

State of California
AIR RESOURCES BOARD

EXECUTIVE ORDER R-11-015

Adoption of Amendments to the Heavy-Duty Vehicle Greenhouse Gas Emission
Reduction Measure

WHEREAS, on December 17, 2010, the Air Resources Board (the Board or ARB) conducted a public hearing after issuance of a Notice of Public Hearing (45-Day Notice) to consider the adoption of amendments to the "Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants from In-Use Heavy-Duty Diesel-Fueled Vehicles (Truck and Bus regulation), title 13, California Code of Regulations (Cal. Code Regs.), section 2025; the Heavy-Duty Vehicle Greenhouse Gas (GHG) Emission Reduction Measure (Tractor-Trailer GHG regulation), title 17, Cal. Code Regs., sections 95301 to 95309, 95311, and 95312; and the regulation for In-Use On-Road Heavy-Duty Diesel-Fueled Drayage Trucks at Ports and Intermodal Rail Yard Facilities (Drayage Truck regulation), title 13, Cal. Code Regs., section 2027;

WHEREAS, the California Environmental Quality Act (CEQA) requires that no project which may have significant adverse environmental impacts may be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts, unless specific overriding considerations are identified which outweigh the potential adverse consequences of any unmitigated impacts;

WHEREAS, CEQA allows public agencies to prepare a plan or other written documentation in lieu of an environmental impact report or negative declaration (i.e., a functional equivalent environmental document), once the Secretary of the Resources Agency has certified an agency's regulatory program pursuant to section 21080.5 of the Public Resources Code;

WHEREAS, pursuant to section 21080.5 of the Public Resources Code, the Secretary of the Resources Agency has certified that portion of the ARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans;

WHEREAS, ARB's certified regulatory program provides that when an action contemplated by the Board may have a significant effect on the environment, ARB staff shall prepare a staff report that shall contain a description of the proposed action, an assessment of anticipated significant long or short-term adverse and beneficial environmental impacts associated with the proposed action and a succinct analysis of those impacts, which shall include a discussion of feasible mitigation measures and alternatives to the proposed action;

WHEREAS, concurrent with publication of the 45-Day Notice, ARB issued an Initial Statement of Reasons (Staff Report) that included an environmental analysis that addressed potential long and short-term environmental impacts related to the proposed amendments;

WHEREAS, at the December 17, 2010 public hearing, the Board adopted Resolution 10-46 (a copy of which is attached hereto as Attachment 1), which directed the Executive Officer to adopt the amendments initially proposed by staff in the Cal. Code of Regs., title 17, sections 95301 to 95309, 95311, and 95312, and to determine if additional modifications to the originally proposed amendments were appropriate, and if the Executive Officer did so determine, to make the modified regulatory language available for public comment for a period of 15 days, that he consider written comments submitted during the 15-day comment period, make such further modifications as may be appropriate in light of the comments received, and that he should return to the Board for further consideration if he determines that this is warranted;

WHEREAS, Resolution 10-46 also directed the Executive Officer to prepare and approve written responses to comments received, including comments raising significant environmental issues, as required by Government Code section 11346.9, Public Resource Code section 21080.5(d)(2)(D), and Cal. Code Regs., title 17, section 60007, determine whether there are feasible alternatives or mitigation measures that could be implemented to reduce or eliminate any potential adverse environmental impacts, while at the same time addressing the serious economic recession and its impact on industry and residents of the State, make findings as required by Public Resources Code section 21081 if the proposed amendments would result in one or more significant adverse environmental effects, and take final action to adopt the proposed amendments to the Tractor-Trailer GHG regulation, as modified by any additional conforming modifications that were appropriate and that were publicly noticed 15-day changes;

WHEREAS, on August 4, 2011, ARB issued the modified regulation, reflecting conforming modifications, which were made available for public comment for a period of 15-days, with the changes to the originally proposed text clearly indicated, in accordance with the provisions of title 1, Cal. Code of Regs., section 44 (15-Day Notice);

WHEREAS, pursuant to section 11346.9 of the Government Code, ARB staff prepared a Final Statement of Reasons (a copy of which is attached hereto as Attachment 2) that responded to comments received by ARB during this rulemaking and further addressed the effect of the amendments, as modified by the 15-Day Notice, on the environment;

WHEREAS, among the comments received were comments that raised potentially significant environmental issues for which responses have been prepared by staff and reviewed by the Executive Officer; and

WHEREAS, the Executive Officer has reviewed the amendments as modified by the 15-Day Notice, considered whether such amendments had a potential significant environmental effect, and, if so, whether such an effect can be reduced or eliminated by adoption of feasible alternatives to the amendments or mitigation measures;

NOW, THEREFORE, IT IS ORDERED that the recitals and findings contained in Resolution 10-46, Attachment 1, are incorporated by reference herein.

IT IS FURTHER ORDERED that I hereby certify that the environmental analysis prepared as part of the Staff Report for the amendments to the Tractor-Trailer GHG regulation and updated in the Final Statement of Reasons, was prepared in accordance with the requirements of ARB's certified regulatory program under CEQA.

IT IS FURTHER ORDERED that I hereby approve each of the written responses to comments raising significant environmental issues in this rulemaking, as set forth in Attachment 2.

IT IS FURTHER ORDERED that after fully considering the amendments as modified by the 15-Day Notice, the environmental analysis, and the full record before me, I find that:

The amendments will not result in any adverse impacts to the environment, as they will not impact the 2020 GHG emission benefits resulting from the existing Tractor-Trailer GHG regulation.

Although in the short term, the amendments will result in some foregone GHG emission benefits that would have been achieved absent the amendments to the regulation, the amendments, in the long-term will result in GHG emission benefits at least equal to the initially adopted regulation.

Because no adverse environmental impacts were identified as resulting from implementing the amendments to Tractor-Trailer GHG regulation, no mitigation measures, findings or statement of overriding considerations are required.

IT IS FURTHER ORDERED, the amendments to Cal. Code Regs., title 17, sections 95301 to 95309, 95311, and 95312, as set forth in the Final Regulation Order, which is attached hereto as Attachment 3, are adopted.

IT IS FURTHER ORDERED that the adopted regulatory text may be further revised with nonsubstantial or grammatical changes, which will be added to the rulemaking record and indicated as such.

Executed this 26th day of October 2011, at Sacramento, California.

/s/

James N. Goldstene
Executive Officer

Attachment