

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF PROPOSED REGULATION TO CONTROL EMISSIONS FROM IN-USE ON-ROAD DIESEL-FUELED HEAVY-DUTY DRAYAGE TRUCKS AT PORTS AND INTERMODAL RAIL YARD FACILITIES

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider adoption of a regulation to reduce emissions of diesel particulate matter (PM) and oxides of nitrogen (NOx) from drayage trucks that operate at ports and intermodal rail yards in California. Motor carriers that dispatch drayage trucks, port terminals and rail yards, port and rail authorities, drayage truck drivers, and drayage truck owners would be subject to and have responsibilities under this regulation. This notice summarizes the proposed regulation. The Staff Report: Initial Statement of Reasons (Staff Report) and Technical Support Document present the regulation and information supporting the adoption of the regulation in greater detail.

DATE: December 6, 2007

TIME: 9:00 a.m.

PLACE: Air Resources Board
Auditorium
9530 Telstar Avenue
El Monte, California 91731

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., December 6, 2007, and may continue at 8:30 a.m., December 7, 2007. This item may not be considered until December 7, 2007. Please consult the agenda for the meeting, which will be available at least 10 days before December 6, 2007, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette or computer disk. Please contact ARB's Disability Coordinator at (916) 323-4916 by voice or through the California Relay Services at 711, to place your request for disability services. If you are a person with limited English and would like to request interpreter services, please contact ARB's Bilingual Manager at (916) 323-7053.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT **OVERVIEW**

Section Affected: Proposed adoption of new section 2027, title 13, California Code of Regulations (CCR).

Background

Over 90 percent of Californians breathe unhealthful air at times. To improve air quality and human health, ARB establishes requirements to reduce emissions from new and in-use on-road and off-road vehicles, engines, and other sources. Over the past 30 years, as part of ARB's mission to address air pollution in the state, the Board has adopted a series of regulations requiring manufacturers of new motor vehicles and engines to meet ever more stringent emission standards.¹ Along with the U.S. Environmental Protection Agency (U.S. EPA), ARB has most recently adopted new emission standards for 2007 model year heavy-duty engines² that reduce particulate matter (PM) emissions by 90 percent compared to pre-2007 emission standard engines and emission standards for 2010 model year heavy-duty engines that reduce oxides of nitrogen (NOx) emissions by 90 percent compared to pre-2007 emission standard engines.³ However, at the ports and intermodal rail yard facilities, drayage trucks are typically not new, but are older and more polluting. Some of the trucks in operation at these locations are more than 20 years old. Because of the slow turnover in these vehicles and the high risk associated with diesel PM emissions, ARB staff is proposing that emissions from in-use drayage trucks that operate at California's ports and intermodal rail yards be reduced.

Control of Toxic Air Contaminants and Criteria Pollutants

The California Toxic Air Contaminant Identification and Control Program (Air Toxics Program), established under California law by Assembly Bill 1807 (Stats. 1983, ch. 1047) and set forth in Health and Safety Code (HSC) sections 39650 through 39675, requires ARB to identify and control air toxic air contaminants (TACs) in California. The identification phase of the Air Toxics Program requires ARB, with participation of other state agencies, such as the Office of Environmental Health Hazard Assessment, to evaluate the health impacts of and exposure to substances, and to identify those substances that pose the greatest health threat as toxic air contaminants. The ARB's evaluation is made available to the public and is formally reviewed by the Scientific Review Panel (SRP) established under HSC section 39670. Following ARB's evaluation and the SRP's review, the Board, pursuant to section 39662, may formally identify a TAC at a public hearing. Following identification, HSC sections 39658, 39665, and 39666 require 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

¹ Title 13, California Code of Regulations (CCR), chapter 1, article 2, sections 1950 et seq.

² Engines equipped on heavy-duty vehicles having a gross vehicle weight rating over 14000 pounds

³ Title 13, CCR, section 1956.8.

for that substance (a “needs assessment”) and to adopt airborne toxic control measures (ATCMs) for nonvehicular sources. Based on its determination under section 39662 and pursuant to HSC section 39667, ARB is responsible for considering and adopting emission standards and other ATCMs for vehicular sources to achieve the maximum possible reductions in public exposure to TACs.

