

## **TITLE 13. CALIFORNIA AIR RESOURCES BOARD**

### **NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE REGULATION FOR IN-USE OFF-ROAD DIESEL-FUELED FLEETS**

The Air Resources Board (ARB or the Board) will conduct a public hearing at the time and place noted below to consider adopting amendments to its regulation for In-Use Off-Road Diesel-Fueled Fleets, California Code of Regulations (Cal. Code Regs.), title 13, sections 2449 through 2449.3 to address, among other things, the directives set forth in the recently adopted California budget Assembly Bill (AB 8 2X). This notice summarizes the specific amendments being proposed. The staff report (Initial Statement of Reasons) presents the proposed amendments and information supporting the adoption of the amendments in greater detail.

DATE: July 23, 2009

TIME: 9:00 a.m.

PLACE: County Administration Center  
1600 Pacific Highway  
Board Chambers, Room 310  
San Diego, California 92101

This item will be considered at a one-day meeting of the Board, which will commence at 9:00 a.m., July 23, 2009. Please consult the agenda for the meeting, which will be available at least 10 days before July 23, 2008, to determine the order of agenda items.

If you require special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

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

**Sections Affected:** Proposed amendments to California Code of Regulations, title 13, sections 2449(c), 2449(c)(26), 2449(c)(38), 2449(e)(6), 2449(e)(8), 2449(g), 2449(h), 2449.1(a)(2)(A), 2449.1(a)(2)(A)2.a., 2449.2(a)(2)(A), and 2449.2(a)(2)(A)2.a., the regulation for In-Use Off-Road Diesel-Fueled Fleets (off-road regulation).

### **Background:**

At its July 26, 2007, public hearing, the Air Resources Board (Board or ARB) approved the regulation for In-Use Off-Road Diesel-Fueled Fleets (the off-road regulation) with the adoption of California Code of Regulations, title 13, sections 2449 through 2449.3. The off-road regulation is intended to significantly reduce emissions of diesel particulate

matter (PM) and oxides of nitrogen (NOx) from the nearly 180,000 off-road diesel vehicles that operate in California. The reductions are necessary to meet State and federal air quality standards and support the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles, which was adopted by the Board on September 30, 2000. To achieve the required reductions, the off-road regulation requires fleet owners to accelerate turnover to cleaner engines and install exhaust retrofits.

On December 12, 2008, the Board approved two minor amendments to the off-road regulation as part of the rulemaking that considered adoption of the Regulation for In-Use On-Road Diesel Vehicles. The amendments to the off-road regulation clarified the regulation's low-use provisions and expanded coverage of the regulation to include both the propulsion and auxiliary engines of two engine cranes.

On January 22, 2009, the Board approved several additional amendments to the off-road regulation. First, it extended the deadline for fleet owners to obtain double PM credits for installing exhaust retrofits. The deadline was extended by ten months to January 1, 2010. The extension will also allow fleets to obtain double credits if they order retrofits by September 1, 2009, but cannot install them by January 1, 2010, because of manufacturer delays. The extension provides fleets with additional time to accrue double PM retrofit credits, which will facilitate later compliance. The Board also approved several other minor modifications and clarifications to the regulation.

### *Applicability*

The fleet requirements of the off-road regulation apply to any person, business, or government agency who owns or operates within California any diesel-fueled or alternative diesel fueled off-road compression ignition vehicle engine with maximum power of 25 horsepower (hp) or greater that is used to provide motive power in a workover rig or to provide motive power in any other motor vehicle that (1) cannot be registered and driven safely on-road or was not designed to be driven on-road, and (2) is not an implement of husbandry or recreational off-highway vehicle. With the exception of two-engine cranes, the regulation only addresses engines that propel vehicles (i.e., it does not apply to stationary equipment or portable equipment like generators).

