State of California
AIR RESOURCES BOARD

Resolution 10-2

January 28, 2010

Agenda Item No: 10-1-2

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (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, in accordance with section 41750 et seq. of the Health and Safety Code, the Board has 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, and outreach 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 (BACT) for portable engines;

WHEREAS, the Board adopted an Airborne Toxic Control Measure for Diesel-Fueled Portable Engines (Portable ATCM), and approved Resolution 04-7 on February 26, 2004;

WHEREAS, the Board adopted a Regulation for In-Use Off-Road Diesel-Fueled Vehicles (Off-Road Regulation), and approved Resolution 07-19 on July 26, 2007;

WHEREAS, the Board adopted a Regulation for In-Use Heavy-Duty Diesel-Fueled Vehicles (On-Road Vehicle Regulation), and approved Resolution 08-43 on December 11, 2008;

WHEREAS, based on comments received from affected industry that raised concerns regarding the requirement to place uncertified portable diesel engines out of service by January 1, 2010, staff has considered options and has developed amendments to the Statewide Regulation and the Portable ATCM;

WHEREAS, based on comments received from the water well drilling industry that raised concerns regarding the requirements affecting two-engine water well drilling rigs,

staff considered options and developed amendments to the Statewide Regulation, the Portable ATCM, the Off-Road Regulation, and the On-Road Vehicle Regulation;

WHEREAS, the amendments to the Statewide Regulation, the Portable ATCM, the Off-Road Regulation, and the On-Road Vehicle Regulation were developed through discussions of draft versions made available to the public for review and comments at a public workshop, 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 Regulations Applicable to Portable Diesel Engines and Diesel Engines Used in Off-Road and On-Road Vehicles" (Initial Statement of Reasons), which presented the rationale for the proposed amendments to the Statewide Regulation, the Portable ATCM, the Off-Road Regulation, and the On-Road Vehicle Regulation set forth in Attachment A, B, C, and D hereto;

WHEREAS, the Board has considered the air quality benefits and the potential costs of the proposed amendments on businesses that use portable engines and associated equipment;

WHEREAS, the Board has considered the economic analysis in the Initial Statement of Reasons and the impact of the proposed amendments 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 has 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, the Board finds that:

Owners and operators of smaller fleets that contain uncertified portable engines are facing significant economic hardship due to the requirement to have these engines replaced as required by the current Statewide Regulation and Portable Engine ATCM;

An extension of time for the replacement of certain uncertified portable engines should be allowed for one year beyond the current deadline of January 1, 2010 in order to provide smaller companies with additional time to complete this replacement;

Engines that are certified to on-road engine emission standards but used in a portable application should be allowed to operate beyond January 1, 2010;

Engines that are certified to marine or on-road engine emission standards and are used in a portable application should be eligible for registration under the Statewide Regulation;

The engines on two-engine water well drillings should be subject to the Off-Road Vehicle Regulation, which provides more flexibility for compliance with emission standards;

That there may be other equally effective means of monitoring the use and operation of portable engines and equipment in addition to the tracking of hours of operation for certified engines, and such other means may be less burdensome on industry;

The tracking of specific location for all portable engines and equipment units is necessary to ensure that they do not reside longer than 12 months at any one location; and

The vendor sales report contained in the Statewide Regulation should be removed.

WHEREAS the Board further finds that:

The proposed amendments will not result in any significant adverse environmental impacts, and are expected to have a positive impact on the enforceability of the overall regulatory program;

The proposed amendments will ensure that emissions of NOx and diesel PM will continue to occur; this will benefit urban area communities, where operation of registered engines and equipment units occurs most frequently; and

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 the proposed amendments as set forth in Attachments A, B, C, and D.

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 the regulations are, in the aggregate, at least as protective of public health and welfare as applicable federal standards.

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 the Board directs the Executive Officer to determine if additional conforming modifications to the regulations are appropriate. If no additional modifications are appropriate, the Executive Officer shall take final action to adopt the regulations, as set forth in Attachment A, B, C, and D hereto. If the Executive Officer determines that additional conforming modifications are appropriate, the Executive Officer shall adopt the modified regulations after making the modified regulatory language and any additional supporting documents and information 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 such further modifications as may be appropriate in light of the comments received, and shall present the regulation to the Board for further consideration if he determines that this is warranted.

I hereby certify that the above is a true and correct copy of Resolution 10-2, as adopted by the Air Resources Board.

Sandra Bannerman, Clerk of the Board

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Identification of Attachments to the Resolution

Attachment A: Proposed Amendments to the Statewide Portable Equipment Registration Program Regulation, title 13, California Code of Regulations, sections 2451, 2452, 2453, 2455, 2456, 2458, 2459, 2460, 2461 and 2462, as set forth in Appendix A to the Staff Report, issued December 10, 2009.

Attachment B: Proposed Amendments to the Airborne Toxic Control Measure for Diesel Particulate Matter from Portable Engines Greater Than 50 Horsepower, title 17, California Code of Regulations, sections 93116, 93116.1, 93116.2 and 93116.3 as set forth in Appendix B to the Staff Report, issued December 10, 2009.

Attachment C: Proposed Amendments to the Regulation for In-Use Off-Road Diesel-Fueled Vehicles, title 13, California Code of Regulations, section 2449 as set forth in Appendix C to the Staff Report, issued December 10, 2009.

Attachment D: Proposed Amendments to the Regulation for In-Use Heavy-Duty Diesel-Fueled Vehicles, title 13, California Code of Regulations, section 2025 as set forth in Appendix D to the Staff Report, issued December 10, 2009.

State of California
Environmental Protection Agency
AIR RESOURCES BOARD

Notice of Decision and Response to Significant Environmental Issues

Item:	Amendments to the Statewide Portable Equipment Registration Program, the Airborne Toxic Control Measure for Diesel Particulate Matter from Portable Engines 50 Horsepower or Greater, the In-Use On-Road and Off-Road Diesel Fueled Engines
Adopted By:	Executive Order R-10-022
Approved By:	Resolution 10-2
Agenda Item:	10-1-2
Public Hearing Date:	January 28, 2010
Issuing Authority:	Air Resources Board
Comment:	No comments were received identifying any significant environmental issues pertaining to this item. The Staff Report identified no adverse environmental effects.
Response:	N/A
Certified:	Amy J. Whiting Regulations Coordinator
Date:	December 6, 2010

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Notice of Decision and Response to Significant Environmental Issues

Item:	Amendments to the Statewide Portable Equipment Registration Program, the Airborne Toxic Control Measure for Diesel Particulate Matter from Portable Engines 50 Horsepower or Greater, the In-Use On-Road and Off-Road Diesel Fueled Engines
Adopted By:	Executive Order R-10-016
Approved By:	Resolution 10-2
Agenda Item:	10-1-2
Public Hearing Date:	January 28, 2010
Issuing Authority:	Air Resources Board
Comment:	No comments were received identifying any significant environmental issues pertaining to this item. The Staff Report identified no adverse environmental effects.
Response:	N/A
Certified:	Amy J. Whiting Regulations Coordinator
Date:	July 22, 2010

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