

State of California
AIR RESOURCES BOARD

Resolution 04-8

February 26, 2004

Agenda Item No.: 04-2-3

WHEREAS, in accordance with sections 41752(a) through (d) of the Health and Safety Code, the Board established, by regulation, a Statewide Portable Equipment Registration Program (Statewide Program) providing for the voluntary registration of portable engines and associated equipment establishing emission limits and emission control requirements, and a fee schedule to cover the costs of adopting and administering the program, including a uniform fee to recover the cost of district enforcement;

WHEREAS, Health and Safety Code section 41754(d) provides that the Board shall establish emission limits for any portable equipment or class of portable equipment that reflect the effectiveness of all control equipment installed and operated on the portable equipment or particular class of equipment;

WHEREAS, section 41752(e) of the Health and Safety Code provides that the Board may periodically revise and update the Statewide Portable Equipment Registration Program regulation, including, but not limited to, revising and updating, a determination of BACT for portable engines;

WHEREAS, the Board's staff now proposes to amend article 5, sections 2450–2466, title 13, CCR (CCR) to provide consistency with the proposed Airborne Toxic Control Measure for Diesel-Fueled Portable Engines 50 Horsepower and Greater (Portable Engine ATCM) and additional clarity and enforceability of the regulation;

WHEREAS, the California Environmental Quality Act (CEQA) 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, pursuant to section 41754(c) of the Health and Safety Code, the Board has considered the magnitude of the resultant air quality benefit and the potential effects of the proposed amendments to the Statewide Program on the costs to businesses that use portable engines and associated equipment prior to adopting any emission limit or emission control requirement;

WHEREAS, the Board has considered the impact of the proposed regulatory action 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, after consideration of the Initial Statement of Reasons, written comments, and public testimony received, the Board finds that:

The proposed amendments to the Statewide Program will provide consistency with the proposed Airborne Toxic Control Measure for Diesel-Fueled Portable Engines 50 Horsepower and greater;

Because of potential air quality impacts, it is appropriate to prohibit the use of portable engines registered under the Statewide Program and require the operators of those engines to be evaluated under district programs for the following applications: using portable generators to feed the electrical grid; providing primary or supplemental power to a building, stationary source, or stationary equipment; or supplementing or otherwise powering equipment or operations permitted by an air pollution control or air quality management district;

The proposed amendments to the Statewide Program to allow, until December 31, 2005, the registration of any portable engine determined to be a resident engine (both certified and uncertified engines) and provide a program to register portable engines, resulting in reduced NOx and diesel PM emissions from the replacement or retrofit of uncertified engines by 2010;

As provided by the California Health and Safety Codes section 41752, the proposed amendments to the Statewide Program will increase fees to fully recover costs incurred by the ARB to implement and administer the program;

The proposed amendments to the Statewide Program will add clarity and enforceability by eliminating equivalent replacement of engines, allowing identical engine replacements for mechanical breakdowns only, modifying the procedure for change of ownership, and eliminating non-operational engines from the Statewide Program;

The proposed amendments to the Statewide Program will allow certified on-road diesel engines into the Statewide Program, thereby, taking advantage of the lower emissions from certified on-road diesel engines compared to nonroad diesel engines;

The proposed amendments to the Statewide Program will enhance enforceability by requiring records to be maintained for 5 years, instead of

2 years, and streamlining reporting requirements by eliminating the requirement for submitting annual reports to the ARB; however, the records will be available to ARB and district staffs upon request;

The proposed amendments to the Statewide Program will change the billing cycle for military tactical support equipment from three years to one year to simplify the administrative process for the military installations;

Because agricultural sources may now be required to obtain permits, the proposed amendments to the Statewide Program will eliminate the exclusion that specifically prohibits portable engines used in agricultural operations from registering in the Statewide Program; and

WHEREAS, the Board further finds that:

The proposed amendments to the Statewide Program in the aggregate will continue to attain greater emission reductions throughout the State than the permit programs of the districts, and that no feasible regulatory alternative or mitigation measures exist to accomplish the legislative directives regarding a uniform and consistent Statewide Program;

Overall, the proposed amendments to the Statewide Program will have a positive environmental impact from uncertified portable engines having to be replaced or retrofitted by 2010, and will not interfere with the attainment or maintenance of State or federal ambient air quality standards;

The proposed amendments to the Statewide Program, pursuant to Government Code section 11346.5 (a)(8), will not have a significant adverse economic impact on businesses, including the ability of California business to compete with businesses in other states; and

The proposed amendments to the Statewide Program are expected to have a beneficial impact on the California business climate by eliminating the need for duplicative permits, allowing increased flexibility, and lower overall cost compared to obtaining and maintaining multiple district permits.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves sections 2450 through 2466, title 13, CCR, amending the Statewide Portable Equipment Registration Program, as set forth in Attachment A.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt the proposed amendments to sections 2450 through 2466, title 13, CCR, after making the modified regulatory language identified in Attachment B and such other conforming modifications as may be appropriate, along with any additional supporting documents and information, available for public comment for a period of 15 days, provided that the Executive Officer shall consider such written comments regarding the modification and additional supporting documents and information as may be submitted during this period, shall make modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if she determines that this is warranted.

BE IT FURTHER RESOLVED that the Board hereby determines that pursuant to title II, section 209(e)(2) of the federal Clean Air Act, as amended in 1990, that the emission standards and other requirements related to the control of emissions adopted as part of this regulation are, in the aggregate, at least as protective of public health and welfare as applicable federal standards, that California needs the adopted standards to meet compelling and extraordinary conditions, and that the adopted standards and accompanying enforcement procedures are consistent with the provisions of section 209.

I hereby certify that the above is a true and correct copy of Resolution 04-8, as adopted by the Air Resources Board.

Lori Andreoni, Clerk of the Board

Resolution 04-8
February 26, 2004

Identification of Attachments to the Resolution:

Attachment A: Proposed Amended Regulation to Establish a Statewide Portable Equipment Registration Program, title 13, CCR, sections 2450-2466, as set forth in Appendix A to the Staff Report, issued January 9, 2004.

Attachment B: Proposed Revisions to Staff's Proposed Amended Regulation to Establish a Statewide Portable Equipment Registration Program, title 13, California Code of Regulations, sections 2450-2466, as set forth in Appendix A to the Staff Report, issued January 9, 2004.