### *Fleet Requirements*

In general, the off-road regulation requires owners to modernize their fleets by replacing engines with newer, cleaner ones (repowering), replacing vehicles with newer vehicles equipped with cleaner engines, retiring older vehicles, operating higher emitting vehicles less often (designating them as low-use vehicles) or by applying exhaust retrofits that capture and destroy pollutants before they are emitted into the atmosphere. The regulation determines the date of compliance and the actions required based on the size of the fleet, splitting fleets into three categories: large fleets with over 5,000

horsepower, medium fleets with 2,501 to 5,000 horsepower, and small fleets with 2,500 horsepower or less.

Performance requirements must be met by March 1 of each year, as follows:

- Large fleets: 2010-2020
- Medium fleets: 2013-2020
- Small fleets: 2015-2025

To meet the PM and NO<sub>x</sub> emission reduction requirements, fleets<sup>1</sup> have the option of meeting fleet average emissions targets, or meeting the Best Available Control Technology (BACT) requirements. The PM BACT requirements consist of installing retrofits that have been approved by ARB as verified diesel emission control strategies (VDECS) on 20 percent of their maximum horsepower in each year of compliance. To meet the NO<sub>x</sub> BACT requirements, large and medium fleets must turnover eight percent of their maximum horsepower in each year of compliance until 2015, after which there is a 10 percent turnover requirement.

To encourage fleets to take early actions to reduce emissions and to allow fleets to spread out the cost of compliance during the early years of the regulation, the off-road regulation provided fleets with credits for taking the following early compliance actions before March 1, 2009:

- Repowering vehicles, including replacing Tier 0 engines with Tier 1 engines;
- Retiring Tier 0 vehicles at an average rate greater than 8 percent of total fleet horsepower per year during the period from March 1, 2006 to March 1, 2009; and
- Installing VDECS that have been verified as achieving NO<sub>x</sub> reductions on their vehicles.

### *Legislatively Directed Changes*

As part of the recently signed California budget, the California Legislature in AB 8 2X, codified at Health and Safety Code section 43018.2, directed ARB to make several changes to the regulation as set forth below. Although the changes will allow some fleets to delay compliance, the directives of AB 8 2X do not repeal or delay general implementation of the off-road regulation. The directives include:

1. Fleets that experience reduced activity of their off-road vehicles between July 1, 2007 and March 1, 2010, may take credit for this reduced fleet activity to satisfy the turnover and retrofitting requirements of the regulation in 2010 and 2011.
2. Fleets will be given credit (for both PM and NO<sub>x</sub>) for any vehicle retirements made between March 1, 2006, and March 1, 2010, provided that total fleet horsepower has decreased.

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<sup>1</sup> Large and medium fleets have to meet both the PM and NO<sub>x</sub> performance requirements. Small fleets are only required to meet the diesel PM requirements.

3. For the total cumulative turnover and retrofit requirements for the years 2011 through 2013, fleets may complete 20 percent of those requirements by March 1, 2011, an additional 20 percent by March 1, 2012, and the balance by March 1, 2013.

Because the legislatively directed changes will lessen the requirements for many large fleets in the early years of the regulation, without mitigation, the changes could result in:

- A loss in emission reductions that were anticipated to be achieved in 2014 (a key milestone year for the State Implementation Plan).
- A reduction in forecasted health benefits.
- A severe economic impact on retrofit manufacturers and installers that have invested in the anticipation of implementation of the off-road regulation, which could adversely impact the ability of that industry to have product available for compliance in future years, as well as a potentially significant loss of “green” jobs.

Therefore, to address the Legislature’s directives and potential impacts that could result, staff is proposing that the Board approve the amendments set forth and explained below for adoption.

### **Description of Proposed Regulatory Action**

The first section below describes the AB 8 2X legislatively directed changes. The next section describes new provisions staff is proposing to add to the regulation to offset the loss in emission benefits due to the legislatively directed changes. The final section describes some minor modifications and clarifications to the off-road regulation.

