State of California
AIR RESOURCES BOARD

Resolution 06-40

November 16, 2006

Agenda Item No: 06-10-6

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (the Board or ARB) to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, the Legislature found in the Air Toxics "Hot Spots" Information and Assessment Act of 1987 (the Act, AB 2588, Connelly, Chapter 1252, Statutes of 1987, Health and Safety Code Section 44300 et seq., including subsequent amendments) that facilities manufacturing or using hazardous substances may be exposing nearby populations to toxic air releases on a routine basis and that it is in the public interest to ascertain the nature and quantity of hazardous releases from specific sources which may create air toxics "hot spots";

WHEREAS, the Act sets forth a program (the Program or Air Toxics "Hot Spots" Program) to develop air toxics emission inventories, assess the risk to public health from exposure to air toxics, provide notice to the public of the risks, and implement a plan to reduce those risks;

WHEREAS, in accordance with Health and Safety Code section 44342, the Board approved criteria and guidelines for site-specific air toxics emission inventory plans and reports on April 14, 1989;

WHEREAS, air toxics Emission Inventory Criteria and Guidelines are incorporated by reference in title 17, California Code of Regulations (CCR) section 93300.5 in accordance with the Act;

WHEREAS, in 1998, the Board identified diesel particulate matter (diesel PM) as a toxic air contaminant (TAC) pursuant to Chapter 3.5 (commencing with section 39650) of Part 2 of Division 26 of the Health and Safety Code;

WHEREAS, Health and Safety Code section 43013(c) requires the Board, prior to adopting standards and regulations for farm equipment, to hold a public hearing and find and determine that the standards and regulations are necessary, cost-effective, and technologically feasible;

WHEREAS, localized concentrations ("hot spots") of diesel PM emitted from diesel engines may pose a significant risk to residences, but insufficient data are currently available to accurately assess the amounts and health impacts of these "hot spots";

WHEREAS, diesel PM, which is emitted from diesel engines and which poses an unacceptable risk to the public health should be reduced to acceptable levels;

WHEREAS, in accordance with the above authority, ARB staff has proposed amendments to title 17, CCR section 93300.5 and the incorporated Emission Inventory Criteria and Guidelines Report; these proposed amendments are set forth in Attachment A hereto;

WHEREAS, the Staff Report: Initial Statement of Reasons and the proposed amendments to title 17, CCR section 93300.5 and the Emission Inventory Criteria and Guidelines Report were made available for public review and comment 45 days prior to the public hearing to consider the proposed amendments thereto;

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, after consideration of the Initial Statement of Reasons, written comments, and public testimony received before and at the hearing, the Board finds that:

1. This regulatory action will not have a significant adverse impact on the environment and may indirectly benefit air quality by stimulating a reduction in emissions of both toxic and criteria pollutants;

2. Standards and regulations affecting nonvehicular engines (e.g. stationary diesel engines) in farm equipment are necessary, cost-effective, and technologically feasible;

3. The economic impacts of the proposed amendments to title 17, CCR, section 93300.5 and the Emission Inventory Criteria and Guidelines Report 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;

4. The proposed amendments to title 17, CCR, section 93300.5 and the Emission Inventory Criteria and Guidelines Report are not expected to adversely impact environmental justice communities; and

5. There is no reasonable alternative considered by the Board or otherwise identified that would be more effective in carrying out the purpose for which the regulatory amendments are proposed or would be as effective and less burdensome to affected private persons or businesses.

NOW, THEREFORE BE IT RESOLVED that the Board hereby approves the amendments to section 93300.5, title 17, CCR and the incorporated Emission Inventory Criteria and Guidelines Report, including appendices, set forth in Attachment A hereto, with the modifications set forth in Attachment B and the following additional modifications: (1) making it clear that a facility may if it wishes submit an updated health risk assessment, and (2) postponing applicability of the hot spots requirements, until after 2011, to a diesel backup generator at a hospital where the diesel backup generator is replaced, retrofitted, or removed from service concurrent with seismic upgrades which are required pursuant to the hospital seismic safety mandate.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt the amendments as set forth in Attachment A hereto, with the modifications described above and such other conforming modifications and technical amendments as may be appropriate, after making the modified regulatory language and any additional supporting documents and information available for public comment for a period of 15 days, provided that the Executive Officer shall consider such written comments regarding the modifications and any additional supporting documents and information as may be submitted during this period, shall make modifications as may be appropriate in light of the comments received, and shall present the amendments to the Board for further consideration if she determines that this is warranted.

