

TITLES 13 AND 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF PROPOSED REGULATIONS TO REDUCE EMISSIONS FROM AUXILIARY DIESEL ENGINES AND DIESEL-ELECTRIC ENGINES OPERATED ON OCEAN-GOING VESSELS WITHIN CALIFORNIA WATERS AND 24 NAUTICAL MILES OF THE CALIFORNIA BASELINE

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adoption of regulations to reduce emissions of diesel particulate matter (PM), nitrogen oxides (NOx), and sulfur oxides (SOx) from the use of auxiliary diesel engines and diesel-electric engines operated on ocean-going vessels located within all California inland waters; all California estuarine waters; and within 24 nautical miles, except as otherwise specified in this proposal, of the California baseline, including but not limited to, the Territorial Sea, the Contiguous Zone, and any California port, roadstead or terminal facility.

DATE: December 8, 2005

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium, Second Floor
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., December 8, 2005, and may continue at 8:30 a.m., December 9, 2005. This item may not be considered until Friday, December 9, 2005. Please consult the agenda for the meeting, which will be available at least 10 days before December 8, 2005, 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 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 section 2299.1, title 13, California Code of Regulations (CCR) and section 93118, title 17, CCR. The following documents would be incorporated in the regulations by reference: (1) International Standard ISO 8217, "Specifications of Marine Fuels Requirements for Marine Residual Fuels," (as revised in

1996); (2) International Standard ISO 8754, "Determination of Sulfur Content -- Energy-dispersive X-ray Fluorescence Method," (as adopted in 1992); and (3) the following National Oceanic and Atmospheric Administration (NOAA) Nautical Charts, as authored by the NOAA Office of Coast Survey: (A) Chart 18600, Trinidad Head to Cape Blanco (January 2002), (B) Chart 18620, Point Arena to Trinidad Head (June 2002), (C) Chart 18640, San Francisco to Point Arena (July 2000), (D) Chart 18680, Point Sur to San Francisco (March 2001), (E) Chart 18700, Point Conception to Point Sur (July 2003), (F) Chart 18720, Point Dume to Purisima Point (January 2005), and (G) Chart 18740, San Diego to Santa Rosa Island (August 2003).

Background:

Health and Safety Code (H&SC) sections 43013 and 43018 direct ARB to adopt standards and regulations that the Board has found to be necessary, cost-effective, and technologically feasible for all mobile source categories, including off-road diesel engines and equipment such as marine vessels, through the setting of emission control requirements. Specifically, H&SC 43013 directs ARB to adopt such standards and regulations on marine vessels to the extent permitted by federal law.

The California Toxic Air Contaminant Identification and Control Program, established under California law by Assembly Bill 1807 (Stats. 1983, Ch. 1047) and set forth in H&SC sections 39650-39675, requires ARB to identify and control air toxicants in California. In 1998, the Board identified diesel particulate matter as a toxic air contaminant (TAC) with no Board-specified threshold exposure level.

Following the identification of a substance as a TAC, H&SC section 39665 requires ARB, with participation of the air pollution control and air quality management districts (districts) and in consultation with affected sources and interested parties, to prepare a report on the need and appropriate degree of regulation for that substance. Health and Safety Code section 39665(b) requires that this "needs assessment" address, among other things, the technological feasibility of proposed airborne toxic control measures (ATCMs) and the availability, suitability, and relative efficacy of substitute products or processes of a less hazardous nature.

A needs assessment for diesel PM was conducted between 1998 and 2000, which resulted in ARB's development of the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles (Diesel RRP). The Diesel RRP presented information that identified the available options for reducing diesel PM and recommended control measures to achieve further reductions. The scope of the Diesel RRP was broad, addressing all categories of engines, both mobile and stationary.

Once ARB has evaluated the need and appropriate degree of regulation for a TAC, H&SC section 39666(c) requires ARB to adopt regulations to reduce emissions of the TAC from nonvehicular sources to the lowest level achievable through the application of best available control technology (BACT) or a more effective control method, in consideration of cost, risk, environmental impacts, and other specified factors. In

developing the proposed control measure, State law also requires an assessment of the appropriateness of substitute products or processes.

