

State of California
AIR RESOURCES BOARD

Executive Order R-09-015

Relating to Regulation to Reduce Emissions From In-Use On-Road Diesel Vehicles, And Amendments to the Regulations For In-Use Off-Road Vehicles, Drayage Trucks, Municipality And Utility Vehicles, Mobile Cargo Handling Equipment, Portable Engines and Equipment, Heavy Duty Engines and Vehicle Exhaust Emissions Standards and Test Procedures and Commercial Motor Vehicle Idling

WHEREAS, on December 12, 2008, the Air Resources Board (ARB or Board) conducted a hearing to consider the proposed adoption of section 2025, title 13, California Code of Regulations (Cal. Code Regs.), entitled "Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants from In-Use Heavy-Duty Diesel-Fueled Vehicles" and proposed amendments to title 13, Cal. Code Regs., section 2020, "Purpose and Definitions of Diesel Particulate Matter Control Measures," sections 2022 and 2022.1, "Diesel Particulate Control Measure for Municipality or Utility On-Road Heavy-Duty Diesel-Fueled Vehicles," section 2027, "Regulation to Control Emissions from In-Use On-Road Diesel-Fueled Heavy-Duty Drayage Trucks," sections 2449 and 2449.3, "Regulation for In-Use Off-Road Diesel-Fueled Fleets," sections 2451, 2452, 2453, 2455, 2456, 2458, 2461, and 2462 of the "Statewide Portable Equipment Registration Program;" section 2479, "Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Railyards," section 2485, "Airborne Toxic Control Measure to Limit Diesel Fueled Commercial Motor Vehicle Idling," section 1956.8, "Exhaust Emissions Standards and Test Procedures – 1985 and Subsequent Model Heavy-Duty Engines and Vehicles," and proposed amendments to title 17, Cal. Code Regs., sections 93116.1, 93116.2 and 93116.3 of the "Airborne Toxic Control Measure for Diesel Particulate Matter from Portable Engines Rated at 50 Horsepower and Greater;

WHEREAS, following the public hearing, the Board adopted Resolution 08-43, in which the Board approved section 2025, title 13, Cal. Code Regs., as set forth in Attachment A and modified by Attachment C thereto, and the amendments to sections 2020, 2022, 2022.1, 2027, 2449 and 2449.3, 2451, 2452, 2453, 2455, 2456, 2458, 2461, 2462, 2479, 2485, and 1956.8, title 13, Cal. Code Regs., and sections 93116.1, 93116.2, and 93116.3, title 17, Cal. Code Regs., as set forth in Attachment B and modified by Attachment D thereto;

WHEREAS, Resolution 08-43, directed the Executive Officer to adopt the regulations, after making the modified regulatory language and any additional supporting documents and information available for public comment for a period of at least 15 days, "provided that the Executive Officer shall consider such written comments and additional supporting documents and information as may be submitted during this period, shall make such 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";

WHEREAS, the approved amendments set forth above, with the changes to the originally proposed text clearly indicated, were made available in a first 15-Day Notice of Public Availability of Modified Text on August 19, 2009 and a second 15-Day Notice of Public Availability of Modified Text (collectively referred to as 15-Day Notices) was made available on October 5, 2009 in accordance with the provisions of title 13, California Code of Regulations, section 44;

WHEREAS, written comments were received during both 15-day Notice periods that address the modifications proposed to the amendments to section 2025, title 13, California Code of Regulations, and ARB has responded to the comments received in the Final Statement of Reasons in accordance with the requirements of Government Code section 11346.9;

WHEREAS, the Executive Officer deemed it is necessary to bifurcate the amendments to sections 2020, 2022, 2022.1, 2027, 2449 and 2449.3, 2451, 2452, 2453, 2455, 2456, 2458, 2461, 1462, 2479, 2485, and 1956.8, title 13, California Code of Regulations, and sections 93116.1, 93116.2, and 93116.3, title 17, California Code of Regulations, as modified and approved by the Board amendments from the new regulations proposed and approved in section 2025, title 13, California Code of Regulations, because the regulations were presently in effect and the amendments, many of which were intended to clarify the rights and responsibilities of stakeholders under the existing regulations, needed to become operative as soon as possible; and

WHEREAS, on October 19, 2009, the Executive Officer adopted the amendments to sections 2020, 2022, 2022.1, 2027, 2449 and 2449.3, 2451, 2452, 2453, 2455, 2456, 2458, 2461, 1462, 2479, 2485, and 1956.8, title 13, California Code of Regulations, and sections 93116.1, 93116.2, and 93116.3, title 17, California Code of Regulations, as set forth in Attachment B, and modified in Attachment D to Resolution 08-43, which were appended to Executive Order R-09-010 as Attachment 1.

WHEREAS, ARB staff reviewed and considered comments raising significant environmental issues – the comments and responses thereto are attached as Attachment 2 – and prepared A Notice of Decision and Response to Significant Environmental Issues, which was forwarded to the Secretary of the Resources Agency.

NOW, THEREFORE, IT IS ORDERED that the recitals and findings contained in Resolution 08-43 are incorporated herein.

IT IS FURTHER ORDERED, that section 2025, title 13, California Code of Regulations, are approved and adopted as set forth in Attachment 1 to this order.

Executed this 23rd day of October 2009, at Sacramento, California.

/s/
James N. Goldstene
Executive Officer

Attachments