

State of California
AIR RESOURCES BOARD

Resolution 75-63

December 9, 1975

WHEREAS, Sections 39051(c) and 39052.6 of the California Health and Safety Code empower the Air Resources Board to adopt emission standards for vehicles sold in California;

WHEREAS, the emissions of sulfuric acid mist from vehicles equipped with oxidation catalytic converters are dependent on the sulfur content of the unleaded gasoline burned by such vehicles;

WHEREAS, the emissions of sulfuric acid mist can be controlled by controlling the sulfur content of unleaded gasoline;

WHEREAS, Section 2252 in Title 13, California Administrative Code, limits the sulfur content of unleaded gasoline to 500 ppm as of January 1, 1976, 400 ppm as of January 1, 1978, and 300 ppm as of January 1, 1980;

WHEREAS, some persons, due to economic and technical reasons, may not be able to comply with the provisions of Section 2252; and

WHEREAS, the Air Resources Board has held a public hearing in conformity with the requirements of the Administrative Procedure Act;

NOW, THEREFORE, BE IT RESOLVED, that the Air Resources Board amends Section 2252 in Title 13, California Administrative Code, as follows:

Add a new subdivision (d) to Section 2252:

(d) (1) Any person who cannot comply with the requirements set forth in subdivision (a) of this section because of unreasonable economic hardship, unavailability of equipment or lack of technological feasibility may apply to the Executive Officer of the Air Resources Board for a variance. The application shall set forth:

(A) the specific grounds upon which the variance is sought;

(B) the proposed date(s) by which compliance with the sulfur content limitations in subdivision (a) will be achieved; and

(C) a plan reasonably detailing the method by which compliance will be achieved.

(2) Upon receipt of an application for a variance, the Executive Officer shall hold a hearing to determine whether, and under what conditions and to what extent, a variance from the requirements established by subdivision (a) of this section is necessary and will be permitted. Notice of the time and place of the hearing shall be sent to the applicant by certified mail not less than 30 days prior to the hearing. Notice of the hearing shall also be published in at least one newspaper of general circulation and shall be sent to every person who requests such notice, not less than 30 days prior to the hearing.

(3) At least 30 days prior to the hearing the application for the variance shall be made available to the public for inspection. Interested members of the public shall be allowed a reasonable opportunity to testify at the hearing and their testimony shall be considered.

(4) No variance shall be granted unless all of the following findings are made:

(A) that the applicant for the variance is, or will be, in violation of the requirements established by subdivision (a) of this regulation;

(B) that, due to unreasonable economic hardship, unavailability of equipment or lack of technological feasibility beyond the reasonable control of the applicant, requiring compliance would result in either (i) an arbitrary or unreasonable taking of property, or (ii) the practical closing and elimination of a lawful business; and

(C) that such taking or closing would be without a corresponding benefit in reducing air contaminants.

(5) Any variance order shall include the date(s) by which compliance with the sulfur content limitations in subdivision (a) will be achieved and any other condition(s) including, where appropriate, increments of progress, that the Executive Officer of the Air Resources Board, as a result of the testimony received at the hearing, finds necessary.

(6) Upon the application of any person, the Executive Officer of the Air Resources Board may review and for good cause modify or revoke a variance from the requirements of subdivision (a) after holding a hearing in accordance with the provisions of this subdivision.