

EXECUTIVE ORDER NO. _____
TO ESTABLISH THE HEAVY DUTY DIESEL RULE EFFECTIVE DATE

WHEREAS, North Carolina has participated in a multi-state initiative to prevent excess emissions from heavy-duty diesel engines; and

WHEREAS, on October 11, 2001, the Environmental Management Commission adopted Heavy Duty Diesel Engine Requirements at 15A NCAC 2D .1008, and on November 15, 2001, the permanent rule was approved by the Rules Review Commission; and

WHEREAS, the rule serves to fill a two-year gap in federal requirements for the use of supplemental test procedures for certification of heavy-duty diesel engines with emission standards at the manufacturing stage; and

WHEREAS, without the gap-filling rule, excess NO_x emissions would be produced over the life of any engines produced during the gap model years – 2005 and 2006, contributing unnecessarily to North Carolina's challenging ozone problems; and

WHEREAS, the standard effective date of the permanent rule under the Administrative Procedures Act, N.C.G.S. 150B-1 et seq, would be July 1, 2002, at the earliest; and

WHEREAS, for the rule to apply to any particular model year, it must be effective two years prior to the commencement of that model year, the standard effective date would not allow

the permanent rule to achieve its intended NOx reductions for the motor vehicle model year 2005; and

WHEREAS, the Administrative Procedures Act authorizes the Governor, by Executive Order, to make effective a permanent rule upon finding that it is necessary to protect public health, safety and welfare.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1. Findings.

It is necessary that the permanent rule regarding heavy-duty diesel engine emission requirements, 15A NCAC 2D .1008, become effective no later than December 31, 2001, in order to provide the emission control reductions for both motor vehicle model years 2005 and 2006, for the protection of the public health, safety or welfare.

Section 2. Effective Date of the Rule.

The permanent rule regarding heavy-duty diesel engine emission requirements, 15A NCAC 2D .1008, is hereby made effective December 31, 2001, pursuant to the Executive Order Exception authority contained in the Administrative Procedures Act, N.C.G.S. 150B-21.3(c).

Section 3. Effective Date

This Executive Order is effective immediately and shall remain in effect until rescinded.

Done in Raleigh, North Carolina, this the ____ day _____, 2001.

Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State