### **Legislatively Directed Changes**

#### *Revised BACT Schedule*

Staff proposes to amend sections 2449.1(a)(2)(A) and 2449.2(a)(2)(A) to add a provision to allow a fleet to achieve its cumulative turnover and retrofit requirements for the years 2011 to 2013, inclusive, by completing 20 percent of its cumulative turnover and retrofit obligations in 2011, an additional 20 percent in 2012, and the balance in 2013. This change would allow large fleets the option to defer a portion of the turnover and retrofits otherwise required in 2011 and 2012 to 2013, and result in a reduction of capital outlays in 2011 and 2012. Table 1 shows the existing regulatory provisions and the proposed revised BACT schedule.

**Table 1: Revised BACT Schedule  
(Percent turnover required / Percent retrofit required)**

	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
<b>Existing</b>	8 / 20	8 / 20	8 / 20	8 / 20	8 / 20
<b>Proposed Option</b>	8 / 20	4.8 / 12	4.8 / 12	14.4 / 36	8 / 20

Staff also proposes to include a provision that would apply to all medium fleets and to large fleets that meet the NOx and PM fleet average targets in 2011 or 2012. Staff proposes to adjust the required BACT percentages for such fleets to ensure that the revised schedule does not increase the BACT requirements beyond what the current regulation requires. This is necessary because many fleets have already developed their compliance plans for the regulation and giving a fleet less credit than they were expecting would disrupt those plans.

*Credit for Reduced Activity*

Staff proposes to amend sections 2449.1(a)(2)(A)2.a. and 2449.2(a)(2)(A)2.a. to add provisions that would allow fleets to claim credit for reduced activity between July 1, 2007 and March 1, 2010. The new provisions specify that the new reduced activity credit may be used by fleets to satisfy their NOx and PM BACT requirements but will only be applicable towards the March 1, 2010 and March 1, 2011 compliance dates.

Staff also proposes to amend section 2449(g) to require reporting of information for those fleets claiming reduced activity credit. Staff also proposes to amend section 2449(h) to add the recordkeeping requirements associated with claiming the new reduced activity credit.

Staff proposes to determine reduced activity by comparing activity during the period January 1, 2007, to December 31, 2007 (centered on July 1, 2007, the date specified in AB 8 2X) to the activity during the period March 1, 2009 to February 28, 2010. Therefore, the activity reduction would be the percent reduction in horsepower hours (hp-hours) activity from the initial period (January 1, 2007 - December 31, 2007) to the later period (March 1, 2009 - February 28, 2010).

This new reduced activity credit would allow some large fleets to reduce or completely eliminate the need for compliance action in 2010 and 2011, delaying action until later years. The new credit would primarily benefit those fleets that have experienced the greatest reduction in activity since 2007.

### *Additional Credit for Vehicle Retirement*

Staff also proposes to amend sections 2449.1(a)(2)(A)2.a. and 2449.2(a)(2)(A)2.a. to add provisions to allow fleets to claim credit for vehicle retirements that reduce total fleet horsepower between March 1, 2006, and March 1, 2010. The new provisions specify that the new retirement credit could be used by fleets to satisfy their NOx and PM BACT requirements. Staff also proposes to amend section 2449(g) to require fleets that claim the proposed retirement credit to report specific information in support of their claims. Finally, staff proposes to amend section 2449(h) to add the recordkeeping requirements associated with claiming the new retirement credit.

As with the reduced activity credit, the retirement credit would allow some large fleets to reduce or completely eliminate the need to take compliance actions in the early years of the regulation and would primarily benefit those fleets that have significantly downsized since 2006. Because the new credits do not expire, they may be banked and used by fleets for many years and thus could assist some medium and small fleets as well.

Fleets that have retired vehicles and also have reduced activity from the remaining vehicles in the fleet may claim credit for both the retired vehicles and for the reduced activity related to the non-retired vehicles in the fleet. However, a fleet may not double count retired vehicles (i.e., receive credit for retiring and reduced activity for the same vehicle) and reduced activity from those retired vehicles.

