratory problems.

Human health and the environment are adversely affected by the air pollutants emitted by idling diesel-fueled engines. An estimated 449 tons of diesel PM will be generated in California in 2004 from commercial motor vehicle idling. Nitrogen oxides (NO_x) emissions from idling are estimated to be nearly 19,878 tons per year. Because of the high potency of diesel PM and the potential for large numbers of diesel-fueled engines to idle at one location (e.g., truck stops), staff believes that there are situations where the estimated 70-year potential cancer risk resulting from exposure to diesel PM emissions will be in excess of 10 in a million.

ARB staff has prepared an Initial Statement of Reasons (ISOR) for the Proposed ATCM that, along with the DRRP, serves as the report on the need and appropriate degree of regulation for reducing idling of diesel-fueled commercial motor vehicles.

Description of the Proposed Regulatory Action

The Proposed ATCM to limit motor vehicle idling is designed to reduce the general public's exposure to diesel PM, other TACs, and air pollutants. The Proposed ATCM would apply to diesel-fueled commercial motor vehicles with gross vehicle weight ratings (GVWR) greater than 10,000 pounds operating in California, regardless of the state or country in which the vehicle is registered.

The requirements of the Proposed ATCM would impact both the public and private transportation industries. Public agencies that could be affected are transit agencies and public agencies with heavy-duty vehicles. Private businesses that could be affected are private transit and tour bus operations, contractors, distributors, transporters, delivery services, and heavy-duty vehicle fleets. Agencies and businesses would be affected to the extent they own, operate, or direct the operation of buses and heavy-duty vehicles.

The Proposed ATCM would be implemented in two phases. Phase one eliminates general unnecessary idling and would be implemented immediately upon approval of the Proposed ATCM into state law. The driver of a subject vehicle would be required to

manually shut off the engine before the idling time limit of five minutes is reached. Buses, including transit, tour and coach, are not subject to the five minute idling restriction when passengers are on board and are allowed no more than 10 minutes of idling time prior to boarding of passengers to allow the passenger compartment adequate time to acclimate for passenger comfort.

Phase two of the Proposed ATCM would restrict idling of the main truck engine or diesel-fueled auxiliary power system (APS) during driver rest periods and becomes effective January 1, 2009. Options to comply with the restricted idling limitations would include shutting off the engine where weather conditions allow, off-board and on-board electrification, and non diesel-fueled auxiliary power systems. ARB staff intends to return to the Board in 2005 to propose procedures and specifications under which diesel-fueled APS units would be allowed to operate beyond January 1, 2009.

The Executive Officer has proposed circumstances under which exceptions to the Proposed ATCM's idle limits may be determined necessary. Idling restrictions contained in the Proposed ATCM would not apply when idling is necessary to prevent safety or health emergencies or when idling is necessary due to adverse weather conditions such as dense fog. Idling limits would not apply when the vehicle is stopped in situations in which the driver has no control such as being stopped at a traffic signal, railroad crossing, or construction zone. The Proposed ATCM's idle limitations would not apply when idling is necessary during servicing, testing, vehicle inspections or when idling is necessary to perform work for which the vehicle was designed such as turning a cement mixer. Additionally, the Executive Officer has proposed that when vehicles are within 100 feet of designated restricted areas, owners/operators would eliminate unnecessary cueing and extended driver rest period main engine idling; that is, they would remain subject to phase one restrictions.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons for the Proposed ATCM, which includes a summary of the potential environmental and economic impacts of the proposal. The ISOR is entitled, "Staff Report: Initial Statement of Reasons for the Proposed Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling."

Copies of the ISOR and the full text of the proposed regulatory language 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 (July 22, 2004).

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 at the web site listed below.

This notice, the ISOR and proposed regulatory text described therein, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site at <http://www.arb.ca.gov/regact/idling/idling.htm>.

Inquiries concerning the substance of the Proposed ATCM may be directed to the designated agency contact persons, John Kato, Manager of the Project Support Section, at (916) 322-2891, or by email at jkato@arb.ca.gov and John Gruszecki, PE, Air Resources Engineer, at (916) 327-5601, or by email at jgruszec@arb.ca.gov.

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.

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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 ATCM are presented below.

Pursuant to Government Code section 11346.5(a)(5), the Executive Officer has determined that the Proposed ATCM will not impose a mandate on local agencies or school districts. The Executive Officer has further determined pursuant to Government Code section 11346.5(a)(6) that the Proposed ATCM will result in some additional costs to the ARB and other state agencies. In addition, the Executive Officer has determined pursuant to Government Code section 11346.5(a)(6) that the Proposed ATCM will not create a cost to local agencies that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of the Government Code or other non-discretionary costs or savings imposed on local agencies or school districts. The Executive Officer further determined that the Proposed ATCM would not result in costs or savings in federal funding to the State.

