

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF A CONTROL MEASURE FOR DIESEL PARTICULATE MATTER FROM ON-ROAD HEAVY-DUTY RESIDENTIAL AND COMMERCIAL SOLID WASTE COLLECTION VEHICLES

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 control measure for diesel particulate matter from on-road heavy-duty residential and commercial solid waste collection vehicles. The control measure mandates the reduction of diesel particulate matter emissions through the application of best available control measures to in-use solid waste collection vehicles. Both owners of these vehicles and municipalities that contract for solid waste removal services have responsibilities under the proposal. This notice summarizes the proposed control measure. The staff report presents the control measure in greater detail.

DATE: July 24, 2003

TIME: 9:00 a.m.

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

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., July 24, 2003, and may continue at 8:30 a.m., July 25, 2003. This item may not be considered until July 25, 2003. Please consult the agenda for the meeting, which will be available at least ten days before July 24, 2003, to determine the day on which this item will be considered.

If you have special accommodation or language needs, please contact the ARB's Clerk of the Board at (916) 322-4011, or amalik@arb.ca.gov as soon as possible. TTY/TTD/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 new sections 2020, 2021, 2021.1 and 2021.2, of article 4 within chapter 3, division 3, title 13, California Code of Regulations (CCR).

Background: In 1998 the Board identified diesel particulate matter emissions from diesel-fueled engines as a toxic air contaminant. Two years later, the Board adopted the Risk Reduction Plan to Reduce Particulate Matter Emissions from

Diesel-Fueled Engines and Vehicles (Plan) in September 2000, which established a goal of reducing emissions and the resultant health risk from virtually all diesel-fueled engines and vehicles within the State of California by the year 2020. This Plan envisions that particulate matter emissions from diesel-fueled engines and vehicles should be reduced by 75 percent in 2010 and 85 percent in 2020. The Plan identified various methods for achieving the goals including new, more stringent standards for all new diesel-fueled engines and vehicles, the use of diesel emission control strategies on in-use engines, and the use of low-sulfur diesel fuel.

The major sources of diesel particulate matter (diesel PM) are the approximately 1,250,000 diesel-fueled engines in vehicles and equipment used in California. The health impacts of diesel PM include increased incidence of lung cancer, chronic respiratory problems (such as asthma and bronchitis), cardiovascular disease, and increased hospital admissions and mortality. In California, diesel PM emissions are estimated to comprise 70 percent of the total potential cancer risk from all identified toxic air contaminants.

On May 16, 2002, the Board approved the Diesel Emission Control Strategy Verification Procedure, Warranty and in-use Compliance Requirements for On-Road, Off-Road, and Stationary Diesel-Fueled Vehicles and Equipment. This rule establishes procedures for the verification of emission control strategies by ARB that can be applied on various diesel-fueled engines and vehicles to significantly reduce diesel PM emissions.

Proposed Actions: Diesel-fueled solid waste collection vehicles are of utmost concern because they operate in residential communities on a regular basis, in turn increasing the communities' risk of exposure to these toxic emissions. ARB proposes to mandate solid waste collection vehicles owners and municipalities that authorize owners through a contract, franchise agreement, permit, license or similar approval for residential and commercial solid waste collection service to reduce diesel PM emissions from these vehicles. The solid waste collection vehicle control measure is the second in a series of rules that target almost all diesel-fueled heavy-duty vehicles in California for diesel PM reduction. The fleet rule for transit agencies, which requires transit agencies to reduce diesel PM emissions from urban buses, was adopted by the Board in February 2000 and amended in October 2002.

Section 2020 of this proposal identifies the purpose and defines terminology used in this and other diesel particulate control measures. Sections 2021, 2021.1, and 2021.2 comprise the control measure for solid waste collection vehicles.

1. Scope and Applicability

The proposed regulation applies to solid waste collection vehicle owners, whether private or government entities, and to municipalities that authorize owners through a contract, franchise agreement, permit, license or similar approval for residential and commercial solid waste collection service. The proposed regulation also mandates the reduction of diesel PM emissions from 1960 to 2006 engine model year on-road diesel-fueled heavy-duty residential and commercial solid waste collection vehicles with a manufacturer's gross vehicle weight rating greater than 14,000 pounds.

