State of California
AIR RESOURCES BOARD

Resolution 96-1

January 25, 1996

Agenda Item No.: 96-1-2

WHEREAS, Section 39003 of the Health and Safety Code charges the Air Resources Board (the "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 of the Health and Safety Code, the Legislature has declared that the emission of air pollutants from motor vehicles is the primary cause of air pollution in many parts of the state and, in Sections 39002 and 39003 of the Health and Safety Code, has charged the Board with the responsibility of systematically attacking the serious air pollution problem caused by motor vehicles;

WHEREAS, in Section 43000.5 of the Health and Safety Code, the Legislature has declared that the burden for achieving needed reductions in vehicle emissions should be distributed equitably among various classes of vehicles, including both on- and off-road vehicles, light-duty cars and trucks, and heavy-duty vehicles, to achieve improvements in both the emissions levels and in-use performance;

WHEREAS, Sections 43013, 43101, and 43104 of the Health and Safety Code authorize the Board to adopt motor vehicle emission standards and in-use performance standards which it finds to be necessary, cost-effective, and technologically feasible;

WHEREAS, Section 43018 of the Health and Safety Code directs the Board to endeavor to achieve the maximum degree of emission reduction from vehicular sources to accomplish the attainment of state ambient air quality standards by the earliest practicable date;

WHEREAS, the Board has adopted regulations under Chapter 9, Title 13, California Code of Regulations (CCR), and procedures and documents to be incorporated by reference therein for off-road vehicles and engines pollution control devices, including utility and lawn and garden engines, off-highway recreational vehicles and engines, and heavy-duty off-road diesel cycle engines;

WHEREAS, the staff has proposed amendments to the regulations in Title 13, CCR, Section 2403, and to the procedures and documents incorporated by reference therein for 1995 and subsequent model utility and lawn and garden equipment engines, specifically, modifing the Tier I carbon monoxide standard (CO) for Class I and II engines;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project having significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to substantially reduce or avoid such impacts;

WHEREAS, pursuant to Section 43013(e) of the Health and Safety Code and Government Code Sections 11346.53 and 11346.54, the Board has considered the effects of the proposed amendments on the economy and businesses of the state, including the ability of businesses to compete with businesses in other states;

WHEREAS, Section 209(e) of the Federal Clean Air Act, as amended in 1990, requires that the Board receive authorization from the Administrator of the U.S. EPA to adopt and enforce standards relating to the control of emissions from engines or vehicles that are not otherwise preempted by federal law;

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:

> Modifications to the Tier I carbon monoxide emission standard for Class I and II engines used in 1995 and later utility lawn and garden equipment are necessary because such engines have been shown to suffer performance problems when calibrated to meet the present 300 grams per brake-horsepower (g/bhp) CO standard;
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> Manufacturers who elect to certify low cost Class I and II engines, such as the Briggs and Stratton models 9 and 12 engines, to the 300 g/bhp CO standard could be subject to significant warranty costs, loss of sales, and loss of corporate reputation because of the performance problems that are likely to occur; and
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> The proposed amendments would ensure that such engines continue to be available in the marketplace and would avoid potential adverse economic consequences to equipment manufacturers that use the low cost engines, and the wholesale distributors and retail dealers who sell such engines.

WHEREAS, in accordance with the California Environmental Quality Act and Board regulations, the Board further finds that:

> The proposed adoption of the 350 g/bhp CO standard may result in some adverse impacts on the environment;
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> To the extent that such impacts may occur as a result of modifying the CO standard to 350 g/bhp, overriding economic considerations exist to support the adoption of the new standard as set forth below;

If the CO standard were not modified manufacturers who certify the low cost Class I and II engines at the present standard could suffer high warranty costs, lost sales, and loss of corporate reputation because of the performance problems related to such engines;

If manufacturers elected not to certify California engines meeting the present standard because of concerns about poor performance, such engines would not be available to the market and this could potentially have adverse economic consequences on the equipment manufacturers who use such engines and the wholesale distributors and retail dealers who sell such engines. This could adversely affect the creation and growth of businesses and employment in California; and

There are no other feasible mitigation measures that would reduce the potential environmental impacts while at the same time providing the relief manufacturers of low cost Class I and II engines need.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts amendment of Section 2403, Title 13, CCR, and the incorporated "Exhaust Emission Standards and Test Procedures for Utility and Lawn and Garden Engines" as set forth in Attachment A hereto.

BE IT FURTHER RESOLVED that the Board hereby determines that the regulations adopted herein will not cause California off-road emission standards for engines used in utility and lawn and garden engines, in the aggregate, to be less protective of public health and welfare than applicable federal standards; and that California needs such standards to meet compelling and extraordinary conditions within the State.

BE IT FURTHER RESOLVED that the Board finds that the California emission standards and test procedures as adopted herein will not cause the California requirements to be inconsistent with Section 209 of the Clean Air Act and raise no new issues affecting previous waiver determinations of the Administrator of the U.S. EPA pursuant to Section 209(e) of the Clean Air Act.

BE IT FURTHER RESOLVED that the Executive Officer shall, upon adoption, forward the regulations to the U.S. 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 96-1, as adopted by the Air Resources Board.

Pat Hutchens

Pat Hutchens, Board Secretary