State of California
AIR RESOURCES BOARD

Resolution 94-1

January 13, 1994

Agenda Item No.: 94-1-1

WHEREAS, section 39003 of the Health and Safety Code charges the Air Resources Board (ARB or 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 of the Health and Safety Code authorizes the Board to adopt standards and regulations for the control of contaminants from off-road sources, including off-highway recreational vehicles and engines used in such vehicles.

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;

WHEREAS, sections 39515 and 39516 of the Health and Safety Code 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 to be set forth in Title 13, California Code of Regulations (CCR), sections 2410-2414 and test procedures and other documents to be incorporated by reference therein for off-highway recreational vehicles, including off-road motorcycles, all-terrain vehicles, go-karts, golf carts, and specialty vehicles;

WHEREAS, such proposed regulations include emission standards, test procedures, emission control labels, and enforcement procedures, including warranties, recall, and compliance testing;

WHEREAS, the staff has also proposed amendments to Title 13, CCR, sections 2111-2140, which set forth procedures for in-use vehicle voluntary and influenced recalls and ordered recalls, and test procedures for in-use vehicle enforcement;

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, pursuant to section 43013(e) of the Health and Safety Code, the Board has considered the effects of the proposed standards on the economy of the state;

WHEREAS, section 209(e) of the Federal Clean Air Act (CAA), as amended in 1990, 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, 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;

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 off-highway recreational vehicles and engines used in such vehicles, which have previously been unregulated;
>
> The proposed regulations in Title 13, CCR, sections 2410-2414 and the documents incorporated therein and the proposed amendments to sections 2111-2140 are necessary, cost-effective, and technologically feasible to carry out the purposes of the California Clean Air Act;
>
> The proposed regulations in Title 13, CCR, sections 2410-2414 and the proposed amendments to sections 2111-2140 will result in emissions reductions that will help attain and maintain national and state air quality standards for ozone, carbon monoxide and nitrogen dioxide;
>
> In authorizing the Board to adopt regulations for off-highway recreational vehicles and engines, the Legislature intended such regulations to be fully enforceable; and

The proposed regulations and procedures for emission control, labels, warranties, recall, and other enforcement procedures, are necessary to adequately enforce regulations establishing emission standards and test procedures that will reduce emissions from off-highway recreational vehicles and engines used in such vehcicles and will in and of themselves help to reduce emissions from such sources.

WHEREAS, the Board, based on the following findings, has determined, in accordance with the California Environmental Quality Act and Board regulations, that although the proposed regulations in Title 13, CCR, section 2410-2414, may have some adverse environmental impacts, overriding considerations exist for adoption of the proposed regulations:

Although the proposed regulations may result in an increase of 0.05 tons per day of oxides of nitrogen (NOx), this must be weighed against the combined emission reductions of hydrocarbons (HC) and carbon monoxide (CO) of between 34 and 100 tons per day that will be achieved through implementation of the regulations as proposed.

The proposed regulations will reduce ozone precursors (HC and NOx combined) by approximately 38 tons per day by 2010.

To eliminate the potential increase in NOx from the proposed regulations while achieving the proposed reductions in HC and CO, manufacturers would be forced to incorporate expensive after-treatment technologies that would not be cost-effective for the reductions that would be achieved.

No alternative control measures have been identified that would be cost-effective and technologically feasible.

WHEREAS, the Board has determined, in accordance with the California Environmental Quality Act and Board regulations, that the proposed amendments to Title 13, CCR, sections 2111-2140 will not have significant adverse environmental impacts; and

WHEREAS, the reporting requirements of Title 13, CCR, sections 2410-2414 and sections 2111-2140, and the incorporated documents and procedures incorporated therein which apply to small businesses are necessary for the health, safety, and welfare of the people of the state;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves for adoption the proposed regulations in Title 13, CCR, sections 2410-2414 and the test procedures and other requirements incorporated therein as amended at the hearing, and the proposed amendments to Title 13, CCR, sections 2111-2140 (see Attachments 1 through 3 attached hereto);

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt Title 13, CCR, sections 2410-2414 and the test procedures and other requirements incorporated therein, and the proposed amendments to Title 13, CCR, sections 2111-2140 after making substantive modifications to the text 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 proposed regulations and amendments to regulations approved for adoption 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.

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

I hereby certify that the above is a true and correct copy of Resolution 94-1, as adopted by the Air Resources Board.

Pat Hutchens

Pat Hutchens, Board Secretary