### New Provisions to Mitigate Loss in Emission Benefits

Staff is proposing three specific measures to offset the loss in emission benefits due to the legislatively directed changes.

#### *Exempt Vehicles that are Retrofit Early from Future Turnover*

Staff proposes to amend section 2449.1(a)(2)(A)4. to allow fleets to claim a limited exemption from future turnover if they install a highest level PM VDECS prior to March 1, 2011. This credit could potentially provide an incentive for fleets to install retrofits and achieve immediate PM reductions earlier than they otherwise would. This change would be purely voluntary, so it would impose no additional requirements on fleets. Staff is proposing to limit the exemption by capping the number of vehicles for which a fleet can claim the exemption; this would effectively mitigate potential long-term effects.

#### *Double Credit for NOx Retrofits*

Staff is similarly proposing to amend section 2449.1(a)(2)(A)2.a. to add a provision to allow fleets to claim double credit for NOx retrofits installed by March 1, 2011. Staff recommends this double credit because it could help mitigate the potential loss in NOx emission reductions from the legislatively-directed changes by providing an incentive for early NOx reductions. This change would be voluntary as well, so it would also not impose any additional requirements on fleets.

### *Repower Credit*

Staff proposes to amend section 2449.1(a)(2)(A)2.b. to add a provision to allow fleets to accumulate NOx carryover turnover credit for repowers installed, even if such repowers do not exceed 8 percent of its total fleet horsepower. This change is intended to encourage large fleets to pursue repowers in 2010 and 2011 even if the new credits would otherwise allow them to comply in those years with no additional turnover, as well as to encourage medium fleets to pursue repowering in the years prior to their 2013 initial compliance date.

### *Extended Double Retrofit Credit for Small and Medium Fleets*

Staff proposes to amend section 2449.1(a)(2)(A)2.a.ii., to provide double PM credit for small and medium fleets that install highest level VDECS on their vehicles prior to March 1, 2012. The double PM credit could be used by fleets to satisfy their PM BACT requirements in future years. This credit could potentially provide an incentive for small and medium fleets to install retrofits and achieve PM reductions earlier than they otherwise would. Taking advantage of this new double credit would be voluntary as well, so it would also not impose any additional requirements on fleets.

### Other Minor Clarifications and Modifications

Staff is proposing several minor clarifications and modifications to the regulation, including the following:

#### *Compliance Extension for Installer Delays*

Staff is proposing to amend section 2449(e)(6) to clarify that the section applies to installer delays as well as manufacturer delays, both of which are beyond the fleet owner's control. Hence, a fleet owner who has purchased an engine or VDECS in order to comply with this regulation, will be excused from immediate compliance if the engine or VDECS is not been installed in time due to installer delays as long as the engine or VDECS was purchased at least four months prior to the compliance date.

#### *Including Community College Training Programs as Non-Profit Training Centers*

Staff is proposing to amend the definition of Non-Profit Training Center in section 2449(c)(38) to include community college programs that train students in the use of off-road vehicles. Currently, the definition in section 2449(c)(38) applies only to entities qualifying as a non profit or not for profit organization under title 26 Internal Revenue Code section 501(a), (c)(3), (c)(5), or (c)(6). Since adoption of the regulation, staff has learned that community colleges run similar training programs to those included in the current definition of Non-Profit Training Center but that these programs do not meet the non profit or not for profit Internal Revenue Code definitions above. Per the definition of small fleet in section 2449(c)(25), Non-Profit Training Center fleets are considered small

fleets and therefore are provided more time to comply with the PM requirements while also being exempt from the NOx provisions, regardless of their total horsepower. Staff believes that community college training programs should be extended this flexibility for the same reason it was extended to other non-profit training centers, namely that they have little opportunity to raise the money needed to pay for compliance, and that their equipment is relatively low-use.