FILED
JUL 16 2007
Resources Agency of California

I hereby certify that the above is a true and correct copy of Resolution 06-40, as adopted by the Air Resources Board.

Lori Andreoni

Lori Andreoni, Clerk of the Board

Resolution 06-40

November 16, 2006

Identification of Attachments to the Resolution

Attachment A: Proposed amendments to title 17, California Code of Regulations, section 93300.5 and the incorporated Emission Inventory Criteria and Guidelines Report as appended to the Staff Report: Initial Statement of Reasons released September 29, 2006.

Attachment B: Staff's Suggested Modifications to the Original Proposal (Distributed at the Board Hearing on November 16, 2006)

Attachment B: Proposed 15-Day Modifications to Proposed Amendments to the AB 2588 "Hot Spots" Guidelines Regulation

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Note: Shown below are excerpts from the Emission Inventory Criteria and Guidelines Report, which is incorporated by reference in title 13, California Code of Regulations, section 93300.5. The originally proposed amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions. The modifications suggested by staff are shown in double underline to indicate additions and ~~double strikeout~~ to indicate deletions.

Section X.

"Stationary Diesel Engine" or 'Stationary CI Engine" means a CI engine that is designed to stay in one location, or remains in one location. ~~A CI engine is stationary if the engine or its replacement is attached to a foundation, , or if not so attached, has been determined by the district to be stationary for the purposes of "Hot Spots" reporting.~~

Section XI.A.

(2nd paragraph – "of", and ")" added after Regulations)

Due to the large number of facilities with diesel engines and the toxicity of diesel PM, special reporting procedures apply to facilities with diesel engines. The special diesel reporting procedures were developed in part to integrate the AB 2588 "Hot Spots" process for facilities with diesel engines with the Stationary Diesel Engine Air Toxic Control Measure (ATCM; section 93115, title 17, California Code ~~or~~of Regulations) to eliminate duplicative reporting requirements.

(3rd paragraph)

A facility is not subject to this regulation if a facility prioritization score, a screening health risk assessment, or a health risk assessment is equal to or less than one~~, as described in section XI.D.(1)(b)~~.

(4th paragraph)

The ~~D~~district may use emissions inventory information collected pursuant to other district programs".

Section XI.C.(2)(b)

The ~~district may request~~ operator of a facility is not required to submit the information in Section XI.C.(2)(a) for diesel engines equal to or less than 50 horsepower ~~if~~ unless the district determines there is good cause to expect that the engines at the facility have the potential to pose a significant risk.

Section XI.C.(2)(c)

~~The district may request the information in section XI.C.(2)(a) for portable diesel engines if the district determines there is good cause to expect that the engines at the facility have the potential to pose a significant risk.~~

The emission reporting requirements in section XI.C.(2)(a) do not apply to portable diesel engines until January 1, 2010. Beginning on January 1, 2010, the operator of a facility is not required to submit the information in section XI.C.(2)(a) unless the district determines that there is good cause to expect that the routine and predictable emissions from the portable diesel engines used at the facility have the potential to pose a significant risk.

Section XI.E.(1)

The district may evaluate the diesel PM risk from a facility with diesel engines using ~~either~~ the screening health risk assessment tables approved by the district that are consistent with the OEHHA Risk Assessment Guidelines.

Section XI.E.(2)

If the combined risk indicates that the facility is not a significant risk, the health risk assessment shall be updated by the district to reflect the diesel risk, the facility shall be classified as an "Intermediate-Level" facility, and is subject to the reporting requirements specified in section IV.~~C~~B.

Appendix A-I

75434 Dichlorofluoromethane {Freon ~~12~~21}
75718 Dichlorodifluoromethane {Freon 12}

Appendix C

(page 42 – under Mining of Non-Metals, Sand and Gravel)
Asbestos, Crystalline silica