

State of California  
AIR RESOURCES BOARD

Resolution 04-14

March 25, 2004

Agenda Item No.: 04-3-4

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (ARB or Board) to adopt standards, rules, and regulations and to do such acts as may be 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 sections 39002 and 39003 of the Health and Safety Code charge the Board with the responsibility of controlling air pollution from motor vehicles;

WHEREAS, Section 43013 of the Health and Safety Code authorizes the Board to adopt standards to reduce air contaminants caused by vehicular sources, including oxides of nitrogen (NOx) emissions from diesel vehicles;

WHEREAS, Section 43018 of the Health and Safety Code authorizes the Board to achieve the maximum degree of emission reduction possible from vehicular and other mobile sources in order to accomplish the attainment of state standards for ambient air quality at the earliest practicable date;

WHEREAS, Section 43701(b) of the Health and Safety Code requires the Board to adopt regulations that require heavy-duty diesel vehicles to utilize emission control equipment and alternative fuels to reduce emissions to the greatest extent feasible;

WHEREAS, while low NOx software has already been developed for most 1993-1998 model year engines used in 1993-1999 model year heavy-duty diesel vehicles, the software has been installed on less than ten percent of the 1993-1998 model year engines in use in California;

WHEREAS, public workshops were held on February 24, 2003, and June 25, 2003, to solicit public input, and the Initial Statement of Reasons has been made available to the public for review and comment;

WHEREAS, the Board has considered the effects of the proposed amendments on the economy of the State;

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

WHEREAS, a public hearing and other administrative proceedings regarding the proposed regulation described herein 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 Executive Officer has determined that the regulation proposed herein will not have a significant, if any, impact on 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;

WHEREAS, the Executive Officer has determined that the regulation proposed herein will not create costs or savings, as defined in Government Code section 11346.5(a)(6), 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 non-discretionary saving to local agencies;

WHEREAS, voluntary programs can in some cases be designed and implemented in a manner that achieves emission reductions comparable to similar regulatory programs;

WHEREAS, the Board finds that:

1. Ozone, created from the photochemical reaction of primarily NO<sub>x</sub> and hydrocarbons, causes harmful respiratory effects, and NO<sub>x</sub> alone can directly harm human health.
2. Although significant strides have been made toward improving California's air quality, health-based state and federal air quality standards continue to be exceeded in regions throughout California; the federal one-hour ozone standard is exceeded in the South Coast Air Basin, San Diego County, the San Joaquin Valley, Southeast Desert, the greater Sacramento area, and Ventura County, and more areas of the State are likely to be designated nonattainment of the new federal eight-hour ozone standard.
3. NO<sub>x</sub> reductions are needed for one or more nonattainment areas of the state to meet federal and state air quality standards.
4. The economic and fiscal impacts of the low NO<sub>x</sub> software installation requirements proposed herein have been analyzed as required by California law, and the

conclusions and supporting documents for this analysis are set forth in the Initial Statement of Reasons.

5. The environmental impacts of the low NOx software installation requirements proposed herein have been analyzed as required by California law, and the conclusions and supporting documentation for this analysis are set forth in the Initial Statement of Reasons.

WHEREAS, the Board further finds that:

1. The low NOx software installation requirements adopted herein will reduce NOx emissions statewide by 30 through 40 tons per day from California registered vehicles in 2005.
2. The emission benefits of low NOx software installation on California registered vehicles are essential for nonattainment areas of the state to meet federal and state air quality standards.
3. The low NOx software installation requirements adopted herein will reduce NOx emissions statewide by an additional six to nine tons per day from out-of-state registered vehicles in 2005. These additional reductions will help California to meet federal and state air quality standards.
4. The low NOx software installation requirements adopted herein will not have any significant adverse impact on the environment.
5. The low NOx software is easy to install, is readily available, and achieves cost-effective NOx emission reductions.
6. The cost-effectiveness of this regulation compares favorably with the cost-effectiveness associated with other control measures adopted by the Board under authority granted in the Health and Safety Code.
7. The low NOx software installation requirements proposed herein target the same engines for which low NOx software is required under federal Consent Decrees and California Settlement Agreements.
8. The voluntary program to install Low NOx Rebuild Software is an alternative that has the potential to be as effective in carrying out the purpose for which the regulations are proposed and may be less burdensome to affected private persons.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts new section 2011 in new article 3.5, within chapter 1, division 3, title 13, California Code of Regulations (CCR); and amends sections 2180.1, 2181, 2184, 2185, 2186, 2192, and 2194 of article 1 within chapter 3.5, division 3, title 13, CCR, as set forth

in Attachment A hereto and directs the Executive Officer to return to the Board in December 2004 with an evaluation of the results of the voluntary program described in Attachment B for Board review, and further directs the Executive Officer to withhold filing of the adopted regulatory sections with the Office of Administrative Law until after the Board has reviewed the evaluation of the voluntary program.

BE IT FURTHER RESOLVED that the Board hereby determines that the regulations adopted herein will not cause California motor vehicle emission standards, in the aggregate, to be less protective of public health and welfare than applicable federal standards.

BE IT FURTHER RESOLVED that the Board hereby finds that separate California emission standards and test procedures are necessary to meet compelling and extraordinary conditions.

BE IT FURTHER RESOLVED that the Board finds that the California emission standards and test procedures as adopted herein 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.

I hereby certify that the above is a true  
And correct copy of Resolution 04-14, as  
Adopted by the Air Resources Board.

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Lori Andreoni, Clerk of the Board

Resolution 04-14

March 25, 2003

**Identification of Attachments to the Resolution**

**Attachment A:** The Proposed Regulation Order, as set forth in Attachment B to the Staff Report (released February 6, 2004).

**Attachment B:** Staff's Proposed Voluntary Software Upgrade Program Discussion Paper (released March 16, 2004)