State of California
AIR RESOURCES BOARD

Resolution 94-69

December 9, 1994

Agenda Item No.: 94-12-4

WHEREAS, Sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (the "Board" or "ARB") 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 of the Health and Safety Code, 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 achieve improvements in both the emissions levels and in-use performance;

WHEREAS, Section 43013 of the Health and Safety Code authorizes the Board to adopt motor vehicle emission standards and in-use performance standards which it finds 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;

WHEREAS, the Legislature in 1988 enacted Section 44011.6 of the Health and Safety Code which directed the Board to develop a test procedure for the detection of excessive smoke emissions from heavy-duty diesel motor vehicles;

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

WHEREAS, pursuant to Section 44011.6 of the Health and Safety Code, the Board in November 1990 adopted Sections 2180 through 2187, Title 13, California Code of Regulations, which implemented the test procedure for the detection of excessive smoke emissions from heavy-duty diesel motor vehicles

and which established the roadside smoke and emission control system inspection program for in-use heavy-duty diesel and gasoline-powered vehicles (the "roadside smoke inspection program");

WHEREAS, in Section 43700(d) of the Health and Safety code, the Legislature has declared that a reduction of emissions from diesel-powered vehicles, to the maximum extent feasible, is in the best interests of air quality and public health;

WHEREAS, the Legislature in 1990 enacted Section 43701(a) of the Health and Safety Code, mandating that the Board adopt regulations which require that owners or operators of heavy-duty diesel motor vehicles perform regular inspections of their vehicles for excessive emissions of smoke (a "periodic smoke inspection program");

WHEREAS, Section 43701(a) of the Health and Safety Code requires that the Board, in adopting the periodic smoke inspection program regulations, specify the inspection procedure, the frequency of inspections, the emission standards for smoke, and the actions the heavy-duty diesel motor vehicle owner or operator is required to take to remedy excessive smoke emissions;

WHEREAS, pursuant to Section 43701(a) of the Health and Safety Code, on December 10, 1992 the Board adopted Sections 2190 through 2194, Title 13, California Code of Regulations, to establish a periodic smoke self-inspection program for heavy-duty diesel-powered vehicle fleets;

WHEREAS, on December 10, 1992, the Board recognizing that new and alternative technologies are under development for the measurement and recording of heavy-duty diesel vehicle smoke emissions (i.e., analog to digital output and sampling methodology) established a regulation implementation date of January 1, 1995;

WHEREAS, on December 9, 1994, the staff proposed adoption of amendments to Title 13, CCR, Section 2190, which would delay general implementation of the regulation from January 1, 1995 to July 1, 1996;

WHEREAS, staff proposed an effective date of July 1, 1996 for the periodic smoke inspection program to allow additional time for the development and publication of a revised opacity meter sampling methodology for the snap-idle test by the Society of Automotive Engineers (SAE);

WHEREAS, staff also recommended delaying the effective date of the regulation to allow the ARB time to evaluate the SAE approved test method, to adopt the SAE recommendations into regulations, and to allow time for opacity meters meeting the SAE recommendations to be available for purchase;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project having significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available which would substantially reduce or avoid such impacts;

WHEREAS, the Board has considered the impact of the proposed regulatory action on the economy of the state; and

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 the excessive smoke emissions of 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 the reduction of excessive emissions from heavy-duty diesel-powered vehicles;

While the roadside smoke inspection program has been effective in reducing excessive smoke emissions from heavy-duty diesel-powered vehicles, additional action was required to further reduce excessive smoke emissions from heavy-duty diesel-powered vehicles;

The periodic smoke inspection program complements the existing roadside smoke inspection program and further reduce excessive smoke emissions from heavy-duty diesel-powered vehicles;

The periodic smoke inspection program regulations were adopted in December 1992 in order to fulfill the mandate for Health and Safety Code Section 43701(a);

The periodic smoke inspection program applies generally to heavy-duty diesel-powered vehicles with gross vehicle weight ratings of 6,001 pounds or more which operate on the streets or highways within the State of California, excluding only those heavy-duty diesel-powered vehicles which are not part of a fleet of two or more vehicles, which are not based in California, or which operate in California under short-term vehicle registrations or permits;

It is necessary and appropriate that the periodic smoke inspection program regulations utilize the smoke emission test procedures and smoke opacity standards which were developed and adopted for the roadside smoke inspection program, thereby applying consistent test procedures and standards for the two programs;

It is necessary and appropriate to begin the periodic smoke inspection program on January 1, 1996 to allow for additional time for the completion of a revised opacity meter sampling methodology for heavy-duty diesel vehicles by the SAE; to

allow additional time for the ARB to evaluate the test method and the test instrumentation specifications; to allow time for the ARB to adopt the SAE recommendations into regulations and to allow time for opacity meters meeting the SAE recommendations to be made available for purchase;

It is necessary and appropriate to increase the test implementation schedule, required by the regulation, by 90 days to allow equipment manufacturers sufficient time to market complying smoke meters;

WHEREAS, the Board further finds that:

The amendments approved herein will result in a significant adverse environmental impact in that a 12-month delay in implementing the Periodic Smoke Inspection program will result in a loss of program emission benefits of 2920 tons of PM, 2190 tons of HC, and 1825 tons of NOx;

The loss of emission benefits will be only a temporary short-term loss of the benefits for all three pollutants during the 12-month delay before the program begins operation on January 1, 1996;

The ARB has investigated whether there are any feasible mitigation measures or alternatives that would lessen or eliminate the significant adverse emissions impact of the amendment approved herein, and has not identified any such mitigation measures or alternatives which would allow the periodic smoke inspection program to begin on January 1, 1995 without a significant negative economic impact;

The negative economic impact of the "two meter" program of an approximately $20 million expenditure by industry substantially overrides the negative environmental impact of the "one meter" delayed program alternative;

NOW THEREFORE BE IT RESOLVED that the Board hereby approves the amendments to Title 13 California Code of Regulations sections 2190 and 2193, as set forth in Attachment A hereto.

I hereby certify that the above is a true and correct copy of Resolution 94-69, as adopted by the Air Resources Board.

Pat Hutchens

Pat Hutchens, Board Secretary