In 1998, the Board identified diesel PM as a TAC with no Board-specified threshold exposure level. A needs assessment for diesel PM was conducted between 1998 and 2000, which resulted in ARB staff developing and the Board approving a Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles (Diesel RRP) in 2000. 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, including those covered by the proposed regulation. The ultimate goal of the Diesel RRP is to reduce California’s diesel PM emissions and associated cancer risks from 2000 baseline levels by 85 percent by 2020.

HSC sections 43013, and 43018 further direct ARB to adopt standards and regulations that the Board has found to be necessary, cost-effective, and technologically feasible to achieve emission reductions of identified criteria pollutants that affect the State’s health and welfare from various new and in-use mobile source categories.

The purpose of this proposed regulatory action is to reduce emissions of diesel PM and NOx. Diesel PM emission reductions are needed to reduce the potential cancer risk and other adverse effects from PM exposure to people who live in the vicinity of California’s ports, intermodal rail yards, and nearby roadways. Reductions in diesel PM and NOx (which forms “secondary” nitrate 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 NOx, an ingredient in the formation of ozone pollution, will also help reduce regional ozone levels.

Diesel engines on drayage trucks are a significant source of diesel PM and NOx emissions in California. The proposed regulation would provide needed diesel PM emission reductions in 2010 and NOx reductions in 2014 throughout California after full regulatory implementation. These emission reductions would occur in areas near ports and intermodal rail yards, many of which are designated non-attainment for the State and federal ambient air quality standards for PM₁₀, PM_{2.5} and ozone.

Attainment of Ambient Air Quality Standards

The federal Clean Air Act (CAA) requires U.S. EPA to establish National Ambient Air Quality Standards (NAAQS) for pollutants considered harmful to public health, including fine particulate matter (PM_{2.5}) and ozone. Set to protect public health, the NAAQS are adopted based on a review of health studies by experts and a public process. Ambient PM_{2.5} is associated with premature mortality, aggravation of respiratory and

cardiovascular disease, asthma exacerbation, chronic and acute bronchitis and reductions in lung function. Ozone is a powerful oxidant. Exposure to ozone can result in reduced lung function, increased respiratory symptoms, increased airway hyper-reactivity, and increased airway inflammation. Exposure to ozone is also associated with premature death, hospitalization for cardiopulmonary causes, and emergency room visits for asthma.

Areas in the State that exceed the NAAQS are required by federal law to develop State Implementation Plans (SIPs) describing how they will attain the NAAQS by certain deadlines. The NO_x emission reductions are needed because NO_x leads to formation in the atmosphere of both ozone and PM_{2.5}; diesel PM emission reductions are needed because diesel PM contributes to ambient concentrations of PM_{2.5}.

The South Coast Air Quality Management District (SCAQMD) and the San Joaquin Valley Air Pollution Control District (SJVAPCD) are designated as nonattainment of both the federal 8-hour ozone and federal PM_{2.5} NAAQS. In order to demonstrate that the necessary emission control programs are in place, the U.S. EPA requires that all necessary emission reductions be achieved by 2014 for PM_{2.5} and 2023 for ozone.

In both the South Coast and San Joaquin Valley air basins, air quality modeling indicates that significant reductions of NO_x are crucial to help meet the federal standards. For example, at this time, the strategy to achieve attainment of the PM_{2.5} standards in the South Coast Air Basin includes staff estimates that a 55 percent reduction in NO_x emissions from 2006 levels (i.e., a total reduction of hundreds of tons per day) and a 15 percent reduction in direct PM_{2.5} emissions from 2006 baseline levels will be necessary for attainment of the PM_{2.5} standards in the South Coast Air Basin. The NO_x emission reductions from the proposed regulation would play an essential role in assisting the South Coast Air Basin with meeting its 2014 PM_{2.5} deadline as well as its future ozone deadlines.

The federal CAA permits states to adopt more protective air quality standards if needed, and California has set standards for particulate matter and ozone that are more protective of public health than respective federal standards. The Bay Area, South Coast, San Joaquin Valley, and San Diego areas are nonattainment for the State standards for ozone and PM_{2.5}. HSC section 40911 requires the local air districts to submit plans to the Board for attaining the State ambient air quality standards, and HSC section 40924 requires triennial updates of those plans. The NO_x and PM_{2.5} emission reductions from the proposed regulation will assist the local air districts in achieving attainment of the State ambient air quality standards.

