

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER REGULATIONS FOR PORTABLE OUTBOARD MARINE TANKS AND COMPONENTS

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider adoption of regulations and test procedures for portable outboard marine tanks and components.

DATE: September 25, 2008

TIME: 9:00 a.m.

PLACE: South Coast Air Quality Management District
Auditorium
21865 E. Copley Dr.
Diamond Bar, CA 91765

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., September 25, 2008, and will continue at 8:30 a.m., September 26, 2008. This item may not be considered until September 26, 2008. Please consult the agenda for the meeting, which will be available at least 10 days before September 25, 2008, 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 new sections to title 13, California Code of Regulations, Chapter 9, and Article 6.5 sections 2468, 2468.1, 2468.2, 2468.3, 2468.4, 2468.5, 2468.6, 2468.7, 2468.8, 2468.9 and 2468.10. Proposed adoption of the incorporated documents: "CP-510 Certification Procedure for Portable Outboard Marine Tanks and Components", "TP-511 Diurnal Rate from Portable Outboard Marine Tanks", and "TP-512 Permeation Rate from Portable Outboard Marine Tank Fuel Hoses and Portable Outboard Marine Tank Primer Bulbs."

Staff is proposing to add new sections to title 13 that will enable the control of emissions from portable outboard marine tanks and components (OMT). The OMTs are gasoline tanks with a capacity of 30 gallons or less and the accompanying fuel hoses, primer bulbs and tank caps used on various size boats. For small and medium size boats the gasoline tanks and engines are portable to facilitate transportation, maintenance and

storage. Portable outboard engines do not have a fuel pump so the primer bulb is used to prime (transfer gasoline from the tank to the engine through the fuel hose) the engine to ensure it will start. After the engine is running the operating cycle continues the flow of gasoline.

The proposed regulation would require performance standards that limit emissions from tanks to be no more than 2.5 grams per meter squared per day ($\text{g}/\text{m}^2/\text{day}$), emissions from fuel hoses and primer bulbs to no more than 15 $\text{g}/\text{m}^2/\text{day}$, and caps to be self sealing. Staff is proposing that all new OMT tanks and components be subject to the proposed performance standards starting in January 2010 for hoses and caps and starting in January 2011 for tanks and primer bulbs.

The ARB staff estimates that with the approval of the proposal, ROG emissions will be reduced by 4.2 tons per day (tpd) by the year 2020. These emission reductions result from reducing emissions from diurnal emissions, leaks from tanks, and permeation emissions from hoses and primer bulbs.

Under the proposed regulation, consumers will save about 4.6 gallons of gasoline per tank. At a cost of \$3.50 per gallon of gasoline the fuel lost costs consumers over \$16 per tank per year. Statewide, over the 18 years estimated for the entire population of OMTs to be replaced (often called the lifetime of the regulation) this amounts to about \$32 million in cost saving.

The total cost from the proposed regulation will be about \$4.5 million including costs associated with the proposed certification program and new test procedures. The net cost savings is approximately \$27.5 million. With nearly 90 million pounds of ROG reduced over the useful life of OMTs the cost savings is approximately \$0.30 per pound of ROG reduced.

COMPARABLE FEDERAL REGULATIONS

The US Environmental Protection Agency (U.S.EPA) is in the final stages of promulgating requirements to control emissions from Marine Spark Ignited and Small Spark Ignited Engines, Vessels, and Equipment. The U.S. EPA is expected to adopt the requirements this summer. The OMT requirements promulgated by EPA are expected to be the same with similar implementation dates, as ARB's proposed regulatory action.

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 economic and environmental impacts of the proposal. The ISOR also includes the Performance Standards, and Test Procedures for Portable Outboard Marine Tanks and Components.

Copies of the ISOR and the full text of the proposed regulatory language, may be accessed on 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 September 25, 2008.

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 ARB's web site listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact, Mr. LaMar Mitchell, by phone at (916) 445-9371 or by email at lmitchel@arb.ca.gov or Mr. Dennis Goodenow, by phone at (916) 322-2886 or by email at dgoodeno@arb.ca.gov.

Further, the agency representative and designated back-up contact persons to whom non-substantive inquiries concerning the proposed administrative action may be directed are Lori Andreoni, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-4011, or Trini Balcazar, Regulations Coordinator, (916) 445-9564. 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 www.arb.ca.gov/regact/2008/omt2008/omt2008.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 would not create costs or savings to any state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary cost or savings to state or local agencies.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting

businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

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

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

Interested members of 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, September 24, 2008**, 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, CA 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 (Govt. Code Section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g. your 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 any 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 that authority granted in sections 39600, 39601, 43013, 43018, and 43101 of the Health and Safety Code, and *Western Oil and Gas Ass'n. V. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). The action is proposed to implement, interpret and make specific sections 39000, 39001, 39003, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43017, and 43018 of the Health and Safety Code, and *Western Oil and Gas Ass'n. V. Orange County Pollution Control District*, 14 Cal.3d 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 Board may adopt the regulatory language as originally proposed, or with nonsubstantial 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 such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

/S/

James N. Goldstene
Executive Officer

Date: July 29, 2008

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.