State of California
AIR RESOURCES BOARD

AMENDMENTS TO THE AIRBORNE TOXIC CONTROL MEASURE TO LIMIT DIESEL-FUELED COMMERCIAL MOTOR VEHICLE IDLING

Resolution 13-53

December 12, 2013

Agenda Item No.: 13-11-1

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 section 43000 of the Health and Safety Code, the Legislature has found and declared that the emission of air pollutants from motor vehicles is the primary cause of air pollution in many parts of the state, and in sections 39002 and 39003 of the Health and Safety Code, has charged the Board with the responsibility of systematically addressing the serious air pollution problem caused by motor vehicles;

WHEREAS, sections 43013, 43101, and 43104 of the Health and Safety Code authorize the Board to adopt and implement motor vehicle emission standards, in-use performance standards, and test procedures, which it finds to be necessary, cost-effective, and technologically feasible;

WHEREAS, sections 43013 and 43018 of the Health and Safety Code authorize the Board to adopt standards and regulations to control emissions from off-road or non-vehicle engine categories and to achieve the maximum degree of emission reduction possible from vehicular and other mobile sources in order to accomplish the attainment of the state standards for ambient air quality at the earliest practicable date;

WHEREAS, on August 27, 1998, the Board identified diesel exhaust particulate matter as a toxic air contaminant pursuant to article 3 (commencing with section 39650), chapter 3.5, part 2, division 26 of the Health and Safety Code;

WHEREAS, in identifying diesel exhaust particulate matter as a toxic air contaminant, the Board determined that there is not sufficient scientific evidence to support the identification of a threshold level below which no significant adverse health effects are anticipated, as codified in title 17, California Code of Regulations (CCR) section 93000;

WHEREAS, pursuant to article 3 (commencing with section 39650), chapter 3.5, part 2, division 26 of the Health and Safety Code, the Board also identified other toxic air contaminants associated with heavy-duty motor vehicle exhaust including: benzene on

January 25, 1985, dioxins and dibenzofurans on August 21, 1986, formaldehyde on March 12, 1992, 1,3-butadiene on July 9, 1992, and acetaldehyde, acrolein, and benzo[a]pyrene on April 8, 1993, (hereinafter referred to as "other toxic air contaminants");

WHEREAS, pursuant to section 39665 of the Health and Safety Code, the Board approved on September 28, 2000, a comprehensive risk reduction plan to significantly reduce diesel exhaust particulate matter emissions from diesel-fueled engines and vehicles (Risk Reduction Plan);

WHEREAS, sections 39658, 39665, 39666 and 39667 of the Health and Safety Code authorize the Board to establish airborne toxic control measures (ATCM) for substances identified as toxic air contaminants in accordance with specified criteria;

WHEREAS, in fulfilling the requirements of the aforementioned sections, the Board is required to consider the adoption of an ATCM for sources, including mobile sources, to achieve the maximum possible reduction in public exposure based on its prior determination not to specify a threshold exposure level for diesel exhaust particulate matter under section 39662 of the Health and Safety Code;

WHEREAS, an ATCM for an existing source, including a mobile source, developed pursuant to sections 39666 and 39667 of the Health and Safety Code is required to be based on application or utilization of the best available control technologies or more effective control methods, unless the Board determines, based on an assessment of risk, that an alternative level of emission reduction is adequate or necessary to prevent an endangerment of public health;

WHEREAS, the Risk Reduction Plan identified diesel-fueled heavy-duty motor vehicles as a source of diesel exhaust particulate matter;

WHEREAS, heavy-duty diesel-fueled vehicles emit significant oxides of nitrogen emissions and diesel exhaust particulate matter or other toxic air contaminants;

WHEREAS, modeling analyses show that potential cancer risk increases as the number of diesel-fueled heavy-duty vehicles and their idling time respectively increase;

WHEREAS, to reduce emissions, exposure, and associated potential cancer risk, the Risk Reduction Plan recommended idling restrictions to limit the amount of time heavy-duty vehicles are allowed to operate while not performing useful work such as moving a vehicle or operating essential equipment;

WHEREAS, pursuant to section 39602 of the Health and Safety Code, the Board approved on October 23, 2003, the 2003 State and Federal Strategy for the California State Implementation Plan (2003 SIP);

WHEREAS the 2003 SIP established a new roadmap for attaining the federal ambient air quality standards for ozone in all areas of the State by 2010, as required by federal law;

