

Thomas K. Fidler
Deputy Secretary, Bureau of Waste, Air and Radiation Management
Pennsylvania Department of Environmental Protection
Testimony on SB 295
House Transportation Committee
April 10, 2008

Introduction

Chairman Markosek, Chairman Geist and members of the committee, thank you for the opportunity to appear before you today on behalf of Secretary McGinty to discuss Senate Bill 295, also known as the Diesel-Powered Commercial Motor Vehicle Idling Act.

The Department of Environmental Protection fully supports the concept of statewide idling restrictions to limit emissions from diesel-powered commercial vehicles, however, the administration cannot support SB 295 in its current form. Substantive amendments are needed to this legislation in order to better protect the public's health.

As you are aware, the Environmental Quality Board is currently promulgating regulations to restrict idling under the authority of the Air Pollution Control Act. This proposed rulemaking, like SB 295, prohibits the unnecessary idling of diesel-powered commercial vehicles—with certain exceptions—and imposes fines for violations of the act.

The similarity ends there. SB 295, as it stands before you in Printer Number 1739, fails to equal the level of protection and enforcement that would be possible under the regulation being developed. SB 295 should be amended to broaden the scope of compliance responsibility, allow for civil penalties against violators, and include substantive fines against repeat offenders.

The Case Against Idling

The adverse health effects of diesel emissions have been studied extensively. Diesel exhaust is a complex mixture comprised of hazardous particles and vapors, some of which are known carcinogens and others probable carcinogens. According to the U. S. Environmental Protection Agency, diesel exhaust contains significant levels of small particles, known as fine particulate matter. The fine particles pose a significant health risk because they can pass through the nose and throat and lodge in the lungs, causing lung damage and premature death. They can also aggravate conditions such as asthma and bronchitis. Nationwide, particulate matter, especially fine particles, is responsible for thousands of premature deaths every year. EPA has also determined that diesel exhaust is a likely human carcinogen. The exhaust can also contribute to other acute and chronic health effects.

Emissions from heavy-duty vehicles contribute to the formation of ground-level ozone or smog, and to fine particulates. Achieving the National Ambient Air Quality Standards for ozone and fine particulates remains a significant challenge for the commonwealth, especially in the Philadelphia and Pittsburgh-Beaver Valley areas. The EPA recently requested additional emissions reductions in southeastern Pennsylvania to support the plan to demonstrate attainment of the 1997 8-hour health-based ozone standard. In the Pittsburgh areas, we were unable to demonstrate attainment of the ozone standard because of monitored violations during the 2007

ozone season. Consequently, we must develop a plan to demonstrate that the standard will be attained by June 2010.

EPA has recently made both the ozone and the fine particulate standards more protective. As a result, many counties in the commonwealth will be designated as nonattainment areas in late 2008 and 2009, respectively. Emissions from heavy-duty vehicles also contribute to a variety of environmental and public welfare effects such as impairment of visibility/regional haze and pollution, deposition to waterways, especially the Chesapeake Bay. Reducing diesel emissions from vehicle idling is an important component of our plans to achieve and maintain the ozone and fine particulate health-based National Ambient Air Quality Standards.

And finally, unnecessary idling is expensive and wasteful. Idling diesel-powered vehicles can consume as much as a gallon of fuel per hour, and with the price of diesel fuel in many areas of the commonwealth at more than \$4 per gallon, every night a long-haul truck spends idling in Pennsylvania costs that operator as much as \$40. If that truck idles every night, that is more than \$14,000 a year in fuel expenses. Reducing unnecessary idling will help increase energy independence and reduce greenhouse gases.

Environmental Quality Board Rulemaking

DEP began the process to develop comprehensive anti-idling regulations as the result of a petition for rulemaking filed with the Environmental Quality Board in October 2006.

In the course of developing the proposed idling rulemaking for consideration by the board, we conferred with PennDOT, the Pennsylvania State Police, and the department's air advisory committees including the Air Quality Technical Advisory Committee, Citizens' Advisory Council and the Small Business Compliance Assistance Committee; we also consulted with trucking associations, representatives of the Carlisle-based Clean Air Board, and other interested parties including Air Management Services in Philadelphia and the Allegheny County Health Department.

On January 12, 2008, the Environmental Quality Board proposed a vehicle-idling rulemaking that restricts the idling of diesel-powered commercial vehicles to not more than five minutes in any 60-minute period, with exceptions. During the 60-day public comment period, which closed on March 17, 2008, approximately 560 commentators submitted comments on the proposed rulemaking; the majority of the comments were supportive of the rulemaking. The board also received petitions from three organizations—Clean Water Action, Group Against Smog and Pollution, and the Clean Air Board of Central Pennsylvania—in support of the regulation because of their concerns about the potential health impacts from diesel fumes.

The Environmental Quality Board also received several comments suggesting that the final rulemaking include additional exemptions. While we believe that SB 295 should accommodate safety-related amendments, we would not recommend adding broad exemptions or accommodating idling that is unnecessary, but perhaps only a matter of habit.

