

REQUEST FOR EARLY EFFECTIVE DATE

Pursuant to Government Code section 11343.4(c), the Air Resources Board (ARB) requests that the adoption of new section 2011, title 13, California Code of Regulations (CCR), and amendments to sections 2180.1, 2181, 2184, 2185, 2186, 2192, and 2194, title 13 CCR sections, become effective upon filing with the Secretary of State. This regulatory action requires those operating heavy-duty diesel engine (HDDE)-powered trucks in California to do so only with upgraded software (also known as a “chip reflash”) to control oxides of nitrogen (NOx) and particulate matter (PM) emissions. Good cause for this request exists.

NOx is a pollutant that is harmful to human health. It causes lung irritation and lung damage. NOx also reacts in the atmosphere to form ozone (smog) and contributes to the secondary formation of particulate matter, which results in haze. Smog contributes to breathing difficulties and lung tissue damage. Particulate matter contributes to increased respiratory disease, lung damage, cancer, and premature death. NOx, and the ozone and fine particulate matter it forms, are especially damaging to children, contributing to slower lung growth and development and decreased lung functioning.

California is required to attain the National Ambient Air Quality Standards (NAAQS) and the more stringent California standards. Failure to meet the NAAQS could subject California to lawsuits and sanctions, including the loss of federal highway funds. Without this measure and others, residents of California would continue to breathe unhealthy air. In short, we need NOx reductions to protect public health and to preserve the state’s federal highway funding.

California’s plan for meeting the NAAQS is contained in our State Implementation Plan, or SIP. The ARB is currently updating California’s SIP and is working with local air districts and the U.S. EPA to develop, adopt, and implement strategies to reduce emissions from all pollution sources in various regions in California. Once the SIP is approved, the strategies in the SIP become legally-binding commitments. The local, state, and federal strategies in the SIP must together reduce emissions by an amount sufficient to meet the NAAQS by a specified timeframe for a specific region. The reductions from this proposed regulation are a critical component to achieving the total emission reductions needed to meet our SIP commitments.

The impacts of the proposed regulation were first discussed in the staff report released September 5, 2003. The estimated emission benefits of the proposed regulation from California-registered vehicles are 8 to 10 tons per day in the South Coast Air Basin in 2010. Under the revised compliance schedule proposed in the supplemental staff report released February 6, 2004, as modified twice subsequently, the heavy-duty fleet would not be entirely reflashed until the end of 2005. Therefore, the 30 to 40 tons per day statewide emission reductions from in-state vehicles would occur by the end of 2005.

An early effective date is needed to get Californians critical and highly cost-effective emission reductions needed now. Beginning in February, 2003, ARB staff engaged in extended negotiations with affected HDDE manufacturers and other stakeholders that ultimately led to crafting a voluntary program for implementation in lieu of this regulatory proposal. That voluntary program implementation occurred, and at its December, 2004 hearing the Board determined that one HDDE manufacturer was able to meet voluntary program targets. However, the remaining manufacturers fell far short of meeting their targets. As a result, two years after initial discussions began, most of the affected HDDE-powered trucks continue to emit high NOx emissions that can be quickly lowered with this regulatory action.

To ensure Californians get those emission reductions, an early effective date would help provide affected HDDE operators with additional time to meet the first program deadline of April 30, 2005 (June 30, 2005 if non-substantive change accepted). While most of the HDDEs affected by this first program deadline are older model trucks that are more likely to have been reflashed by now, without an early effective a compressed compliance period may cause difficulty for both dealers and operators in getting these HDDEs reflashed in a timely manner. Because an early effective date would help ensure the feasibility of all operators meeting this first program target, it would result in lower NOx emissions and fewer adverse health effects.

An early effective date should not have any adverse consequences for the regulated community or the general public. Indeed, an early effective date should benefit both groups. The prospects for early emission reductions would improve, and final emission reduction totals would be achieved in the same time frame as the adopted regulations. And the owners of the remaining affected early model year HDDEs would have a more reasonable time period to get their vehicles reflashed.

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