

State of California  
AIR RESOURCES BOARD

Resolution 10-26

June 24, 2010

Agenda Item No.: 10-6-2

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (ARB or 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(b) authorizes the Board to adopt standards and regulations for off-road and nonvehicular engine categories, including marine vessels such as commercial harbor craft, to the extent permitted by federal law;

WHEREAS, sections 43018(a) and (d)(3) of the Health and Safety Code direct the Board to endeavor to achieve the maximum degree of emission reduction possible from vehicular and other mobile sources, including marine vessels, in order to accomplish the attainment of the state ambient air quality standards at the earliest practicable date;

WHEREAS, in section 39650 of the Health and Safety Code, the Legislature finds and declares that it is the public policy of the state that emissions of toxic air contaminants should be controlled to levels which prevent harm to the public health;

WHEREAS, on August 27, 1998, the Board identified particulate matter from diesel-fueled engines (diesel exhaust PM) as a toxic air contaminant pursuant to article 3 (commencing with section 39660), chapter 3.5, part 2, division 26 of the Health and Safety Code;

WHEREAS, ARB staff, in consultation with the Office of Environmental Health Hazard Assessment, has concluded that the particulate matter emissions from diesel engines on commercial harbor craft using diesel fuel constitute diesel exhaust PM;

WHEREAS, in identifying diesel exhaust PM as a toxic air contaminant, the Board determined that there is not sufficient scientific evidence to support identification of a threshold level for diesel exhaust PM below which no significant adverse health effects are anticipated; this is codified in title 17, California Code of Regulations (CCR), section 93000;

WHEREAS, pursuant to section 39669.5(a) of the Health and Safety Code, the Office of Environmental Health Hazard Assessment listed diesel exhaust PM as possibly causing infants and children to be especially susceptible to illness;

WHEREAS, pursuant to section 39665 of the Health and Safety Code, ARB staff prepared a comprehensive risk reduction plan to significantly reduce diesel exhaust PM emissions from diesel-fueled engines and vehicles, including marine vessels, which the Board approved on September 28, 2000;

WHEREAS, the “Staff Report: Initial Statement of Reasons for the Proposed Rulemaking – Regulations to Reduce Emissions from Diesel Engines on Commercial Harbor Craft Operated Within California Waters and 24 Nautical Miles of the California Baseline” (Staff Report) and “Technical Support Document: Technical Support for the Proposed Rulemaking – Regulations to Reduce Emissions from Diesel Engines on Commercial Harbor Craft Operated Within California Waters and 24 Nautical Miles of the California Baseline” (Technical Support Document), both released on September 7, 2007 (collectively referred to hereinafter as “September 2007 Staff Report”), along with the report “Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles,” adopted by the Board on September 28, 2000, and the “Staff Report: Initial Statement of Reasons for the Proposed Rulemaking – Amendments to the Regulations to Reduce Emissions from Diesel Engines on Commercial Harbor Craft Operated Within California Waters and 24 Nautical Miles of the California Baseline” released on May 5, 2010 (“May 2010 Staff Report”), constitute the reports required under Health and Safety Code section 39665;

WHEREAS, sections 39658, 39665, and 39666 of the Health and Safety Code authorize the Board to establish airborne toxic control measures (ATCM) for substances identified as toxic air contaminants in accordance with specified criteria;

WHEREAS, for toxic air contaminants that the Board has not specified a threshold exposure level, section 39666 of the Health and Safety Code requires the development of ATCMs designed to reduce emissions of toxic air contaminants from nonvehicular sources to the lowest level achievable through the application of best available control technology (BACT) or a more effective control method, considering factors specified in section 39665, unless the Board determines, based on an assessment of risk, that an alternative level of emissions reduction is adequate or necessary to prevent an endangerment of public health;

WHEREAS, the Global Warming Solutions Act of 2006 (AB 32; Stats, 2006, ch. 488) directs ARB to adopt regulations and other requirements to reduce statewide greenhouse gas emissions to 1990 levels by 2020;

WHEREAS, in January 2005, a Goods Movement Cabinet Workgroup, created by Governor Schwarzenegger and led by the California Environmental Protection Agency and the Business, Transportation and Housing Agency, established a policy for goods movement and ports to improve and expand California’s goods movement industry and infrastructure while improving air quality and protecting public health;