The Executive Officer has determined that the Proposed ATCM will have an insignificant impact on costs to local agencies or school districts and will most likely result in cost savings. Cost savings will result from reduced fuel and maintenance costs due to reduced idling and should offset any cost associated with driver compliance education. Statewide, the total number of trucks equipped with sleeper berths owned or operated by local agencies and school districts is not known, but is expected to be very small, if any. The cost impact to any local agency or school district should therefore be very small.

Some minor costs will occur for state agencies that own and operate diesel-fueled commercial motor vehicles but will most likely result in cost savings. Cost savings will result from reduced fuel and maintenance costs due to reduced idling and should offset any cost associated with driver compliance education. Statewide, the total number of trucks equipped with sleeper berths owned or operated by state agencies is not known, but is expected to be small. Since these costs are insignificant compared to their overall budget, staff believes that the costs will easily be met within existing budgets.

The Executive Officer has determined that the total cost for implementing the Proposed ATCM for state agencies will be approximately \$25,000 per year for outreach efforts in 2003 expenditure equivalent dollars. While the ARB is expected to absorb enforcement activities within current budgets and with current staff for the foreseeable future, if monies become available, an additional 12 person years could be required for enforcement. Initial outlay will not be necessary until fiscal year 2005-2006. The affected state agencies are ARB, California Highway Patrol, and potentially other state law enforcement agencies. It is anticipated that the agencies will be able to absorb costs, given the extended period allowed for compliance.

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 ATCM 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.

The Executive Officer has determined, pursuant to title 1, CCR, section 4, that the Proposed ATCM will have a positive cost-savings impact on small businesses. The ARB staff believes that nearly 73 percent of affected businesses are small businesses.

The Executive Officer has determined that the total cost savings of the Proposed ATCM to affected businesses will be approximately \$575 million for both cost/benefit analysis windows (phase one 2005 – 2009 and phase two 2009 – 2013), in 2003 equivalent dollars. This value represents the total cost savings of the Proposed ATCM if all money required to comply and all monetary benefits were spent or generated today. On an annual basis, the cost savings will vary between \$17 to greater than \$113 million per year. The cost savings for a typical business, including capital costs, is estimated to be up to \$425 per vehicle per year in 2003 equivalent dollars. Additionally, owners and operators are expected to enjoy cost savings outside of the cost/benefit analysis windows for the lifetime of the regulation. The ARB staff estimates that the annual cost savings, including capital costs, to a typical small business (a fleet of seven or less vehicles) will be up to \$425 per vehicle per year in 2003 equivalent dollars.

In accordance with Government Code sections 11346.3 and 11346.5(a)(10), the Executive Officer has determined that the Proposed ATCM may lead to creation or elimination of some businesses, 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. The Proposed ATCM could create a demand in manufacturing and services of automotive diesel idle reduction technologies. The Proposed ATCM could also have a positive impact on the creation and expansion of jobs and businesses, especially for companies engaged in the engineering, design, and manufacture of auxiliary power systems. In the service sector, the Proposed ATCM could positively impact job creation at locations that choose to provide on- and off-board truck stop electrification services.

A detailed assessment of the economic impacts can be found in the ISOR.

CONSIDERATION OF ALTERNATIVES

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency 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 or businesses than the proposed action.

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, July 21, 2004**, and addressed to the following:

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: ldling@listserv.arb.ca.gov and received at the ARB **no later than 12:00 noon, July 21, 2004**.

Facsimile submissions 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, July 21, 2004**.

The Board requests but does not require 30 copies of any written submission. Also, the ARB requests that written, facsimile, and e-mail 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 ARB encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed ATCM.

STATUTORY AUTHORITY

This regulatory action is proposed under the authority granted to the ARB in the California Health and Safety Code sections 39600, 39601, 39658, 39614 (b) (6) (A)

39667, 39674, 43000.5 (d), 43013 (b), 43013 (h), 43018 (b), and 43018 (c) and Western Oil & Gas Assn. v. Orange County Air Pollution Control Dist. (1975) [14 Cal.3d.411]. This action is proposed to implement, interpret, or make specific Health and Safety Code sections 39002, 39003, 39027, 39500, 39600, 39650, 39655, 39656, 39657, 39658, 39659, 39662, 39665, 39674, 39675, and 42403.5; Vehicle Code Sections 305, 336, 350, 440, 445, 545, 546, 642, 680, 21400, 22452, 22515, and 27153; and California Code of Regulations sections 1201, 1900, 1962, and 2480, title 13.

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 ARB may adopt the regulatory language as originally proposed or with non-substantial or grammatical modifications. The ARB may also adopt the proposed regulatory language with other modifications if the modifications are 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 the event that such modifications are made, 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, 1001 I Street, Visitors Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

/s/

Catherine Witherspoon
Executive Officer

Date: May 25, 2004

"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."