

LOCATION:

Air Resources Board
Byron Sher Auditorium, Second Floor
1001 I Street
Sacramento, California 95814

PUBLIC MEETING AGENDA

June 24, 2010

This facility is accessible by public transit. For transit information, call (916) 321-BUSS, website: <http://www.sacrt.com>
(This facility is accessible to persons with disabilities.)

TO SUBMIT WRITTEN COMMENTS ON AN AGENDA ITEM IN ADVANCE OF THE MEETING GO TO: <http://www.arb.ca.gov/lispub/comm/bclist.php>

June 24, 2010

9:00 a.m.

CONSENT CALENDAR:

All items on the consent calendar will be voted on by the Board immediately after the start of the public meeting. Any item may be removed from the consent calendar by a Board member or if someone in the audience wishes to speak on that item. The following item is on the consent calendar:

Consent Item #

- 10-6-1: Public Meeting to Consider Approval of the Coso Junction PM10 Redesignation Request and Maintenance Plan**

Staff will present to the Board for approval the 2010 PM10 Maintenance Plan and Redesignation Request for the Coso Junction Planning Area. Coso Junction has attained the 24-hour PM10 National Ambient Air Quality Standard based on 2007-2009 air quality data.

DISCUSSION ITEMS:

Note: The following agenda items may be heard in a different order at the Board meeting.

Agenda Item #

- 10-5-3: THIS ITEM HAS BEEN POSTPONED TO THE JULY BOARD MEETING
Continuation from the May Board Meeting--Public Meeting to Provide a Status Report on new United States Environmental Protection Agency Requirements for Near-Roadway Monitoring of Nitrogen Dioxide**

Staff will present to the Board information on new near-roadway monitoring requirements for nitrogen dioxide that were adopted earlier this year by the United States Environmental Protection Agency

- 10-6-2: Public Hearing to Consider Adoption of Proposed Amendments to the Regulation to Reduce Emissions from Diesel Engines on Commercial Harbor Craft Operated Within California Waters and 24 Nautical Miles of the California Baseline**

Staff will present to the Board proposed amendments to the Commercial Harbor Craft Regulation to impose on certain crew and supply, barge, and dredge vessels in-use engine requirements and provide other clarifying amendments.

10-6-5: Public Meeting to Consider Staff Recommendations for Commitments between ARB and UP and BNSF Railroads to Accelerate Further Diesel PM Emission Reductions at Four High Priority Railyards in the South Coast Air Basin

Staff will present to the Board proposed railyard-specific commitments in which UP and BNSF will be required to meet interim and final railyard specific diesel PM emissions levels between 2010 and 2020 and provide other specified periodic reporting requirements.

10-6-3: Public Meeting to Consider the Adoption of Prop 1B: Grants for FY 2008-09 and FY 2009-10 Funds to Reduce Emissions from Goods Movement

Staff will present to the Board for adoption a list of grant awards totaling up to \$200 million in incentive funding for specific local agency projects to reduce freight-related emissions in the four trade corridors.

10-6-4: Public Meeting to Consider the Proposed Assembly Bill 118: Air Quality Improvement Program FY 2010-11 Funding Plan

Staff will present to the Board a Proposed Air Quality Improvement Program (AQIP) FY 2010-11 Funding Plan which provides recommendations for program changes and the allocation of AQIP funds to specific project categories. Assembly Bill (AB) 118 (Nunez, 2007) provides the Air Resources Board with up to \$50 million annually. AB 118 allows for the AQIP to fund a variety of air quality incentive projects to address criteria pollutant emissions, including low-emission vehicles and equipment, research, and workforce training.

10-6-6: Public Meeting to Report to the Board on Target Setting Efforts under Senate Bill 375

Staff will present to the Board a status report on efforts to establish regional greenhouse gas reduction targets pursuant to Senate Bill 375 (Steinberg, Chapter 728, Statutes of 2008).

CLOSED SESSION – LITIGATION

The Board will hold a closed session, as authorized by Government Code section 11126(e), to confer with, and receive advice from, its legal counsel regarding the following pending or potential litigation:

Pacific Merchant Shipping Association v. Goldstene, U.S. District Court (E.D. Cal Fresno), Case No. 2:09-CV-01151-MCE-EFB.

American Trucking Associations, et al. v. U.S. Environmental Protection Agency, et al., U.S. Court of Appeals, District of Columbia Circuit, Case No. 09-1090.

POET, LLC, et al. v. Goldstene, et al., Superior Court of California (Fresno County), Case No. 09CECG04850.

Rocky Mountain Farmers Union, et al. v. Goldstene, U.S. District Court (E.D. Cal. Fresno), Case No. 1:09-cv-02234-LJO-DLB.

National Petroleum & Refiners Association, et al. v. Goldstene, et al., U.S. District Court (E.D. Cal. Fresno) Case No. 1:10-cv-00163-AWI-GSA.

OPPORTUNITY FOR MEMBERS OF THE BOARD TO COMMENT ON MATTERS OF INTEREST

Board members may identify matters they would like to have noticed for consideration at future meetings and comment on topics of interest; no formal action on these topics will be taken without further notice.

OPEN SESSION TO PROVIDE AN OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO ADDRESS THE BOARD ON SUBJECT MATTERS WITHIN THE JURISDICTION OF THE BOARD

Although no formal Board action may be taken, the Board is allowing an opportunity to interested members of the public to address the Board on items of interest that are within the Board's jurisdiction, but do not specifically appear on the agenda. Each person will be allowed a maximum of three minutes to ensure that everyone has a chance to speak.

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<http://www.arb.ca.gov/lispub/comm/bclist.php>

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT THE CLERK OF THE BOARD:

OFFICE: (916) 322-5594

1001 I Street, Floor 23, Sacramento, California 95814

ARB Homepage: www.arb.ca.gov

SPECIAL ACCOMMODATION REQUEST

Special accommodation or language needs can be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format (i.e., Braille, large print, etc.) or another language;
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Comodidad especial o necesidad de otro idioma puede ser proveído para alguna de las siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alterno (por decir, sistema Braille, o en impresión grande) u otro idioma;
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

SMOKING IS NOT PERMITTED AT MEETINGS OF THE CALIFORNIA AIR RESOURCES BOARD

PUBLIC MEETING AGENDA

LOCATION:

Air Resources Board
Byron Sher Auditorium, Second Floor
1001 I Street
Sacramento, California 95814

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June 24, 2010 at 9:00 a.m.

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CALIFORNIA AIR RESOURCES BOARD**NOTICE OF PUBLIC MEETING TO CONSIDER APPROVAL OF THE COSO JUNCTION PM10 REDESIGNATION REQUEST AND MAINTENANCE PLAN**

The Air Resources Board (ARB or Board) will conduct a public meeting at the time and place noted below to consider the approval of the proposed PM10 Redesignation Request and Maintenance Plan for the Coso Junction Planning Area that was developed and approved by the Great Basin Unified Air Pollution Control District (District). If adopted, ARB will submit these elements to the United States Environmental Protection Agency (U.S. EPA) for approval as a revision to the California State Implementation Plan.

DATE: June 24, 2010

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium, Second Floor
1001 I Street
Sacramento, California 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., June 24, 2010, and may continue at 8:30 a.m., June 25, 2010. This item is scheduled to be heard on the Board's Consent Calendar. All items on the consent calendar will be voted on by the Board immediately after the start of the public meeting. Any item may be removed from the consent calendar by a Board member or at the request of a Board member or if someone in the audience would like to speak on that item.

BACKGROUND

The federal Clean Air Act establishes planning requirements for those areas that exceed the health-based National Ambient Air Quality Standards (standards). Areas are designated as nonattainment based on monitored exceedances of air quality standards. These nonattainment areas must develop and implement a State Implementation Plan (SIP) that demonstrates how they will attain the standards by specified dates.