WHEREAS, the Goods Movement Cabinet Workgroup, in collaboration with the logistics industry, local and regional governments, neighboring communities, business, labor, environmental groups, and other interested stakeholders created a two-phased Goods

Movement Action Plan, which outlines a comprehensive strategy to address the economic and environmental issues associated with moving goods via the State's highways, railways, and ports;

WHEREAS, in 2006, the Board adopted the Emission Reduction Plan for Ports and Goods Movement, the final phase of which, completed in 2007, includes a framework for action, which identifies projects needed to reduce emissions from goods movement-related sources, including those from commercial harbor craft engines;

WHEREAS, commercial harbor craft vessels are nonvehicular sources of substantial amounts of diesel exhaust PM, criteria pollutants (e.g., nitrogen dioxide), and precursors of criteria pollutants (e.g., oxides of nitrogen (NO<sub>x</sub>));

WHEREAS, ARB staff has determined that the current United States Environmental Protection Agency (U.S. EPA) emission standards do not sufficiently reduce emissions of diesel exhaust PM and other criteria pollutants and precursors from in-use commercial harbor craft vessels;

WHEREAS, ARB adopted a regulation for commercial harbor craft diesel engines (hereinafter "Commercial Harborcraft (CHC) regulation"), set forth at title 13, CCR, section 2299.5 and title 17, CCR section 93118.5, that became effective on November 19, 2008;

WHEREAS, ARB staff has proposed amendments to the CHC regulation, as set forth in Appendix A of the May 2010 Staff Report and Attachment A hereto; these proposed amendments were developed through the sharing of information and discussions of concepts and draft versions that were made available to the public for review and comment at three public workshops and outreach meetings and multiple teleconferences with stakeholders, owner/operators of crew and supply, barge, and dredge vessels, air pollution control and air quality management districts (districts), and other interested parties that were held between July 2007 and May 2010;

WHEREAS, the CHC regulation relies, in part, on U.S. EPA's Marine Engine Tier 2 standards, as set forth in "Control of Emissions of Air Pollution From New Marine Compression-Ignition Engines at or above 37kW" (40 CFR parts 89, 92, and 94 (December 29, 1999));

WHEREAS, the CHC regulation relies, in part, on U.S. EPA's Marine Engine Tier 3 and Tier 4 standards, as set forth in "Control of Emissions of Air Pollution from Locomotive Engines and Marine Compression-Ignition Engines Less Than 30 Liters Per Cylinder" (72 Federal Register 15937 et seq. (April 3, 2007));

WHEREAS, the September 2007 and May 2010 Staff Reports identify and explain the need and appropriate degree of regulation for diesel exhaust PM and other pollutants from commercial harbor craft;

WHEREAS, the September 2007 Staff Report identified Regulated California Waters as a region of water, including all California internal waters, estuarine waters, ports, and coastal waters generally within 24 nautical miles of California's coast, which is a subset of the California Coastal Waters (title 17, CCR, section 70500(b)(1)). The Board has previously determined, through extensive studies of meteorological, wind, and atmospheric conditions, that emissions of air pollutants within the California Coastal Waters are likely to be transported to coastal communities and have adverse impacts on human health and welfare and the environment;

WHEREAS, the September 2007 and May 2010 Staff Reports discussed the need for and feasibility of regulating emissions from diesel engines on commercial harbor craft operating within Regulated California Waters;

WHEREAS, the September 2007 and May 2010 Staff Reports further discussed, to the extent data could reasonably be made available, the factors specified in Health and Safety Code sections 39665(b), 43013, and 43018, including, but not limited to, the estimates of emissions; exposure; potential cancer risk associated with the operation of commercial harbor craft engines in Regulated California Waters; feasible control options; potential environmental impacts; and the necessity, cost-effectiveness, and technological feasibility of the proposed regulation;

WHEREAS, the September 2007 Staff Report further discussed risk evaluations ARB staff performed of exposure to diesel exhaust PM emissions from diesel engines operated on commercial harbor craft, using U.S. EPA-approved and ARB-recommended air dispersion models, and these evaluations indicate potential cancer risks for off-site receptor locations near California's major ports up to levels exceeding 200 chances in a million;

