

State of California  
AIR RESOURCES BOARD

Resolution 08-33

September 25, 2008

Agenda Item No.: 08-8-3

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WHEREAS, Health and Safety Code sections 39600 and 39601 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, Health and Safety Code section 43013 authorizes ARB to adopt standards and regulations to control emissions from off-road mobile source categories including marine vessels, locomotives, utility engines, off-road motorcycles, and off-highway vehicles;

WHEREAS, Health and Safety Code section 43018 directs the Board to endeavor to achieve the maximum degree of emissions reduction possible from vehicular and other mobile sources to accomplish the attainment of State ambient air quality standards by the earliest practicable date;

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, the Board has been actively engaged in the control of evaporative gasoline emissions since 1975 when the Board adopted the first certification and test procedures for vapor recovery systems installed on gasoline dispensing facilities;

WHEREAS, ARB conducts testing on suspected sources of evaporative emissions to establish a baseline emission level;

WHEREAS, the baseline emission level of portable outboard marine tanks (OMT) and components thereof, including diurnal emissions, leaks from tanks, and permeation emissions from associated hoses and primer bulbs, has been tested by ARB staff and is estimated at 4.6 tpd in 2010;

WHEREAS, the combined annual average fuel losses from OMTs and components thereof, including diurnal emissions, leaks from tanks, and permeation emissions from associated hoses and primer bulbs, amount to about 4.6 gallons of gasoline per tank;

WHEREAS, Statewide these per tank fuel losses would cost end users about \$32 million over the 18 years estimated to replace today's OMTs through natural turnover and replacement with OMTs meeting the proposed performance standards, certification, and test procedures (hereinafter "proposed regulations");

WHEREAS, these fuel losses would translate to an estimated 5.6 tons per day in 2020 of reactive organic gases that are key contributors to ozone formation and smog;

WHEREAS, ARB has historically considered and targeted for emission reduction emission sources of around one ton or more, statewide;

WHEREAS, the 2007 State Implementation Plan includes State measures to control exhaust and evaporative emissions from off-road mobile sources, including evaporative emission from portable fuel tanks used on outboard recreational boats;

WHEREAS, the U.S. EPA proposed similar standards for OMT and related components thereof in Proposed Emission Standards for New Nonroad Spark-Ignition Engines, Equipment, and Vessels (72 Fed. Reg. 28098 (May 18, 2007), Final Rule signed September 4, 2008) to reduce Reactive Organic Gas (ROG) emissions nationwide;

WHEREAS, ARB develops standards for controlling evaporative emissions through the transfer of proven, effective technology from one source category to another;

WHEREAS, to meet the proposed performance standard, manufacturers of tanks can adapt existing material and molding technology currently used in other source categories with similar tanks;

WHEREAS, to meet the proposed performance standards, manufacturers of OMT-related components can adapt existing barrier technology currently used in other source categories with similar components;

WHEREAS, certification programs are a proven means of ensuring that products comply with applicable standards and other criteria prior to their sale and use in California;

WHEREAS, California-specific certification and enforcement programs separate from parallel federal programs serves to ensure products entering commerce in California meet State emission standards;

WHEREAS, ARB staff are beginning development of specifications for a gasoline certification fuel containing 10 percent ethanol;

WHEREAS, manufacturers of OMT and components thereof need certainty regarding the fuel that will be required to certify and compliance test their products;

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WHEREAS, the Board routinely adopts certification and test procedures, such as the new certification and test procedures proposed (“Certification Procedure for Portable Outboard Marine Tanks and Components CP-510,” “Portable Outboard Marine Tank Test Procedure: TP-511 Diurnal Rate from Portable Outboard Marine Tanks,” “Portable Outboard Marine Tank Test Procedure: TP-512 Permeation Rate from Portable Outboard Marine Tank Fuel Hoses and Portable Outboard Marine Tank Primer Bulbs”), in tandem with regulations to alert parties of the manner in which ARB will determine compliance with technical requirements;

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:

1. Despite advances in reducing emissions from motor vehicles, California still has the most severe air pollution problems in the United States;
2. Evaporative and permeative emissions from portable outboard marine tanks and components are significant sources of air pollution;
3. To meet Federal and California Clean Air Act emission reduction requirements, ARB must continue to seek reductions from all sources under its authority, including portable outboard marine tanks and components;
4. Cost-effective control technologies such as low permeation fuel hoses and gasoline tanks are available that can significantly reduce evaporative and permeative emissions from portable outboard marine tanks and components;
5. The proposed performance standards are the same as those being considered by U.S. EPA for their OMT rule and are similar to ARB requirements for portable fuel containers, and small off-road engines and equipment (SORE);
6. Staff’s proposed modifications in Attachment E will provide manufacturers of OMT and components thereof with necessary flexibility for certification and compliance testing using federal test fuel and will provide manufacturers with additional lead time to refine their products for certification and compliance testing using a gasoline certification fuel containing 10 percent ethanol;
7. The proposed certification and test procedures will ensure compliance with the proposed performance standards through independent verification by ARB;