The District adopted the first PM10 attainment plan for the Coso Junction Planning Area (Coso Junction) in 1991. The Coso Junction attainment demonstration was based on controlling dust from Owens Lake. In addition, in a 2004 plan update, the District included a dispersion model analysis that indicated that after dust controls were implemented at Owens Lake, Coso Junction would be in attainment. On May 19, 2010, the U.S. EPA finalized its determination in the Federal Register that Coso Junction attained the 24-hour PM10 standard. In this clean data finding, U.S. EPA waived certain planning requirements including those for reasonable further progress,

an attainment demonstration, reasonably available control measures, and contingency measures, since these provisions have the sole purpose of helping achieve attainment of the standard.

On May 17, 2010, the District adopted the PM10 Redesignation Request and Maintenance Plan (Plan) for Coso Junction. The Plan officially requests that this area be redesignated to attainment for the PM10 standard and charts the course for continued maintenance of the standard. The adoption of controls on Owens Lake resulted in the Coso Junction attaining the 24-hour PM10 standard based on 2007-2009 PM10 data.

PROPOSED ACTION

ARB staff has reviewed the District's Maintenance Plan for Coso Junction and has concluded that it meets applicable Clean Air Act requirements. ARB staff has also determined that the Maintenance Plan would ensure continued maintenance of the standard for the required ten years following redesignation. Staff is recommending that the Board approve the Maintenance Plan, as well as the corresponding emissions inventory and maintenance demonstration as a revision to the California SIP. In addition, ARB staff is recommending that the Board approve the District's request that Coso Junction be redesignated from nonattainment to attainment for the federal PM10 standard.

AVAILABILITY OF DOCUMENTS

ARB staff has prepared a written Staff Report. Copies of the Staff Report may be obtained from the ARB Public Information Office, 1001 "I" Street, First Floor, Environmental Services Center, Sacramento, California 95814, (916) 322-2990. This notice, the Staff Report, and the District's Coso Junction PM10 Maintenance Plan will be available from ARB's website at:
<http://www.arb.ca.gov/planning/sip/sip.htm>

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and in writing or by e-mail before the meeting. To be considered by the Board, written comment submissions not physically submitted at the meeting must be received **no later than 12:00 noon, June 23, 2010**, and addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

The Board requests, but does not require that 20 copies of any written statement be submitted and that written and e-mail statements be filed at least 10 days prior to the

meeting so that ARB staff and Board members have time to fully consider each comment.

Please note that under the California Public Records Act (Government Code section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

Further inquiries regarding this matter should be directed to Ms. Sylvia Zulawnick, Manager of the Particulate Matter Analysis Section, Planning and Technical Support Division at (916) 324-7163, or Elizabeth Melgoza, Air Pollution Specialist, Planning and Technical Support Division at (916) 322-6161.

To request a special accommodation or language needs for any of the following:

- An interpreter to be available at the hearing.
- Have documents available in an alternate format (i.e. Braille, Large print) or another language.
- A disability-related reasonable accommodation.

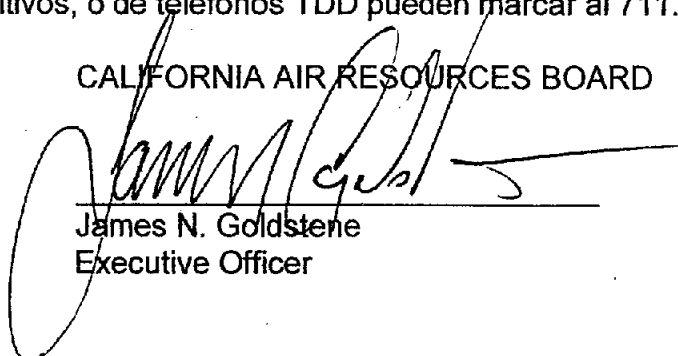
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Por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de diez (10) días laborales antes del día programado para la audiencia. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

CALIFORNIA AIR RESOURCES BOARD



James N. Goldstene
Executive Officer

Date: June 8, 2010

State of California



California Environmental Protection Agency
AIR RESOURCES BOARD

Staff Report

**Analysis of the Coso Junction
PM10 Redesignation Request and
Maintenance Plan**

Release Date: June 7, 2010
Scheduled for Consideration: June 24, 2010

This document has been reviewed by the staff of the California Air Resources Board and approved for publication. Approval does not signify that the contents necessarily reflect the views and policies of the Air Resources Board, nor does the mention of trade names or commercial products constitute endorsement or recommendation for use.

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I. BACKGROUND

The Coso Junction Planning Area (Coso Junction) was initially designated as a PM10 nonattainment area in 1987 along with the Indian Wells Valley and Trona areas. Together they comprised the Searles Valley PM10 nonattainment area. The Great Basin Unified Air Pollution Control District (District) adopted the first PM10 attainment plan for the Coso Junction portion of the Searles Valley PM10 nonattainment area in November 1991. The Coso Junction attainment demonstration was based on controlling dust from Owens Lake. In August 2002, the US Environmental Protection Agency (U.S. EPA) redesignated the Searles Valley into three separate PM10 nonattainment areas; Coso Junction, Indian Wells Valley, and Trona.

On May 19, 2010, the U.S. EPA finalized its determination in the Federal Register that Coso Junction attained the 24-hour PM10 standard. Based on their clean data finding, U.S. EPA has determined that certain nonattainment area requirements do not apply, including those for reasonable further progress (RFP), an attainment demonstration, reasonably available control measures (RACM), and contingency measures, because these provision's sole purpose is to achieve attainment of the standard. On May 17, 2010, the District adopted the PM10 Redesignation Request and Maintenance Plan (Plan) for Coso Junction. The Plan officially requests that this area be redesignated to attainment for the PM10 standard and charts the course for continued maintenance of the standard. The concerted adoption of controls on Owens Lake resulted in the Coso Junction attaining the 24-hour PM10 standard based on 2007-2009 PM10 data.

II. REDESIGNATION REQUIREMENTS

Air Resources Board (ARB) staff reviewed the Coso Junction PM10 Maintenance Plan within the context of the Clean Air Act (Act), which identifies the following requirements an area must meet to be redesignated to attainment:

- A. The PM10 standard has been attained;
- B. The District has an approved State Implementation Plan (SIP) and the State has met all applicable Act requirements for PM10 in the nonattainment area;
- C. The improvement in PM10 air quality is due to permanent and enforceable emission reductions; and
- D. U.S. EPA has approved a maintenance plan.

The Act also sets the general framework for maintenance plans¹. Each PM10 maintenance plan must provide for continued maintenance of the PM10 standard for ten years after redesignation and includes the following components:

1. Attainment emission inventory;

¹ Calcagni, John, Memorandum, *Procedures for Processing Requests to Redesignate Areas to Attainment*, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, September 4, 1992. <http://www.epa.gov/ttn/oarpg/t5/memoranda/redesignmem090492.pdf>

2. Maintenance demonstration;
3. Commitment to continue the monitoring network operation;
4. Commitment for verification of continued attainment; and
5. Contingency plan to promptly correct any violation of the PM10 standard that occurs after the area has been redesignated.

