State of California
AIR RESOURCES BOARD

Resolution 00-45

December 7, 2000

Agenda Item No.: 00-12-3

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 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 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 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, 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 ZEVs, vehicles with no emissions;

WHEREAS, the LEV II regulations are contained primarily in title 13, California Code of Regulations, 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 ZEV;

WHEREAS, the LEV II regulations require manufacturers to phase in an increasingly cleaner passenger car and light-duty truck fleet each year from the 2003 through the 2010 model years, after which the vehicles must continue to meet the 2010 model-year fleet-wide standards;

WHEREAS, under the LEV II regulations, current medium-duty vehicles with a gross vehicle weight (GVW) of 8,500 lbs. or less will be reclassified as light-duty trucks which have to meet the same exhaust emission standards as passenger cars and light-duty trucks;

WHEREAS, while passenger cars and light-duty trucks must phase-in to the LEV II exhaust emission standards in model years 2004-2007, manufacturers may delay reclassifying their current medium-duty vehicles less than 8,500 lbs. GVW as light-duty trucks and, therefore, may continue to certify these vehicles to the less stringent LEV I medium-duty exhaust emission standards until model year 2007;

WHEREAS, in December 1999, the U.S. Environmental Protection Agency (U.S. EPA) adopted the federal Tier 2 emission control program, generally similar to the LEV II program, that includes two primary elements: (1) multiple tiers of emission standards, called "bins", and (2) a mechanism requiring each manufacturer to phase-in a progressively cleaner mix of vehicles each year with the option of credit trading;

WHEREAS, the federal Tier 2 program requires vehicles between 6,000-8,500 lbs. GVW to phase-in to an interim fleet average requirement for model years 2004 through 2007, and to fully phase-in to the Tier 2 requirements in model years 2008 and 2009;

WHEREAS, while California's LEV II regulations are generally more stringent than the federal Tier 2 program, under some circumstances manufacturers may certify certain vehicle models to more stringent federal exhaust emission standards because of the Tier 2 provisions providing an interim phase-in requirement for the heavier light trucks and sport utility vehicles (SUVs) and emission credit trading between the heavier and lighter vehicles;

WHEREAS, the Board administers standards for exhaust emissions from heavy-duty Otto-cycle engines and vehicles in title 13, California Code of Regulations, 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 1987 and Subsequent Model Heavy-Duty Otto-Cycle Engines";

WHEREAS, in July 2000, the U.S. EPA adopted new exhaust emission standards for heavy-duty Otto-cycle engines and vehicles that are more stringent than current California requirements for these engines and vehicles;

WHEREAS, in conjunction with a public hearing notice dated October 10, 2000, the staff has initially proposed a set of amendments to the low-emission vehicle regulations, along with amendments to the standards for heavy-duty Otto-cycle engines and vehicles; these amendments include the following primary elements:

> Incorporation of portions of the recently promulgated federal Tier 2 program into the California LEV II exhaust emissions requirements for light- and medium duty vehicles by requiring manufacturers to sell federally-certified vehicle models in California in those instances where the federal model is certified to exhaust emission standards that are more stringent that the California standards to which the equivalent California model would otherwise be certified;
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> Providing that federally-certified vehicles approved for sale in California will have to meet California requirements for evaporative emissions and OBD; and
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> Alignment of California exhaust emissions standards for heavy-duty Otto-cycle engines with the recently promulgated federal requirements.

WHEREAS, based on public comments, the staff has recommended modifications to the original proposal regarding LEV II and Tier 2 vehicles; the modifications would allow manufacturers to market qualifying federally-certified vehicles prior to the 2004 model year, allow 2004 and earlier model-year federal heavy light-duty trucks and medium-duty passenger vehicles covered by the program to certify to federal evaporative emissions and OBD requirements, delete the requirement that a federally-certified vehicle model be marketed in California when the otherwise comparable California model uses a different aspiration method or fuel, and provide manufacturers with credit for the additional emission benefits achieved by federally certifying vehicles to optional 150,000 mile emission standards;

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; and

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

WHEREAS, the Board finds that:

The amendments approved herein to the LEV II regulations are necessary and appropriate to assure that California continues to receive the cleanest light- and medium-duty vehicles available;

The staff's recommended modifications to the originally proposed LEV II amendments are appropriate to provide additional flexibility, help assure adequate lead time, and improve the concept of equivalent vehicle models;

The U.S. EPA has demonstrated the technical feasibility and cost-effectiveness of its new more stringent exhaust emission standards for heavy-duty Otto-cycle engines and vehicles; adopting similar in California requirements will result in no significant additional burden on the manufacturers beyond the existing federal requirements;

The remaining elements of the approved amendments are necessary, appropriate, and technologically feasible;

The amendments approved herein will not have any significant adverse impacts on the environment, and will result in reductions in emissions of reactive organic gases and oxides of nitrogen of about one ton per day in 2010 in the South Coast Air Basin;

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; and

The approved amendments will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing businesses within California, the expansion of businesses currently doing business within California, or the ability of California businesses to compete with businesses in other states.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the amendments to title 13, California Code of Regulations, sections 1956.8 and 1961, as set forth in Attachment A hereto, the amendments to (and adoption of) the documents

incorporated by those regulations as set forth in Attachments B, C and D hereto, with the modifications set forth in Attachment E hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt the modified amendments that are approved herein, after making the modified regulatory language available for supplemental public comment for a period of at least 15 days, provided that the Executive Officer shall consider all written comments regarding the modified text that 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 California motor vehicle emission standards for passenger cars, light-duty trucks and medium-duty engines, and for heavy-duty Otto-cycle engines, with the amendments approved herein, are, in the aggregate, at least as 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 remain necessary to meet compelling and extraordinary conditions.

BE IT FURTHER RESOLVED that the Board finds that the California emission standards and test procedures with the amendments approved herein will not cause the California requirements to be inconsistent with section 202(a) of the Clean Air Act.

BE IT FURTHER RESOLVED that the Executive Officer shall, upon adoption, forward the amended regulations to the U.S. EPA with a request for a waiver of federal preemption pursuant to section 209(b) of the Clean Air Act.

I hereby certify that the above is a true and correct copy of Resolution 00-45, as adopted by the Air Resources Board.

Marie Kavan

Marie Kavan, Clerk of the Board

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Office of the Secretary

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RESOURCES AGENCY OF CALIFORNIA

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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 1987 and Subsequent Model Heavy-Duty Otto-Cycle Engines," as posted on the ARB's Internet site for this rulemaking, www.arb.ca.gov/regact/mdv-hdge/mdv-hdge.htm

Attachment C: Proposed new "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/mdv-hdge/mdv-hdge.htm

Attachment D: 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/mdv-hdge/mdv-hdge.htm

Attachment E: Staff's Suggested Modifications to the Original Proposal, distributed at the hearing on December 7, 2000