Control of Emissions from Goods Movement-Related Activities

In April 2006, the Board approved the *Emission Reduction Plan for the Ports and Goods Movement in California*. The plan identifies strategies for reducing emissions created from the movement of goods through California ports and into other regions of the State. The Emission Reduction Plan is part of the broader Goods Movement Action

Plan (GMAP) being jointly carried out by the California Environmental Protection Agency and the Business, Transportation, and Housing Agency. Phase I of the GMAP was released in September 2005 and highlighted the air pollution impacts of goods movement and the urgent need to mitigate localized health risk in affected communities. The final GMAP was released in January 2007 and includes a framework that identifies the key contributors to goods movement-related emissions.

The Emission Reduction Plan identifies numerous strategies for reducing emissions from all significant emission sources involved in goods movement, including ocean-going vessels, harbor craft, cargo handling equipment, locomotives, and trucks. The Plan identifies several strategies for reducing emissions from drayage trucks. The Plan establishes emission reduction goals for drayage trucks including modernizing (replacing and/or retrofitting) port trucks, implementing CA/US 2007 truck emission standards, and restricting entry of trucks new to port service unless equipped with diesel PM controls. The proposed regulation would represent a significant first step toward satisfying the Emission Reduction Plan goals by requiring the replacement and/or retrofit of trucks to meet newer more stringent emissions requirements.

The California Global Warming Solutions Act of 2006

The California Global Warming Solutions Act of 2006 established requirements for the first-in-the-world comprehensive program of regulatory and market mechanisms to achieve real, quantifiable, cost-effective reductions of greenhouse gases (GHG).⁴ The legislation gave ARB responsibility for monitoring and reducing GHG emissions. The statute requires ARB to adopt regulations and other requirements that would reduce by 2020 statewide GHG to the equivalent of 1990 levels.

Some actions required by the proposed regulation may result in slightly increased carbon dioxide (CO₂) for some applications. This may occur, for example, if truck owners choose to comply with the regulations by using exhaust treatment technologies that could potentially decrease a vehicle's fuel economy or increase the weight of the vehicle. However, other actions in the proposed regulation would likely offset this effect. For instance, the accelerated phase in of newer engines, which employ modern, less polluting technologies, should reduce GHG emissions from each new engine relative to the older, in-use engines. In addition, the proposed regulation would reduce emissions of black carbon (a component of diesel PM and a likely contributor to global warming), which would further offset the minor increases in CO₂ emissions that may occur in some applications. Thus, staff expects the proposed regulations to have an overall negligible effect on global warming.

⁴ Established under California law by Assembly Bill 32 (Stats. 2006, ch. 488) and set forth in HSC § 38500 et seq. Greenhouse gases are those that tend to increase average global temperatures through absorption of infrared radiation or other mechanisms. These include, but are not limited to, carbon dioxide (CO₂) and methane (CH₄).

Authority

The ARB has authority under California law to adopt the proposed regulation. Health and Safety Code sections 39650 through 39675, 43013(b), 43018 and 43600 provide broad authority for ARB to adopt emission standards and other regulations to reduce toxic and criteria air pollutant emissions from new and in-use vehicular, nonvehicular and other mobile sources.

Emission Reductions and Public Health Benefits Projected

The proposed regulation is expected to significantly reduce emissions of diesel PM from drayage trucks operated at California ports and intermodal rail yard facilities. Diesel PM emission reductions are needed to reduce premature mortality, cancer risk, and other adverse impacts from exposure to this TAC. The proposal would help achieve the 2020 goal set forth in the 2000 Diesel RRP of reducing diesel PM by 85 percent from 2000 baseline levels and the 2020 goals of the GMREP of reducing diesel PM by 88 percent. The proposed regulation would also reduce NOx emissions that contribute to exceedances throughout the State of ambient air quality standards for both PM_{2.5} and ozone. These reductions will assist California in its goal of achieving state and federal air quality standards. Additionally, these emission reductions would occur in areas along the ports, intermodal rail yards, and nearby roadways where environmental justice concerns are especially prevalent.