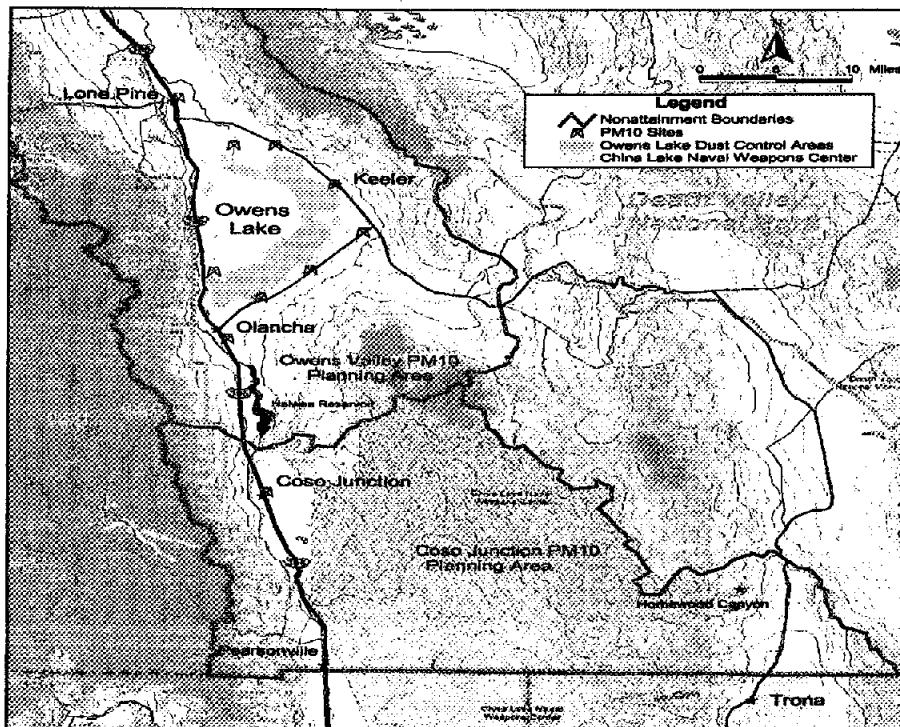
III. EVALUATION OF THE COSO JUNCTION PLAN

Based on review of the Coso Junction PM10 Maintenance Plan and the District's supporting technical analysis, ARB staff concurs that the Plan meets the Act's requirements. The following sections describe the major elements of the Plan and the redesignation request.

A. Coso Junction Attains the 24-Hour PM10 Standard

PM10 is measured at one monitoring station in Coso Junction (Figure 1). A TEOM (tapered element oscillating microbalance) collects hourly PM10 samples at this site. The 24-hour standard is met when the estimated number of exceedances measured over a three year period averages one or less per year. Daily PM10 monitoring data collected at Coso Junction over the last 3 years has shown on average no more than 1 exceedance of the PM10 standard per year as required to demonstrate attainment of the federal standard. Figure 1 illustrates the Coso Junction PM10 nonattainment area, monitor locations, and the area's close proximity to Owens Lake.

Figure 1. PM10 Monitoring Stations in Coso Junction



On three days over the 2007 to 2009 period, the 24-hour standard was exceeded due to high wind conditions that suspended fugitive dust from an unpaved parking area and from Owens Lake. The owner of the unpaved parking area was notified and the area was graveled in 2008 and surfaced with asphalt in 2009 to control fugitive dust. Table 1 shows the maximum 24-hour concentration at the Coso Junction site between 2007 and 2009 and average exceedance days, demonstrating attainment.

Table 1. Coso Junction PM10 Data from 2007 to 2009

Monitoring Station	Observed Maximum 24-hour Concentration ($\mu\text{g}/\text{m}^3$)			24-Hour Exceedance Days	3-year Average Exceedance Days
	2007	2008	2009	2007-2009	2007-2009
Coso Junction	283	137	168	3	1

B. The State Has Met Applicable Act Requirements

ARB and the District have met all of the Act requirements applicable for a moderate PM10 nonattainment area to be considered for redesignation. Due to the clean data finding, this Plan will serve as meeting the requirement of an approved SIP.

C. Improvement in Coso Junction's PM10 Air Quality is Due to Permanent and Enforceable Reductions in Emissions

Coso Junction is an isolated area with a population of roughly 100 people. The main source of PM10 pollution in Coso Junction is transport of fugitive dust from the Owens Valley. In 1998, the Owens Valley SIP was adopted and approved by the U.S. EPA including a control strategy that required dust controls on 16.5 square miles of the lakebed. Under the Owens Valley SIP, the City of Los Angeles is responsible for mitigating the dust generated from Owens Lake in order to bring the area into attainment with the PM10 standard. (GBUAPCD, 1998) The Owens Valley SIP was revised in 2003 to expand dust controls to 29.8 square miles of the lake bed by December 31, 2006. The City of Los Angeles successfully implemented these control measures by the required deadline.

In 2008, the Owens Valley SIP was amended to expand control requirements to a total of 43.1 square miles of the Owens Lake bed. The City of Los Angeles is expected to have dust control measures implemented on 39.6 square miles of the lakebed by April 1, 2010, and then to expand the control area to 43.1 square miles by October 1, 2010. Overall, PM10 emissions from the Owens Lake bed have been reduced by 90% since 2000 when the City of Los Angeles initiated efforts to control windblown dust at Owens Lake. Thus, the improvement in Coso Junction is due to permanent and enforceable reductions.

D. Maintenance Plan

The Coso Junction PM10 Maintenance Plan includes the following components: emission inventory; commitment to continue monitoring network operation; commitment for verification of continued attainment; and contingency plan.

1. Attainment Emission Inventory

An emission inventory is a critical tool used to support evaluation, control, and mitigation of air pollution which is comprised of a systematic listing of the sources of air pollutants along with the amount of pollutants emitted from each source or category over a given period of time. Emission inventories are estimates of the air pollutant emissions released into the environment – they are not direct ambient concentration measurements. To determine the expected emissions in future years, emission inventories incorporate the effects of growth and existing regulations (baseline inventories). An attainment inventory identifies the level of emissions during the period when air quality data show attainment.

The Coso Junction PM10 Maintenance Plan presents an updated 2009 attainment inventory of direct PM10 emissions split by source subcategory. Inventory updates include the latest point, area, and mobile source emissions for the Coso Junction. Total PM10 emissions are estimated at 1,427 pounds per day for the Coso Junction, which is less than 0.1% of the emissions caused by windblown dust from Owens Lake. In addition to the 2009 adjusted baseline PM10 emissions, the Coso Junction PM10 Maintenance Plan provides emission projections out to 2025. No significant growth or changes in the emission inventory are expected for Coso Junction through the year 2025.

Table 2. Coso Junction PM10 Emissions Inventory

Daily PM10 Emissions for 2009 through 2025	
Stationary Sources	Pounds/day
California Lightweight Pumice	167
China Lake Naval Air Weapons Station	84
Coso Operating Company	953
Halliburton Services	20
Twin Mountain Rock	58
Area Sources	
Unpaved Roads	33
Paved Roads	101
Mobile Sources	
On Road Motor Vehicles	12
Total PM10 (pounds per day)	1,427

2. Maintenance Demonstration

Coso Junction is projected to maintain attainment with the PM10 standards due to ARB, District, and other State and local control measures already in place. No significant growth or changes in the emission inventory are expected for Coso Junction through the year 2025. Thus, Coso Junction is expected to maintain the PM10 standard. In addition, regional PM10 emissions are projected to decrease even further in the future as a result of the additional controls on Owens Lake.

3. PM10 Monitoring Network

The District commits to continue PM10 monitoring to verify continued attainment of the PM10 standard. The existing PM10 monitoring network in Coso Junction includes a PM10 TEOM monitor located at the Highway 395 rest area in Coso Junction (Figure 1). Federal regulations require daily sampling at the site reporting peak PM10 concentrations. This real-time PM10 monitor meets this daily monitoring requirement.

4. Verification of Continued Attainment

To verify continued attainment of the PM10 standard, the District commits to continue daily PM10 monitoring at the Coso Junction rest area to help ensure new sources of PM10 are identified and controlled, if necessary.

5. Contingency Plan

The Act requires the maintenance plan to include contingency provisions for prompt correction of any PM10 standard violation that might occur after the area has been redesignated to attainment. The maintenance plan is not required to contain fully adopted contingency measures that will go into effect without further state action as is required in attainment SIPs. Instead, for maintenance plans, the area must have a plan to ensure that contingency measures are adopted once they are triggered.

District staff believes the control strategy and contingency requirements in the 2008 Owens Valley PM10 SIP are adequate to protect air quality in the Coso Junction area. Therefore, no additional contingency measures will be needed to ensure future compliance with the federal PM10 standard in Coso Junction.

IV. STAFF RECOMMENDATION

ARB staff has reviewed the PM10 Redesignation Request and Maintenance Plan for Coso Junction and consulted with District staff during this review. ARB staff finds that the Coso Junction PM10 Maintenance Plan meets all applicable Act requirements. ARB staff believes that implementation of this Plan will continue to maintain PM10 levels below the national air quality standard in Coso Junction. Therefore, we recommend that the Board adopt the Coso Junction PM10 Maintenance Plan as a revision to the California SIP for submittal to U.S. EPA. In addition, ARB staff recommends that the Board approve the District's request that Coso Junction be redesignated from nonattainment to attainment for the national PM10 standard.

