State of California
AIR RESOURCES BOARD

Resolution 03-13

May 22, 2003

Agenda Item No.: 03-4-7

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (ARB or the Board) 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 2002 the Legislature enacted Assembly Bill 2637 (Stats. 2002, Chapter 1001), which requires the establishment of an enhanced Smog Check Program in the urbanized areas of the San Francisco Bay Area Air Basin;

WHEREAS, AB 2637 also amended section 44011(a)(4)(B) of the Health and Safety Code to specify that new motor vehicles are to be exempted statewide from the Smog Check biennial inspection program for up to six model years instead of the current four model years; the increased exemption is to become effective in all Basic and Enhanced Smog Check areas beginning January 1, 2004, unless the ARB finds that exempting the additional vehicles would prohibit the State from meeting the requirements of either section 176(c) of the federal Clean Air Act (i.e., "conformity" requirements) or California's commitments with respect to the State Implementation Plan (SIP);

WHEREAS, ARB staff assessed the emissions impact of increasing the Smog Check exemption as specified in Health and Safety Code section 44011(a)(4)(B) and determined that a significant, adverse emissions impact would result in Enhanced Smog Check areas from increasing the exemption to either five or six model years;

WHEREAS, ARB staff presented its proposed findings to the Board at its April 24, 2003 Board meeting;

WHEREAS, on April 24, 2003 the Board approved Resolution 03-6, which included a finding that in Enhanced Smog Check areas a fleet-wide exemption for new motor vehicles beyond the current four years would prohibit the State from meeting California's commitments with respect to the SIP;

WHEREAS, in some areas that are nonattainment for the federal one-hour ozone standard (nonattainment areas), portions of each nonattainment area are subject to the Basic Smog Check program while other portions are subject to the Enhanced Smog Check Program (such areas are hereafter referred to as "nonattainment areas with Enhanced Smog Check programs");

WHEREAS, in Resolution 03-6, the Board also directed the Executive Officer to undertake further investigation regarding Basic Smog Check areas located within nonattainment areas with Enhanced Smog Check Programs, to determine if increasing the exemption to five and six years in these Basic Smog Check areas would prohibit the State from meeting California's commitments with respect to the SIP, and to return to the Board with the results of the investigation and with appropriate recommended findings;

WHEREAS, the Board staff has completed its analysis regarding Basic Smog Check areas, and has presented its findings in a staff report released on May 13, 2003, Public Meeting to Consider Findings on AB 2637 Vehicle Exemptions from the Basic Smog Check Program, and to the Board at its May 22, 2003 Board meeting;

WHEREAS, if the Board approves the findings proposed by staff in the staff report, under Health and Safety Code section 44022(a)(4)(B) the exemption would not increase beyond the current four model years in the South Coast, Sacramento Metropolitan, San Joaquin Valley, and Ventura federal ozone nonattainment areas, and the Mojave Desert portion of the Southeast Desert nonattainment area;

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 has been held to discuss the analyses and proposed findings, and to consider written and oral comments from interested parties;

WHEREAS, the Board finds that:

California's 1994 State Implementation Plan for Ozone includes commitments made by the State to achieve emission reductions from motor vehicles, including emission reductions to be achieved through the State's Smog Check Program;

California has made commitments to reduce emission reductions from motor vehicles within those nonattainment areas classified as severe and extreme ozone nonattainment areas under the federal Clean Air Act; and is obligated to fulfill those commitments at least through the attainment dates specified in the federal Clean Air Act for each of these areas;

California is not currently achieving the emission reductions attributed to the Smog Check Program statewide, and is not projected to achieve the emission reductions committed to in the South Coast, Sacramento Metropolitan, San Joaquin Valley, Ventura, and Southeast Desert federal ozone nonattainment areas by each area's federal ozone attainment date;

In Basic Smog Check Program areas located within the South Coast, Sacramento Metropolitan, San Joaquin Valley, and Ventura federal ozone nonattainment areas, and the Mojave Desert portion of the Southeast Desert nonattainment area, an exemption for new motor vehicles beyond the current four years would result in adverse emissions impacts that would prohibit the State from meeting California's commitments with respect to the SIP;

WHEREAS, the findings made by the Board in accordance with Health and Safety Code section 44011(a)(4)(B) do not constitute a "project" under the California Environmental Quality Act (CEQA), and

WHEREAS, the Board further finds that:

With respect to Basic Smog Check areas located within the South Coast, Sacramento Metropolitan, San Joaquin Valley, and Ventura federal ozone nonattainment areas, and the Mojave Desert portion of the Southeast Desert nonattainment area, there will be no significant adverse impacts on the environment because the current four-year exemption will remain unchanged, and the emission increases that would have resulted from increasing the exemption will not occur;

With respect to Basic Smog Check areas located outside of the South Coast, Sacramento Metropolitan, San Joaquin Valley, and Ventura federal ozone nonattainment areas, and the Mojave Desert portion of the Southeast Desert nonattainment area, the Board is taking no action; i.e., the Board has not made the finding specified in Health and Safety Code section 44011(a)(4)(B), and the exemption for five and six model year vehicles in Basic areas will therefore occur by operation of law, as mandated by the Legislature;

NOW, THEREFORE, BE IT RESOLVED, that the Board approves the staff report entitled "Findings on AB 2637 Vehicle Exemptions from the Basic Smog Check Program" and the findings listed above.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to notify the Bureau of Automotive Repair, the Department of Motor Vehicles, and other interested parties of the Board's findings pursuant to Health and Safety Code section 44011(a)(4)(B).

I hereby certify that the above is a true and correct copy of Resolution 03-13, as adopted by the Air Resources Board.

Stacey Dorais, Clerk of the Board