

State of California
AIR RESOURCES BOARD

Resolution 02-31

December 12, 2002

Agenda Item No.: 02-9-4

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (the "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 air pollution control from motor vehicles;

WHEREAS, sections 39667, 43013, 43101, and 43104 of the Health and Safety Code authorizes the Board to adopt emission standards and test procedures to control air pollution caused by motor vehicles;

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

WHEREAS, section 43018(c) of the Health and Safety Code provides that in carrying out section 43018, the Board shall adopt standards and regulations that will result in the most cost-effective combination of control measures on all classes of motor vehicles and motor vehicle fuel, including, but not limited to, reductions in motor vehicle exhaust and evaporative emissions, and reductions in in-use vehicular emissions through durability and performance improvements;

WHEREAS, the Board administers standards for exhaust emissions from heavy-duty Otto-cycle engines and vehicles in title 13, California Code of Regulations (CCR), section 1956.8, which incorporates test procedures for determining compliance with the standards as set forth in the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Otto-Cycle Engines";

WHEREAS, in January 2001, the U.S. Environmental Protection Agency (U.S. EPA) adopted new exhaust emission standards for 2008 and subsequent model year heavy-duty Otto-cycle engines and vehicles that are more stringent than current California requirements for these engines and vehicles;

WHEREAS, until the inception of the 2008 model year federal exhaust emission standards for heavy-duty vehicles over 8,500 pounds GVW, California maintained separate and more stringent emission standards, phase-in requirements and credit trading programs for medium-duty vehicles and engines;

WHEREAS, with the adoption in California of the federal 2008 model year engine exhaust emission standards, it is no longer necessary to maintain a separate credit trading program for medium-duty engines in this category;

WHEREAS, in a 1998-1999 rulemaking, the Board adopted the "LEV II" amendments to the California Low-Emission Vehicle (LEV) regulations, which include three primary elements: (1) tiers of exhaust emission standards for increasingly more stringent categories of low-emission light- and medium-duty vehicles, (2) a mechanism requiring each manufacturer to phase-in a progressively cleaner mix of vehicles from year to year with the option of credit trading, and (3) a requirement that a specified percentage of passenger cars and lighter light-duty trucks be zero-emission vehicles (ZEVs);

WHEREAS, the LEV II regulations are contained primarily in title 13, CCR, section 1961, which incorporates by reference the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles";

WHEREAS, under the LEV II regulations there are four low-emission vehicle categories to which a passenger car and light-duty truck may be certified: Low-Emission Vehicle (LEV), Ultra-Low-Emission Vehicle (ULEV), Super-Ultra-Low-Emission Vehicle (SULEV) and Zero-Emission Vehicle (ZEV);

WHEREAS, while the LEV II regulations require that fuel-fired heaters used in ZEVs be certified to the ULEV passenger car standard, and are not permitted to operate above 40°F ambient temperature, these requirements do not currently apply to fuel-fired heaters used in conventional vehicles;

WHEREAS, the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," incorporated by reference in section 1961(d), title 13, CCR, establish permitted, emissions-related, scheduled maintenance intervals that a manufacturer must follow when demonstrating durability during certification testing to ensure that vehicle emission control systems are durable;

WHEREAS, while manufacturers are currently allowed to replace (and advise vehicle owners to replace at the owner's expense) a number of emission control components

(e.g., the catalytic converter) at 100,000 miles, which corresponds to the 100,000-mile “full useful life” standards for passenger cars and light-duty trucks under the LEV I program, under the LEV II program, these vehicles must now meet 120,000-mile “full useful life” standards;

WHEREAS, the Board administers labeling requirements for California vehicles and engines in title 13, CCR, section 1978, which incorporates label specifications as set forth in the “California Motor Vehicle Emission Control and Smog Index Label Specifications”;

WHEREAS, since the adoption of the “California Motor Vehicle Emission Control and Smog Index Label Specifications,” a number of rulemakings have aligned a large portion of the California label specifications with federal requirements, thereby making a large portion of this document unnecessary;

WHEREAS, while machine-readable vehicle emission control information (VECI) bar code labels are required on vehicles sold in California to allow inspection and maintenance stations to electronically register test results, the California Smog Check stations do not currently scan the VECI label, making this requirement unnecessary;

WHEREAS, the Board administers standards for exhaust emissions from on-board refueling vapor recovery (ORVR) contained in title 13, CCR, section 1978, which incorporates test procedures for determining compliance with the standards as set forth in the “California Refueling Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles”;

WHEREAS, in its recent decision waiving preemption for the California ORVR regulatory requirements, U.S. EPA identified two elements that need to be added: (1) requiring that only gasoline meeting the federal specifications may be used in ORVR certification testing, and (2) requiring that vehicles fueled with natural gas or liquefied petroleum gas be subject to ORVR requirements identical to those in the federal regulations;

WHEREAS, the Board administers standards for exhaust emissions from heavy-duty diesel engines and vehicles in title 13, CCR, sections 1956.1 and 1956.8, which incorporate test procedures for determining compliance with the standards as set forth in the “California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines”;

WHEREAS, the “California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles” need to be updated and reorganized in a new format to more clearly reflect the current requirements;

WHEREAS, the staff has proposed a set of amendments to the standards for heavy-duty Otto-cycle engines and vehicles, along with amendments to the low-emission vehicle regulations, the California Label Specifications, ORVR requirements, and the

heavy-duty diesel test procedures, as set forth in Attachments A-H hereto; these amendments include the following primary elements:

Aligning the California exhaust emissions standards for heavy-duty Otto-cycle engines with the recently promulgated federal requirements;

Allowing manufacturers to participate in the federal averaging, banking and trading programs for medium-duty engines between 8,501 and 14,000 pounds GVW and for heavy-duty engines over 14,000 pounds GVW;

Requiring that fuel-fired heaters used in light- and medium-duty vehicles meet the same requirements as heaters used in ZEVs;

Aligning the first allowable scheduled maintenance interval for passenger cars and light-duty trucks with the 120,000-mile "full useful life" requirements of the LEV II program;

Eliminating the requirement that vehicles be labeled with a machine-readable VECI bar code label, harmonizing of the other tune-up label specifications with U.S. EPA requirements, and moving the label requirements from a separate label specification document to the various Test Procedures documents, which refer to and incorporate the appropriate federal label requirements;

Revising the California ORVR regulatory requirements to address U.S. EPA's concerns;

Adopting a new document, entitled "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines," that updates and reorganizes this document to reflect the current requirements for heavy-duty diesel engines in a new format;

WHEREAS, based on public comment, the staff has recommended modifications to the original proposal regarding LEV II vehicles, as set forth in Attachment I hereto; the modifications would specify that fuel-fired heaters used in conventional vehicles not be allowed to operate above 40°F and raise the high-mileage testing point for vehicles certifying to the optional 150,000-mile emission standards to 112,500 miles;

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 alternatives 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 Executive Officer has determined that the regulations adopted and approved 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 regulations do 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 savings to local agencies;

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

WHEREAS, the Board finds that:

The amendments adopted and approved herein to California's heavy-duty Otto-cycle engine regulations, LEV II regulations, label specifications, ORVR regulations, and heavy-duty diesel test procedures are necessary and appropriate to assure that California continues to receive the cleanest light-, medium-, and heavy-duty vehicles and engines available, while providing additional flexibility, helping to assure adequate lead time, and minimizing cost to manufacturers;

All of the adopted and approved amendments are necessary, appropriate, and technologically feasible; and

WHEREAS, the Board further finds that:

The amendments adopted and approved herein will not have a significant adverse impact on the environment; and

While the California motor vehicle emissions regulations as amended herein are different from the federal regulations administered by U.S. EPA, the California regulations approved herein are authorized by State law.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts the amendments to sections 1956.1, 1956.8, 1965, and 1978, title 13, CCR, as set forth in Attachment A hereto, and the amendments to, and adoption of, the documents incorporated by reference in those regulations as set forth in Attachments B, D, E, F, G and H hereto.

BE IT FURTHER RESOLVED that the Board hereby approves amendments to section 1961, title 13, CCR and directs the Executive Officer to adopt the amendments to section 1961, title 13, CCR, as set forth in Attachment A hereto, and the amendments to

the document incorporated by that regulation as set forth in Attachment C hereto, with the modifications set forth in Attachment I hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to incorporate the modifications described in Attachment I into the approved amendments to section 1961 and the document incorporated by reference therein, with such other conforming modifications as may be appropriate, and then to adopt the modified amendments, after making the modified regulatory language available for supplemental public comment for a period of at least 15 days as required by Government Code section 11346.8, provided that the Executive Officer shall consider all written comments regarding the modifications as may be submitted during this period, shall make modifications as may be appropriate in light of the comments received, and shall present the regulations 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 and 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 approved and 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.

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

I hereby certify that the above is a true and correct copy of Resolution 02-31, as adopted by the Air Resources Board.

Stacey Dorais, Clerk of the Board

Resolution 02-31

December 12, 2002

Identification of Attachments to the Resolution

- Attachment A:** Proposed Regulation Order, as set forth in Appendix A of the Staff Report: Initial Statement of Reasons
- Attachment B:** Proposed amendments to the “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Otto-Cycle Engines,” as posted on the ARB’s Internet site for this rulemaking, www.arb.ca.gov/regact/levhdg02/levhdg02.htm
- Attachment C:** Proposed amendments to the “California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles,” as posted on the ARB’s Internet site for this rulemaking, www.arb.ca.gov/regact/levhdg02/levhdg02.htm
- Attachment D:** Proposed amendments to the “California Motor Vehicle Emission Control and Smog Index Label Specifications,” as posted on the ARB’s Internet site for this rulemaking, www.arb.ca.gov/regact/levhdg02/levhdg02.htm
- Attachment E:** Proposed amendments to the “California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines,” as posted on the ARB’s Internet site for this rulemaking, www.arb.ca.gov/regact/levhdg02/levhdg02.htm
- Attachment F:** Proposed amendments to the “California Refueling Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles,” as posted on the ARB’s Internet site for this rulemaking, www.arb.ca.gov/regact/levhdg02/levhdg02.htm
- Attachment G:** Proposed new “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines,” as posted on the ARB’s Internet site for this rulemaking, www.arb.ca.gov/regact/levhdg02/levhdg02.htm
- Attachment H:** Proposed new “California Smog Index Label Specifications for 2004 and Subsequent Model Passenger Cars and Light-Duty Trucks,” as posted on the ARB’s Internet site for this rulemaking, www.arb.ca.gov/regact/levhdg02/levhdg02.htm

Attachment I: Staff's Suggested Modifications to the Original Proposal, distributed at the hearing on December 12, 2002