PROPOSEDState of California
AIR RESOURCES BOARD

Resolution 10-25

June 24, 2010

Agenda Item No: 10-6-1

WHEREAS, the Legislature in Health and Safety Code section 39602 has designated the State Air Resources Board (ARB or Board) as the air pollution control agency for all purposes set forth in federal law;

WHEREAS, the ARB is responsible for the preparation of the State Implementation Plan (SIP) for attaining and maintaining the national ambient air quality standards (NAAQS) as required by the federal Clean Air Act (the Act; 42 U.S.C. section 7401 et seq.), and to this end is directed by Health and Safety Code section 39602 to coordinate the activities of all local and regional air pollution control and air quality management districts (districts) necessary to comply with the Act;

WHEREAS, section 39602 of the Health and Safety Code also provides that the SIP shall include only those provisions necessary to meet the requirements of the Act;

WHEREAS, ARB has responsibility for ensuring districts meet their responsibilities under the Act pursuant to sections 39002, 39500, 39602, and 41650 of the Health and Safety Code;

WHEREAS, ARB is authorized by section 39600 of the Health and Safety Code to do such acts as may be necessary for the proper execution of its powers and duties;

WHEREAS, sections 39515 and 39516 of the Health and Safety Code provide that any power, duty, purpose, function or jurisdiction of the Board may be delegated to the Board's Executive Officer as the Board deems appropriate;

WHEREAS, the local air districts have primary responsibility for the control of air pollution from non-vehicular sources and for adopting control measures, rules, and regulations to attain the NAAQS within their boundaries pursuant to sections 39002, 40000, 40001, 40701, 40702, and 41650 of the Health and Safety Code;

WHEREAS, the Great Basin Unified Air Pollution Control District (District) was established pursuant to section 40150 of the Health and Safety Code as the air pollution control district responsible for carrying out these responsibilities in the Coso Junction Planning Area located in Inyo County;

WHEREAS, the United States Environmental Protection Agency (U.S. EPA) designated the Coso Junction Planning Area as a "moderate" PM10 nonattainment area in 2002;

WHEREAS, in November 2004, the District adopted a SIP for the Coso Junction Planning Area which relied on implementing dust controls at Owens Lake, which was scheduled to implement dust control measures on 30 square miles of the lake bed by December 31, 2006;

WHEREAS, a dispersion modeling analysis showed these dust mitigation efforts would be adequate to bring the Coso Junction Planning Area into attainment;

WHEREAS, due to a consent decree, U.S. EPA is required to either redesignate the Coso Junction Planning Area to attainment for PM10 or bump the area up to "serious" by July 31, 2010;

WHEREAS, section 107(d)(3)(D) of the Act provides that a state may request U.S. EPA to redesignate an area from nonattainment to attainment for the NAAQS;

WHEREAS, section 107(d)(3)(E) of the Act sets forth the requirements which must be met for U.S. EPA to redesignate an area from nonattainment to attainment;

WHEREAS, consistent with section 107(d)(3)(E) of the Act, the District has demonstrated attainment of the PM10 NAAQS in the 2007-2009 period for the Coso Junction Planning Area, based on quality-assured federal reference method monitoring data from the State and local monitoring network;

WHEREAS, on May 19, 2010, U.S. EPA issued a final clean data finding for the Coso Junction Planning Area;

WHEREAS, the clean data finding relieves the Coso Junction Planning Area from developing an attainment demonstration, Reasonable Further Progress, Reasonable Available Control Measures, and contingency measures;

WHEREAS, the District developed the Coso Junction Maintenance Plan to address the requirements of the Act;

WHEREAS, the Coso Junction Maintenance Plan contains:

1. Attainment Emission Inventory;
2. Maintenance Demonstration; and
3. Contingency Plan.

WHEREAS, no significant growth is expected in the emissions inventory through the year 2025;

WHEREAS, since transportation sources were not found to significantly contribute to the nonattainment problem in the Coso Junction Planning Area, transportation conformity budgets are not required;

WHEREAS, federal law set forth in section 110(l) of the Act and Title 40, Code of Federal Regulations, section 51.102, requires that one or more public hearings, preceded by at least 30 days notice and opportunity for public review, must be conducted prior to the adoption and submittal to the U.S. EPA of any SIP revision;

WHEREAS, as required by federal law, the District made the Coso Junction Maintenance Plan available for public review at least 30 days prior to the hearing date;

WHEREAS, following a public hearing on May 17, 2010, the District Board voted to:

1. Adopt the Coso Junction Maintenance Plan to fulfill the applicable requirements of the Act for a moderate PM10 nonattainment area to be redesignated to attainment; and
2. Request a redesignation for the Coso Junction Planning Area to attainment for the PM10 standard.

WHEREAS, the District submitted the Coso Junction Maintenance Plan to ARB as a SIP revision on May 17, 2010, in accordance with State and federal law;

WHEREAS, the District requests that the Coso Junction Planning Area be redesignated from nonattainment to attainment with the federal PM10 standard;

WHEREAS, the California Environmental Quality Act (CEQA) requires that no project which may have significant adverse environmental impacts may be adopted as originally proposed if feasible alternative or mitigation measures are available to reduce or eliminate such impacts, unless specific overriding considerations are identified outweigh the potential adverse consequences of any unmitigated impacts;

WHEREAS, the District determined they are exempt from CEQA because the SIP will not result in a direct or reasonably foreseeable indirect physical change in the environment; and

WHEREAS, the Board finds that:

1. California's air pollution control programs have successfully reduced PM10 ambient concentrations leading to PM10 NAAQS attainment in the Coso Junction Planning Area;
2. The Coso Junction PM10 Maintenance Plan is necessary for U.S. EPA to redesignate the Coso Junction to attainment for the PM10 NAAQS;
3. The District's Coso Junction PM10 Maintenance Plan complies with the requirements of section 107(d)(3)(E) of the Act;

4. The Coso Junction PM10 Maintenance Plan provides for maintenance of the PM10 NAAQS through 2025;
5. Consistent with U.S. EPA guidance, the Coso Junction PM10 Maintenance Plan includes an attainment emission inventory, commitments by the District to continue operating the PM10 monitoring network; and a process to verify continued PM10 attainment;
6. The Coso Junction PM10 Maintenance Plan includes contingency provisions to ensure prompt correction of any post-redesignation violation of the PM10 NAAQS; and
7. The Coso Junction PM10 Maintenance Plan relies entirely on adopted regulations to demonstrate continued maintenance. ARB regulations which have been adopted and are reflected in the baseline emission projections were subject to environmental review and no further analysis is required at this time.

WHEREAS, the Board further finds the ARB has reviewed and considered the Coso Junction Maintenance Plan, along with the comments presented by interested parties, and ARB staff finds the SIP meets the requirements of the Act and CEQA.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts the Coso Junction Maintenance Plan and Redesignation Request as a revision to the California SIP.

BE IT FURTHER RESOLVED that the Board hereby directs the Executive Officer to submit the Coso Junction Maintenance Plan together with the appropriate supporting documentation to the U.S. EPA for approval as revision to the California SIP; to be effective, for purposes of federal law, upon approval by U.S. EPA.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to work with the District and U.S. EPA and take appropriate action to resolve any completeness or approvability issues that may arise regarding the SIP submission.

BE IT FURTHER RESOLVED that the Board authorizes the Executive Officer to include in the SIP submittal any technical corrections, clarifications, or additions that may be necessary to secure U.S. EPA approval.

BE IT FURTHER RESOLVED, that the Board certifies pursuant to 40 C.F.R. Section 51.102 that the proposed SIP revision was adopted after notice and public hearing as required by 40 C.F.R. Section 51.102.

