

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED MINOR AMENDMENTS TO THE PERIODIC SMOKE INSPECTION PROGRAM IN RESPONSE TO THE INCLUSION OF DIESEL VEHICLES IN SMOG CHECK (ASSEMBLY BILL 1488, MENDOZA 2007)

The Air Resources Board (ARB or Board) will conduct a public meeting at the time and place noted below to consider minor amendments to the Periodic Smoke Inspection Program (PSIP).

DATE: October 21, 2010
TIME: 9:00 a.m.
PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., October 21, 2010, and may continue at 8:30 a.m., on October 22, 2010. This item may not be considered until October 22, 2010. Please consult the agenda for the meeting, which will be available at least 10 days before October 21, 2010 to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to sections 2190, 2191 and 2194, title 13, California Code of Regulations (the regulations for the Periodic Smoke Inspection Program).

Background

Periodic Smoke Inspection Program

The PSIP was signed into law in 1990 (Senate Bill 2330) to control excessive smoke emissions from and tampering in commercial fleets of heavy-duty trucks and busses. It was implemented in July, 1998. The PSIP requires that owners of California based fleets of two or more diesel vehicles with gross vehicle weight ratings (GVWR) of greater than 6,000 pounds conduct annual smoke opacity inspections of their vehicles, repair those with excessive smoke emissions, and retain applicable records for a minimum of two years. Staff estimates that 379,242 vehicles in about 12,600 fleets are

subject to PSIP in 2010¹. More information regarding the PSIP can be accessed at: <http://www.arb.ca.gov/enf/hdvip/hdvip.htm>.

Diesel Smog Check

Assembly Bill 1488 was enacted in 2007. It requires that diesel passenger cars and trucks, manufactured after the 1997 model year with GVWR of 14,000 pounds or less, be included in the California Smog Check Program beginning January 1, 2010. The diesel Smog Check Program is registration based and requires emissions checks on a biennial basis. The program is administered by the Department of Consumer Affairs, Bureau of Automotive Repair (BAR) with assistance from ARB. Diesel Smog Check inspections consist of a visual inspection of the emission control devices, an interrogation of the vehicle's on-board diagnostic (OBD) system, and a visual assessment of the vehicle's smoke level. About 510,700 diesel vehicles are subject to the diesel Smog Check Program, the vast majority of which are privately owned and not subject to the PSIP.

Concurrent Impacts of the PSIP and Smog Check Programs

With the 2010 implementation of biennial Smog Checks for lighter diesel vehicles, about 76,740 diesel vehicles will be subject to both Smog Checks and PSIP opacity inspections. Every other year, owners of these vehicles will have to perform both tests in the same year. The tests are largely duplicative because they both evaluate smoke emissions of the vehicle.

The staff believes there is little or no air quality benefit from performing both tests in one year. There is a cost to the vehicle owner however; a PSIP inspection averages \$55 per test, and a Smog Check averages \$47 per test.

Proposed Action

ARB staff is proposing regulatory amendments to the current PSIP program to allow commercial truck fleets, subject to both the PSIP and the Smog Check Program to submit evidence of passing a Smog Check inspection as proof of compliance with the PSIP. The effect of the staff proposal is to reduce the cost of complying with these two programs by about \$55 every other year, with little or no loss of air quality benefits.

For those years when a Smog Check inspection is not required, the vehicle would still be required to perform a PSIP smoke inspection. Submission of documentation of passing Smog Check inspection, in lieu of a PSIP annual smoke opacity inspection, would only be for those calendar years when a Smog Check inspection is required. This change would apply to 1998 and subsequent model-year vehicles with GVWR of 14,000 pounds or less that are currently subject to the PSIP. The PSIP requirements

¹ California Air Resources Board, "Staff Report: Initial Statement of Reasons for Proposed Rulemaking. Public Hearing to Consider Proposed Amendments to California Regulations Governing The Heavy-Duty Vehicle Inspection Program (HDVIP) and the Periodic Smoke Inspection Program (PSIP), October 1997, pp 21.

for diesel vehicles not subject to Smog Check would be unchanged.

