

State of California
AIR RESOURCES BOARD

Resolution 88-50

November 18, 1988

Agenda Item No.: 88-12-1

Agenda Item No.: 88-15-1

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 43100 of the Health and Safety Code authorizes the Board to certify new motor vehicles, and Section 43102 provides that no new motor vehicle shall be certified unless it meets the emission standards and test procedures adopted by the Board;

WHEREAS, the certification procedures require a demonstration that the vehicle complies with the applicable emission standards throughout the vehicle's useful life;

WHEREAS, Section 43106 of the Health and Safety Code requires that each new motor vehicle required to meet the emissions standards established pursuant to Section 43101 shall be, in all material respects, substantially the same in construction as the test motor vehicle certified by the Board;

WHEREAS, Section 43105 of the Health and Safety Code authorizes the Board, pursuant to regulations adopted by the Board, to require a manufacturer to recall vehicles which violate applicable emission standards or test procedures;

WHEREAS, the Board in 1982 established (and has since periodically amended) an in-use vehicle recall program by adopting procedures for emission-related defect reporting, in-use vehicle recall, and in-use vehicle enforcement testing, as set forth in Sections 2111, 2112 and 2113, Title 13, California Code of Regulations, and in incorporated documents;

WHEREAS, the staff has proposed amendments to Sections 2111 and 2112 of Title 13, California Code of Regulations, and the documents incorporated by reference therein, and further proposed the repeal of Section 2113 of Title 13, California Code of Regulations, and the adoption of a new Section 2113 and document incorporated by reference therein in order to improve the effectiveness of the in-use recall program;

WHEREAS, the amendments proposed by staff would reorganize the existing defect reporting and in-use recall procedures into three incorporated documents: "California Procedures for Reporting Failures of Emission-Related Components for 1982 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles, Heavy-Duty Vehicles and Engines, and Motorcycles"; "California In-Use Vehicle Emission-Related Recall Procedures for 1982 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles, Heavy-Duty Vehicles and Engines, and Motorcycles"; and "California In-Use Vehicle Enforcement Test Procedures for 1982 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles, Heavy-Duty Vehicles and Engines, and Motorcycles";

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 to eliminate or reduce 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 Board finds that:

1. Failure of in-use vehicles to comply with applicable emission standards during their useful lives results in a substantial increase in emissions;
2. Early identification of failing emission-related components, timely and efficient initiation of recalls, and timely completion of repairs would improve the effectiveness of the recall program and result in greater emission reductions from in-use vehicles;
3. Reclassification of recalls into three categories (voluntary, influenced, and ordered) would enable the ARB to respond to various recall situations with appropriate approval procedures and implementation requirements and would encourage manufacturers to initiate voluntary recalls;
4. Because of the low response of owners to recall notices (i.e. low "capture rate"), the effectiveness of recall repairs or the number of vehicles captured must be increased at the option of the manufacturers, pending the adoption of a statewide program conditioning the annual renewal of registration of a recalled vehicle on proof that the necessary repairs have been performed;
5. Provision should be made for the eventual adoption and implementation of the conditional annual registration program referred to above by requiring the manufacturers to provide specified information once such a program is adopted;

6. A tracking mechanism based on emission warranty claim records or equivalent process is necessary to facilitate the early identification of failing emission-related components and engine families that fail emission standards;
7. A requirement that manufacturers submit field information reports and emissions information reports with detailed information about component failures when warranty claims or component failures reach a specified percentage, in lieu of a voluntary recall, would facilitate evaluation of the in-use emission problems and assessment of the need for further investigation or recall;
8. It is appropriate to base a recall on the failure of a specific emission-related component unless the manufacturer can demonstrate that the failure will not result in exceedance of the standards in a substantial percentage of vehicles having the failure over the vehicles' useful lives;
9. When a recall is to be performed, timely submission of information is necessary to allow the staff to evaluate whether a recall plan is adequate to correct the nonconformity;
10. The recall and reporting procedures should be applicable to specified federal vehicles certified for sale in California (AB 965 vehicles);
11. Changes should be made to clarify the requirements and streamline the defect reporting and recall process;
12. This regulatory action will have a significant beneficial impact on air quality by reducing manufacturer-related excess emissions from in-use vehicles.

WHEREAS, in response to comments of the industry and the public and on the basis of further analysis staff proposed conceptual changes to the regulations which they originally proposed;

WHEREAS, at a public hearing on September 8, 1988, the Board considered the original staff proposal, the conceptual changes which the staff proposed to that proposal, and the comments and testimony of the manufacturers and other interested parties and expressed approval of the amendments to Sections 2111, 2112, and 2113 of Title 13 of the California Code of Regulations and the documents incorporated therein, with the changes which were orally discussed on the record;

WHEREAS, the Board continued the hearing and directed the Executive Officer, in cooperation with the manufacturers, to draft appropriate language embodying the changes which the Board approved to the original staff proposal and to present the regulations to the Board for further consideration;

WHEREAS, the Board has considered the regulations and Incorporated documents as amended by staff, the supplemental staff report, and the comments and testimony presented by interested persons and the staff;

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby approves the amendments to the regulations specified in 13 CCR Sections 2111-2113 and the documents incorporated therein, as set forth in Attachments A through D, and directs the Executive Officer to adopt the amendments after making them available to the public for a period of 15 days; provided the Executive Officer shall consider such written comments as may be submitted during this period and shall make such modifications as may be appropriate in light of the comments received.

BE IT FURTHER RESOLVED that the Board hereby determines that the amendments adopted herein will not cause the California emission standards, in the aggregate, to be less protective of public health and welfare than applicable federal standards, and 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 their adoption, forward the amendments adopted herein to the Environmental Protection Agency with a request for a confirmation that the amendments are within the scope of an existing waiver of federal preemption pursuant to Section 209(b) of the Clean air Act, if such action is required by the Clean Air Act.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to report back to the Board on the progress of the recall program, and to inform the Board of any problems encountered in its implementations within one year of the effective date of these regulations.

I hereby certify that the above is a true and correct copy of Resolution 88-50, as adopted by the Air Resources Board.



Cary Allison, Board Secretary