TITLES 13 AND 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF PROPOSED AMENDMENTS TO THE REGULATIONS TO REDUCE EMISSIONS FROM DIESEL ENGINES ON COMMERCIAL HARBOR CRAFT OPERATED WITHIN CALIFORNIA WATERS AND 24 NAUTICAL MILES OF THE CALIFORNIA BASELINE

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider the adoption of amendments to the regulations affecting commercial harbor craft (title 17, California Code of Regulations (CCR) section 93118.5 and title 13, CCR section 2299.5).¹ These amendments will further reduce emissions of diesel particulate matter (PM) and oxides of nitrogen (NO_x) from diesel engines on commercial harbor craft operating in any California port, roadstead or terminal facility, or within all California inland waters; all California estuarine waters; and within 24 nautical miles, except as otherwise specified in this proposal, of the California baseline (collectively referred to hereinafter as "Regulated California Waters"). The Board adopted regulations affecting Commercial Harbor Craft (CHC) on November 17, 2007. These regulations became effective on January 1, 2009. The primary purpose of the proposed amendments is to require that diesel-fueled engines on crew and supply, barge, and dredge vessels be subject to in-use engine requirements of the CHC regulation (title 17, CCR section 93118.5). The proposed amendments also include several additional clarifying and/or editorial amendments to the CHC regulation. Minor conforming amendments are proposed to the Low Sulfur Fuel Requirement Regulation for Commercial Harbor Craft (title 13, CCR section 2299.5) to align numbering changes to the CHC regulation.

DATE: June 24, 2010

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium, Second Floor
1001 I Street
Sacramento, California 95814

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., June 24, 2010, and may continue at 8:30 a.m., June 25, 2010. This item may not be considered until June 25, 2010. Please consult the agenda for the meeting, which will be available at least 10 days before June 24, 2010, to determine the day on which this item will be considered.

¹Title 17, CCR section 93118.5. is known as the Commercial Harbor Craft Regulation (CHC regulation) and establishes emission standards, reporting, record keeping, fuel, and monitoring requirements for certain categories of marine vessels. Title 13, CCR section 2299.5 is the corresponding Low Sulfur Fuel Regulation for Commercial Harbor Craft.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendment of title 13, California Code of Regulations (CCR) section 2299.5 and title 17, CCR section 93118.5. The following documents would be incorporated in the amendments by reference: (1) the following National Oceanic and Atmospheric Administration (NOAA) Nautical Chart, as authored by the NOAA Office of Coast Survey: (G) Chart 18740, San Diego to Santa Rosa Island (March 2007); (2) U.S. Environmental Protection Agency (U.S. EPA) Tier 2 Nonroad Emission Standards, set forth in Title 40, Code of Federal Regulations (CFR) Part 89.112(a), (as it existed on April 27, 2010); (3) the U.S. EPA Tier 2 Family Emissions Limit set forth in Title 40, CFR Part 89.112(d), (as it existed on April 27, 2010); (4) U.S. EPA Tier 3 Nonroad Emission Standards set forth in Title 40, CFR Part 89.112(a), (as it existed on April 27, 2010); (5) the U.S. EPA Tier 3 Family Emissions Limit set forth in Title 40, CFR Part 89.112(d) (as it existed on April 27, 2010); (6) the U.S. EPA Final Tier 4 Nonroad Emission Standards, set forth in Title 40, CFR section Part 1039.101, (as it existed on April 27, 2010); (7) the U.S. EPA Tier 4 FEL set forth in Title 40, CFR Part 1039.101 (as it existed on April 27, 2010); (8) the U.S. EPA Interim Tier 4 Nonroad Emission Standards, set forth in Title 40, CFR Part 1039.101, (as it existed on April 27, 2010); (9) The methods and procedures set forth in Title 40, CFR Parts 94 and 1042 (as they existed on April 27, 2010); and (10) The methods and procedures set forth in Title 40, CFR Parts 89 and 1039 (as they existed on April 27, 2010).

Background: Over 90 percent of Californians breathe unhealthy air at times. To improve air quality and human health, ARB establishes requirements to reduce emissions from new and in-use on-road and off-road vehicles, engines, and other sources. The CHC regulation (title 17, CCR section 93118.5) and the corresponding Low Sulfur Fuel Requirement for Commercial Harbor Craft (title 13, CCR section 2299.5) are part of ARB's ongoing effort to reduce PM and NO_x emissions from diesel-fueled engines and vehicles and improve air quality associated with goods movement.

Health and Safety Code (H&SC) sections 43013 and 43018 direct ARB to adopt standards and regulations that the Board has found to be necessary, cost-effective, and technologically feasible for all mobile source categories, including off-road diesel engines and equipment such as marine vessels, through the setting of emission control requirements. Specifically, H&SC 43013 directs ARB to adopt such standards and regulations on marine vessels to the extent permitted by federal law.

The California Toxic Air Contaminant Identification and Control Program, established under California law by Assembly Bill 1807 (Stats. 1983, Ch. 1047) and set forth in H&SC sections 39650-39675, requires ARB to identify and control air toxicants in California. In 1998, the Board identified diesel PM as a toxic air contaminant (TAC) with no Board-specified threshold exposure level.

Following the identification of a substance as a TAC, H&SC section 39665 requires ARB, with participation of the air pollution control and air quality management districts (districts) and in consultation with affected sources and interested parties, to prepare a report on the need and appropriate degree of regulation for that substance. Health and Safety Code section 39665(b) requires that this "needs assessment" address, among other things, the technological feasibility of proposed airborne toxic control measures (ATCMs) and the availability, suitability, and relative efficacy of substitute products or processes of a less hazardous nature.

A needs assessment for diesel PM was conducted between 1998 and 2000, which resulted in ARB's development of the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles (Diesel RRP). The Diesel RRP presented information that identified the available options for reducing diesel PM and recommended control measures to achieve further reductions. The scope of the Diesel RRP was broad, addressing all categories of engines, both mobile and stationary.

Once ARB has evaluated the need and appropriate degree of regulation for a TAC, H&SC section 39666(c) requires ARB to adopt regulations to reduce emissions of the TAC from nonvehicular sources to the lowest level achievable through the application of best available control technology (BACT) or a more effective control method, in consideration of cost, risk, environmental impacts, and other specified factors. In developing the proposed amendments, State law also requires an assessment of the appropriateness of substitute products or processes.

The purpose of this proposed regulatory action is to reduce emissions of diesel PM and NO_x from in-use engines on crew and supply, barge and dredge vessels. Diesel PM emission reductions from commercial harbor craft are needed to reduce cancer risk, premature mortality, and other adverse health impacts from exposure to people who live in the vicinity of California's major ports and shipping lanes. The proposed amendments help to achieve the 2020 goals set forth in the 2000 Diesel RRP and the 2006 Emission Reduction Plan for Ports and Goods Movement of reducing diesel PM emissions and health risks by 85 percent. Reductions in diesel PM and NO_x (which forms "secondary" nitrate PM in the atmosphere as well as contributes to the formation of ozone) will also assist California in its goal of achieving and maintaining State and federal air quality standards.

Staff estimates about a 55 percent reduction in diesel PM emissions and a 25 percent reduction in NO_x emissions from crew and supply, barge, and dredge vessels due to the proposed amendments in 2025. The proposed amendments will reduce about 275 tons of diesel PM and 3,475 tons of NO_x emissions between 2011 and 2025. These emission reductions will occur in areas along waterways and near ports where environmental justice concerns are especially prevalent.

ARB staff has prepared a Staff Report: Initial Statement of Reasons (Staff Report) as part of this rulemaking. Together with the needs assessment (i.e., the Diesel RRP), this document serves as a report on the need and appropriate degree of regulation of diesel

engines used on in-use crew and supply boats, barges, and dredges operating in Regulated California Waters.

DESCRIPTION OF THE PROPOSED REGULATORY ACTION

The ARB staff is proposing to amend the CHC regulation (title 17, CCR section 93118.5) that the Board adopted on November 17, 2007, and became effective January 1, 2009. The amendments primarily subject the diesel-fueled engines on crew and supply, barge, and dredge vessels to in-use engine requirements in the CHC regulation. Other clarifying and/or editorial amendments are also included. A more detailed description of the proposed amendments is presented below. Minor amendments to align section numbering are also proposed to the Low Sulfur Fuel Regulation for Commercial Harbor Craft (title 13, CCR section 2299.5).

