

State of California

AIR RESOURCES BOARD

Resolution 98-56

November 19, 1998

Agenda Item No.: 98-13-3

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (the Board or ARB) 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, section 43013 of the Health and Safety Code authorizes the Board to adopt standards and regulations to control emissions from off-road or nonvehicle engine categories;

WHEREAS, section 43018 of the Health and Safety Code directs the Board to endeavor to achieve the maximum degree of emission reduction possible from vehicular and other mobile sources in order to accomplish the attainment of the state ambient air quality standards at the earliest practicable date;

WHEREAS, sections 27156 and 38391 of the Vehicle Code (VC) prohibit the advertisement, sale, or installation of add-on or modified parts on most off-road mobile sources;

WHEREAS, sections 27156 and 38395 of the VC authorize the ARB to exempt add-on or modified parts from the VC prohibitions only if such parts:

- 1) do not reduce the effectiveness of any required emission control devices; or,
- 2) do not cause the modified off-road mobile source to exceed the applicable emissions standards;

WHEREAS, the State Implementation Plan (SIP) adopted by the Board in November, 1994, which establishes the state strategy for attaining the national ambient air quality standards for ozone in all areas of the state by 2010 as required by federal law, includes emission reductions from off-road mobile sources;

WHEREAS, California currently regulates the following categories of off-road mobile sources:

- * Small Off-Road Engines (Title 13, Chapter 9, Article 1)
- * Off-Highway Recreational Vehicles and Engines (Title 13, Chapter 9, Article 3)
- * Heavy-Duty Off-Road Diesel Cycle Engines (Title 13, Chapter 9, Article 4);

WHEREAS, the regulations referenced in the immediately preceding paragraph prohibit the use of add-on or modified parts in the off-road source categories identified above;

WHEREAS, the proper operation of emission control components and systems is essential to reducing emissions from on-and off-road mobile sources;

WHEREAS, the installation of unregulated aftermarket parts in off-road mobile sources could compromise the effectiveness and/or durability of emission control systems in such sources;

WHEREAS, the proposed regulations would establish a certification program that would help insure the integrity of the Board's off-road regulatory program, as well as allow aftermarket parts manufacturers to participate in a market that has not been previously available to them;

WHEREAS, the proposed regulations would extend the anti-tampering provisions of VC sections 27156 and 38391 to apply uniformly to all categories of off-road mobile sources, except for locomotives and locomotive engines;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project which may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, the Board has considered the effects of the proposed regulations and amendments on the economy of the state;

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, the Board finds that:

Despite advances in reducing emissions from motor vehicles, 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 off-road engines and vehicles;

The ARB has enacted a comprehensive program to regulate emissions from off-road mobile sources, which currently regulates small off-road engines, off-highway recreational vehicles and engines, and heavy-duty off-road diesel cycle engines;

The ARB is additionally developing regulations for other off-road mobile source categories, such as marine engines and off-road large spark-ignited engines;

The emission control components and systems present in off-road mobile sources must be functioning properly in order for such sources to comply with applicable emission standards;

The installation of unregulated aftermarket parts in off-road mobile sources could compromise the proper operation and/or the durability of off-road mobile source emission control components and systems;

Vehicle Code sections 27156 and 38391 prohibit the advertisement, sale, or installation of add-on or modified parts on most, but not all, off-road mobile sources;

Adoption of the proposed regulations prohibiting the advertisement, sale, or installation of uncertified add-on or modified parts, and prohibiting the removal, modification or alteration of required emission control devices on all off-road mobile sources will ensure that the proposed regulations are consistently and fairly applied to all categories of off-road mobile sources;

Adoption of the proposed regulations establishing an optional certification program for aftermarket parts would ensure that only those aftermarket parts that have been demonstrated to not increase emissions above applicable certification standards could be advertised, sold, or installed in off-road sources, thereby insuring that emission reductions from off-road sources are not compromised by the installation of uncertified aftermarket parts;

Adoption of the proposed regulations establishing an optional certification program for aftermarket parts would additionally allow aftermarket part manufacturers to participate in a market that has been previously closed to them;

Adoption of proposed amendments to the warranty provisions of currently regulated off-road sources will align and coordinate the regulations applicable to currently regulated off-road source categories with the proposed regulations;

The economic and cost impacts of the proposed regulations and amendments have been analyzed as required by California law, and the conclusions and supporting documentation for this analysis are set forth in the Staff Report;