WHEREAS, the 2003 SIP included a measure ON-ROAD HEAVY-DUTY-3, which defines strategies to reduce emissions from existing and new heavy-duty diesel vehicles;

WHEREAS, measure ON-ROAD HEAVY-DUTY-3 includes the emission control strategy "Reduced Truck and Bus Idling," which directs staff to develop regulations to limit idling emissions from new and existing trucks and buses;

WHEREAS, the school bus idling regulation, set forth at title 13, CCR, section 2480, adopted by the Board on December 12, 2002, limits idling of school buses and heavy-duty vehicles at or near schools;

WHEREAS, the diesel-fueled commercial motor vehicle idling regulation, set forth at title 13, CCR, section 2485, adopted by the Board on July 22, 2004, limits non-essential idling of diesel-fueled non-sleeper trucks and buses to no more than five minutes;

WHEREAS, on October 25, 2001, the Board adopted more stringent, exhaust aftertreatment forcing, emission standards for 2007 and subsequent model heavy-duty diesel engines;

WHEREAS, the Board at its meeting on July 22, 2004, recognized the significance of diesel exhaust particulate matter emissions and directed staff to address emissions from trucks that idle during extended driver rest periods and from operation of diesel-fueled auxiliary power systems, and return to the Board with a proposal that considers idling emission standards for new truck engines and emission performance requirements for technologies used as alternatives to main engine idling;

WHEREAS, operators of sleeper berth equipped trucks idle the main engines for extended periods of time to provide cooling, heating or electrical power during rest periods, and thus are major contributors to idling emissions;

WHEREAS, diesel trucks are an important contributor to California's economy;

WHEREAS, in accordance with Health and Safety Code section 39667, staff evaluated various alternatives to primary engine idling, including automatic vehicle shut-off, auxiliary power systems, on-board and off-board truck stop electrification;

WHEREAS, in accordance with Health and Safety Code 39667, staff concluded that an idle limiting requirement for diesel-fueled sleeper berth equipped trucks would reduce criteria pollutants, diesel exhaust particulate matter and other toxic air contaminant emissions at locations such as rest stops, truck stops and plazas, alternate rest areas, distribution vehicle collection points, and maintenance facilities, and more effectively

and safely control emissions, reduce exposure, and protect health than any available control technology;

WHEREAS, on September 1, 2006, the Board adopted amendments to title 13, CCR, sections 1956.8, 2404, 2424, 2425 and 2485 and to the California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles (2006 Amendments) that required new California-certified 2008 and subsequent model year diesel engines in trucks with a gross vehicle weight rating (GVWR) greater than 14,000 pounds to either comply with a low oxides of nitrogen idling emission standard or be equipped with a nonprogrammable engine shutdown system that automatically shuts down the engine after five minutes of idling;

WHEREAS, the 2006 Amendments also required drivers of both in-state and out-of-state registered diesel fueled sleeper berth-equipped trucks with a GVWR greater than 10,000 pounds to manually shut down their engines when idling more than five minutes at any location within California, beginning January 1, 2008;

WHEREAS, the 2006 Amendments further prohibited, beginning January 1, 2008, drivers of both in-state and out-of-state registered diesel fueled sleeper berth-equipped trucks with a GVWR greater than 10,000 pounds from operating emissions producing alternative idle reduction technologies (such as diesel-fueled auxiliary power systems and fuel-fired heaters) unless such devices complied with specified emissions performance limits;

WHEREAS, the U.S. Environmental Protection Agency (U.S. EPA) has granted California a waiver and an authorization for the 2006 Amendments under the federal Clean Air Act sections 209(b) and 209(e), respectively;

WHEREAS, the 2006 Amendments placed the responsibility to limit extended vehicle idling and to only operate alternative idle-reduction technologies on vehicle drivers;

WHEREAS, ARB Enforcement Division staff that enforce the 2006 Amendments often cannot issue citations for violations of the idling restrictions to vehicle drivers because the drivers are either not present or are resting in the sleeper cabs of the vehicles, and citations that are sent to the owner of the vehicle or the motor carrier (to be forwarded to the driver) are routinely ignored by drivers, owners, and motor carriers;

WHEREAS, such unresolved citations have significantly lowered the compliance rate of the regulation;