The purpose of this proposed regulatory action is to reduce emissions of diesel PM, NO_x, and SO_x. Diesel PM emission reductions are needed to reduce the potential cancer risk and other adverse impacts from PM exposure to people who live in the vicinity of California's major ports and shipping lanes. Reductions in diesel PM, NO_x (which forms "secondary" nitrate PM in the atmosphere), and SO_x (which forms "secondary" sulfate PM in the atmosphere) will also contribute to regional PM reductions that will assist in California's progress toward achieving State and federal air quality standards. Reductions in NO_x, an ingredient in the formation of ozone pollution, will help reduce regional ozone levels.

The proposed regulations will provide about 2.7 tons per day (TPD) of diesel PM emission reductions in 2007 (about 3.7 TPD in 2010), about 1.9 TPD of NO_x emission reductions in 2007 (about 2.3 in 2010), and about 22 TPD of SO_x emission reductions (about 32 TPD in 2010) throughout California, especially in coastal urban areas. Many of these coastal areas are non-attainment for the State and federal ambient air quality standards for PM₁₀, PM_{2.5}, and ozone.

Description of the Proposed Regulatory Action:

Under the approach proposed by staff, the Board would approve adoption of a regulation, pursuant to its authority under H&SC sections 43013 and 43018, which would apply to the emissions from auxiliary diesel engines on ocean-going vessels operating within any of regulated California waters (as defined in the proposal). The Board would also approve adoption of identical provisions as an ATCM, pursuant to its authority under H&SC sections 39666, which would complement the regulation and provide maximum notice to the regulated community of the regulatory requirements on ocean-going vessels.

Applicability

The proposal applies to any person who owns or operates an ocean-going vessel within any of the regulated California waters, which includes all California inland waters, all California estuarine waters, and all waters within a zone 24 nautical miles seaward of the California coastline, except for specified areas along the Southern California coastline. In general, ocean-going vessels include large cargo vessels and passenger cruise ships. The control measure applies to foreign-flagged vessels, which are vessels registered under the flag of a country other than the United States, as well as U.S.-flagged vessels.

The proposed regulations include language explicitly stating and clarifying that the proposal does not change or supersede any existing United States Coast Guard (U.S.CG) regulations, and vessel owners and operators are responsible for ensuring

that they meet all applicable U.S.CG regulations, as well as the proposed regulation and ATCM.

Exemptions

The proposed regulations include four exemptions. First, the proposal does not apply to vessels while in “innocent passage,” defined as travel within the 24 nautical mile boundary off California’s coastline without stopping or anchoring, except in limited situations such as when the vessel is in distress or must stop to comply with U.S.CG regulations. A second exemption is included for slow-speed two-stroke diesel engines. The design of these engines differs significantly from the four-stroke, medium speed engines used in virtually all auxiliary engine applications. The third exemption is for military vessels. Military vessels primarily use specialized military specification distillate fuels that must be used on a consistent basis for military equipment globally. Finally, there is an exemption for auxiliary engines while they are operating on liquefied natural gas or compressed natural gas because of their expected inherently low emissions of diesel PM and NOx.

Emission Limits

Under the staff’s proposal, the emissions of diesel PM, NOx, and SOx from a regulated auxiliary diesel engine would generally be limited to the emission rates that would have resulted had the engine been fueled with the distillate fuels identified in the proposal. Starting on January 1, 2007, vessel operators must ensure that their auxiliary engines operating in the regulated California waters meet the first set of emission limits. One way to meet this requirement is to use marine diesel oil (MDO) with a maximum 0.5 percent sulfur by weight or use marine gas oil (MGO). Starting on January 1, 2010, vessel operators would need to ensure that their auxiliary engines operating in regulated California waters meet the second set of emission limits; one way to do this would be to use marine gas oil with 0.1 percent sulfur by weight.

The latter emission standard is intended to be consistent with a similar regulation adopted by the European Union. While staff believes engines can meet the emission limits associated with the 0.1 percent sulfur marine gas oil, we understand that changes in the fuels markets and ship technologies may affect the availability or use of this fuel. Therefore, the proposal includes a provision directing the Executive Officer to reevaluate the feasibility and availability of the 0.1 percent sulfur marine gas oil in 2008. Based on the results of this reevaluation, modifications to this requirement may be proposed to the Board as needed.