2. Compliance Requirement for Municipalities

As of December 31, 2004, a municipality that contracts for solid waste collection service must ensure that each contractor, for which it regulates the rates that may be charged to those who receive solid waste collection services, is in compliance with title 13, CCR, section 2021.2.

Municipalities that contract for service are required, under this proposal, to submit reports to the ARB's Executive Officer annually, beginning in 2004 through 2013, which identify all contractors and certify compliance by those contractors with this rule. In addition, the municipality is required to notify the ARB's Executive Officer if it becomes aware of non-compliance by its contractors within 30 days of the determination.

3. Compliance for Owners of Solid Waste Collection Vehicles and Municipalities

Compliance with the proposed rule requires use of best available control technology, as defined, implementation according to the specified schedule, and record keeping. In addition, there are provisions for compliance extensions and special circumstances.

Best Available Control Technology

Three different options are offered to meet the requirement to use best available control technology. The first option is to use a diesel engine or power system alone or in combination with a verified diesel emission control strategy (DECS) that is certified to the 0.01 g/bhp-hr particulate emission standard. The second option is to use an alternative fuel engine, or a heavy-duty pilot ignition engine. The third option is to apply the highest level diesel emission control strategy or system verified by ARB for a specific engine, and which the manufacturer or authorized dealer agrees can be successful on the specific engine and vehicle combination.

Implementation Schedule

The implementation schedule phases-in compliance by the model year of the engine. There are three different groups for the specified percentage of vehicles by each applicable compliance deadline: Group 1 includes 1988-2002 model year engines, and the phase-in period is from December 31, 2004 through December 31, 2007. Group 2 includes 1960 through 1987 model year engines, and the phase-in period is from December 31, 2007, through December 31, 2010. Group 3 encompasses 2003 through 2006 model year engines, and the phase-in period begins December 31, 2009, and is complete by December 31, 2010. The proposed regulation describes the required equations needed to calculate the active fleet size.

Compliance Extensions

Staff believes owners may experience conditions that would justify a compliance extension. Three main categories of compliance extensions proposed in the rule are: an extension granted for early implementation of a specified portion of an owner's fleet, an extension granted because there is no verified diesel emission control strategy, and an extension for 100 percent compliance for small business owners with fewer than four vehicles.

Special Circumstances

Owners would be required to maintain best available control technology on each vehicle once that vehicle is in compliance, and would not be required to upgrade to a higher level of best available control technology. Certain specified special circumstances, however, are described. First, failure or damage of the diesel emission control strategy within or outside of the warranty period of the device. Second, discontinuance of a fuel verified as a diesel emission control strategy. Third, the use of a diesel emission control strategy verified to Level 1 (25 to 49 percent particulate matter reduction) is limited in time and use. Fourth, engine retirement within one year of the required compliance deadline. Fifth, the use of an experimental diesel emission control strategy.

Record Keeping Requirement for Owners

Staff proposes that specific records pertaining to compliance be kept at the terminal and in the vehicle. Each owner must keep these records for the life of the vehicle while it operates in California. If a vehicle is sold, the records should be transferred with that vehicle.

Non-Compliance

Staff proposes a specific reference to civil penalties for violations of the compliance provisions.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report, which includes the initial statement of reasons for the proposed action and a summary of the economical and environmental impacts of the proposal. The staff has also prepared a technical support document that summarizes technology available and feasible per rule compliance.

Copies of the Staff Report, Technical Support Document, and the full text of the proposed regulatory language may be accessed on the Board's web site listed below, or may be obtained from the Board's Public Information Office, Air Resources Board, Visitors and Environmental Services Center, 1001 I Street, 1st Floor, Sacramento, CA 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing.

Upon its completion, the Final Statement of Reasons (FSOR) will also be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the web site listed below.

Inquiries concerning the substance of the proposed regulation may be directed to Ms. Crystal Reul Chen, Air Resources Engineer, by email at creul@arb.ca.gov or by phone at (626) 350-6543, or to Dr. Nancy L.C. Steele, Manager, by email at nsteele@arb.ca.gov or by phone at (626) 350-6598.

