

State of California
AIR RESOURCES BOARD

Resolution 87-95
December 3, 1987

Agenda Item No.: 87-16-2

WHEREAS, Sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (the Board) 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, Sections 43013, 43101, and 43104 of the Health and Safety Code authorize the Board to adopt emission standards and test procedures to control air pollution caused by motor vehicles;

WHEREAS, Section 1956.8, Title 13, California Administrative Code, establishes the California exhaust emission standards and test procedures for 1985 and subsequent model heavy-duty diesel-powered engines and vehicles and for 1987 and subsequent model heavy-duty gasoline-powered engines and vehicles, which are generally aligned with the corresponding federal regulations;

WHEREAS, in 1985 the Environmental Protection Agency (EPA) amended the federal heavy-duty engine and vehicle emission regulations to incorporate nonconformance penalty (NCP) provisions which allow manufacturers with engines that lack the advanced technology necessary to conform with new emission standards to certify some engines for sale when a monetary penalty is paid;

WHEREAS, until this year the Board has lacked the authority to adopt a heavy-duty engine NCP program for California;

WHEREAS, in 1986 the California Legislature enacted Health and Safety Code Section 43103 (Stats 1986, ch. 511; AB 3683) which, effective January 1, 1987, authorizes the Board to adopt an NCP program for those heavy-duty engines for which the Board has adopted emission standards and test procedures that are identical to the corresponding federal ones;

WHEREAS, Section 43103 provides that any California NCP regulations shall be identical to the federal nonconformance requirements, procedures and fees, and the state NCP program shall not be implemented until it is established that payment of NCP fees in California may be substituted for payment of fees to EPA;

WHEREAS, the staff initially proposed amendments to the Board's heavy-duty engine regulations which would incorporate the applicable federal NCP

regulations and make NCPs available in California for the 1988 and subsequent model 1.1 gram per brake horsepower-hour (g/bhp-hr) hydrocarbon (HC) and 14.4.g/bhp-hr carbon monoxide (CO) emission standards for gasoline engines installed in "light" heavy-duty engines up to 14,000 pounds gross vehicle weight rating (GVWR), and for the 1988 through 1990 model year 0.60 g/bhp-hr particulate standard for heavy-duty diesel engines;

WHEREAS, the California Environmental Quality Act and Board regulations require that an action not be adopted as proposed where it will have significant adverse environmental impacts and alternatives or feasible mitigation measures to the proposed action are available which would substantially reduce such impacts;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the California Administrative Procedure Act, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with Section 11340) of the Government Code;

WHEREAS, the Board finds that:

Some heavy-duty engines will likely not comply with the 1988 and subsequent model year California hydrocarbon and carbon monoxide emission standards for gasoline-powered gasoline engines used in 8,500 to 14,000 pound GVWR vehicles;

The amendments approved herein, which make NCPs available only for heavy-duty gasoline engines in California for the 1988 model year, will reduce the substantial economic hardship to secondary vehicle manufacturers which would result from an inability to obtain California-certified 1988 model year gasoline engines;

For the 1989 and subsequent model years, most or all secondary vehicle manufacturers will likely be able to use either originally-planned heavy-duty gasoline engines which are certified to the 1989 California emission standards, or appropriate substitute California certified engines;

NCPs are not necessary in California for the 1988 to 1990 model year 0.60 g/bhp-hr diesel particulate standard because it appears that most heavy-duty diesel engines will be able to comply with the particulate emission standard for those years and there are comparable complying engines available as substitutes;

NCPs are not necessary in California for the 1990 model year 6.0 g/bhp-hr oxides of nitrogen (NOx) heavy-duty diesel emission standard because manufacturers have demonstrated the ability to meet a 6.0 g/bhp-hr NOx standard in the state since 1984;

The amendments approved herein include revisions to the "California Motor Vehicle Tune-Up Label Specifications" to require that tune-up labels include the NCP compliance emission level and a statement that a monetary penalty was paid, and are consistent with the corresponding federal requirements;

The amendments approved herein are consistent with the requirements of Health and Safety Code Section 43103;

The amendments approved herein will likely result in a significant adverse environmental impact, in that emissions are expected to increase by one ton per day (tpd) CO and less than one-twentieth tpd HC statewide by the end of 1990;