Commercial Harbor Craft Regulation (title 17, CCR section 93118.5)

Applicability

The proposed amendments would extend the applicability of in-use engine requirements of the CHC regulation to in-use (existing) crew and supply, barge, and dredge vessels operating within any of the Regulated California Waters. Regulated California Waters include all California inland waters, all California estuarine waters, and all waters within a zone 24 nautical miles seaward of the California coastline, except for specified areas along the Southern California coastline.

Emission Limits

The proposed amendments would require in-use diesel engines on crew and supply, barge, and dredge vessels to meet United States Environmental Protection Agency (U.S. EPA) Tier 2 or Tier 3 marine or off-road (nonroad) engine standards in effect at the time the engine is required to comply under the proposed requirements.

In-Use Vessels

The proposed amendments would require that currently unregulated ("Tier 0") and Tier 1 in-use propulsion and auxiliary engines on crew and supply, barge, and dredge vessels meet emission limits equal to or more stringent than the U.S. EPA engine standards in effect for the year that in-use engine compliance is required under this proposal. Separate compliance schedules are proposed for crew and supply vessels and for barge and dredge vessels. The compliance schedules are based on engine model and horsepower and designed to remove the oldest, dirtiest engines first.

Allowing Certified Off-Road or Nonroad Engines to be used as Auxiliary Engines

The proposed amendments would allow vessel owners/operators more flexibility to comply with the CHC regulation by allowing currently available Tier 2 or higher certified off-road engines to meet the regulatory requirements for auxiliary engines. Owners/operators may elect to install a Tier 3 (marine or off-road) engine on a vessel as a replacement auxiliary engine after Tier 4 marine, interim Tier 4 and final Tier 4 off-road standards are in effect, but only if the engine being replaced is not a Tier 4 certified engine.

Adding "Swing Engine" Recordkeeping Requirements

The proposed amendments add a definition and reporting and recordkeeping requirements for swing engines. A swing engine is used to replace an existing engine that has to be removed from service for maintenance or repair. Swing engines would be considered in-use engines and must meet the applicable in-use engine compliance requirements.

Delete Multipurpose Harbor Craft Definition and Low Use Exemption

The "multipurpose harbor craft" term and definition, and the low use exemption in section (c)(12) have been removed in the proposed amendments. Instead, language has been added that allows a vessel owner/operator to operate vessel engines for up to 300 hours per year in any single category or combination of categories that are subject to in-use requirements. Barge and dredge vessels are limited to operating less than 80 hours per year to be exempt from the in-use engine compliance.

Special Circumstances to Use Non-CARB Diesel Fuel

The current CHC regulation requires CARB diesel fuel or specific alternative diesel fuel to be used. The proposed amendments would allow the use of U.S. EPA on-road diesel fuel or U.S. EPA nonroad diesel fuel (after June 1, 2010), in those situations where the vessel operator cannot obtain CARB diesel fuel prior to operating in Regulated California Waters.

Deadline for Alternative Control of Emission Plans

The current CHC regulation does not specify the date by which a vessel owner/operator must submit an annual Alternative Control of Emission (ACE) Plan. The proposed amendments would require the ACE to be submitted prior to or before February 28 of the year the vessel engine compliance is required.

Out-of-State Vessels Operating in California

The proposed amendments clarify that out-of-state CHC vessel owners/operators must complete an initial report within 30 days of a vessel being brought into California to operate in Regulated California Waters and to submit a Compliance Plan within 90 days demonstrating how the in-use engine requirements shall be met. All other applicable requirements of the CHC regulation shall be met upon initial operation of a vessel in Regulated California Waters.

Replacement Engine Exemption

The current CHC regulation requires that if an engine is replaced, the replacement engine must meet the U.S. EPA current model year marine engine standards. The proposed amendments provide the vessel owner/operator an exemption, in specific cases, to install a non-compliant engine if the owner/operator can demonstrate that a suitable engine replacement is not available, or that a new engine will not operate properly with the existing engines. The Executive Officer must approve any exemption request.

Allowing the Use of an Available Engine to Replace an Older Engine Subject to In-use Requirements

The proposed amendments would allow, in certain situations, an engine that does not meet the Tier 2 or Tier 3 requirements to be used on a temporary basis. The engine must be within the same fleet, and the original compliance date of the older, replaced engine must be kept.

Clarification of Requirements Applicable to Newly Acquired Ferry Vessels

The proposed amendments have been reworded to clarify existing requirements that owners/operators of new ferries having the capacity to transport 75 or more passengers are required to equip diesel propulsion engines that meet either Tier 2 or Tier 3 marine standards with BACT. BACT is not required for diesel propulsion engines that are certified to Tier 4 marine standards.

Compliance Extensions

The proposed amendments would expand the availability of the current compliance extension of subsection (e)(6)(E)4 to allow an owner to also request a compliance extension in situations where that owner has multiple vessels that are subject to compliance dates of 2011 or 2012 for crew and supply, barge, and dredge vessels, similar to the current compliance extension allowed for ferries, excursion vessels, tugboats, towboats, and push boats.

Exemptions

The proposed amendments would eliminate the exemption in section (c)(7)(C) of the current CHC regulation. This change will make harbor craft engines registered in the Portable Equipment Registration Program (PERP) or permitted by air districts prior to January 1, 2009 subject to the CHC regulation. This amendment aligns the CHC regulation with recent amendments to PERP, making all commercial harbor craft vessels, including barge and dredge vessels, subject to a single statewide regulation.

Definitions

The proposed amendments revise section (d) of the existing regulation by adding several definitions and deleting one to clarify the proposed amended language. Definitions that were added include, "certified nonroad engine", "dredge", "family emission limit", "permanently affixed to a harbor craft", "regulated in-use vessel", "swing engine", "tier 2 off-road or nonroad emission standards", "tier 3 off-road or nonroad emission standards", "tier 4 final off-road or nonroad emission standards", "tier 4 interim off-road or nonroad emission standards" and deleting the definition of "multipurpose harbor craft." The amendments would also update a new chart incorporated by reference in "California Baseline" - "Chart 18740, San Diego to Santa Rosa Island" (March 2007 for April 2005).

Low Sulfur Fuel Requirements for CHC (title 13, CCR section 2299.5)

The proposed amendments to the CHC regulation will change the section numbers that are referenced in the Low Sulfur Fuel Requirement for CHC regulation. Proposed amendments to section 2299.5, title 13, CCR would align section numbers with proposed amendments to section 93118.5, title 17, CCR.

COMPARABLE FEDERAL REGULATIONS

U.S. EPA has already promulgated Tier 3 and Tier 4 standards for new marine and off-road (nonroad) engines. However, no federal standards have been promulgated addressing emission reductions from in-use commercial harbor craft engines. Under federal Clean Air Act (CAA) section 213, U.S. EPA is without authority to adopt in-use standards for off-road (nonroad) engines, including marine engines.²

California is the only governmental entity in the United States authorized by the CAA, in the first instance, to adopt emission requirements for in-use off-road engines.³ Section 209(e)(1) of the CAA conclusively preempts states, including California, from adopting requirements for new off-road engines less than 175 horsepower that are used in farm or construction equipment. However, the proposed amendments address off-

² The California term "off-road" and the federal term "nonroad" refer to the same sources and are used interchangeably.

³ See *Engine Manufacturers Association v. U.S. EPA* (D.C. Cir. 1996) 88 F.3d 1075, 1089-1091.

road engines used in marine vessels, rather than those used in farm or construction equipment. Under section 209(e)(2), California may adopt and enforce emission standards and other requirements for off-road engines and equipment not conclusively preempted by section 209(e)(1), so long as California applies for and receives authorization from the Administrator of U.S. EPA.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposed regulatory amendments and which also describes the basis of the proposed action in more detail. The Staff Report is entitled, "Staff Report: Initial Statement of Reasons for the Proposed Rulemaking – Proposed Amendments to the Regulations to Reduce Emissions from Diesel Engines on Commercial Harbor Craft Operated Within California Waters and 24 Nautical Miles of the California Baseline."