WHEREAS, the proposed amendments would expand the applicability of the idling ATCM to include the vehicle owner and the motor carrier that dispatched the vehicle, beginning January 1, 2015;

WHEREAS, the diesel-fueled commercial motor vehicle idling regulation currently limits idling of diesel-fueled commercial motor vehicles and the operation of emissions

producing alternative idle reduction technologies to five minutes when within 100 feet of an "restricted area" – defined as any real property zoned for individual or multifamily housing units that has one or more units on it;

WHEREAS, the proposed amendments would modify the definition of "restricted area" to also include schools, hotels, and motels;

WHEREAS, limiting idling of diesel-fueled sleeper berth equipped trucks and the operation of emissions producing alternative idle reduction technologies will reduce the public's exposure to, and associated cancer and other adverse health effects risk from, diesel exhaust particulate matter and other toxic air contaminants;

WHEREAS, the staff has proposed amendments to title 13, CCR, section 2485, as set forth in Attachment A hereto;

WHEREAS, ARB staff prepared a staff report entitled "Initial Statement of Reasons (ISOR) for Proposed Rulemaking, Proposed Greenhouse Gas (GHG) Regulation and Optional Reduced Emission Standards for Heavy-Duty Engines and Vehicles, Amendments to the Heavy-Duty Tractor-Trailer GHG Regulation, and Amendments to the Diesel-Fueled Commercial Motor Vehicle Idling Rule and Heavy-Duty Hybrid-Electric Vehicle Certification Procedures" which presents the rationale for the proposed amendments;

WHEREAS, the ISOR and proposed regulatory language were made available to the public for at least 45 days prior to the public hearing to consider the proposed amendments to the Diesel-Fueled Commercial Motor Vehicle Idling Rule;

WHEREAS, the California Environmental Quality Act (CEQA) requires that a public agency not approve a project as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental impacts of such a project; in the event that specific economic, social, or other conditions make infeasible the alternatives or mitigation measures, the project may be approved if it is determined that any remaining unavoidable significant impacts are acceptable due to overriding considerations;

WHEREAS, Public Resources Code section 21080.5 allows public agencies with regulatory programs to prepare a plan or other written document in lieu of an environmental impact report or negative declaration once the Secretary of the Resources Agency has certified the regulatory program;

WHEREAS, that portion of ARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary of Resources Agency (CEQA Guidelines, section 15251(d));

WHEREAS, in accordance with ARB's certified regulatory program at title 17, CCR, section 60005 (b), and the policy and substantive requirements of CEQA, as part of the

Initial Statement of Reasons (ISOR), ARB staff prepared an assessment of the potential for significant adverse and beneficial environmental impacts associated with the proposed amendments;

WHEREAS, the environmental analysis, circulated with the ISOR for 45 days, concluded the proposed amendments would result in no adverse impacts to the environment;

WHEREAS, no comments were received during the 45-day comment period that raise significant environmental issues, therefore, no approval of written responses to such comments is required per title 17, CCR, section 60007;

WHEREAS, the Board has considered the impact of the proposed amendments on the economy of the State and the potential for adverse economic impacts on California business enterprises and individuals;

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, in consideration of the information in the public record, including the ISOR, written comments, and testimony provided at the hearing, the Board finds that:

Despite advances in reducing emissions from mobile sources, stationary sources, and area sources, California still has the most severe air pollution problems in the United States;

To meet federal and California Clean Air Act emissions reductions requirements, ARB must continue to seek reductions from all sources under its authority, including new and in-use diesel powered trucks;

Ozone, created from the photochemical reactions between primarily oxides of nitrogen and hydrocarbons, causes harmful respiratory effects, and oxides of nitrogen alone can directly harm human health;

Diesel particulate matter emissions released from diesel trucks are carcinogenic and have been identified as a toxic air contaminant;

Emissions from idling diesel fueled trucks are localized and concentrated, and of grave air quality concern, particularly to communities disproportionately impacted by air pollution from other sources;

Trucks congregate at locations such as truck stops, ports, distribution centers, etc., and idle together for extended periods of time, producing harmful emissions of diesel particulate matter emissions and oxides of nitrogen that affect the health of the drivers and nearby community;

Effective enforcement of idling restriction based regulations is challenging because they require considerable amounts of enforcement resources throughout the state;

The proposed amendments that extend the applicability of the idling ATCM to the driver of the vehicle, the owner of the vehicle, and the motor carrier that dispatched the vehicle will allow ARB to more effectively enforce the diesel-fueled commercial motor vehicle idling regulation;

