

State of California
AIR RESOURCES BOARD

Response to Significant Environmental Issues

Item: Public Hearing to Consider the Adoption of New Regulations
Establishing a Roadside Smoke and Emission Control System Inspection
Program for In-Use Heavy-Duty Diesel and Gasoline-Powered Vehicles

Agenda Item No.: 90-18-2

Public Hearing Date: November 8, 1990

Issuing Authority: Air Resources Board

Comment: No comments were received identifying any significant
environmental issues pertaining to this item. The staff report
identified no adverse environmental effects.

Response: N/A

Certified: Pat Hutchens

Pat Hutchens
Board Secretary

Date: 7/24/91

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RESOURCES AGENCY OF CALIFORNIA

State of California
AIR RESOURCES BOARD

Resolution 90-64

November 8, 1990

Agenda Item No.: 90-18-2

WHEREAS, Sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (the "Board") to adopt standards, rules and regulations necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, in Section 43000 of the Health and Safety Code, the Legislature has declared that the emission of air pollutants from motor vehicles is the primary cause of air pollution in many parts of the state and, in Sections 39002 and 39003 of the Health and Safety Code, has charged the Board with the responsibility of systematically attacking the serious air pollution problem caused by motor vehicles;

WHEREAS, in Section 43000.5, the Legislature has declared that the burden for achieving needed reductions in vehicle emissions should be distributed equitably among various classes of vehicles, including heavy-duty vehicles, to accomplish improvements in both the emissions level and in-use performance;

WHEREAS, Section 43013 of the Health and Safety Code authorizes the Board to adopt in-use performance standards and regulations to control air pollution from motor vehicles, which the Board has found to be necessary, cost-effective, and technologically feasible;

WHEREAS, Section 43018 of the Health and Safety Code directs the Board to endeavor to achieve the maximum degree of emission reduction from vehicular sources to accomplish the attainment of State ambient air quality standards by the earliest practicable date through achieving the maximum feasible reductions in mobile source emissions, including particulates;

WHEREAS, Section 44011.6 of the Health and Safety Code directs the Board to develop, as expeditiously as possible, a test procedure for the detection of excessive smoke emissions from heavy-duty diesel motor vehicles and visual or functional inspection procedures to determine the presence of tampering or defective emissions control systems in heavy-duty diesel- or gasoline-powered motor vehicles and to prohibit the use of these vehicles until such time as the owner corrects every specified deficiency;

WHEREAS, Section 44011.6 of the Health and Safety Code directs the Board to prohibit by regulation the use in California of heavy-duty motor vehicles which are determined to have excessive smoke emissions or other emission-related defects;

WHEREAS, Section 44011.6 of the Health and Safety Code authorizes the Board to cite owners of motor vehicles who violate regulations adopted pursuant to that Section;

WHEREAS, owners of motor vehicles who are cited may be liable for a civil penalty of not more than fifteen hundred dollars (\$1500) per day for each day that the vehicle is in violation or a lesser amount for expeditious correction of violations;

WHEREAS, Section 44011.6 of the Health and Safety Code further requires an additional three hundred dollar (\$300) penalty to be deposited in the Diesel Emissions Reduction Fund for each citation that is issued with the exception of school buses cited for the first time;

WHEREAS, the staff has proposed the addition of Sections 2180 through 2187 to Title 13, California Code of Regulations to implement the excessive smoke emissions test procedure and emission control systems inspections of heavy-duty commercial motor vehicles;

WHEREAS, the regulations proposed by the staff set forth the responsibilities of the driver and inspector, the heavy-duty diesel vehicle smoke opacity test procedure, the opacity standards for the smoke opacity test, emission control system inspection procedures for heavy-duty diesel and gasoline-powered vehicles, refusal to submit to the test procedure inspection constitutes a violation of the regulations, procedures for clearing citations through demonstration of correction or post-repair test inspections, and procedures for the release of vehicles removed from service;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project which may have significant adverse environmental impacts be adopted as originally proposed if feasible alternative or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the provisions of Chapter 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code;