If you are a person with a disability and desire to obtain this document in an alternative format, please contact the Air Resources Board Americans with Disability Act Coordinator at (916) 232-4916, or TDD (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area.

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, or Alexa Malik, Regulations Coordinator, (916) 322-4011. The Board staff has compiled a record that includes all 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, will be available on the ARB Internet site for this rulemaking at <http://www.arb.ca.gov/regact/dieselswcv/dieselswcv.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 in reasonable compliance with the proposed regulations are presented below.

The Executive Officer has determined that the proposed regulatory action will create costs or savings, as defined in Government Code section 1146.5(a)(5) and 11346.5(a)(6), to a 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 non discretionary savings to local agencies, except as discussed below.

Fiscal Effect On State Government

No increased cost is expected in the current fiscal year, July 2003 to June 2004. Up to three additional staff will be required to implement and enforce the regulation beginning in 2004.

Fiscal Effect on Local Government

The majority of local governments have contracts with private solid waste collection companies to provide refuse collection services. Approximately 1,200 vehicles, however, are directly owned and operated by local governments. These vehicles are owned by cities such as Los Angeles and Fresno that have fleets of solid waste collection vehicles and bill residents for the service. There is no cost associated with implementation during the current fiscal year 2003-2004. The average costs to local government for fiscal years 2004-2005 and 2005-2006 are about \$59,000 and \$228,000, respectively.

For local governments that contract with private solid waste collection companies, an increase in the contract cost may occur within the terms of the contract or at the renewal of the contract. This is an indirect cost that is passed on to customers and, therefore, is not included in the cost to local government agencies.

These local government agencies are required to submit an initial report and annual reports to the Air Resources Board. The time to complete the reports will vary depending on the number of contracts let, but would not be considered an additional cost as the additional paperwork is within the scope of normal paperwork for contracting.

Any costs to local government are fully reimbursable from collection fees charged to customers for residential and commercial solid waste collection as authorized by Resources Code sections 40059 and 47109.

Fiscal Impact of Businesses

The Executive Officer has made an initial determination that adoption of the proposed regulatory action may have a significant, statewide adverse economic impact directly affecting business, specifically on some solid waste collection

businesses, if those businesses are unable to increase their rate for collection solid waste. Other solid waste collection vehicle businesses may experience no adverse economic impacts because they have the ability to recover costs through rate increases. Adoption of the proposed rule will not affect the ability of California businesses to compete with businesses in other states.

Businesses that provide technology or services mandated under this proposal, such as engines, diesel emission control systems, or installation services, may experience significant economic benefit from this rule. Some, but not all, of those businesses are located in California.

In accordance with Government Code section 11346.3, 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 California, or the expansion of businesses currently doing business within California. An assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB has determined that there will be no, or an insignificant, potential cost impact, as defined in Government Code section 11346.5(a)(9) on representative private persons or businesses in reasonable compliance with the proposed action.

Finally, the Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulation may affect small businesses.

Costs to the Public

Costs are expected to be passed along to customers who receive solid waste collection services. The cost per household would be about \$5.90 in total, or \$0.85 annually from 2004 through 2010.

Consideration of Alternatives

The Executive Officer has considered proposed alternatives that would lessen any adverse economic impact on businesses and invites you to submit proposals. Submissions may include the following considerations:

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

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.

Pursuant to Government Code section 11346.3(c), the Board finds that it is necessary for the health, safety, and welfare of the people of this state that this regulation which requires a report apply to businesses.

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 by **no later than 12:00 noon, July 23, 2003** 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: dieselswcv@listserv.arb.ca.gov and received at the ARB **no later than 12:00 noon, July 23, 2003**.

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB **no later than 12:00 noon, July 23, 2003**.

The Board requests, but does not require, that 30 copies of any written statement be submitted 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 the 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, and 39658 of the Health and Safety Code. This action is proposed to implement, interpret and make specific sections 39002, 39003, 39658, 43000, 43013, 43018, 43101, 43102, 43104, 43105 and 43700 of the Health and Safety Code.

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 nonsubstantive 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/

Catherine Witherspoon
Executive Officer

Date: May 27, 2003

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.