

State of California
AIR RESOURCES BOARD

Resolution 99-32

July 22, 1999

Agenda Item No: 99-6-3

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, sections 43018(a) and (b) of the Health and Safety Code direct 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 the state ambient air quality standards at the earliest practicable date, and to take whatever actions are necessary, cost-effective, and technologically feasible in order to achieve, by December 31, 2000, specified reductions in the emissions of reactive organic gases, oxides of nitrogen (NO_x), particulates, carbon monoxide (CO), and toxic air contaminants from vehicular sources;

WHEREAS, section 43018(c) of the Health and Safety Code provides that in carrying out section 43018, the Board shall adopt standards and regulations which 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, reductions in in-use vehicular emissions through durability and performance improvements, requiring the purchase of low-emission vehicles by state fleet operators, and specification of vehicular fuel composition;

WHEREAS, following a September 28, 1990 hearing, the ARB adopted the Low-Emission Vehicle (LEV)/Clean Fuels Regulations, which required four levels of increasingly stringent emission standards for motor vehicles and also required the development of an infrastructure for the alternative clean fuels used to certify these motor vehicles;

WHEREAS, the clean fuels elements of the LEV/Clean Fuels Regulations require that certain owners/lessors of retail gasoline stations equip an appropriate number of their stations to dispense an alternative clean fuel if 20,000 or more vehicles are certified in California to a LEV standard on the fuel;

WHEREAS, when the 20,000 vehicle trigger is met for a particular alternative clean fuel, the number of required clean fuel outlets and the affected owners/lessors are determined on the basis of a series of calculations that consider the public (retail) LEV fuel demand, clean fuel outlet average annual throughput, and the number of retail gasoline service stations owned or operated by particular entities;

WHEREAS, the Clean Fuels Regulations also contain other provisions pertaining to criteria each clean fuel outlet must meet, reporting requirements for retail gasoline station owners/lessors, fleet operators and clean fuel distributors, and requirements that the ARB provide notifications to affected owner/lessors;

WHEREAS, when the Clean Fuels Regulations were adopted, it was expected that alternative fuels would be the primary fuels used by automobile manufacturers to meet California's LEV standards; however, automobile manufacturers are primarily meeting California's LEV requirements using California reformulated gasoline, and as a result, automobile manufacturers have produced and delivered fewer numbers of alternative fuel LEV vehicles for sale in California than was expected when these regulations were adopted;

WHEREAS, staff has proposed amendments to the Clean Fuels Regulations that would better reflect the California LEV alternative fuel vehicle market, streamline the reporting requirements, remove obsolete sections, and reduce the potential costs for affected parties; the proposed amendments are set forth in Attachment A hereto;

WHEREAS, in developing the proposed amendments to the Clean Fuels Regulations, the staff conducted public workshops on November 10, 1998 and March 18, 1999, and conducted meetings and conference calls with members of the regulated public, the California Energy Commission and other interested parties;

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 if feasible alternatives or mitigation measures are available which would substantially reduce or avoid such impacts;

WHEREAS, the Board has considered the impact of the proposed amendments on the economy of the State;

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:

The Clean Fuels Regulations ensure that the fuels used to certify low-emission vehicles are also readily available for routine consumer operation of those vehicles; to the extent that alternative clean fuels are used to certify low-emission vehicles, emission reductions will be achieved in customer use only, if clean fuels are readily available and used by the vehicle owners;

The proposed amendments will repeal obsolete sections pertaining to the years 1994 through 1996, eliminate reporting requirements for affected parties until the information is needed to implement the regulations, and revise the ARB staff's bi-annual notification to affected owners/lessors to once per year;

The amendments will modify the method used to determine the number of vehicles qualifying towards the 20,000 vehicle trigger by discounting fleet-operated vehicles by up to 75 percent;

The amendments will modify the method used to determine the number of clean fuel outlets required each year by including the fuel volume from the fleet vehicles counted in the vehicle trigger calculation, eliminating the discount for flexible fuel and dual-fuel LEV vehicles in the fuel volume calculation, modifying the anticipated fuel throughput from each clean fuel outlet, and providing credit for existing public alternative fuel facilities;

The amendments will also add provisions that would allow the ARB Executive Officer to adjust the calculated number of clean fuel outlets up or down, within a maximum and a minimum level, based on evidence that the adjusted number of outlets would better reflect fueling demand, and to reduce the amount of discount provided for fleet vehicles that qualify towards the vehicle trigger;

The amendments will revise the schedule for siting new clean fuel outlets to maintain the existing time allowances, modify the amenity requirements to allow more existing public and private alternative fueling facilities to qualify as clean fuel outlets, and add a sunset provision that would remove the requirements to install clean fuel outlets for a clean fuel when 10 percent of the retail gasoline stations in the State have made that clean fuel available for purchase;

The amendments will streamline the regulations, reduce potential costs over the life of the program, and reinstate the Board's original intent to site more clean fuel outlets during the early years of the program;

The amendments will also provide additional flexibility to the Executive Officer to evaluate the fueling practices and fuel demand of alternative fuel LEVs and to adjust the required number of clean fuel outlets appropriately based on available information or by petition;

The 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;

The amendments adopted and approved herein will not have a significant adverse impact on the economy of the state; and

WHEREAS, the Board further finds that:

The amendments adopted herein will not result in any adverse environmental impacts.

NOW, THEREFORE, BE IT RESOLVED that the Board adopts the amendments to sections 2300, 2302-2304, and 2306-2316, the repeal of sections 2301 and 2305, and the adoption of new sections 2303.5, 2311.5 and 2317, title 13, California Code of Regulations, as set forth in Attachment A hereto, with proposed new section 2317 being renumbered as section 2318.

I hereby certify that the above is a true and correct copy of Resolution 99-32, as adopted by the Air Resources Board.

Pat Hutchens, Clerk of the Board

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July 22, 1999

Identification of Attachments to the Resolution

Attachment A: Proposed Regulation Order, amending sections 2300, 2302-2304, and 2306-2316, repealing sections 2301 and 2305, and adopting sections 2303.5, 2311.5, and 2317, title 13, California Code of Regulations, as set forth in Attachment A of the Staff Report.