Attachment 1

EXECUTIVE ORDER G-05-061

State of California
AIR RESOURCES BOARD

EXECUTIVE ORDER G-05-061

Relating to Public Hearing to Consider Adoption of Regulations
to Control Greenhouse Gas Emissions From Motor Vehicles

WHEREAS, on September 23-24, 2004, the Air Resources Board (ARB or Board) conducted a public hearing to consider adoption of regulations to control greenhouse gas emissions from motor vehicles;

WHEREAS, following the public hearing, on September 24, 2004, the Board adopted Resolution 04-28, in which the Board, subject to further environmental analysis, initiated steps towards final adoption of (1) the amendments to title 13, California Code of Regulations, sections 1900, 1961 and adoption of new section 1961.1 set forth in Attachment A thereto, and (2) the amendments to the "California and Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium Duty-Vehicles" set forth in Attachment B thereto, both with the modifications set forth in Attachment C thereto;

WHEREAS, Resolution 04-28 directed the Executive Officer to compile the adoption and amendments described above, in accordance with the Board's direction, with such additional conforming modifications as may be appropriate, in a form showing all modifications to the original proposal, and make that regulatory text available for a supplemental comment period of at least 15 days on the modifications as required by Government Code section 11346.8;

WHEREAS, Resolution 04-28 further directed the Executive Officer to consider all relevant comments submitted during the supplemental comment period, and incorporate into the adoption and amendments any additional modifications she determines appropriate, making the modifications available for additional public comment if required by the California Administrative Procedure Act;

WHEREAS, Resolution 04-28 further directed the Executive Officer to then take appropriate final action with the adoption and amendments in this rulemaking, after preparing a written response to all comments received that have raised significant environmental issues, and assuring that all feasible mitigation measures or feasible alternatives available that would substantially reduce any significant adverse environmental impacts have been incorporated into the final action;

WHEREAS, Resolution 04-28 further directed the Executive Officer to, within 10 days of taking appropriate final action regarding the adoption and amendments in this rulemaking, transmit the Final Regulation Order to the appropriate policy and fiscal committees of the Legislature for review;

WHEREAS, as directed by Resolution 04-28, modified regulatory text was prepared incorporating the modifications approved by the Board; the approved modifications included specifying that the regulation may not take effect before January 1, 2006; allowing the Executive Officer to approve the use of lower upstream adjustment factors for hydrogen vehicles and electric vehicles, based on the increased use of cleaner sources of hydrogen or electricity production; and providing credit for plug-in hybrid electric vehicles in the first year of production;

WHEREAS, as directed by Resolution 04-28, the modified regulatory text included additional conforming modifications in response to comments, including extending the life of credits earned to five years; increasing the number of years manufacturers are given to make up emission debits to five years; adding an adjustment factor that will apply to air conditioning systems equipped with CO_2 as the refrigerant, placing an upper limit on allowable indirect emission allowances, and correcting an indirect emissions factor used to calculate the upstream greenhouse gas emission adjustment for alternative fuel vehicles;

WHEREAS, by October 19, 2004, the modified regulatory text, reflecting the proposed regulatory text upon which the Board initiated action, with other changes made to best reflect the intent of the Board at the hearing, was made available for public comment for a period of at least 15 days, with the changes to the originally proposed text clearly indicated, in accordance with the provisions of title 1, California Code of Regulations, section 44; at the same time, the public was also provided an opportunity to comment on material being added to the rulemaking file;

WHEREAS, 21 written comments on the modified text and material added to the rulemaking file were received during the supplemental comment period which ended November 4, 2004; new issues raised included comments on climate change science; on the regulatory treatment of upstream emissions from hydrogen fueled vehicles and grid-connect hybrid electric vehicles; on staff's revised estimate of fuel cycle emission reductions; on the combined effect of the regulation on criteria pollutant emissions; and on the treatment of commercial vehicles;

WHEREAS, by May 11, 2005, the public was provided an opportunity to comment on additional material being added to the rulemaking file;

WHEREAS, four written comments on the additional material added to the rulemaking file were received during this second supplemental comment period, which ended May 26, 2005; however no new issues were raised;

WHEREAS, Attachment 1 hereto shows amendments to title 13, California Code of Regulations, sections 1900, 1961 and adoption of new section 1961.1, reflecting the proposed amendments made available by October 19, 2004; and Attachment 2 hereto

shows amendments to the incorporated "California and Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium Duty-Vehicles," reflecting the proposed amendments made available by October 19, 2004;

WHEREAS, the rationale for the modifications to the original proposal are described both in Attachment I to the October 19, 2004 notice of availability for public comment and in the Final Statement of Reasons prepared for this rulemaking, and based on that rationale and the findings in Resolution 04-28, I find that the amendments adopted herein are necessary and appropriate;

WHEREAS, I find that:

> Although some commenters have asserted that the proposed regulatory action will impair ozone and particulate matter air quality due to delays in new vehicle purchases (also known as the "fleet turnover effect"), to increased driving (also known as the "rebound effect"), and to a reduction in upstream fuel cycle emissions smaller than what ARB staff projects, the principal economic and environmental analysis provided in the Staff Report (released August 6, 2005), its Addendum (released September 10, 2005), and item 5 in Attachment II of the Additional Supporting Documents and Information released for comment on October 19, 2004, together conclude that the regulations will not delay new vehicle purchases and will produce slight benefits for both ozone and particulate matter air quality in 2020 and 2030, and thereby will not contribute to a cumulatively considerable impact;
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> The August 6, 2004 Staff Report/Initial Statement of Reasons and the September 10, 2005 Addendum thereto did not identify any adverse environmental impacts that would result from the original proposal, and no new types of adverse environmental impacts were identified in the modified staff proposal or in comments on that proposal;
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> Using proper assumptions, staff's supplemental analysis of fleet turnover issues (using the sophisticated though still exploratory CARBITS model) and the rebound effect (using a California-specific econometric model developed by experts at the University of California and a travel demand model developed by the Southern California Association of Governments) indicates only a slight reduction in the positive impact on air quality provided by the principal economic and environmental analysis, and indicates a PM_{10} impact so small that it cannot be cumulatively considerable, and in any event was not necessary to determine the environmental impacts from the proposed regulatory action;

None of the comments received during the supplemental comment period ending November 4, 2004 or the second supplemental comment period ending May 26, 2005 raised issues or provided information that would lead staff to change the conclusions reached in support of the Board's action approving Resolution 04-28 or the Board's direction therein;

Attachment 3 hereto summarizes all of the comments raising significant environmental issues in this rulemaking, and the written responses to those comments, prepared by staff;

Compared to the baseline emissions from the affected passenger vehicle fleet currently projected for 2009 and later model years, the proposed regulatory action will not have a significant adverse emissions or other environmental impact;

WHEREAS, I further find that:

The text of the greenhouse gas regulations and incorporated test procedures adopted herein are consistent with the direction of the Board at its September 23-24, 2004 hearing;

Certain provisions of the proposed regulatory action are clearly severable, with no further reanalysis needed for what would be the remaining, non-severed provisions, such severable provisions including:

(1) part or all of the entire section 1961.1 from the remainder of the LEV II program, as any part or all of that section's text (and related text in the test procedures incorporated by reference in section 1961(d)) can be severed from the current LEV II program regulatory text and test procedures; the Board clearly would have wanted the current LEV II program to continue as is, and the current LEV II program can function, as it has, with no new provision(s) from new section 1961.1;

(2) the intermediate-volume manufacturer language in amended section 1900(b)(9) from the remainder of that (b)(9) definition, as that text (and related text in the test procedures incorporated by reference in section 1961(d)) can be severed from the current LEV II program regulatory text and test procedures; this proposed amendment applies only to the new greenhouse gas emission standards in section 1961.1, the Board clearly would have wanted the remainder of the proposed regulatory action implemented, and the remainder of the greenhouse gas regulations can function without aggregating such sales;

(3) the small-volume manufacturer language in amended section 1900(b)(22) from the remainder of that (b)(22) definition, as that text (and related text in the test procedures incorporated by reference in section 1961(d)) can be severed from the current LEV II program regulatory text and test procedures, the Board clearly would have wanted the existing small-volume manufacturer definition to continue applying for the current LEV II and remaining provisions of the greenhouse gas standards, and the current LEV II program and the remainder of the greenhouse gas regulatory action can function without aggregating such sales;

(4) the fleet average greenhouse gas exhaust mass emission standards for "All PCs: LDTs 0-3750 lbs. LVW" in section 1961.1(a)(1)(A) and all other provisions in section 1961.1 affecting vehicles of those weights from the remainder of section 1961.1, as all text for this weight group (and related text in the test procedures incorporated by reference in section 1961(d)) can be severed from the remainder of new section 1961.1, the Board clearly would have wanted to establish greenhouse gas emissions standards for LDTs 3751-8500 lbs and for MDPVs, and the remainder of section 1961.1 can function without separate standards for the PC/LDT 0-3750 lbs. vehicles; and

WHEREAS, I further find that:

No alternative considered would be more effective at carrying out the purposes for which the amendments are proposed, or would be as effective and less burdensome to affected private persons and businesses than the proposed regulatory action.

NOW, THEREFORE, IT IS ORDERED that the recitals and findings contained in Resolution 04-28 are incorporated herein.

IT IS FURTHER ORDERED that I hereby approve each of the written responses in Attachment 3 hereto to comments raising significant environmental issues in this rulemaking.

IT IS FURTHER ORDERED that title 13, California Code of Regulations, sections 1900 and 1961, are amended, and new section 1961.1 is adopted, both as set forth in Attachment 1 hereto, and the incorporated "California and Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium Duty-Vehicles" is amended as set forth in Attachment 2 hereto.

IT IS FURTHER ORDERED that within 10 days of this order, the Final Regulation Order, and Attachments 1 and 2 hereto, shall be transmitted to the appropriate policy and fiscal committees of the Legislature for review.

Executed this 4th day of August, 2005, at Sacramento, California.

Michael N. Schaible
for Catherine Witherspoon
Executive Officer

Attachments

Recv'd By
Office of the Secretary
AUG - 5 2005
Resources Agency of California