

State of California
AIR RESOURCES BOARD

Notice of Public Availability of Modified Text

**PUBLIC HEARING TO CONSIDER PROPOSED REGULATION ORDER:
AIRBORNE TOXIC CONTROL MEASURE TO LIMIT SCHOOL BUS IDLING
AND IDLING AT SCHOOLS**

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| Public Hearing Date: | December 12, 2002 |
| Public Availability of Modified Text Date: | March 7, 2003 |
| Deadline for Public Comment: | March 24, 2003 |

At a public hearing on December 12, 2002, the Air Resources Board (the "Board" or ARB) approved the adoption of Chapter 10 - Mobile Source Operational Controls, Article 1 - Motor Vehicles, section 2480, title 13, California Code of Regulations (CCR). The approved section 2480 is an airborne toxic control measure (ATCM) that will reduce children's and public exposure to diesel exhaust particulate matter (diesel PM) and other toxic air contaminants (TACs) by limiting unnecessary idling of school transportation buses and vehicles and of transit buses and other commercial motor vehicles operating at or near schools.

At the hearing, the staff presented, and the Board approved, minor modifications proposed in response to comments received during the public comment period that began on October 25, 2002, and ended at the hearing on December 12, 2002. The Board directed staff to make the following modifications to clarify the regulatory text:

A. Clarify that the ATCM applies only to school buses, school pupil activity buses, general public paratransit vehicles, youth buses, transit buses and other heavy-duty vehicles not used solely as private passenger vehicles.

In accordance with the Board's directive, the term "heavy-duty vehicle" has been replaced with the term "commercial motor vehicle" throughout the ATCM and subsection (h), Definitions, has been modified to delete the definition of "heavy-duty vehicle" and add the definition of "commercial motor vehicle."

The definition of "commercial motor vehicle" in modified subsection (h)(2) is based upon Vehicle Code section 15210(b) and includes any vehicle or combination of vehicles that requires a class A or B commercial driver's license or a class C driver's license with a hazardous materials endorsement. The definition also includes any motor truck with gross vehicle weight rating of 10,001 pounds or more. A definition of "motor truck" based upon Vehicle Code section 410 has been added as revised subsection (h)(9) of the ATCM. According to Vehicle Code section 410, a "motor truck" is a vehicle designed, used, or maintained primarily for the transportation of property. For the purposes

of the ATCM, a "commercial motor vehicle" does not include a zero emission vehicle or a pickup truck.

The net result of this modification to the ATCM is to substitute for the previous certification-specific "heavy-duty vehicle" definition a modified "commercial motor vehicle" definition that 1) is more commonly understood by the regulated community and training and enforcement agencies; and 2) covers most of the heavy-duty vehicles originally proposed. As the Board directed, the modification to the ATCM excludes passenger cars and pickups from its applicability. In addition, the modification reduces potential complaint registration and enforcement problems by eliminating the need to determine whether vehicles between 6,000 and 10,001 pounds are being used solely to transport passengers. The modification does not specifically exclude the non-commercial use of unusually large (i.e., greater than 10,001 pounds) vans and covered-bed pickups; however, staff intends, and believes it would further the Board's intent, that such vehicles not be subject to citation for non-compliance with the ATCM's requirements if they are being used as private passenger vehicles.

For additional clarity, subsection (b), Applicability, of the ATCM has been modified to reference subsection (h), Definitions. Subsection (h) contains a definition for each passenger-type vehicle that is subject to the ATCM (i.e., the definitions of "school bus," "school pupil activity bus," "youth bus," "general public paratransit vehicle," and "transit bus") as well as the definition of "commercial motor vehicle."

B. Clarify that the exemption for idling to operate defrosters, heaters, air conditioners, or other equipment is to ensure the safety or health of the driver or passengers, or as otherwise required by federal motor carrier safety regulations.

As directed by the Board, subsection (d)(7) of the ATCM has been modified to broaden the exemption and to recognize other laws (i.e., State and federal) regulating the operation of defrosters, heaters, air conditioners, or other equipment. As part of the modification, the definition of "Emergency" in subsection (h), Definitions, was deleted since the term is no longer used in the ATCM.

C. Clarify that the California Highway Patrol are a subset of peace officers and need not be separately referenced and, in addition, to recognize that there are designees of peace officers who are authorized to enforce certain laws as peace officers.

In accordance with the Board's directive, subsection (g), Enforcement, has been modified to delete the words, "California Highway Patrol," and to identify peace officers as: "peace officers as defined in California Penal Code, title 3, chapter 4.5, Sections 830 et seq. and their respective law enforcement agencies' authorized representatives." The modified language does not change those

agency representatives who may issue citations for violation of the ATCM; however, it does acknowledge that authorized representatives of law enforcement agencies may perform ancillary functions, e.g., review motor carrier records.

D. Clarify subsection (d)(5) of the ATCM to include refuse pickup as an example of an exemption for idling necessary to accomplish work for which a vehicle was designed.

As directed by the Board, subsection (d)(5) has been modified to add the collection of solid waste and recyclable materials by authorized entities as an example of an activity where idling is necessary to perform work for which a vehicle was designed. This modification does not expand or reduce the activities exempted by subsection (d)(5) of the ATCM.

In addition, the ATCM has been modified to update references, correct typos, and to make the following minor clarifications:

- Subsections (c)(3)(C) and (c)(4)(C) - The words, "as defined in subsection (g)," have been added to clarify "enforcement personnel."
- Subsection (d)(2) - The word, "driver's," has been added to clarify "daily vehicle inspection" because the driver's daily vehicle inspection is widely understood to be the inspection conducted just prior to commencing driving for the day.
- Subsection (h) - The introductory phrase, "The following terms are defined for the purposes of this section," has been added to clarify that certain commonly-used terms may be uniquely defined in the ATCM.

Enclosed with this notice are Enclosure 1, Board Resolution 02-33, which approves the regulatory action, and Enclosure 2, the text of the modified regulatory language. In Enclosure 2, deletions and additions to the originally proposed language are shown in ~~strike-out~~ and underline format, respectively.

In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adopt section 2480, title 13, California Code of Regulations, after making the modified language available to the public for comment for a period of at least 15 days, provided the Executive Officer consider such written comments as may be submitted during this period, make such modifications as may be appropriate in light of the comments received, and present the modified regulation to the Board for further consideration, if warranted.

Written and e-mail comments on the modifications shown in Enclosure 2 must be received no later than March 24, 2003, in order to be considered by the Executive Officer prior to final action. Only comments relating to the modifications described in this notice shall be considered by the Executive Officer. Written comments must be addressed to the Clerk of the Board, Air

Resources Board, P.O. Box 2815, Sacramento, California 95812. E-mail comments must be addressed to: sbatcm@listserv.arb.ca.gov.

Enclosures