COMPARABLE FEDERAL REGULATIONS

There are no comparable federal regulations at this time. Federal regulations for heavy-duty engines are limited to establishing new engine emission standards for oxides of nitrogen (NOx), particulate matter (PM), hydrocarbons (HC), and carbon monoxide (CO). This proposed amendment applies to the operation of in-use diesel vehicles in California.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposed amendment. The report is entitled: "Public Hearing to Consider Minor Amendments to the Periodic Smoke Inspection Program in Response to the Inclusion of Diesel Vehicles in Smog Check (Assembly Bill 1488, Mendoza 2007)".

Copies of the ISOR and the full text of the proposed regulatory amendment language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on October 21, 2010.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on ARB's website listed below.

Inquiries concerning the substance of the proposed amendment may be directed to the agency contact persons, Mr. Robert Ianni, Air Resources Engineer, at (916) 322-0845 or Mr. Wayne Sobieralski, Air Resources Engineer, at (916) 323-1099, of the Heavy-Duty Vehicle Inspection and Maintenance Development Section.

Further, the agency representative and designated back-up contact person to whom nonsubstantive inquiries concerning the proposed administrative action may be directed to Lori Andreoni, Manager, Board Administration and Regulatory Coordination Unit, (916) 322-4011, or Trini Balcazar, Regulations Coordinator (916) 445-9564. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposed amendment is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB's website for this rulemaking at: <http://www.arb.ca.gov/regact/2010/psip2010/psip2010.htm>.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determination of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations is presented below.

The Executive Officer has determined that, except as discussed below, the proposed regulatory action would not create costs or savings, as defined in Government Code sections 11346.5(a)(5) and 11346.5(a)(6), to any State agency or in federal funding to the State, costs or mandate to any local agency or school district, whether or not reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

The proposed regulation amendments would result in small cost savings to some State and local agencies and school districts that operate diesel powered trucks, manufactured after the 1997 model year with GVWR of 14,000 pounds or less that are subject to both the California Smog Check Program and the PSIP.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The Executive Officer has determined that certain private persons and businesses would not incur additional costs due to this regulatory item and in fact will incur a saving by not performing a PSIP test during years in which a vehicle would be subject to both programs. While, some PSIP testing services may see a small decline in the number of smoke tests performed on vehicles having GVWR of 6,000 to 14,000 pounds², other Smog Check testing services may experience a small increase in the number of smoke tests. The proposed amendments only modify the frequency of PSIP inspections for vehicles having GVWR of 6,000 to 14,000 pounds to every other year. The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code sections 11346.3, the Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

² There are about 150 smoke testing services throughout the state and the vast majority of their testing service is for vehicles having GVWR greater than 14,000 pounds.

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would affect small businesses. Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and comments may be submitted by postal mail or by electronic submittal before the meeting. The public comment period for this regulatory action will begin on September 6, 2010. To be considered by the Board, written comments, not physically submitted at the meeting, must be submitted on or after September 6, 2010, and received **no later than 12:00 noon, October 20, 2010**, and must be addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and other search engines.

The Board requests, but does not require, that 20 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 39600, 39601, and 43701. This action is proposed to implement, interpret and make specific sections 39002, 39003, 39010, 39033, 43000, 43018, 43701(a), 44010.5, 44011, 44011.6 and 44012, Health and Safety Code.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text, as modified, is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language, as modified, could result from the proposed regulatory action; in such event, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Visitors and Environmental Services Center, 1001 I Street, First Floor, Sacramento, California, 95814, (916) 322-2990.

SPECIAL ACCOMMODATION REQUEST

Special accommodation or language needs can be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format (i.e. Braille, large print) or another language;
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing.

TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Para solicitar alguna comodidade especial o si por su idioma necesita cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alternativo (es decir, sistema Braille, letra grande) u otro idioma;
- Una acomodación razonable relacionados con una incapacidad.

Por favor llame a la oficina del Consejo a (916) 322-5594 o envíe un fax a (916) 322-3928 lo mas pronto possible, pero no menos de 10 dias de trabajo antes del el dia programado para la audencia del Consejo. TTY/TDD/ Personas que nesessitan este servicion pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

CALIFORNIA AIR RESOURCES BOARD

/s/

James N. Goldstene
Executive Officer

Date: August 24, 2010

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.arb.ca.gov.