Copies of the ISOR with the full text of the proposed regulatory language may be accessed on the ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on June 24, 2010.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the ARB's website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Todd Sterling, Air Pollution Specialist, at (916) 445-1034, or Carolyn Suer, Staff Air Pollution Specialist in the Control Strategies Section, at (916) 327-5985.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Lori Andreoni, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-4011, and Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the Staff Report, and all subsequent regulatory documents, including the FSOR, when completed, are also available on the ARB website for this rulemaking at <http://www.arb.ca.gov/regact/2010/chc10/chc10.htm>.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

Costs to Businesses and Private Individuals

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed amendments are presented below.

The total regulatory cost of compliance with the proposed amendments to the CHC regulation is expected to be about \$15 million in 2009 expenditure-equivalent dollars (2009 dollars). Regulatory costs are the estimated costs resulting from the proposed amendments taking into consideration the residual value of the in-use engine being replaced, the residual value of the most recent engine rebuild work, recordkeeping and reporting costs, and the time value of money associated with the early engine replacement. These costs would be spread over the years 2011 to 2022. On an annual basis, the cost would vary between approximately \$178,000 and \$2.7 million per year, averaging about \$1.3 million per year. Approximately 60 percent of the compliance costs will be incurred by the crew and supply boat fleets and 40 percent by the barge and dredge fleets.

New equipment costs are the total out-of-pocket costs of complying with the regulation, not taking into consideration the remaining useful life of the engine being replaced. New equipment costs are estimated to be approximately \$46 million (2009 dollars) spread over the years 2011 to 2022, with an average annual cost of about \$3.9 million. Specifically, the new equipment costs for purchasing and installing a new engine – are costs that the vessel owner would eventually pay, but the proposed amendments require this service to be performed earlier than normal.

Staff estimates the cost-effectiveness of the proposed amendments in terms of dollars per pound of PM emission reduction to be about \$35 per pound (2009 dollars) if all the total annualized cost is attributed solely to the PM reduction. Since the proposal would also result in NO_x emission reductions, staff also evaluated cost-effectiveness by attributing half the total annualized cost to the PM emission reductions and half to the NO_x emission reductions. The resulting cost-effectiveness values using the latter method are about \$17 per pound of PM and \$2,700 per ton of NO_x. These values are based on the cost of regulatory compliance.

California businesses are affected by the proposed annual cost of the amendments to the extent that the implementation of the proposed amendments reduces their profitability. Overall, most affected businesses will be able to absorb the costs of the proposed amendments with no significant adverse impacts on their profitability. This finding is based on the staff's analysis of the estimated change in "return on owner's equity" (ROE). Dun and Bradstreet financial data were used for the analysis, when available, to determine the change in ROE for typical businesses from each industry category. The staff found that the average overall change in ROE was a 0.95 percent

decline. This range in ROE reduction is not considered to represent a significant impact on profitability. Because the proposed amendments would not alter significantly the profitability of most businesses, we do not expect a noticeable change in employment, business creation, elimination, or expansion, and business competitiveness in California for these industries. The change in ROE is expected to be larger for a small business.

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons based on the estimated change in ROE. A number of businesses are integrally linked to California ports. However, we do not believe that the added costs of the proposed amendments are high enough for crew and supply, barge, and dredge vessel operators to consider alternate ports outside of California. The ARB staff has considered proposed alternatives and evaluated the economic impact on businesses.

Alternatives that staff considered are described in more detail in the Staff Report.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action may affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. Some businesses that provide vessel repower services could expand due to the volume of business created by the regulatory requirements. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action would affect small businesses.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the proposed amended regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

In accordance with Health and Safety Code sections 43013(a) and (b), the Executive Officer has determined that the standards and other requirements in the proposed amended regulation are necessary, cost-effective, and technologically feasible for diesel engines on all commercial harbor craft and specifically crew and supply, barge, and dredge vessels operated within Regulated California Waters.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

Costs to Local and State Government Agencies

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would create costs to one State agency, one federal agency, and two local agencies. The California Department of Parks and Recreation operates two crew and supply vessels service Angel Island in the San Francisco Bay area and would be impacted by the in-use engine requirements. Regulatory cost to this state agency is estimated to be about \$60,000. Barge and dredge vessels are owned and operated by two local agencies in Santa Cruz and Monterey and by the federal agency, the United States Army Corps of Engineers. The estimated regulatory costs range from approximately \$1,900 to \$45,000 over the life of the regulation for these agencies that operate barge and dredge vessels. ARB may incur an additional cost of less than \$200,000 per year for implementation and enforcement beginning in 2011. The Executive Officer has also determined that the proposed regulatory action would not create savings to any State agency or in federal funding to the State, costs or mandate to any local agency or school district, whether or not reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and comments may be submitted by postal mail or by electronic submittal before the meeting. The public comment period for this regulatory action will begin on May 10, 2010. To be considered by the Board, written comments, not physically submitted at the meeting must be submitted on or after May 10, 2010 and received **no later than 12:00 noon, Pacific Standard Time, June 23, 2010**, and must be addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g.,

your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

The Board requests, but does not require, that 20 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board members have time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted to ARB in Health and Safety Code sections 39600, 39601, 39650, 39658, 39659, 39666, 41511, 43013, and 43018. This action is proposed to implement, interpret, or make specific Health and Safety Code sections 39000, 39001, 39515, 39516, 39650, 39658, 39659, 39666, 41510, 41511, 43013, 43016, and 43018; and *Western Oil and Gas Ass'n v. Orange County Air Pollution Control District*, 14 Cal.3rd 411, 121 Cal.Rptr. 249 (1975).

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with §11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990.

To request a special accommodation or language needs for any of the following:

- An interpreter to be available at the hearing.
- Have documents available in an alternate format (i.e. Braille, Large print) or another language.
- A disability-related reasonable accommodation.

Please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the

scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Para solicitar alguna comodidad especial o necesidad de otro idioma para alguna de las siguientes:

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CALIFORNIA AIR RESOURCES BOARD



James N. Goldstene
Executive Officer

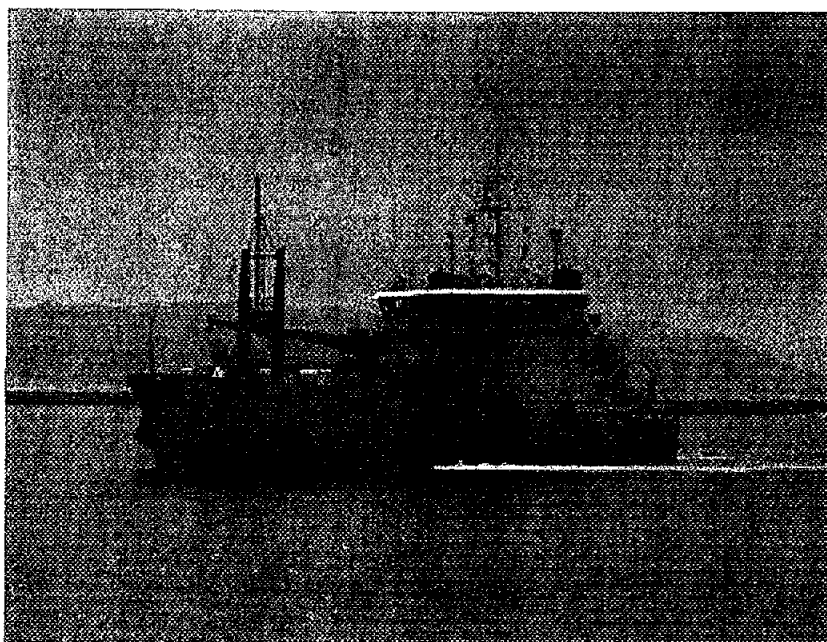
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California Environmental Protection Agency
AIR RESOURCES BOARD