#### *VDECS That Impairs Safe Operation of Vehicle*

Staff is proposing to amend section 2449(e)(8) to clarify that a retrofit installation may be determined unsafe if it would make compliance with any federal or State agency safety requirements impossible. Fleet owners may currently request that the Executive Officer find that a VDECS should not be considered the highest level VDECS available because its use would make compliance with occupational safety and health requirements, mining safety and health requirements, or an ongoing local air district permit condition, impossible. However, staff would like to clarify that fleets may also make that same request if use of a VDECS would conflict with any other federal or State agency safety requirements. For example, if use of a VDECS would cause a ground support equipment fleet at an airport to be unable to meet Federal Aviation Administration (FAA) safety requirements, the fleet could request that the VDECS not be considered highest level VDECS.

#### *Definition of Forest Operations*

Staff is proposing to amend section 2449(c)(26) to clarify that public agency fire prevention activities are classified as forest operations. Thus, vehicles used solely for such activities are considered to be used for agricultural operations and are exempt from the off-road regulation. Currently, such activities (which include installing fuel breaks, firebreaks, and fire hazard abatement) are defined as forest operations if they are “for commercial purposes.” However, if such activities are undertaken by a public agency, they currently do not meet the definition. To provide equity and to avoid discouraging public agencies from undertaking fire prevention, staff proposes to expand the definition of forest operations to include such activities, whether they are performed by a public agency or private entity.

#### *Reporting Vehicle Sales*

Staff is proposing to amend section 2449(g) to clarify that fleets must report to ARB within 30 days of selling a vehicle. Section 2449(f)(1) already requires that fleets report within 30 days of purchasing a vehicle or bringing it into California. To enable fleets to cleanly add vehicles that they have purchased from another fleet and for the vehicles to maintain their Equipment Identification Numbers, it is also necessary for fleets to report sales in the same time frame.

## **COMPARABLE FEDERAL REGULATIONS**

The U.S. Environmental Protection Agency (U.S. EPA) has promulgated federal emission standards for new non-road engines. However, no federal standards have been promulgated addressing emission reductions from in-use diesel vehicle engines.

Under section 209(e)(2), California may adopt and enforce emission standards and other requirements for off-road engines and equipment not expressly subject to federal preemption, so long as California applies for and receives authorization from the Administrator of U.S. EPA. California's request for authorization was submitted on August 12, 2008, and on October 27, 2008, the U.S. EPA conducted a hearing regarding California's request for authorization for the off-road regulation; the request is presently pending.

## **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 report is entitled: "Proposed Amendments to the Regulation for In-Use Off-Road Diesel Vehicles."

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikethrough format to allow for comparison with the existing regulations, may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on July 23, 2009.

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 website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to Ms. Kim Heroy-Rogalski, Manager of the Off-road Implementation Section at (916) 327-2200, or Ms. Beth White, Air Pollution Specialist, at (916) 324-1704.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Ms. Lori Andreoni, Manager, Board Administration and Regulatory Coordination Unit, (916) 322-4011, or Ms. 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 ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB website for this rulemaking at [www.arb.ca.gov/regact/2009/offroad09/offroad09.htm](http://www.arb.ca.gov/regact/2009/offroad09/offroad09.htm)

## **COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED**

### *Costs to State Government and Local Agencies*

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has prepared an estimate in accordance with instructions adopted by the Department of Finance, and determined that the proposed regulatory action would not create overall 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 Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

The proposed modifications to provide additional early credit to fleets that have decreased in total horsepower or have reduced fleet activity would provide fleets with the opportunity to delay their initial compliance costs, without increasing the total cost of the regulation. Public fleets that have experienced drastic reductions in activity or fleet size may be able to avoid any compliance actions in 2010 and 2011. The ability to delay initial compliance costs could benefit the State, federal, and larger municipal fleets whose first compliance date is March 1, 2010, more than local municipalities that are small or medium fleets, because the new reduced activity credits expire after 2011.