The proposal provides built-in flexibility by specifying a performance standard (i.e., emission limits) instead of a prescriptive standard (i.e., specifying which fuels can only be used). Furthermore, the proposal includes additional provisions that should help to maximize the degree of flexibility available to vessel owners and operators. As described below, persons who operate the regulated vessels would have to either comply with these emissions limits, or apply for and obtain permission from ARB to

operate under one or more alternative emission control strategies (see “Alternative Compliance Plan” below). In addition, vessel operators would be allowed under specified circumstances to pay a noncompliance mitigation fee for a limited duration in lieu of meeting the emission limits. These flexibility provisions would provide vessel owners and operators with a wide choice of options to choose from to reduce their emissions.

Recordkeeping

Starting on January 1, 2007, any person who owns or operates an ocean-going vessel within the regulated California waters will be required to maintain specified records in English for a minimum of three years. Staff has designed these requirements to minimize any impacts on vessel crews by relying on existing recordkeeping procedures to the extent possible.

Reporting, Monitoring, and Right of Entry Provisions

The information required to be recorded, as specified in the proposal, would have to be supplied in writing to the Executive Officer, but only upon request. Some of the recordkeeping required by the proposal may already be recorded to comply with other regulations or standardized practices. In these cases, the information may be provided to ARB in a format consistent with these regulations or practices, as long as the required information is provided. Ship owners or operators must also supply additional information as requested that may be necessary to determine compliance with the proposed regulations.

To monitor compliance with the requirements of the proposal, vessel owners or operators would have to provide access to the vessel to ARB employees or officers or the local air districts. This right of entry applies to vessels within the regulated California waters. It includes access to records necessary to establish compliance with the requirements of the proposal, as well as access to fuel tanks or pipes for the purpose of collecting fuel samples for testing and analysis.

Alternative Compliance Plan

The alternative compliance plan (ACP) provision allows ship owners and operators the flexibility to implement alternative emission control strategies in lieu of complying with the emission limits. Under the ACP, vessel owners or operators would be required to achieve and demonstrate equivalent or greater emission reductions over a calendar year than that which would have been achieved with direct compliance with the emission limits. Alternative emission control strategies may include any feasible and enforceable strategies not otherwise required by law, regulation or statute. These can include the use of shore-side electrical power, engine modifications, exhaust treatment devices (e.g., diesel oxidation catalysts), and the use of alternative fuels or fuel additives. The application process is detailed, and special provisions for ships using shore-side power are included in the proposal.

Noncompliance Fee

The proposed regulation allows a vessel owner or operator, under restricted and specified circumstances, to pay a fee in lieu of complying with the emission limits. A vessel owner or operator using this mechanism would have to notify the Executive Officer of the vessel's noncompliance condition prior to the vessel entering regulated California waters. Also, the situations under which the fee provision could be used are limited to a finite set of specific circumstances, all of which must be documented (i.e., a "needs" demonstration). Further, the fee increases substantially with each port visit after January 1, 2007, which serves as an effective deterrent to continued use of the fee and an incentive to make whatever changes may be needed in order to meet the emission limits.

To use this option, the ship owner or operator would need to submit the required notification and mitigation fee, along with evidence demonstrating that the person meets the required conditions for participation in the program. The mitigation fees collected under this program would be used at the ports that are visited; emission reductions from marine and port related sources would be funded with these mitigation fees to benefit nearby affected communities. The fees would be disbursed pursuant to contracts entered into between the participating ports and ARB. If there are no such agreements at the ports visited by the affected vessels, the fees would be deposited into the California Air Pollution Control Fund.

Test Methods and other Incorporated Documents

The proposal references International Standard ISO 8217, as revised in 1996 by the International Organization for Standardization (ISO). This standard includes the properties necessary for a fuel to qualify as DMX or DMA grade fuel (marine gas oil), or DMB grade fuel (marine diesel oil), and specifies the test methods for determining compliance with each of these properties. The proposal also references the test method (ISO 8754, as adopted in 1992) to be used for determining the sulfur level of these fuels, if the use of marine gas oil or marine diesel oil is the method chosen to comply with the emission limits. The proposal allows the use of alternative test methods, such as equivalent methods adopted by ASTM International, which are demonstrated to be equally accurate and approved as such by ARB's Executive Officer.