**STAFF REPORT: INITIAL STATEMENT OF REASONS
FOR THE PROPOSED RULEMAKING**



**AMENDMENTS TO THE REGULATIONS TO REDUCE
EMISSIONS FROM DIESEL ENGINES ON COMMERCIAL
HARBOR CRAFT OPERATED WITHIN CALIFORNIA WATERS
AND 24 NAUTICAL MILES OF THE CALIFORNIA BASELINE**

**Stationary Source Division
Emissions Assessment Branch**

May 2010

**STAFF REPORT:
INITIAL STATEMENT OF REASONS
FOR THE PROPOSED RULEMAKING**

Public Hearing to Consider

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FROM DIESEL ENGINES ON
COMMERCIAL HARBOR CRAFT OPERATED WITHIN CALIFORNIA WATERS
AND 24 NAUTICAL MILES OF THE CALIFORNIA BASELINE**

To be considered by the Air Resources Board on June 24, 2010 at:

California Environmental Protection Agency
Headquarters Building
Byron Sher Auditorium
1001 I Street
Sacramento, California

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EXECUTIVE SUMMARY

Summary of Proposed Action

The California Air Resources Board (ARB or Board) staff is proposing amendments to the regulations affecting commercial harbor craft.¹ These proposed amendments primarily affect the Commercial Harbor Craft Regulation (CHC regulation) that the Board adopted on November 17, 2007. This regulation became effective on January 1, 2009. In addition, the staff is proposing minor conforming amendments to a complimentary regulation, the Low Sulfur Fuel Requirement for Commercial Harbor Craft, to align numbering changes due to the proposed amendments to the CHC regulation. A copy of the proposed amendments to both regulations is provided in Appendix A of this report. (ARB, 2007a) (ARB, 2007b) (ARB, 2007c)

The primary purpose of the proposed amendments is to subject diesel-fueled engines on crew and supply, barge, and dredge vessels to in-use engine requirements of the CHC regulation. The staff is proposing to add crew and supply vessels because updated information shows that these vessels have similar or greater emissions than vessel categories currently controlled by the CHC regulation. The addition of barge and dredge vessels will amend a situation where this class of vessels are subject to two different statewide regulations. Approximately 175 crew and supply, barge, and dredge vessels operate in California, and are equipped with about 640 diesel-fueled engines. These engines emit about 66 tons per year of diesel particulate matter (PM) and 1,430 tons per year oxides of nitrogen (NO_x). Other amendments are being proposed to clarify requirements and to address issues that have arisen during the implementation of the 2007 CHC regulation.

In developing the proposed amendments, ARB staff worked closely with stakeholders including vessel owner/operators, marine engine industry representatives, and staff from air pollution control and air quality management air districts (districts). The early turnover of in-use, pre-Tier 1 and Tier 1 diesel-engines on crew and supply, barge, and dredge vessels to lower emitting Tier 2 and Tier 3 marine or off-road engines would reduce diesel PM, NO_x, and other air pollutant emissions. These emission reductions will reduce exposures and health risks across California, particularly along the shoreline and near ports. The proposed amendments are technologically feasible, cost-effective, and necessary to carry out the Board's responsibilities and goals, including; 1) the goal of the Diesel Risk Reduction Plan to reduce diesel PM emissions from all sources by 85 percent by 2020; and 2) the Emissions Reduction Plan for Ports and Goods Movement that the Board approved in April 2006. Finally, the emission reductions from

¹Title 17, CCR section 93118.5 is known as the Commercial Harbor Craft Regulation (CHC regulation) and establishes emission standards, reporting, recordkeeping, fuel, and monitoring requirements for certain categories of marine vessels. Title 13, CCR section 2299.5 is the corresponding Low Sulfur Fuel Regulation for Commercial Harbor Craft.

the proposed amendments are necessary to help attain and maintain ambient air quality standards for fine particulate matter (PM_{2.5}) and ozone.

Proposed Amendments

The proposed amendments to the CHC regulation would:

- Establish in-use emission limits and compliance schedules for auxiliary and propulsion diesel-fueled engines on crew and supply, barge, and dredge vessels that operate in Regulated California Waters. The compliance schedules are based on engine model years and annual hours of operation, and are designed to remove the oldest, dirtiest engines first.
- Eliminate the current exemption for vessel engines registered in PERP or that were permitted by districts before January 1, 2009.
- Allow the use of certified off-road or nonroad engines as auxiliary engines.
- Allow CHC vessels that cannot obtain CARB diesel fuel outside of California to use United States Environmental Protection Agency (U.S. EPA) on-road or nonroad diesel when travelling from their non-California home port.
- Add a definition of "swing engine" and require these engines to meet applicable in-use emission limits and recordkeeping provisions.
- Delete the definition of "multipurpose harbor craft" and "low use exemption", and reword the in-use engine section to clarify that vessels in categories with in-use emissions limits do not have to comply with those limits for engines if they operate less than 300 hours in any single regulated vessel category or combination of categories (or 80 hours for barge and dredge vessels).
- Add a deadline of February 28 for submitting the annual Alternative Control of Emission plans.
- Clarify that the initial reporting and compliance plan reporting requirements also apply to out-of-state vessels that operate in California.
- Allow owners/operators of vessels with multiple engines to apply for an exemption from the new engine requirements if one engine has a catastrophic failure.
- Reword the new ferry vessels Best Available Control Technology section for clarity.
- Allow the use of an available engine to replace an older engine subject to in-use requirements until the original scheduled compliance date of the older engine.
- Make other changes to definitions and edits to regulatory language to improve clarity.

Staff is also proposing minor amendments to the Low Sulfur Fuel Regulation (section 2299.5, title 13, CCR) to align numbering with the amendments to the CHC regulation.

Background

Commercial Harbor Craft

Commercial harbor craft (CHC) include ferries, excursion vessels, tugboats, towboats, crew and supply vessels, work boats, commercial and charter fishing boats, and barge and dredge vessels. Staff estimates there are approximately 4,300 commercial harbor craft vessels with 8,700 diesel-fueled engines operating in California coastal waters.

2007 Commercial Harbor Craft Regulation

In 2007, ARB adopted the CHC regulation, which requires engines on all new vessels to meet applicable U.S. EPA marine engine emission standards at the time the vessel is acquired. The marine emission standards are divided into four increasingly stringent levels (Tiers); the allowed emission level and effective dates vary with horsepower. Replacement engines installed on any in-use harbor craft are required to meet the Tier 2 or Tier 3 standards in effect at the time of purchase of the engine. Existing or in-use engines on ferries, excursion vessels, tugboats, towboats, and pushboats must meet U.S. EPA Tier 2 or Tier 3 standards based on phased-in compliance schedule.

Authority

ARB has authority under California law to adopt the proposed regulation. California Health and Safety Code (HSC) sections 43000, 43000.5, 43013(b) and 43018 provide broad authority for ARB to adopt emission standards and other regulations to reduce emissions from new and in-use vehicular and other mobile sources. Under HSC sections 43013(b) and 43018, ARB is authorized to adopt emission standards for off-road vehicular sources, as expeditiously as possible, to meet State ambient air quality standards. ARB is further mandated by HSC section 39666 to adopt airborne toxic control measures (ATCM) for new and in-use vehicular sources, including Commercial Harbor Craft, for identified toxic air contaminants, such as diesel PM.

Public Outreach

Staff has made a concerted effort to provide opportunities for public participation in this rulemaking action. Staff's public outreach efforts included three public workshops at which draft regulatory concepts, language, and cost estimates were provided. In addition, the Commercial Harbor Craft website was updated with all workshop materials. Staff also held meetings with owner/operators of crew and supply, barge, and dredge vessels, districts, and other interested parties.

Basis for the Proposed Amendments

Crew and Supply Vessels

Crew and supply vessels are primarily used to transport equipment and personnel to and from offshore oil rigs and other offshore vessels. About 60 percent of the companies that own crew and supply vessels are considered small businesses, having less than 100 employees. When ARB adopted the CHC regulation in 2007, crew and supply vessels were subject to the new engine provisions, but existing vessels were not required to meet in-use engine emission limits, because information at that time showed