WHEREAS, in addition to discussing the potential cancer risks due to exposure to diesel exhaust PM emission, the September 2007 Staff Report discussed non-cancer risk evaluations ARB staff performed of exposure to diesel exhaust PM emissions from diesel engines operated on commercial harbor craft, and these evaluations indicated that exposure to these emissions can be associated with about 90 premature deaths per year in addition to numerous other non-cancer health impacts;

WHEREAS, the May 2010 Staff Report further determines that the emissions from diesel engines operated on crew and supply, barge, and dredge vessels contribute to levels of ozone and particulate matter that exceed federal and State ambient air quality standards;

WHEREAS, crew and supply vessels are currently exempted from the CHC regulation's in-use engine requirements because information obtained from the 2004 Statewide Commercial Harbor Craft Survey indicated these vessels had limited hours of operation and emissions;

WHEREAS, information acquired since 2007 now indicates that the emissions from crew and supply vessel engines are similar in magnitude to the emissions from other

CHC vessel engines that are subject to the CHC regulation's in-use emissions requirements;

WHEREAS, crew and supply vessels typically operate less than 3 nautical miles from shore, so most of their emissions impact communities located near ports;

WHEREAS, approximately 400 engines currently operate on barge and dredge vessels in California, and the auxiliary engines on barge and dredge vessels are primarily off-road (nonroad) engines;

WHEREAS, barge and dredge vessels typically operate in harbors and generally close to shorelines, so most of their emissions impact communities located near ports;

WHEREAS, the proposed amendments would establish in-use emission limits and associated compliance schedules for the diesel-fueled engines on crew and supply, barge, and dredge vessels that are similar to the existing emission limits and compliance schedules applicable to excursion vessels, ferries, tugboats, and towboats in the CHC regulation;

WHEREAS, the CHC regulation currently exempts engines on barge and dredge vessels that were registered with ARB's Portable Equipment Registration Program (PERP) before January 1, 2009, or that were registered and permitted under local air district regulations before January 1, 2009;

WHEREAS, engines on barge and dredge vessels that were not registered with PERP before January 1, 2009, or that were not registered and permitted under local air district regulations before January 1, 2009 are currently subject to the CHC regulation, but are not subject to the CHC regulation's in-use emissions requirements;

WHEREAS, staff proposed amendments to the PERP regulation in January 2010 that would subject auxiliary engines on CHC vessels that are registered in PERP to the CHC regulation;

WHEREAS, ARB has promulgated new off-road diesel engine standards that are harmonized with and essentially identical to U.S. EPA Tier 2 through Tier 4 nonroad diesel emission standards as set forth in Title 40, Code of Federal Regulations Part 89.112(d), as it existed on April 27, 2010, and Part 1039.101, as it existed on April 27, 2010;

WHEREAS, the proposed amendments would provide CHC vessel owners and operators more flexibility by allowing them to use currently available Tier 2 or higher ARB or U.S. EPA certified off-road or nonroad diesel engines to comply with the in-use requirements applicable to CHC vessel auxiliary engines;

WHEREAS, the proposed amendments would delete the term "multipurpose harbor craft" and would clarify the low use exemption of the CHC regulation to assist vessel owners or operators in understanding and complying with the CHC regulation;

WHEREAS, the proposed amendments would provide vessel operators greater compliance flexibility by allowing them to operate their vessels using U.S. EPA on-road or nonroad diesel fuel if they cannot obtain CARB diesel fuel prior to operating in Regulated California Waters;

WHEREAS, the proposed amendments would provide vessel owners/operators an exemption in specific cases, allowing them to install a non-compliant engine in a vessel if there are no suitable engine replacements available or if a compliant engine does not synchronize with the vessel's other existing engines;

WHEREAS, the proposed amendments would allow an engine that does not meet applicable Tier 2 or Tier 3 requirements to be used on a temporary basis provided that the engine being replaced is in the same fleet and the original compliance date of the older engine remains in effect;

WHEREAS, the proposed amendments would clarify the existing requirements that owners/operators of new ferries having the capacity to transport 75 or more passengers are required to equip diesel propulsion engines meeting either Tier 2 or Tier 3 marine standards with Best Available Control Technology (BACT);

