

State of California
AIR RESOURCES BOARD

Resolution 90-80

December 13, 1990

Agenda Item No.: 90-20-1

WHEREAS, section 39000 declares that the people of the State of California have a primary interest in the quality of the physical environment in which they live, and that this physical environment is being degraded by the waste and refuse of civilization polluting the atmosphere, thereby creating a situation which is detrimental to the health, safety, welfare, and sense of well-being of the people of California;

WHEREAS, section 39003 of the Health and Safety Code charges the Air Resources Board ("Board") with coordinating efforts to attain and maintain ambient air quality standards;

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Board 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, in section 43000.5 of the Health and Safety Code, the Legislature found and declared that despite significant reductions in vehicle emissions in recent years, continued growth in population and vehicle miles traveled throughout California have the potential not only to prevent attainment of the state standards, but in some cases, to result in worsening of air quality;

WHEREAS, section 43013 authorizes the Board to adopt standards and regulations for the control of contaminants for off-road sources, including utility engines;

WHEREAS, section 43018 of the Health and Safety Code directs the Board to achieve the maximum degree of emissions reductions possible from vehicular and other mobile sources in order to accomplish the attainment of state standards at the earliest possible date, and to hold hearings to consider adoption of regulations for utility engines by November 1991;

WHEREAS, the Federal District Court for the Northern District of California in the consolidated cases of Citizens for a Better Environment et al. v. George Deukmejian, et al. and Sierra Club v. Metropolitan Transportation Commission, Case Nos. C89-2044 TEH and C89-2064 TEH (hereinafter referred to as the "CBE litigation"), found the Board and the Bay Area Air Quality Management District liable for failing to adopt and implement a regulation for utility engines under the 1982 State Implementation Plan and ordered

such agencies to adopt a regulation for utility engines in the Bay Area by January 7, 1991;

WHEREAS, section 39515 and 39516 provide that the Board may delegate any duty to the Executive Officer which the Board deems appropriate and that any power, duty, purpose, function, or jurisdiction which the Board may lawfully delegate shall be conclusively presumed to have been delegated to the Executive Officer unless the Board has expressly reserved such authority onto itself;

WHEREAS, the staff has proposed adoption of regulations under Title 13, California Code of Regulations Section 2400, et seq. and procedures and documents to be incorporated by reference therein for 1994 and subsequent model utility and lawn and garden equipment engines, including emission standards, test procedures, emission control labels and specifications, emission control system warranties, enforcement procedures, and compliance testing;

WHEREAS, the Board has considered the effects of the proposed standards on the economy of the state;

WHEREAS, the Federal Clean Air Act, as amended in 1990, recently became effective, and section 209(e) of that Act requires that the ARB receive authorization from the Administrator of the Environmental Protection Agency (EPA) to adopt and enforce standards relating to the control of emissions from nonroad engines or vehicles;

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, 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; and

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;

It is now necessary, because of these serious pollution problems, to attempt to achieve emissions reductions from sources such as utility and lawn and garden equipment engines, which have previously been unregulated;

The proposed utility and lawn and garden equipment engine regulations are necessary, cost-effective, and

technologically feasible to carry out the purposes of the California Clean Air Act;

The proposed regulations for utility and lawn and garden equipment engines will result in emissions reductions that will help attain and maintain national and ambient air quality standards for ozone, carbon monoxide and nitrogen dioxide;

In authorizing the Board to adopt regulations for utility and lawn and garden equipment engines, the Legislature intended such regulations to be fully enforceable; and

The proposed regulations and procedures for emission control labels, warranties, enforcement procedures, and compliance testing are necessary to adequately enforce regulations establishing emission standards and test procedures that will reduce emissions for utility and lawn and garden equipment engines and will in and of themselves help to reduce emissions from such sources.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves Sections 2400-2407, Title 13, California Code of Regulations, "California Exhaust Emission Standards and Test Procedures for 1994 and Subsequent Model Year Utility and Lawn and Garden Equipment Engines," "California New Utility and Lawn and Garden Equipment Engine Compliance and Quality-Audit Test Procedures," and "California Utility and Lawn and Garden Equipment Engine Emission Control Label Specifications," as set forth in Attachment A hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt Sections 2400-2407, Title 13, California Code of Regulations, "California Exhaust Emission Standards and Test Procedures for 1994 and Subsequent Model Year Utility and Lawn and Garden Equipment Engines," "California New Utility and Lawn and Garden Equipment Engine Compliance and Quality-Audit Test Procedures," and "California Utility and Lawn and Garden Equipment Engine Emission Control Label Specifications," after making it 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 may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if he determines that this is warranted.

BE IT FURTHER RESOLVED that the Board hereby determines that the regulations approved herein will not cause the California emission standards, in the aggregate, to be less protective of public health and welfare than applicable federal standards; that California needs such standards to meet compelling and extraordinary conditions within the State; that the standards and accompanying enforcement procedures are not inconsistent with the

Federal Clean Air Act, as amended; and that the regulations raise no new issues affecting previous waiver determinations of the Administrator of EPA.

BE IT FURTHER RESOLVED that the Executive Officer shall forward the regulations approved herein to the Administrator of EPA with a request that California be given authorization to adopt and enforce such regulations.

BE IT FURTHER RESOLVED that the Board delegates to the Executive Officer to incorporate technical revisions as needed to the "California Exhaust Emission Standards and Test Procedures for 1994 and Subsequent Model Year Utility and Lawn and Garden Equipment Engines."

BE IT FURTHER RESOLVED that the Board directs staff to consult with industry through workshops and report back to the Board in 1994 and 1996 on the status of compliance with the 1999 standards, Sections 2400-2407 and the incorporated documents therein.

I hereby certify that the above is a true and correct copy of Resolution 90-80, as adopted by the Air Resources Board.

Judith M. Lounsbury

Judith M. Lounsbury, Board Secretary