The diesel PM and NOx emission reductions from the proposal are expected to reduce the number of people exposed to an increased cancer risk surrounding California's ports and intermodal rail yards, and especially near the Los Angeles/Long Beach Ports. Statewide, the emission reductions would significantly reduce premature deaths and cases of asthma-related and other lower respiratory symptoms by the year 2020, as well as other health benefits.

In contrast to the diesel PM and NOx reductions, staff is not projecting significant reductions in oxides of sulfur (SOx) from the proposed action. Currently, all diesel fuel sold to on-road vehicles is required to meet ARB's on-road diesel specifications (CARB diesel). These specifications help reduce SOx emissions, among other pollutants.

Staff Report and Further Information

As described in more detail below, ARB staff has prepared two documents as part of this rulemaking, a Staff Report and a Technical Support Document. Together with the needs assessment (i.e., the Diesel RRP), these two documents serve as the report on the need and appropriate degree of regulation for drayage trucks operating at California's ports and intermodal rail yards. **Description of the Proposed Regulatory Action**

Under the approach proposed by staff, the Board would adopt a regulation, pursuant to its authority under the HSC, which would apply to the emissions from diesel engines on

drayage trucks operating at any of California's ports and intermodal rail yards (as defined in the proposal).

Applicability

The proposed regulation applies to any person who owns or operates a diesel-fueled drayage truck that operates at California ports and/or intermodal rail yards within 80 miles of ports. In addition to owners and operators of drayage trucks that operate at ports and intermodal rail yard facilities, the proposed regulation would also establish requirements for port and rail authorities, port terminals operators, intermodal rail yards, motor carriers, and potentially other businesses located on port and rail yard property

Exemptions

The proposed regulation includes a number of exemptions. The proposal does not apply to dedicated trucks of uni-body design, emergency vehicles, military tactical or combat support vehicles, and yard trucks. Additionally, the proposed regulation would also grant the ARB Executive Officer the ability to authorize an emergency decree that allows non-compliant vehicles into the ports and rail yards in the event of natural emergencies. The proposed regulation would also give the ARB Executive Officer the ability to grant exemptions for ports, providing certain requirements are met (i.e. areas such as marine estuaries that have no truck traffic, and ports where the overwhelming amount of traffic comes from exempted drayage trucks).

Emission Limits for Drayage Trucks

The regulation would set requirements in two phases for drayage trucks that operate at California ports and intermodal rail yards located within 80 miles of ports. By December 31, 2009, Phase 1 of the emission limits would achieve substantial near-term PM reductions to reduce adverse health affects in nearby local communities. Phase 2 of the limits would achieve additional emission reductions by December 31 2013 that are necessary for the State to meet its SIP commitments in federal non-attainment areas.

In general, to continue to operate at ports and intermodal rail yards, drayage trucks would have to meet more stringent emission standards by December 31, 2009. By that date, all drayage trucks operating at the ports or intermodal rail yards would be required to either be equipped with a 1994-2003 model-year engine certified to California or federal emission standards and have a level 3 ARB verified emission control device strategy (VDECS) – a device that achieves diesel PM emission reductions of at least 85 percent – or with a 2004 or newer model-year engine certified to California or federal emission standards. By December 31, 2013, drayage trucks equipped with a 1994 – 2003 model year engine would have to be repowered, replaced, or retrofitted to meet or exceed the 2007 model year California or federal emission standards. To meet the State's SIP commitments, the Board may consider additional PM and NOx emission reduction requirements for 2004-2006 model-year engine equipped trucks. For example, the Board could decide that all trucks used in drayage service meet or exceed 2007 model-year California or federal emission standards.

While the proposal specifies compliance requirements and deadlines for regulated engines, it does not require specific control technologies or methods that owners and operators would be required to use to achieve compliance – i.e., prescriptive requirements that promote the development of alternative compliance strategies and technologies. The Board may decide that prescriptive measures are necessary.

Compliance Extensions

Staff has identified instances where no PM reduction technology is currently verified by ARB for certain model-year truck and engine combinations. To allow time for the development of PM reduction technologies, staff designed a one-year, one-time extension to the Phase 1 December 31, 2009 compliance deadline that could be used by truck owners of affected vehicles. The proposed regulation would allow owners and operators to apply to ARB for an extension of the Phase 1 compliance deadline and, if approved by ARB, they would be granted an extension until December 31, 2010 for compliance. If the December 31, 2010 deadline subsequently arrives and there is still no verified technology available, the truck owner would have to comply by other means – most likely engine re-power or truck replacement.