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8. Adoption of procedures in closer alignment with the U.S. EPA and other ARB programs will simplify the process of certification for industry; and

WHEREAS, neither the proposed performance standards nor the proposed certification or test procedures place any requirement on marine engine manufacturers or otherwise relate back to the design or operation of such engines;

WHEREAS, the Board further finds that:

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9. The proposed performance standards will establish uniform, consistent and reasonable emission standards for portable outboard marine tanks and components, and are necessary and appropriate;
10. The proposed portable outboard marine tank and component certification and test procedures, and the proposed compliance programs are necessary and appropriate to adequately enforce the emissions standards, and may independently help to reduce emissions from such tanks and components;
11. The proposed regulations would have no adverse impact on the environment;
12. Adoption of the proposed evaporative and permeative standards and proposed certification and test procedures would result in a reduction of approximately 4.2 tons per day of combined ROG emissions statewide in 2020;
13. The economic and cost impacts of the proposed regulations 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;
14. The proposed regulation will result in a reduction of approximately 90 million pounds of ROG at a cost savings of about \$0.30 per pound of ROG reduced;
15. Because the cost savings value above reflects a savings to the consumer, it is necessarily more cost effective than values associated with other control measures adopted in furtherance of Health & Safety Code sections 43013 and 43018, and SIP measures;
16. Adoption of the regulations proposed herein will not create costs or savings to any State agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary costs or savings to State or local agencies;

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17. Adoption of the regulations proposed herein will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons;
18. Adoption of the regulations proposed herein will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California;
19. Adoption of the regulations proposed herein will not affect small businesses because there will be no incremental cost, or an insignificant cost, associated with staff's proposal; and
20. Based on the above, the Staff Report/Initial Statement of Reasons, and the information provided during the public hearing of this item, the proposed regulations are necessary, cost-effective, and technologically feasible to carry out the purposes of the state and federal clean air laws; and
21. No alternative considered would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective or less burdensome to affected private persons;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the proposed adoption of sections 2468, 2468.1, 2468.2, 2468.3, 2468.4, 2468.5, 2468.6, 2468.7, 2468.8, 2468.9 and 2468.10 within Title 13, California Code of Regulations, Chapter 9, Article 6.5, as set forth in Attachment A hereto, and approves the proposed adoption of "CP-510 Certification Procedure for Portable Outboard Marine Tanks and Components" incorporated by reference in sections 2468.1, 2468.2 and 2468.8, as set forth in Attachment B hereto, "TP-511 Diurnal Rate from Portable Outboard Marine Tanks" incorporated by reference in section 2468.8 as set forth in Attachment C hereto, and "TP-512 Permeation Rate from Portable Outboard Marine Tank Fuel Hoses and Portable Outboard Marine Tank Primer Bulbs" incorporated by reference in section 2468.8, as set forth in Attachment D hereto, all with the modifications set forth in Attachment E hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to incorporate into the approved regulations, certification, and test procedures the modifications set forth in Attachment E, with such other conforming modifications as may be appropriate, and then to adopt the amended regulations, certification, and test procedures as modified, after making the modified regulatory language available for public comment for a period of 15 days, provided that the Executive Officer shall consider such written comments regarding the modifications 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 the Executive Officer determines that this is warranted.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer, to develop specifications for a certification fuel with 10 percent ethanol and to require certification and compliance testing of OMT and components thereof on such certification fuel no earlier than one year after the adoption date of the certification fuel with 10 percent ethanol.

I hereby certify that the above is a true and correct copy of Resolution 08-33, as adopted by the Air Resources Board.

/s/

Monica Vejar, Clerk of the Board

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September 25, 2008

**Identification of Attachments to Board Resolution 08-33**

- Attachment A Proposed Regulation Order Portable Outboard Marine Tanks and Components, as set forth in Appendix A to the Initial Statement of Reasons, released August 8, 2008.
- Attachment B "Certification Procedure for Portable Outboard Marine Tanks and Components CP-510," as set forth in Appendix B to the Initial Statement of Reasons, released August 8, 2008.
- Attachment C "Portable Outboard Marine Tank Test Procedure: TP-511 Diurnal Rate from Portable Outboard Marine Tanks," as set forth in Appendix C to the Initial Statement of Reasons, released August 8, 2008.
- Attachment D "Portable Outboard Marine Tank Test Procedure: TP-512 Permeation Rate from Portable Outboard Marine Tank Fuel Hoses and Portable Outboard Marine Tank Primer Bulbs," as set forth in Appendix D to the Initial Statement of Reasons, released August 8, 2008.
- Attachment E: Staff's Suggested Modifications to the Original Proposal, as distributed at the September 25, 2008, Board hearing.