By the time this regulation would take effect in 2009, it is estimated that idling emissions in the commonwealth would account for about 3,325 tons of oxides of nitrogen oxide (NO_x), 90 tons of volatile organic compounds (VOCs), and 60 tons of particulate matter per year. These numbers

will be even greater if the number of travel rest hours spent in Pennsylvania increase significantly.

One of the proposed exemptions that the Environmental Quality Board supports would allow idling when necessary for an occupied vehicle equipped with a sleeper berth compartment to operate air conditioning or heating during a rest period, during certain outdoor temperatures. That exemption will expire May 1, 2010.

It is anticipated that once the temperature exemption for trucks with sleeper berths expires, the proposed regulation would reduce diesel-powered commercial motor vehicle idling by half, and that a corresponding 50 percent reduction in emissions could be achieved annually. Therefore, the department estimates that the proposed rulemaking would reduce emissions annually in the commonwealth by about 1,610 tons of NO_x, 45 tons of VOCs, and 30 tons of particulate matter once the temperature exemption expires.

Necessary Amendments to SB 295

As noted above, the administration cannot support this bill without amendments that will vastly expand the enforcement capabilities and scope of responsibility for ensuring compliance. Further, the penalties that may be assessed against violators must be increased in order to be an effective deterrent. Without these changes, this bill fails to measure up to the measures outlined in the Environmental Quality Board's current rulemaking.

Specifically, the following areas of SB 295 must be amended:

- SB 295 regulates only vehicles that are "being used commercially." This is a major dilution of the scope of the idling restriction and could potentially allow, for example, truck tractors without trailers to idle without restriction. The original language was adapted from a Federal Highways Administration definition for the sake of national consistency. The department recommends that you strike the "being used commercially" language.
- Owners and operators of locations where diesel-powered vehicles load, unload and park often share responsibility with vehicle operators for excessive idling. For example, it may be logistical problems at the load/unload locations that create long wait times. By holding location operators accountable for causing delays, changes could be put into place to reduce waiting and idling. SB 295, however, would only penalize the drivers with a very modest fine. The driver turnover rate in the trucking industry is more than 100 percent per year, and these drivers come from all over the United States, Canada and Mexico. Consequently, there is little incentive for many of these drivers to comply. Therefore, we suggest amendments that recognize reasonable waiting or queuing times and enlist location owners in the efforts to enforce idling restrictions. At the very least, the owners of such locations should be required to post signs warning that excessive idling is illegal.
- DEP should be given authority to assess civil penalties such as would be provided if idling restrictions were imposed by regulations adopted under the Air Pollution Control Act. Civil penalties could be particularly effective in achieving compliance by location owners.

- The very small summary offense fines included in SB 295, which range from \$50 to no more than \$150, should be increased significantly to coincide with the penalties already in place in certain parts of Pennsylvania and neighboring states. For instance, in Philadelphia, the fine is \$300 and in Allegheny County, the first offense is a warning, but the second is \$100 with \$500 for the third and subsequent offenses. Maryland imposes fines as high as \$500 and in Delaware, fines range between \$50 and \$500 per offense. Increasing the summary offense fines prescribed under SB 295 would prevent potential violators from idling in areas in the commonwealth where the penalty would be less costly.

We recognize that SB 295 also includes the board's proposed provisions that would allow new trucks, with engines of model year 2007 and newer and labeled as complying with California "clean NOx idle" standards, to idle without restriction. SB 295, like the proposed idling regulation, would require that auxiliary power systems on these new trucks be at least as clean as the main propulsion engines in order for the auxiliary power systems to operate. As a result of comments received from the Engine Manufacturers Association during the public comment period, the department is evaluating whether this provision in the final-form regulation should be amended to ensure approval as to "legality and form."

Conclusion

As many as 44 states and local jurisdictions including the City of Philadelphia and Allegheny County have enacted laws or adopted regulations that impose idling restrictions. Because the federal government has no plans to regulate idling vehicles, it is up to Pennsylvania to stop unnecessary idling at locations including truck stops, warehouses and school parking lots. The enactment of stringent statewide idling legislation in Pennsylvania should ensure that truckers traveling to the east coast do not schedule layovers within our borders to avoid fines and penalties in neighboring states such as Delaware, Maryland and New Jersey.

If amended in line with the above suggestions, SB 295 will put Pennsylvania on the right track to reducing unnecessary idling and reducing air pollution from idling diesel-powered commercial vehicles. The administration believes that the suggested amendments will improve the legislation so that the reductions anticipated from a statewide anti-idling program will actually occur and can be used to make progress in achieving the national ambient air quality standards including ozone and fine particulates. Greater reductions in air contaminants from diesel exhaust will improve air quality and protect public health and the environment.

Thank you for allowing me to provide the department's perspective on SB 295. We at the Department of Environmental Protection welcome the opportunity to work with you to develop a statewide idling statute that is protective of public health and the environment.

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