State of California
AIR RESOURCES BOARD

PROPOSED CONTROL MEASURE FOR OCEAN-GOING VESSELS AT BERTH

Resolution 19-28

December 5, 2019

Agenda Item No.: 19-11-1

WHEREAS, sections 39600 and 39601 of the Health and Safety Code direct the California Air Resources Board (CARB 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, sections 39658, 39659 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;

WHEREAS, section 43013 of the Health and Safety Code authorizes the Board to adopt standards and regulations to control criteria pollutants for off-road or nonvehicle engine categories, including marine vessels to the extent permitted by federal law; and to act as expeditiously as is feasible to reduce nitrogen oxide emissions from marine vessels;

WHEREAS, section 41511 of the Health and Safety Code gives CARB the authority to adopt rules and regulations in carrying out its duties that require the owner or the operator of any air pollution emission source to take such action as it may determine to be reasonable for the determination of the amount of such emission from such source;

WHEREAS, section 38560 of the Health and Safety Code directs CARB to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas (GHG) emissions reductions from sources or categories of sources;

WHEREAS, section 38562 of the Health and Safety Code requires CARB to adopt GHG emissions limits and emissions reduction measures by regulation to achieve the maximum technologically feasible and cost-effective reductions in GHG emissions in furtherance of achieving the statewide GHG emissions limit;

WHEREAS, section 39730.5 of the Health and Safety Code requires CARB to begin implementing the comprehensive short-lived climate pollutant strategy to reduce statewide anthropogenic black carbon emissions by 50 percent below 2013 levels by 2030;

WHEREAS, the 2016 Sustainable Freight Action Plan identified strengthening the Airborne Toxic Control Measure for Auxiliary Diesel Engines Operated on Ocean-Going Vessels At-Berth in a California Port (Existing Regulation) as a State agency action to advance the objectives of Executive Order B-32-15;

WHEREAS, the 2016 State Strategy for the State Implementation Plan (SIP Strategy) included a CARB measure to strengthen the emission controls from vessels at berth by including additional vessel fleets, types, and operations to achieve emission reductions needed for attainment;

WHEREAS, during the March 23, 2017 Board Meeting, the Board adopted Resolutions 17-7 and 17-8 (and addenda thereto), adopting the 2016 State Strategy for the State Implementation Plan, and the 2016 Air Quality Management Plan for Ozone and PM2.5 in the South Coast Air Basin and the Coachella Valley, respectively.

WHEREAS, the addenda to Board Resolutions 17-7 and 17-8 direct CARB staff to develop a regulation that would strengthen the Existing Regulation and provide further emission reductions to increase public health benefits;

WHEREAS, staff has proposed the Control Measure for Ocean-Going Vessels At Berth (Proposed Regulation), as set forth in Appendix A to the Initial Statement of Reasons (ISOR) released to the public on October 15, 2019;

WHEREAS, the Proposed Regulation, in support of protecting communities identified by Assembly Bill 617 (Stats. 2017, Ch. 136), addresses air quality objectives in environmental justice communities that experience a significant burden from air pollution around California ports;

WHEREAS, the Proposed Regulation is designed to achieve added public health and air quality benefits that result from emissions reductions of oxides of nitrogen (NOx), particulate matter 2.5 (PM2.5), reactive organic gas (ROG), GHG emissions, black carbon, diesel particulate matter (DPM) and other toxic air contaminants, beyond those realized by the Existing Regulation;

WHEREAS, CARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary for Natural Resources under Public Resources Code section 21080.5 of the California Environmental Quality Act (CEQA; California Code of Regulations, title 14, section 15251(d)), and CARB conducts its CEQA review according to this certified program (California Code of Regulations, title 17, sections 60000-60007);

WHEREAS, CARB prepared a draft Environmental Analysis (draft EA) under its certified regulatory program for the Proposed Regulation and will circulate it as Appendix D of the ISOR for public comment for at least 45 days from October 15, 2019, through December 9, 2019; and

WHEREAS, the draft EA concluded that implementation of the Proposed Regulation has the potential to result in: less than significant impacts, or no impacts, to energy demand, land use, air quality, GHGs, population, employment and housing, public services, and recreation; and potentially significant impacts to aesthetics, agriculture and forest resources, air quality (construction-related emissions), biological resources, cultural resources and tribal resources, geology and soils, hazards and hazardous materials, hydrology and water quality, mineral resources, noise and vibration, transportation and traffic, and utilities and service systems. The potentially significant and unavoidable adverse impacts are primarily related to short-term, construction-related activities.

WHEREAS, CARB staff continues to expand engagement with stakeholders, energy agencies, and energy providers on a holistic approach for port electrification projects.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby directs the Executive Officer to take the following actions:

1. Consider any additional conforming modifications that are appropriate, and make them available for public comment, with any additional supporting documents and information, for a period of at least 15 days. Consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days.

2. Explore innovative concepts where equivalent or greater community benefits would be achieved by deploying advanced technology concepts and propose further changes to the regulatory text as appropriate and in accordance with the Administrative Procedure Act.

3. Evaluate all comments received during the public comment periods, including comments raising significant environmental issues, and prepare any written responses to such comments as may be required by CARB's certified regulations at California Code of Regulations, title 17, sections 60000-60007.

4. If appropriate, prepare and circulate any further environmental analysis to the extent required by CARB's regulations at California Code of Regulations, title 17, sections 60000-60007, and as necessary, consider all feasible mitigation or alternatives that could eliminate or substantially lessen any significant adverse environmental impacts identified.

5. Present to the Board, at a subsequently scheduled public hearing, staff's written responses to any timely comments raising significant environmental issues, along with the final EA, for consideration for approval.

6. Present to the Board, at a subsequently scheduled public hearing, the regulation for consideration for adoption.

I hereby certify that the above is a true and correct copy of Resolution 19-28 as adopted by the California Air Resources Board.

Ryan Sakazaki, Board Clerk

Resolution 19-28

December 5, 2019

Identification of Attachments to the Board Resolution

Attachment A*: Proposed Regulation Order for the Control Measure for Ocean-Going Vessels At-Berth, California Code of Regulations, title 13, section 2299.3, and title 17, section 93118.3, and sections 93131 et. seq., as set forth in Appendix A to the Initial Statement of Reasons, released October 15, 2019.

***Attachment A is NOT attached to the proposed resolution; it is simply described on this page.**