WHEREAS, the proposed amendments would expand the availability of current compliance extensions to owners in situations where owners have multiple vessels that are subject to compliance dates of 2011 or 2012 for crew and supply, barge, and dredge vessels;

WHEREAS, the May 2010 Staff Report further determines that while some actions required by the amended regulation may result in slightly increased carbon dioxide emissions for some applications, a slight decrease in greenhouse gas emissions associated with newer, more fuel efficient engines required by the amended regulation will offset this effect, thereby resulting in an overall negligible effect on global warming;

WHEREAS, in accordance with Health and Safety Code section 39665(c), the May 2010 Staff Report and relevant comments received during public consultation with districts, affected sources, and the public were made available for public review and comment at least 45 days prior to the public hearing to consider the proposed amendments;

WHEREAS, the proposed amendments, with the modifications described in Attachment B, would result in immediate emission reductions of diesel exhaust PM and NO<sub>x</sub> after the specified compliance deadlines by requiring that diesel engines on crew and supply, barge, and dredge vessels within Regulated California Waters meet emission limitations that can be achieved through the replacement of existing engines with new clean engines, by demonstrating that existing engines meet the emission limitations, or by implementing equally effective emission control strategies;

WHEREAS, the Board has considered the impact of the proposed regulation on the economy of the state and the potential for adverse economic impacts on California business enterprises and individuals;

WHEREAS, the California Environmental Quality Act (CEQA), section 21080.5 of the Public Resources Code and Board regulations at title 17, CCR section 60006 require that no project that 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, 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, pursuant to the requirements of CEQA and the Board's regulations, the Board finds that:

1. The Regulated California Waters feature meteorological, wind, and atmospheric conditions peculiar to the local waters of California, and such conditions make it likely that emissions of diesel exhaust PM and NO<sub>x</sub> occurring within these waters are transported to coastal communities and adversely affect human health and welfare and the environment in such communities, thereby calling for special precautions to reduce these emissions;
2. The emissions from diesel engines used on crew and supply, barge, and dredge vessels also contribute to regional air quality problems and to potential risk of cancer and noncancer health effects for residents living in communities near California's major ports as well as further inland;
3. Information acquired since 2007 indicates that the diesel PM emissions from crew and supply vessel engines are approximately 75 percent higher than estimated in the September 2007 Staff Report, and NO<sub>x</sub> emissions are approximately 60 percent higher than estimated in the September 2007 Staff Report;
4. Emissions from the engines on crew and supply, barge, and dredge vessels represent a significant portion of the emissions from CHC vessels in Santa Barbara and Ventura County air pollution control districts;
5. The combined emissions from crew and supply, barge, and dredge vessels are estimated at 66 tons per year (tpy) of diesel PM and 1430 tpy of NO<sub>x</sub>;
6. The proposed amendments are projected to reduce statewide emissions of diesel PM from crew and supply, barge, and dredge vessels by about 275 tons between 2011 to 2025;

7. The proposed amendments are projected to reduce statewide emissions of NO<sub>x</sub> from crew and supply, barge, and dredge vessels by about 3,475 tons, between 2011 to 2025;
8. The proposed amendments are projected to reduce 95 tons of PM and 600 tons of NO<sub>x</sub> from crew and supply vessels over the period 2011 through 2025 in Santa Barbara and Ventura County districts; in addition to the emissions resulting from the CHC regulation and are of greater significance to these two districts;
9. The emissions reductions associated with the proposed amendments would result in lower ambient PM levels and reductions in the public's exposure to diesel PM and NO<sub>x</sub>, which would result in corresponding reductions of potential cancer risk and premature deaths;
10. The ARB and U.S. EPA Tier 2, Tier 3, interim Tier 4 and final Tier 4 off-road and nonroad compression-ignition engine emission standards, compliance requirements, and test procedures are necessary, appropriate, and technologically feasible to carry out the purposes of the state and federal clean air laws;
11. The CHC regulation's current exemption from the in-use engine emission requirements for auxiliary engines on barge and dredge vessels that are either registered with PERP or that were registered and permitted under local air district regulations before January 1, 2009 has led to compliance and enforcement issues because such engines can currently be subject to either the CHC regulation or the Portable Engine ATCM;
12. The ARB and U.S. EPA Tier 2, Tier 3, interim Tier 4 and final Tier 4 off-road and nonroad compression-ignition engine emission standards, compliance requirements, and test procedures are, in the aggregate, at least as protective of public health and welfare as their corresponding U.S. EPA Tier 2, Tier 3, and Tier 4 marine engine emission standards, compliance requirements, and test procedures;
13. The proposed amendments will provide needed consistency by subjecting auxiliary engines on CHC vessels, and auxiliary engines on barge and dredge vessels, to the requirements of the CHC regulation, regardless if they are registered in PERP or registered and permitted under local air district regulations;
14. The amended regulation will likely have an overall negligible effect on global warming due to usage of newer, more fuel efficient engines;
15. The amended regulation will be consistent with ARB's environmental justice policy by reducing the health risks from diesel exhaust PM in all communities including those near major California ports as well as further inland, with low-income and minority populations regardless of location;
16. The amended regulation will not have a significant adverse impact on the environment, but will instead result in environmental benefits; and