Additionally, the revised schedules for BACT would reduce the turnover and retrofitting requirements in 2011 and 2012 for large public fleets, requiring them to take fewer compliance actions in those years thereby delaying some of their compliance costs until 2013. Although the proposed modifications would require an increase in fleet turnover and retrofitting in 2013, the cumulative amount of turnover and retrofitting required between 2011 and 2013 will not increase or decrease from the costs identified at the time of initial adoption of the off-road regulation. Therefore, the revised BACT schedule will not increase the cost of the regulation. Instead, it may slightly decrease costs by allowing fleets to defer compliance costs to later years using later year dollars (i.e., the present value of their compliance costs will be lower).

Finally, some cost savings are expected for public agencies that off-road vehicles that perform fire prevention activities.

### *Effect on Private Persons and Businesses*

Pursuant to Government Code section 11346.5(a)(9), ARB has evaluated the potential economic impacts on representative private persons or businesses and the Executive Officer has determined that a representative private person and business would incur minimal, if any, cost impacts because of the proposed amendments.

As discussed above for public fleets, the proposed modifications to provide additional early credit to fleets that have decreased in total horsepower or have reduced fleet activity would allow some fleets to delay their initial compliance costs, without imposing

any additional costs on them. Large fleets that have experienced drastic reductions in activity or fleet size may be able to defer any compliance actions in 2010 and 2011. Additionally, the revised BACT schedule is not expected to result in any additional costs on business overall because the cumulative amount of turnover and retrofitting required between 2011 and 2013 would not change. Instead, it may slightly decrease costs by allowing fleets to defer compliance costs to later years using later year dollars (i.e., the present value of their compliance costs will be lower). The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action may affect small businesses. However, the proposed amendments will not impose any additional costs on small businesses, and instead may benefit them by allowing them to spread out or lower their compliance costs.

### *Effect on State Economy*

Pursuant to Government Code section 11346.5(a)(8), 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. In accordance with Government Code sections 11346.5(a)(10) and 11346.3(b), the Executive Officer has further determined that the proposed regulatory action may decrease the elimination of jobs within the State of California, and decrease the elimination of existing businesses within the State of California.

The proposed legislatively directed modifications would reduce the compliance obligations for many fleets and businesses affected by the off-road regulation in 2010 and 2011, mitigating the effects of the current economic downturn. These modifications could also lead to a negative economic impact on retrofit manufacturers and installers and firms that provide repowers because they would receive fewer orders in the next few years. However, the provisions within the proposed modifications intended to encourage early retrofitting and repowering would help protect such retrofit and repower jobs and businesses.

A detailed assessment of the economic impacts of the proposed regulatory action and its effect on California businesses 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 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. Alternatives that have been considered by staff are discussed in the ISOR.

## **SUBMITTAL OF COMMENTS REGARDING PROPOSED REGULATORY ACTION**

The public may present comments relating to the proposed amendments orally or in writing at the hearing, and in writing or by email 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 22, 2009**, 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.), 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 the authority granted in Health and Safety Code (HSC) sections 39600, 39601, 39602.5, 39667, 43013, 43018, and 43018.2. This action is proposed to implement, interpret, and make specific sections 2449, 2449.1, and 2449.2, title 13, California Code of Regulations.

## **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 amendments 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 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, First Floor, Sacramento, California, 95814, (916) 322-2990.

At the Board meeting, the Board may direct staff to develop additional modifications to the regulation to be considered at a later Board hearing. If directed to do so, ARB will prepare a separate notice of proposed rulemaking that will be published not less than 45 days before the scheduled hearing date.

CALIFORNIA AIR RESOURCES BOARD

/s/

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James N. Goldstene  
Executive Officer

Date: May 26, 2009

*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 website at [www.arb.ca.gov](http://www.arb.ca.gov).*