WHEREAS, the Board finds that:

Excessive smoke emissions from heavy-duty diesel powered motor vehicles contribute significantly to the serious air pollution problem in this state;

Particulates from excessive heavy-duty diesel powered motor vehicles are a significant source of air contaminants;

Attainment of the State ambient air quality standards cannot be accomplished by the earliest practicable date without reduction of excessive heavy-duty diesel vehicles smoke emissions;

Effective in-use inspection and maintenance programs presently do not exist in the State for heavy-duty diesel-powered vehicles;

A test procedure for detection of excessive smoke emissions from heavy-duty diesel motor vehicles and air emission control system inspection for diesel- and gasoline-powered heavy-duty vehicles can contribute to a significant reduction in air pollution in this state;

Smoke emissions of forty percent (40%) or higher from heavy-duty diesel vehicles certified at a level of thirty-five (35) percent peak opacity or less and operating on the highways within the State of California are excessive;

Smoke emissions of fifty-five percent (55%) or higher from other heavy-duty diesel vehicle operating on the highways within the State of California are excessive;

It is necessary to require heavy-duty diesel engine manufacturers to submit engine identification and smoke certification data for engines certified to levels above thirty-five (35%) percent peak opacity;

It is further necessary for the effective enforcement of the proposed program to require that refusal by a driver or owner to submit to the test or inspection procedures constitutes a violation of the test or inspection procedure;

The reduced penalty schedule should encourage correction of violations in an expeditious manner;

A phase-in of the penalty schedule for those found to be in violation of the regulations but who make every effort to expeditiously repair their vehicle during the initial year of the program's operation permits an equitable period of adjustment to the program's requirements and achievement of air quality benefits; and

It is necessary and appropriate to adopt the proposed regulations in order to fulfill the mandates of Health and Safety Code Section 44011.6.

WHEREAS, The Board further finds that adoption of the regulations set forth in Attachment A will not have a significant adverse environmental impact and may have a significant beneficial impact.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves Sections 2180 through 2187, Title 13, California Code of Regulations, as set forth in Attachment A hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt Sections 2180 through 2187, Title 13, California Code of Regulations, as set forth in Attachment A, after making them available to the public for a period of 15 days, provided that the Executive Officer shall consider such

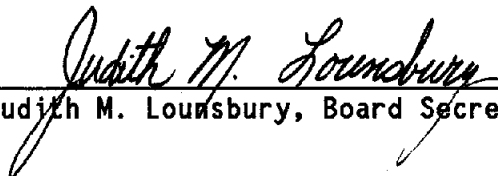
written comments as may be submitted during this period, shall make modifications as may be appropriate in light of the comments received, and shall present the regulation to the Board for further consideration if he determines that this is warranted.

BE IT FURTHER RESOLVED that the Board hereby determines that the regulations approved herein will not cause the California emission standards, in the aggregate, to be less protective of public health and welfare than applicable federal standards, will not cause the California requirements to be inconsistent with Section 202(a) of the Clean Air Act, and raise no new issues affecting previous waiver determinations of the Administrator of the Environmental Protection Agency pursuant to Section 209(b) of the Clean Air Act.

BE IT FURTHER RESOLVED that the Executive Officer shall, if necessary, forward the adopted regulations to the Environmental Protection Agency with a request for confirmation that the proposed regulations are within the scope of an existing waiver of preemption pursuant to Section 209(b) of the Clean Air Act, as appropriate.

BE IT FURTHER RESOLVED that the Executive Officer shall, at the end of the initial year of the program's operation, provide a report to the Board on the status of the program's enforcement effectiveness.

I hereby certify that the above is a true and correct copy of Resolution 90-64, as adopted by the Air Resources Board.



Judith M. Lounsbury, Board Secretary

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