17. The amended regulation will conform to the requirements of the Emission Reduction Plan for Ports and Goods Movement.

WHEREAS, the Board further finds, based on its independent judgment and analysis of the entire record before it, including the May 2010 Staff Report, written comments and public testimony it has received, that:

1. In accordance with Health and Safety Code section 43013(b), the in-use emission limits and other requirements of the amended regulation are necessary, cost-effective, and technologically feasible for diesel engines on crew and supply, barge, and dredge vessels within the time provided for compliance;
2. The compliance schedules contained within the amended regulation that are applicable to crew and supply, barge, and dredge vessels are necessary, cost-effective, and technologically feasible;
3. The reduction of NO<sub>x</sub> emissions resulting from the amended regulation would also reduce the formation of secondarily-formed PM and ozone in the atmosphere;
4. The added costs of the amended regulation have been analyzed as required by California law, and the analysis of these impacts, as set forth in the May 2010 Staff Report, indicates that a total added cost incurred for all companies operating crew and supply, barge, and dredge vessels will be about \$15 million over the life of the amended regulation between 2011 and 2022;
5. The staff's economic impact analysis for the proposed amendments shows that affected businesses will be able to absorb the costs of the proposed amended regulation with no significant statewide adverse impacts on their profitability, based on the projected reduction in return on owner's equity (ROE), which has been estimated to be 0.95 percent for a typical crew and supply, barge, or dredge vessel operating company.
6. The cost-effectiveness of the amended regulation is estimated at approximately \$35 per pound of diesel exhaust PM reduced if all the costs of the regulation were attributed to diesel PM reductions; this is within the range of other measures recently adopted by the Board;
7. No alternatives considered or that have otherwise been identified and brought to the attention of ARB would be more effective at carrying out the purpose for which the amended regulation is proposed, or be as effective, and less burdensome, to the affected businesses than the amended regulation;
8. There are no feasible mitigation measures or alternatives that would further reduce any potential adverse environmental impacts, while at the same time ensuring that the long-term benefits of the program would be achieved;

9. The reporting requirements applicable to businesses in the amended regulation are necessary for the health, safety, and welfare of the people of the State;
10. The benefits of the amended regulation to public health and welfare and the environment outweigh the costs of compliance, implementation, and enforcement; and
11. The amended regulation approved herein poses a minimal risk of innocent noncompliance and does not affect crew and supply, barge, and dredge vessel operations outside of Regulated California Waters.

WHEREAS, the Board further finds, in accordance with Health and Safety Code section 39650(e), that while absolute and undisputed scientific evidence may not be available to determine the exact risk from diesel exhaust PM from diesel engines on crew and supply, barge, and dredge vessels operating within the Regulated California Waters, it is necessary to take action to protect public health and that the maximum feasible emission reductions permitted by law should be obtained;

WHEREAS, section 209(e)(2) of the federal Clean Air Act (CAA) requires that California seek authorization from U.S. EPA prior to enforcing emission standards or other requirements relating to the control of emissions from new and in-use nonroad engines (of which diesel marine engines are a subpart) not otherwise preempted by section 209 (e)(1); and