Sunset Provision

The "sunset" provision directs the Executive Officer to propose for the Board's consideration the termination of the proposed regulations under specified conditions. This would occur if the Executive Officer determines that the International Maritime Organization or the U.S. EPA adopts regulations that will achieve equivalent or greater emission reductions from ocean-going vessels in California than the proposal would achieve. This provision recognizes that, while California is authorized to regulate the

emissions from ocean-going vessels, it would be preferable to regulate such emissions on a national or international basis.

Technology Reevaluation and Review of Baseline and Test Methods

This proposed regulation describes the reevaluation that will be conducted on the 2010 emission limits, which are derived from the use of 0.1 percent sulfur marine gas oil. The ARB staff will conduct this reevaluation no later than July 1, 2008. If ARB determines, based on the reevaluation, that modifications to the regulations are necessary, the Executive Officer will propose changes to the Board prior to January 1, 2009 (a year prior to the implementation date of the January 1, 2010 emissions limits).

This provision also directs the Executive Officer to review the baseline determinations and conduct a public hearing to consider appropriate updates to the baseline. The definition for “Regulated California Waters” is based partly on the definition of “baseline,” which generally follows the California coastline but is subject to change due to erosion and accretion. The baseline is published on official charts authored by the National Oceanic and Atmospheric Administration (NOAA); it is ARB staff’s understanding that NOAA is in the process of updating these charts. When NOAA finalizes its updating efforts, the Executive Officer can determine at that time whether revisions to the proposed regulations are necessary.

Similar to the baseline review, this provision also directs the Executive Officer to periodically review the test methods cited in the proposal and hold a public hearing to consider recommended changes to the Board as needed.

For the Executive Officer to conduct the hearings on the baseline and test methods specified, the Board will need to delegate such authority to the Executive Officer. The ARB staff intends to seek such express delegation as part of the Board resolution to this proposal.

Severability

This proposed regulation states that if any part of the regulation is held to be invalid, the remainder of the regulation shall continue to be effective.

COMPARABLE FEDERAL REGULATIONS

There are no federal regulations that are comparable to the proposed regulations. The United States Environmental Protection Agency (U.S.EPA) adopted regulations – title 40, Code of Federal Regulations (C.F.R.), parts 89 and 94 – that govern the emissions from so-called “Category 2” (between 5 and 30 liters per cylinder displacement) and “Category 3” (at or above 30 liters per cylinder displacement) compression-ignition engines used on ocean-going vessels. The staff’s proposal governs mainly Category 2-type engines, with some regulated engines falling into Category 3 classification (i.e., diesel-electric engines). The federal regulations are

generally consistent with analogous restrictions in Annex VI of the 1973 International Convention for the Prevention of Pollution from Ships (as amended in 1978, also known as the MARPOL 73/78 Protocol).

While the U.S. EPA regulations also apply to ocean-going vessels, they differ significantly from the staff's proposal in several ways. First, the federal regulations apply only to new engines to be installed on vessels, and only to engines installed on U.S. flagged vessels. By contrast, the staff's proposal applies to in-use auxiliary engines on all vessels that visit California ports, including both U.S. and foreign-flagged vessels. Further, the U.S. EPA regulation in 40 C.F.R., part 94, does not apply to the diesel PM emissions from the regulated Category 3 engines, whereas the staff's proposal places a major emphasis on the control of toxic diesel PM emissions, as well as NOx and SOx, on regulated all auxiliary diesel engines, including Category 3 engines (i.e., diesel-electric engines). Because of these differences, the federal regulations are not comparable to the staff's proposal.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the potential environmental and economic impacts of the proposal, if any. The ISOR is entitled, "Staff Report: Initial Statement of Reasons for the Proposed Regulations to Reduce Emissions from Auxiliary Diesel Engines and Diesel-Electric Engines operated on Ocean-going Vessels Within California Waters and 24 Nautical Miles of the California Baseline."

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 which will begin on December 8, 2005.

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 on the website listed below.

Inquiries concerning the substance of the proposed regulations may be directed to the designated agency contact persons, Peggy Taricco, Manager of the Technical Analysis Section, at (916) 327-7213 or by email at ptaricco@arb.ca.gov, or Paul Milkey, Staff Air Pollution Specialist, at (916) 327-2957 or by email at pmilkey@arb.ca.gov.