Motor Carriers

The regulation would require motor carriers, among other things, to dispatch only compliant drayage trucks to the ports and rail yards. Motor carriers would also be required to provide a copy of the regulation to each drayage truck owner, check that the truck is registered in the Drayage Truck Registry (DTR), ensure the truck driver has motor carrier contact information, and keep detailed dispatch records. Motor carriers would be required to keep the dispatch records for at least five years and provide copies to enforcement personnel upon request. If determined necessary, the Board may consider additional or alternative requirements for motor carriers to better effectuate the purposes and enforcement of the regulation.

Monitoring, Reporting, and Recordkeeping

The proposed regulation includes reporting and recordkeeping requirements for motor carriers, port terminals, intermodal rail yard facilities, port and rail authorities, and truck owners. Motor carriers would be required to keep dispatch records for five years and terminals and rail yards would be required to keep records of non-compliant trucks entering their facilities for a similar five-year period. The proposed regulation would also require truck owners to register their vehicles in the DTR and keep emission control retrofit maintenance records. Additionally, port and rail yard authorities would be required to summarize non-compliant truck data gathered by the terminals and rail yards and report the results to the ARB. Finally, for enforcement purposes, motor carriers, port terminals, and intermodal rail yards would be required to provide access to ARB employees or officers upon request. If determined necessary, the Board may consider additional or alternative monitoring, reporting and recordkeeping requirements to better effectuate the purposes and enforcement of the regulation.

Drayage Truck Registry

Owners of drayage trucks that operate at ports and intermodal rail yards before September 30, 2009, and who intend to continue such operation after that date would be required to register those trucks in the DTR, as administered by ARB, and affix a DTR compliance label to each truck. After September 30, 2009, a drayage truck that has previously not operated at a port or intermodal rail yard would be required to register in the DTR and have a compliance label affixed before it could commence operations. Using information provided by drayage truck owners, the DTR would record and house pertinent information for each truck, including make, model, engine model year, compliance status of each truck, and owner contact information. After all required information is provided to the DTR, it would issue compliance labels to the drayage truck owners. The compliance label would be used by terminals and rail yards – and ultimately, by enforcement personnel -- to determine compliance status. It would also be used by ARB as an outreach tool.

Right of Entry and Violations

The proposal provides that ARB shall have the right of entry to facilities of port terminals, intermodal rail yards, and motor carriers for purposes of inspection and enforcement. It further provides that any violation of the requirements or other provisions would subject the person or business who committed the violation to the penalties, injunctive relief, and other remedies available under applicable provisions of the Health and Safety Code.

Severability

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

COMPARABLE FEDERAL REGULATIONS

Pursuant to its authority under CAA section 202(a), U.S. EPA has established emission standards for new diesel, alternative fuel, and gasoline on-road heavy-duty engines. (See Title 40, Code of Federal Regulations, Part 86.) U.S. EPA, however, does not have authority to establish emission standards for in-use on-road motor vehicles. Although California must obtain a waiver of federal preemption under CAA section 209(b) before implementing new engine emission standards for new motor vehicles sold in California, no federal preemption exists for requirements regarding in-use motor vehicles and engines adopted by the State.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

As noted above, the Board staff has prepared two documents for the proposed regulatory action: a Staff Report, which includes a summary of the economic and environmental impacts of the proposal, and a Technical Support Document, which

describes the basis of the proposed action in more detail. The Staff Report is entitled, "Staff Report: Initial Statement of Reasons for the Proposed Rulemaking – Regulation to Control Emissions from In-Use On-Road Diesel-Fueled Heavy-Duty Drayage Trucks." The Technical Support Document is entitled, "Technical Support Document: Technical Support for the Proposed Rulemaking – Regulation to Control Emissions from In-Use On-Road Diesel-Fueled Heavy-Duty Drayage Trucks."

Copies of the Staff Report with the full text of the proposed regulatory language and the Technical Support Document 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, CA 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on December 6, 2007.

