

Agenda Item: **Request for 30-day Waiver and Request to Proceed to Hearing on Exemption of Certain Motor Vehicles from Emission Inspections (517)**

Explanation: The Environmental Management Commission (EMC) is requested to approve a waiver of its 30-day rule and one or more public hearings to consider amendments to the exemption of certain motor vehicles from emission inspections.

The new statute, Session Law 2012-199, will amend the current rule's exclusion of the current model year for emission inspection to exclude vehicles of the three most recent model years with less than 70,000 miles on its odometer. This change directly involves amending four rules:

- 15A NCAC 02D .1002, Applicability;
- 15A NCAC 02D .1003, Definitions;
- 15A NCAC 02D .1005, On-Board Diagnostic Standards; and
- 15A NCAC 02D .1006, Sale and Service of Analyzers

These four rules establish and define which vehicles are subject to the Motor Vehicle Emission Control Standard and which analyzers are suitable for conducting the emission inspections. In addition, this change involves minor housekeeping amendments and repealing a rule – 15A NCAC 02D .1009, Model Year 2008 and Subsequent Model Year Heavy-Duty Diesel Vehicle Requirements. This rule established heavy-duty diesel vehicle requirements referencing California regulations as a backstop to potential weakening or delay of federal standards pending in 2004; however, the equivalent federal standards were not weakened or delayed and were put in place. As a result, the state rule is duplicative and no longer necessary.

The Division of Air Quality (DAQ) identified the need for the above rule amendments in order to comply with the new Session Law 2012-199 statute that reduces the regulatory burden on many vehicle owners while meeting federal air quality standards. DAQ in coordination with the Department of Motor Vehicles (DMV) evaluated the potential impacts of exempting these motor vehicles on emission levels and air quality and determined that the exemption would not have a negative effect on air quality or on EPA accepting the State Implementation Plan (SIP) revision. A higher compliance rate than in previous modeling was used because recent data shows a higher rate has been achieved since the 2008 statute started the electronic authorization (e-sticker) program.

There would be substantial economic impacts from the revised statute, but the rule change itself has no impact beyond that created by the statute since its purpose is solely to align the related rules with the new statute. Although future estimates show revenue losses to State

government, the DAQ expects to be able to absorb these losses, primarily as a result of offsetting these losses through the expected growth in the number of vehicles subject to emission inspections. The proposed rule changes conform to the principles of Executive Order 70 by reducing potential burden on the regulated community and making the rule language easier to understand. A waiver of the 30-day rule is requested to allow the opportunity for the rule to become state effective under the Administrative Procedure Act by Jan. 1, 2014 which is the earliest effective date for implementation specified in the statute.

Recommendation:

The Director recommends that the Commission approve the waiver, proposed rule amendments and fiscal note along with authorizing a public hearing(s) on these items and that the Chairman appoint a member(s) of the Commission to serve as hearing officer(s).