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, and 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.

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 <http://www.arb.ca.gov/regact/marine2005/marine2005.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, except as discussed below, or other nondiscretionary savings to state or local agencies.

The Executive Officer has determined that while vessel operators would likely meet the proposal's emission limits by using more costly distillate marine fuel, these costs are a small fraction of the overall operating costs. We therefore expect no significant impacts on affected businesses. On average, we estimated the added annual fuel cost for a typical business operating non-diesel electric vessels to be about \$20,000 and about \$2,000,000 for a typical business operating diesel-electric vessels. For the entire ocean-going shipping fleet that visits California, we estimated an added annual fuel cost of about \$34 million in 2007 and \$38 million in 2010, when the emission limits based on the use of 0.1 percent sulfur marine gas oil becomes effective. As compared to typical cargo vessels, the proposed regulations will have a larger impact on diesel electric vessels (primarily cruise lines and some tankers).

The Executive Officer has determined that, because the added costs of the proposed regulations are such a small percentage of the overall operating costs, no significant impact on ship operators, businesses that import or export goods, California port competitiveness, or on individuals purchasing such goods is expected, even if all these costs were passed on to the consumer.

The Executive Officer has determined that the total statewide cost of the proposed control measure over a five-year period is estimated to be about \$170 million dollars. This estimated cost was derived from the present value of capital costs combined with recurring costs over a five-year period. The total annual cost is estimated to be about \$38 million for years 2007-2009 and about \$42 million for 2010 and later (this latter figure assumes the reevaluation called for in the proposal finds that 0.1% sulfur marine gas oil will be available in sufficient quantities at that time).

The Executive Officer has further determined that less than ten percent of vessels may need some modifications such as adding a new fuel tank and piping. These retrofit costs will vary widely with the type of modifications, but we estimated the average cost to be on the order of \$100,000 per non-diesel electric vessel and \$100,000 to \$500,000 per diesel-electric vessel, with a total retrofit cost to the industry of about 11 to 18 million dollars.

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. A number of businesses are integrally linked to the goods that travel through California ports. However, we do not believe that the added costs of the proposed regulations are high enough for ship operators to consider alternative ports outside California.

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.

The Executive Officer has also determined that, pursuant to title 1, CCR, section 4, the proposed regulatory action will have no impact on small businesses because we do not believe that the ship operators subject to this proposal would qualify as small businesses due to the large capital and operating costs associated with vessel operation.

The Executive Officer has also determined that there is a possibility the proposed regulatory action will result in a positive impact on business creation due to additional sales of marine fuels in California beginning in 2010, when we anticipate most vessel operators would use 0.1 percent sulfur marine gas oil to meet the specified emission limits. This is because California is expected to have 0.1 percent sulfur fuel available, whereas the extent of availability of this fuel in other ports worldwide is somewhat uncertain.

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

In accordance with H&SC sections 43013(a) and (b), the Executive Officer has determined that the standards and other requirements in the proposed regulations are necessary, cost-effective, and technologically feasible for auxiliary diesel engines and diesel-electric engines operated on ocean-going vessels within the regulated California waters.

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 than the proposed action.

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

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 must be received **no later than 12:00 noon, December 7, 2005**, 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: marine2005@listserv.arb.ca.gov, and received at the ARB **no later than 12:00 noon, December 7, 2005**.

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, December 7, 2005**.

The Board requests but does not require 30 copies of any written submission. The Board also 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 regulatory action.

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted to ARB in sections 39600, 39601, 39650, 39658, 39659, 39666, 41510, 41511, 43013, and 43018, Health and Safety Code, and *Western Oil and Gas Ass'n v. Orange County Air Pollution Control District*, 14 Cal.3rd 411, 121 Cal.Rptr. 249 (1975). This regulatory action is

proposed to implement, interpret, or make specific sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39650, 39658, 39659, 39666, 41510, 41511, 43013, 43016, and 43018, Health and Safety Code, and *Western Oil and Gas Ass'n v. Orange County Air Pollution Control District*, 14 Cal.3rd 411, 121 Cal.Rptr. 249 (1975).

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 Board may also adopt 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 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, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

/s/
Catherine Witherspoon
Executive Officer

Date: October 11, 2005