

## UPDATED INFORMATIVE DIGEST

### **AMENDMENTS TO THE REGULATION FOR THE HEAVY-DUTY VEHICLE SMOKE INSPECTION PROGRAM (IMPLEMENTATION OF ASSEMBLY BILL 1009, PAVLEY 2004, CHAPTER 873)**

**Sections Affected:** Amendments to title 13, California Code of Regulations, sections 2180-2189: Heavy-Duty Smoke Emissions Test and Heavy-Duty Vehicle Emissions Control System Inspections.

#### **Background**

On September 29, 2004, Assembly Bill 1009 (AB1009) was signed into law, amending Health and Safety Code Section 43701. The amendments require the Air Resources Board (ARB) to develop and implement, in consultation with the California Highway Patrol, regulations to ensure that heavy-duty commercial vehicles (HDCVs) operating in California are equipped with engines that, at the time of manufacture, met standards that were at least as stringent as emission standards promulgated by the United States Environmental Protection Agency (U.S. EPA). In adopting AB 1009, the Legislature found that heavy-duty vehicles equipped with engines emitting greater levels of oxides of nitrogen (NOx) and particulate matter (PM) than those designed to meet standards adopted by the U. S. EPA contribute to higher levels of ozone and PM, and pose a threat to public health in California.

In response to environmental concerns and public health impacts from the operation of in-use heavy-duty diesel-powered vehicles, the legislature in 1988 directed ARB to design and enforce a heavy-duty vehicle smoke enforcement program. The regulations governing this program, the Heavy-Duty Vehicle Inspection Program (HDVIP), were adopted by ARB in 1990, and the program became operative in November 1991. Under the HDVIP, in-use heavy-duty diesel and gasoline-powered trucks are tested for excessive smoke and are inspected for tampered emission control systems. Intrastate, interstate, and international vehicles are all subject to these inspections that are conducted in cooperation with the California Highway Patrol (CHP) at CHP weigh stations and at random roadside locations. Owners of vehicles failing prescribed test procedures are issued citations that require prompt vehicle repairs and carry civil penalties ranging from \$300 to \$1800 per violation. The HDVIP program regulations were updated in December 1997, in order to incorporate new Society of Automotive Engineers (SAE) J1667 test procedures and other program protocols. In 2004, the HDVIP regulations were amended to inspect and assess penalties for scan tool evaluation violations under title 13, CCR, section 2011.

## **Description of the Regulatory Action**

The ARB staff's proposal applies to all 1977 and later model year diesel-powered HDCVs operating in California with a gross vehicle weight rating (GVWR) greater than 10,000 pounds. Presently, under the HDVIP regulations, staff inspects vehicles for missing emission control labels (ECL) but has not been, in general, assessing penalties for missing ECLs. Under the adopted amendments, ARB will require, one year after the amendments become effective, a mandatory penalty of \$300 for a missing ECL. If a citation is issued for a missing ECL within the first 12 months from the effective date of the regulations, the civil penalty would be waived provided the owner/operator, within 45 days of the date of the citation, obtains a replacement ECL that is affixed to the engine by an authorized engine repair/service facility. After the first 12 months, an owner or operator will be excused from the \$300 penalty only if he is able to present documentation at the time inspection that the vehicle's engine is in compliance with the requirement that the engine met federal emission standards at the time of manufacture.

The amendments require that ECLs be affixed to the engine so that ARB will be able to determine, pursuant to the mandate of AB 1009, whether the vehicle has been manufactured to meet at least U.S. certification standards. For HDCVs with an affixed label, but which are not equipped with engines that met U.S. certification standards at the time of manufacture, the owner or operator of the vehicle will receive an additional citation, mandating a civil penalty of \$500.

It will be presumed at the time of inspection that an HDCV without a label affixed to it does not at least meet federal certification standards. Therefore, the owner will be cited for both violations identified above. However, the penalty for operating in California with a non-compliant engine would be waived provided the owner/operator, within 45 days of the date of the citation, obtains a replacement ECL that indicates the engine was in fact certified to meet at least U.S. EPA standards applicable at the time of manufacturer. ARB enforcement staff will cite HDCVs that do not meet the ECL and certification requirements each time they are found to be operating illegally in California.

In addition to adding specific language regarding penalties under AB 1009, amendments to the civil penalty section set forth at section 2185 of the HDVIP are being proposed to provide additional clarity. The staff determined that the incorporation of the proposal contained herein necessitated modifications to improve the overall flow of the regulatory text.

## **Comparable Federal Regulations**

There are no comparable federal regulations at this time. Federal regulations for heavy-duty engines are limited to establishing emission standards for NO<sub>x</sub>, PM, hydrocarbons (HC), and carbon monoxide (CO). The regulations also require that all new heavy-duty engines have an ECL affixed. U.S. EPA's authority to adopt emission standards for "new engines" is authorized under section 202(b) of the federal Clean Air Act. While states are generally preempted from adopting their own emission standards for motor

vehicles, California has uniquely set its own emission standards under the preemption waiver provisions of section 209(b) of the Act.

The proposed amended regulations apply to the operation of in-use vehicles in California. This is authorized under CAA section 209(d), which provides that any state or political subdivision may control, regulate, or restrict the use, operation, or movement of registered or licensed motor vehicles.