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves for adoption the proposed amendments to title 13, CCR section 2299.5 to title 17, CCR section 93118.5 as set forth in Attachment A hereto, with the modifications shown in Attachment B hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt the approved regulation with such additional conforming modifications as may be appropriate, after making the modified regulatory language and any additional documents and information available for public comment for a period of at least 15 days, provided that the Executive Officer shall consider any written comments regarding the modifications and any additional documents and information as may be submitted during this period, shall make further modifications as may be appropriate in light of the comments received or as necessary to ensure consistency with the modifications approved by the Board, and shall bring any proposed changes 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 periodically review the test methods (test methods) and the California baseline (baseline) as shown in nautical charts published by the National Oceanic and Atmospheric Administration (NOAA charts) to determine if modifications to the test methods or definition of baseline incorporated by reference in the approved regulation are warranted.

BE IT FURTHER RESOLVED that, pursuant to sections 39515, 39516, 39600, and 39601 of the Health and Safety Code, if modifications to the test methods or definition of baseline are warranted, the Board expressly delegates to the Executive Officer the authority to: (a) adopt regulatory amendments to the test methods, set forth in title 13, CCR, section 2299.5(j) and title 17, CCR, section 93118.5(j) and to the definition of baseline, set forth in title 13, CCR, section 2299.5(d)(10), and title 17, CCR, section 93118.5(d)(10); (b) conduct public hearings; and (c) take other appropriate actions to make such amendments.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to conduct outreach efforts as soon as possible with the affected industry to ensure that vessel operators are aware of the requirements of the regulation.

BE IT FURTHER RESOLVED that the Board directs the staff to work with affected local air districts and dredge operators to explore opportunities to achieve greater consistency between air districts when offsets are required under district authorization for dredge operation;

BE IT FURTHER RESOLVED that the Board directs the staff to monitor the implementation of the regulation and to propose amendments for the Board's consideration when warranted to resolve any implementation issues that may arise.

BE IT FURTHER RESOLVED that the Board hereby determines, in accordance with section 209(e)(2) of the CAA, that to the extent the amended regulation affects nonroad engines as defined in CAA section 216(10) and (11), the emission standards and other requirements related to the control of emissions in the amended regulation are, in the aggregate, at least as protective of public health and welfare as applicable federal standards; California needs its nonroad emission standards to meet compelling and extraordinary conditions; and the standards and accompanying enforcement procedures approved herein are consistent with CAA section 209.

I hereby certify that the above is a true and correct copy of Resolution 10-26, as adopted by the Air Resources Board.

/s/

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Lori Andreoni, Clerk of the Board

Resolution 10-26

June 24, 2010

Identification of Attachment to the Resolution

- Attachment A: The Proposed Regulation Order for Diesel Engines on Commercial Harbor Craft Operated within California Waters and 24 Nautical Miles of the California Baseline, as set forth in Appendix A to the Staff Report (released May 2010).
- Attachment B: Staff's Suggested Modifications to the Original Proposal, presented at the June 24, 2010 Board hearing.

## ATTACHMENT B

### **PUBLIC MEETING TO CONSIDER AMENDMENTS TO THE REGULATIONS TO REDUCE EMISSIONS FROM DIESEL ENGINES ON COMMERCIAL HARBOR CRAFT OPERATED WITHIN CALIFORNIA WATERS AND 24 NAUTICAL MILES OF THE CALIFORNIA BASELINE**

#### Staff's Suggested Modifications to the Original Proposal

TO BE PRESENTED AT THE JUNE 24, 2010 HEARING  
OF THE AIR RESOURCES BOARD

Shown below is the staff's suggested modification to the originally proposed amendments to the regulatory text set forth in Attachment A to Resolution 10-26. Only those portions containing the suggested modifications are included. All proposed modifications will be made available to the public for a fifteen-day comment period prior to final adoption.

#### **Use of Certified Off-Road (Nonroad) Engines to Comply with In-use Standards for Propulsion Engines**

Staff is proposing to modify the proposed regulatory language to allow U.S. EPA/ARB certified offroad (nonroad) engines to be used to comply with the in-use emission standards for propulsion engines. The proposed regulation allows for certified offroad engines to be used to comply with the in-use emission standards for auxiliary engines. This proposed change would make the requirements for propulsion and auxiliary engines the same.