State of California
AIR RESOURCES BOARD

Resolution 06-18

June 22, 2006

Agenda Item No.: 06-6-2

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (ARB or 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 accordance with section 41750 et seq. of the Health and Safety Code, the Board established, by regulation, a Statewide Portable Equipment Registration Program (PERP) 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 administering and enforcing PERP, including a fee for the recovery of the cost of district enforcement activities;

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 (Statewide Regulation), including but not limited to, revising and updating a determination of the Best Available Control Technology for portable engines;

WHEREAS, when amendments to the Statewide Regulation were approved on February 26, 2004, the Board directed ARB staff to continue working with the California Air Pollution Control Officers Association (CAPCOA) and affected industries to resolve concerns regarding enforcement of the Statewide Regulation;

WHEREAS, proposed amendments to the Statewide Regulation were developed through discussions of draft versions made available to the public for review and comments at three workgroup meetings, four public consultations, two public workshops, and numerous conference calls;

WHEREAS, with the information and comments received from the affected public, the staff has prepared a staff report entitled "Initial Statement of Reasons for the Proposed Amendments to the Statewide Portable Equipment Registration Program Regulation" (Initial Statement of Reasons), which presented the rationale for the proposed amendments to the Statewide Regulation set forth in Attachment A hereto;

WHEREAS, the Initial Statement of Reasons and the proposed amendments to the Statewide Regulation were made available for public review and comment 45 days prior to the public hearing to consider the proposed amendments to the Statewide Program;

WHEREAS, the Board has considered the magnitude of the resultant air quality benefit and the potential effects of the proposed amendments to the Statewide Regulation 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 economic analysis in the Initial Statement of Reasons and the impact of the proposed regulatory action on the economy of the State;

WHEREAS, the California Environmental Quality Act and Board regulations require that a project which may have significant adverse environmental impacts may not be adopted as originally proposed if feasible alternatives or mitigation measures are available to substantially reduce or eliminate such identified impacts;

WHEREAS, a public hearing was held June 22, 2006, 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:

> As the PERP has grown and more equipment has been registered, the need for enforcement has become increasingly important to the overall effectiveness of the program;
>
> With the increase in portable engines and equipment being registered in the PERP, as well as the rapid growth and corresponding increased use of portable engines and equipment in California, expanded enforcement efforts are needed to ensure that such engines and equipment contribute to the efforts to achieving California's goal of attaining the federal and state ambient air quality standards;
>
> The air pollution control districts and air quality management districts (districts) play a critical role in assuring that the portable engines and equipment used in their jurisdictions are properly permitted or registered;
>
> The proposed amendments to the Statewide Regulation will provide additional information about portable equipment to the districts' enforcement staff by requiring more specific record keeping, designating a home district, using registration placards, installing hour meters, and notifying the district when equipment changes location;
>
> The proposed amendments to the Statewide Regulation provide for additional funds needed to cover the increased districts costs for enforcing the Statewide Regulation;
>
> The economic impacts of the proposed amendments to the Statewide Regulation have been analyzed as required by California law, and the conclusions and

supporting documentation for this analysis are set forth in the Initial Statement of Reasons;

Although most newly-manufactured portable equipment is readily available for purchase, there are limited cases involving specialty engines where substantial delays occur between the ordering and delivery of the portable equipment;

As a result of these delays, purchasers of about 200 pieces of new portable equipment did not receive delivery in time to register before the January 1, 2006, program changes became effective and precluded their registration in the PERP;

In these specific cases, it is appropriate to allow for a limited time this portable equipment to be registered in the PERP; and

The staff will conduct extensive outreach activities to inform affected parties of the adoption of the proposed amendments to the Statewide Regulation;

WHEREAS the Board further finds:

The proposed amendments to the Statewide Regulation are expected to have a positive environmental impact by having more portable engines inspected by the districts; more inspections will increase the amount of portable equipment in California that is operating in compliance with the conditions of either a district permit or a registration in the PERP;

The proposed amendments to the Statewide Regulation are not expected to result in significant negative environmental impacts. The proposed amendments to the Statewide Regulation would likely result in decreased emissions of oxides of nitrogen (NOx) and diesel particulate matter (PM). These reductions would occur by increasing enforcement activities to ensure that affected engines and equipment units are in compliance with clean engine requirements;

WHEREAS, the Board further finds that:

The proposed amendments would ensure the continual reduction of emissions of NOx and diesel PM which will benefit urban area communities, where operation of registered engines and equipment units occurs most frequently.

WHEREAS, the Board further finds that:

There is no less costly alternative or combination of alternatives which would be equally effective in achieving increments of environmental protection in a manner that ensures full compliance with statutory mandates within the same amount of time as the proposed regulatory requirements.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts amendments to sections 2450 through 2465, title 13, CCR, amending the Statewide Regulation, as set forth in Attachment A.

BE IT FURTHER RESOLVED that staff is directed to provide a progress report to the Board on the administration and enforcement of the PERP in three years.

BE IT FURTHER RESOLVED that the Board hereby determines, pursuant to section 209(e)(2) of the federal Clean Air Act, 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 its own State standards to meet compelling and extraordinary conditions, that the adopted standards and accompanying enforcement procedures are consistent with the provisions of section 209.

BE IT FURTHER RESOLVED that the Board hereby determines that the regulations adopted and amended herein will not cause California portable off-road engine emission standards, in the aggregate, to be less protective of public health and welfare than applicable federal standards.

BE IT FURTHER RESOLVED that pursuant to the determinations set forth above, the Board directs staff to file a request for authorization from the United States Environmental Protection Agency pursuant to section 209(e)(2) of the federal Clean Air Act to the extent necessary.

RECEIVED BY
Office of the Secretary

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RESOURCES AGENCY OF CALIFORNIA

I hereby certify that the above is a true and correct copy of Resolution 06-18, as adopted by the Air Resources Board.

Lori Andreoni

Lori Andreoni, Clerk of the Board

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June 22, 2006

Identification of Attachments to the Resolution

Attachment A: Proposed Amendments to the Regulation for the Statewide Portable Equipment Registration Program, title 13, California Code of Regulations, sections 2450-2465, as set forth in Appendix A to the Staff Report, issued May 5, 2006.