The proposed regulations and amendments are necessary, cost-effective, and technologically feasible to carry out the purposes of the state and federal clean air laws; and

WHEREAS, the Board further finds that:

The proposed regulations and amendments will produce a positive environmental impact by insuring that any modifications made to certified off-road sources will not adversely affect the emissions from such sources, and by establishing procedures allowing the conversion of off-road sources to operate on alternative fuels.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves amendments to

sections 2405(c)(10) and 2425(c)(10), title 13, California Code of Regulations, and approves sections 2470 – 2476, title 13, California Code of Regulations, “Article 7, Certification Procedures for Aftermarket Parts for Off-Road Vehicles, Engines, Equipment”, and all sections of “Procedures for Exemption of Add-On and Modified Parts for Off-Road Categories”, “California Exhaust Emission Standards and Test Procedures for Systems Designed to Convert Off-Road Vehicles, Engines, and Equipment to Use Alternative Fuels”, and “California Evaluation Procedures for New Aftermarket Non-Original Equipment Catalytic Converters for Off-Road Vehicles, Engines, and Equipment”, as set forth in the Staff Report: Public Hearing to Consider Adoption of Certification Procedures for Aftermarket Parts for Off-Road Vehicles, Engines and Equipment (released September 30, 1998);

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt the amendments set forth in Attachment A, with the modifications set forth in Attachment B and such other conforming modifications as may be appropriate, after making them available to the public for a period of 15 days, provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make modifications as appropriate in light of the comments received, and shall present the amendments to the Board for further consideration if he determines that this is warranted after review of the comments.

BE IT FURTHER RESOLVED that the Board hereby determines that the regulations adopted herein will not cause existing California 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 finds that the California regulations as adopted herein will not cause the California requirements to be inconsistent with the federal Clean Air Act, as amended, and will raise no new issues affecting previous waiver determinations of the Administrator of the Environmental Protection Agency pursuant to section 209 of the Clean Air Act.

I hereby certify that the above is a true and correct copy of Resolution 98-56, as adopted by the Air Resources Board.

Pat Hutchens, Clerk of the Board

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Identification of Attachments to the Resolution

Attachment A: Proposed Amendments to the Small Off-Road Engine and Heavy-Duty Off-Road Diesel Cycle Engine Regulations, sections 2405(c)(10) and 2425(c)(10), title 13, California Code of Regulations, as set forth in the Initial Statement of Reasons.

Attachment B: Proposed Regulations Establishing Certification Procedures for Aftermarket Parts for Off-Road Vehicles, Engines, Equipment, sections 2470-2476, title 13, California Code of Regulations, as set forth in the Initial Statement of Reasons.

Attachment C: Proposed Procedures for Exemption of Add-On and Modified Parts for Off-Road Categories, as set forth in the Initial Statement of Reasons.

Attachment D: Proposed California Exhaust Emission Standards and Test Procedures For Systems Designed Convert Off-Road Vehicles, Engines, and Equipment To Use Alternative Fuels, as set forth in the Initial Statement of Reasons.

Attachment E: Proposed California Evaluation Procedures for New Aftermarket Non-Original Equipment Catalytic Converters for Off-Road Vehicles, Engines, and Equipment, as set forth in the Initial Statement of Reasons.

Attachment A

(Proposed Amendments to the Small Off-Road Engine and Heavy-Duty Off-Road Diesel Cycle Engine Regulations, sections 2405(c)(10) and 2425(c)(10), Title 13, California Code of Regulations, as set forth in the Initial Statement of Reasons)

Attachment B

(Proposed Regulations Establishing Certification Procedures for Aftermarket Parts for Off-Road Vehicles, Engines, Equipment, sections 2470-2476, Title 13, California Code of Regulations, as set forth in the Initial Statement of Reasons)

Attachment C

(Proposed Procedures for Exemption of Add-On and Modified Parts for Off-Road Categories, as set forth in the Initial Statement of Reasons)

Attachment D

(Proposed California Exhaust Emission Standards and Test Procedures For Systems Designed To Convert Off-Road Vehicles, Engines, and Equipment To Use Alternative Fuels, as set forth in the Initial Statement of Reasons)

Attachment E

(Proposed California Evaluation Procedures for New Aftermarket Non-Original Equipment Catalytic Converters for Off-Road Vehicles, Engines, and Equipment, as set forth in the Initial Statement of Reasons)