The proposed amendments to modify the definition of "restricted area" to include schools, hotels, and motels will provide the public with additional protection from exposure to diesel particulate matter and other toxic air contaminants, reduce potential cancer risks and other adverse health effects associated with diesel emissions, and make the diesel-fueled commercial motor vehicle idling regulation consistent with the requirements of the school bus idling ATCM (title 13, CCR, section 2480);

The reporting requirements of the proposed amended regulations that apply to businesses are necessary for the health, safety, and welfare of the people of the State;

The economic and fiscal impacts of the proposed amendments have been analyzed as required by California law, and the conclusions and supporting documentation for this analysis are set forth in the ISOR, as supplemented by staff's presentation at the hearing of this item;

Overall, the proposed amendments are not anticipated to impose any additional costs on the entities currently subject to the diesel-fueled commercial motor vehicle idling regulation;

The proposed regulations 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 businesses within California, or the ability of California businesses to compete with businesses in other states;

No reasonable alternative considered, or that has otherwise been identified and brought to the attention of ARB, would be more effective at carrying out the purpose for which the amendments are proposed, or would be as effective and less burdensome to affected private persons and businesses than the proposed amendments;

On the basis of the whole record, including the environmental analysis included in the ISOR, there is no substantial evidence that the proposed amendments will result in any significant adverse impacts on the environment; and

The proposed amendments are consistent with ARB's environmental justice policies and do not disproportionately impact people of any race, culture, or income.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves for adoption the proposed amendments to title 13, CCR section 2485, as set forth in Attachment A hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to determine if additional conforming modifications are appropriate. If no additional modifications are appropriate, the Executive Officer shall take final action to adopt the amendments, as set forth in Attachment A. If the Executive Officer determines that additional conforming modifications are appropriate, the Executive Officer shall adopt the modified amendments after making the modified regulatory language and any additional supporting documents and information available to the public for a period of 15 days, provided such modifications do not alter the conclusion of the environmental analysis, and provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make such further modifications as may be appropriate in light of the comments received, and shall present the regulation to the Board for further consideration if he determines that this is warranted.

BE IT FURTHER RESOLVED if it is determined that any 15-day modifications to the regulation affect the conclusion of the environmental analysis, the Executive Officer shall prepare and circulate any additional environmental analysis to the extent required by ARB's regulations at title 17, CCR, sections 60001-60007, and/or prepare written responses to any comments received raising significant environmental issues to present to the Board for its consideration for approval along with the proposed final regulation order.

BE IT FURTHER RESOLVED that the Board hereby determines that the regulations adopted herein will not cause California's motor vehicle or off-road engine emission standards, in the aggregate, to be less protective of public health and welfare than applicable federal standards.

BE IT FURTHER RESOLVED that the Board hereby finds that separate California emission standards and test procedures are necessary to meet compelling and extraordinary conditions.

BE IT FURTHER RESOLVED that the Board finds that the California emission standards and test procedures as adopted herein will not cause the California requirements to be inconsistent with sections 202(a), 209(a), 209(b)(1)(C), or 209(e)(1) of the federal Clean Air Act, and raise no new issues affecting previous waiver or authorization determinations of the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) pursuant to sections 209(b) or 209(e)(2)(A) of the federal Clean Air Act, respectively.

BE IT FURTHER RESOLVED that, to the extent such action is necessary, the Executive Officer shall, upon adoption, forward the regulation to U.S. EPA with a request for a waiver, or confirmation that the regulations are within the scope of an existing waiver of federal preemption pursuant to section 209(b) of the federal Clean Air

Act, or a request for an authorization, or confirmation that the regulations are within the scope of an existing authorization pursuant to section 209(e)(2)(A) of the federal Clean Air Act, as appropriate.

I hereby certify that the above is a true and correct copy of Resolution 13-53, as adopted by the Air Resources Board.

Tracy Jensen

Tracy Jensen, Clerk of the Board

Resolution 13-53

December 12, 2013

Identification of Attachments to the Resolution

Attachment A: Proposed Amendments to the Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling, California Code of Regulations, title 13, sections 2485, as set forth in Appendix I-D to the Initial Statement of Reasons, released October 23, 2013.

*Attachment A is not attached to the proposed resolution; it is simply described on this page.