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 ARB's web site listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact person, Michael Miguel, Manager of the Project Support Section, at (916) 445-4236, or by email at mmiguel@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 Alexa Malik, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-4011, and Amy Whiting, Regulations Coordinator, (916) 322-6533. 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 Staff Report, Technical Support Document, and all subsequent regulatory documents, including the FSOR, when completed, are also available on the ARB Internet site for this rulemaking at www.arb.ca.gov/regact/2007/drayage07/drayage07.htm

IMPACTS TO PUBLIC AGENCIES AND TO REPRESENTATIVE BUSINESSES AND PRIVATE PERSONS

Impacts to Businesses and Private Individuals

Pursuant to Government Code section 11346.5(a)(9), the Board's Executive Officer has determined that the proposed regulation could have an adverse economic impact to representative businesses and private persons.

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.

The total regulation cost results from the early retirement or replacement of drayage trucks, the addition of VDECS, and the meeting of reporting and recordkeeping requirements. These costs are the estimated out-of-pocket costs to truck owners, which could include lost wages while a truck is unavailable awaiting purchase or retrofit. Truck owner costs could be substantial and could directly affect their ability to continue drayage operations at California's ports and intermodal rail yards. A detailed economic analysis is provided in the Staff Report and Technical Support Document. Additionally, motor carriers, port and rail authorities, terminal operators, and rail yard operators would incur annual recordkeeping and reporting compliance costs associated with increased labor wages.

California businesses may be affected by the proposed annual cost of the regulation to the extent that the implementation of the proposed regulation reduces their profitability. Staff evaluated the economic impact of complying with the requirements of the proposed regulation on California's economy using the E-DRAM model. The results of this analysis indicate that the impacts of the proposed regulation would be small compared to the growth that is expected to occur in California.

Based on the modeling, the Executive Officer has made an initial determination that the proposed regulatory action may 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. While the Executive Officer does not believe that the added costs of the proposed regulations are high enough for terminal operators or rail yard operators to consider alternate ports or rail yards outside of California, a number of businesses are integrally linked to California ports and intermodal rail yards and these businesses may be adversely affected, as explained below. The ARB staff has considered proposed alternatives that would lessen any adverse economic impact on businesses and invites you to submit proposals. Submissions may include the following approaches for consideration:

- (i) Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) Use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

Alternatives that staff considered are described in more detail in the Staff Report and the Technical Supporting Document.

In accordance with Government Code sections 11346.3 and 11346.5(a)(10), the Executive Officer has determined that the proposed regulatory action may 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. Some

businesses that provide used trucks or the manufacture and installation of emission retrofit controls could expand due to the volume of business created by the regulatory requirements.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action would affect small businesses.

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 which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

In accordance with HSC 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 diesel engines on drayage trucks operated at California's ports and intermodal rail yards.

Before taking final action on the proposed regulatory action, the Board must determine, pursuant to Government Code section 11346.5(a)(13), 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.

Costs to Local and State Government Agencies

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would not create significant costs to State and local agencies 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 Government Code, or other nondiscretionary cost or savings to state or local agencies. The State and local agencies affected are the port authorities which are responsible for collecting and relaying data to the ARB. ARB Staff estimates these costs are the same costs that would be applied to other similarly situated stakeholders in the private sector and would be minor and able to be absorbed under existing budgets.

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

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and in writing or by e-mail before the meeting. To be considered by the Board, written comments submissions not physically submitted at the meeting must be received **no later than 12:00 noon, Pacific Standard Time, December 5, 2007**, and addressed to the following:

- Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814
- Electronic submittal : <http://www.arb.ca.gov/lispub/comm/bclist.php>
- Facsimile submittal: (916) 322-3928

Please note that under the California Public Records Act (Government Code section 6250 et seq.), written and oral comments, attachments, and associated contact information (e.g., address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and other search engines.

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 the authority granted to ARB in Health and Safety Code sections 39600, 39601, 39650, 39658, 39659, 39665, 39666, 39667, 39674, 39675, 42400, 42400.1, 42400.2, and 42402.2, 42410, 43013, 43016, 43018, 43023, and 43701. This action is proposed to implement, interpret, or make specific Health and Safety Code sections 39600, 39601, 39650, 39658, 39659, 39666, 39667, 39674, 39675, 42400, 42400.1, 42400.2, and 42402.2, 42410, 43013, 43016, 43018, 43023, and 43600.

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 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, CA 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

/s/

Tom Cackette
Acting Executive Officer

Date: October 9, 2007