The amendments approved herein include partial mitigation measures which reduce the potential adverse emission impact that would otherwise occur, including not allowing NCPs for diesel engines or for gasoline engines in the 1989 and subsequent model years, incorporating the federal NCP provisions which limit the availability and scope of the program, requiring the payment of NCP fees to the Air Pollution Control Fund, which may be used to fund programs which would partially mitigate the adverse emission impacts; there are no other feasible mitigation measures or alternatives available for adoption at the present time which would substantially reduce the remaining adverse impacts while assuring increased model availability;

The need to avoid substantial economic hardship to secondary vehicle manufacturers which would result from an inability to use 1988 model year "light" heavy-duty gasoline engines that cannot be certified to meet the applicable standards, particularly those engines used in recreational vehicles, outweighs the relatively small but significant remaining adverse environmental impact which cannot otherwise presently be mitigated in the program;

The payment of NCP fees by manufacturers should not cause the price of heavy-duty engines and vehicles to increase, since the penalty is intended to be equivalent to the cost of complying with the emission standards;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the amendments to Sections 1956.8 and 1965, Title 13, California Administrative Code, and the incorporated "California Exhaust Emission and Test Procedures for 1987 and Subsequent Model Year Heavy-duty Gasoline-Powered Engines and Vehicles," and "California Motor Vehicle Tuneup Label Specifications," as set forth in Attachment A hereto, with changes to make NCPs available only for heavy-duty gasoline engines for the 1988 model year.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt the amendments approved herein, after making them available to the public for a period of 15 days, and with such minor modifications as may be appropriate in light of written comments submitted during this period, provided that the Executive Officer shall present the regulations to the Board for further consideration if he determines that this is warranted in light of the written comments received.

BE IT FURTHER RESOLVED that the Board hereby determines that the amendments approved herein will not cause the California emission standards, in the aggregate, to be less protective of public health and welfare than applicable federal standards, 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 forward the amended regulations to the Environmental Protection Agency with a request either for confirmation that the amendments are within the scope of an existing waiver or for issuance of a new waiver, pursuant to Section 209(b)(1) of the Clean Air Act.

I hereby certify that the above
is a true and correct copy of
Resolution 87-95, as adopted by
the Air Resources Board.



Harold Holmes, Board Secretary

State of California
AIR RESOURCES BOARD

Response to Significant Environmental Issues

Item: Public Hearing to Consider Amendments to Regulations to Establish a Nonconformance Penalty Program for Heavy-duty Engines and Vehicles

Agenda Item No.: 87-5-2

Public Hearing Date: December 3, 1987

Response Date: January 8, 1988

Issuing Authority: Air Resources Board

Comment: The Staff Report, Final Statement of Reasons, and Resolution 87-95 are incorporated by reference.

The Staff Report identified significant adverse environmental impacts resulting from the amendments initially proposed by staff (See particularly pp. 20-22.) The Staff estimated that the initial proposal would result in a statewide emission increase of less than one tenth ton per day (tpd) of hydrocarbons (HC), 4.6 tpd of carbon monoxide (CO), and less than one tenth tpd of particulate by 1990. To place the emissions in perspective, the 1991 emissions inventory in an April, 1986 Staff Report was estimated to be to be 49 tpd of HC and 1300 tpd of CO for heavy-duty gasoline engines, and 67 tpd of particulate for heavy-duty diesel engines.

The Board received public comments identifying environmental issues pertaining to this item. These comments are summarized and responded to in the Final Statement of Reasons.

Response: In order to reduce the adverse environmental impacts to the extent feasible, The Board modified the original proposal to provide that nonconformance penalties (NCPs) are available only for 1988 model-year heavy-duty gasoline engines. With the limitation to a one year program, emissions are expected to increase by less than one-twentieth tpd

State of California

M E M O R A N D U M

To : Gordon Van Vleck
Secretary
Resources Agency

Date : August 24, 1988

Subject : Filing of Notice of
Decisions of the Air
Resources Board


Cary Allison
Board Secretary

From : Air Resources Board

Pursuant to Title 17, Section 60007 (b), and in compliance with Air Resources Board certification under Section 21080.5 of the Public Resources Code, the Air Resources Board hereby forwards for posting the attached notice of decisions and response to environmental comments raised during the comment period.

ATTACHMENTS

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