

State of California
AIR RESOURCES BOARD

Notice of Public Availability of Modified Text

**PUBLIC HEARING TO CONSIDER THE PROPOSED AMENDMENTS TO THE
REGULATIONS APPLICABLE TO PORTABLE DIESEL ENGINES**

Public Hearing Date: January 28, 2010
Public Availability Date: November 10, 2010
Deadline for Public Comment: November 25, 2010

At its January 28, 2010 public hearing, the Air Resources Board (ARB or Board) adopted Resolution 10-2 approving modifications to the Statewide Portable Equipment Registration Program (PERP) Regulation and Airborne Toxic Control Measure for Diesel-Fueled Portable Engines (Portable Engine ATCM). The PERP Regulation is contained in sections 2450-2465, title 13, California Code of Regulations (CCR) and the Portable Engine ATCM is contained in sections 93116-93116.5, title 17, CCR.

At the hearing, ARB staff presented and the Board approved staff's suggested modifications to the regulations originally proposed in the Staff Report released on December 10, 2009, in response to comments received since the Staff Report was published.

In accordance with Government Code section 11346.8, the Board directed the Executive Officer to take final action to adopt the proposed amendments to sections 2450-2465, title 13, CCR, and sections 93116-93116.5, title 17, CCR, with the modifications identified in Resolution 10-2, and other such conforming modifications as may be appropriate, after making the modified language and any additional supporting documents available to the public for a comment period of fifteen days.

Previously, ARB Staff issued a 15-day notice on March 15, 2010 that specifically addressed the modifications related to an extension of the operation of certain specified engines for one additional year. The amendments contained in that first 15-day notice have already been approved and are currently in effect.

In this notice, ARB staff is proposing to address the modifications that the Board directed staff to consider, but were not included in the first 15-day notice. These additional modifications include, but are not limited to the following considerations: (1) allowing the local air districts to permit or register certified engines that do not meet the current tier emissions standards; (2) revising recordkeeping and reporting requirements for greater efficiency; and (3) exempting portable engines on snow removal vehicles from the Portable Engine ATCM.

The proposed modifications to the regulations that are the subject of this notice are listed below:

Summary of Proposed Modifications to the PERP Regulation

- A. Staff revised the engine requirements in section 2456(f)(1) to allow portable engines on snow removal vehicles to register in PERP. These engines will be exempt from the Portable Engine ATCM, which is consistent with other diesel regulations for these types of vehicles.
- B. Staff revised the format of section 2458(a) to improve clarity of the recordkeeping requirements for non-rental engines and equipment units. Staff also modified the frequency of the specific location tracking for non-certified engines registered in PERP to once a month, which is the same as the requirement for certified engines. In order to improve consistency of the requirements applicable to engines, the location tracking frequency was made the same for all registered engines.
- C. Staff revised the format of section 2458(b) to improve clarity of the recordkeeping requirements for rental engines and equipment units. Staff also modified this section to delineate which requirements are the responsibility of the rental business owner and which are the responsibility of the renter. The rental business owner is required to provide a written log for recordkeeping to be kept with the registered engine or equipment unit at all times, and the renter will be required to record the information in this log.
- D. Staff added a notification requirement to section 2459(h). The rental business owner is required to send notification to the local air district of any rental transaction that exceeds 9 months in duration. This is necessary to improve enforceability of the requirement that a portable engine or equipment unit not reside at a location longer than 12 consecutive months. This notification will alert enforcement staff of long-term projects where registered equipment may potentially exceed that 12 month requirement.
- E. Staff modified the annual reporting requirements by revising section 2458(e) and deleting sections 2458(f) and 2458(g). Section 2458(e) has been revised to require all owners of equipment units to submit an annual summary of the material throughput processed for each equipment unit. This will assist the districts with verifying compliance with the annual emission limits. The annual reporting for registered engines has been removed because the vast majority of engines registered in PERP do not have emission limits. Therefore, there is no need for them to submit an annual report of usage. Removing this requirement for engines is consistent with the Board's direction to reduce the recordkeeping and reporting to include only essential information.
- F. Staff removed obsolete language from section 2453(i) pertaining to selection of the home district, and also exempted Providers of Essential Public Services (PEPS)

from the requirement to update the home district upon renewal. Currently, the home district must be updated based on where the engine operated most of the time as shown by either daily records or annual reports, except for rental companies. Since engines owned by PEPS are not required to keep records, removing this requirement would make these engines consistent with those owned by rental companies. However, PEPS and rental companies may still voluntarily update the home district upon renewal, if needed.

- G. Staff revised the definition of “Emergency Event” in section 2452(j) to make it consistent with the same definition in the Portable Engine ATCM. Staff also revised the definition of “Provider of Essential Public Services” in section 2452(ii) to improve clarity.
- H. Staff further revised the definition of “Resident Engine” in section 2452(mm) to improve clarity and to specify that engines permitted by local air districts per section 93116.3(b)(2)(E) of the Portable Engine ATCM are not to be considered resident engines. This is necessary to prevent previously unpermitted engines from registering in PERP that would otherwise not meet eligibility requirements. It is intended that these engines stay permitted at the local level.
- I. Staff removed obsolete language from section 2451(c)(9) pertaining to the operation of generators. This language regarding voltage requirements and remote locations has been determined to be unnecessary.
- J. Staff made minor language changes where needed. These changes are considered to be non-substantive and are intended to provide additional clarity to the PERP Regulation.

Summary of Proposed Modifications to the Portable Engine ATCM

- A. Staff exempted portable engines on snow removal vehicles from the requirements of the Portable Engine ATCM by adding section 93116.1(b)(11). This action is consistent with the Board’s direction to exempt these engines if appropriate. Because of the negligible emissions impact from engines on snow removal vehicles, they are already exempt from the other applicable diesel regulations. Therefore, this exemption should provide for further regulatory consistency.
- B. Staff revised the provision in section 93116.3(b)(1)(B) regarding non-certified engines that are operated as emergency use or low use. The owners of these engines will be required to designate the engines as emergency use or low use by December 31, 2011. Previously, these engines had to be replaced with a Tier 4 engine within 2 years of them becoming available, which would be either 2016 or 2017 at the latest, depending on engine size. Staff is now proposing that these engines be either replaced with a current tier engine at any time or put out of service no later than January 1, 2017. This proposal allows owners of non-certified engines to clean up these engines in a more expeditious manner instead of having

to wait until Tier 4 engines become available.

- C. Staff revised the permit or registration eligibility provisions in section 93116.3(b)(2) to improve clarity and to allow the local air districts to permit or register certified engines that do not meet the current tier. This provision will allow the local air district to issue permits or registrations for these engines until January 1, 2017. Engines that are certified to either Tier 1 or Tier 2 emission standards must have been operating in California during a specific time period in order to be permitted by the districts. This requirement will prevent businesses from bringing older engines with higher emissions into the State.
- D. Staff revised section 93116.3(b)(3) to clarify that the provisions are applicable to certified engines only. To further improve clarity, the provisions previously listed in sections 93116.3(b)(4) and (b)(5) have been moved to sections 93116.3(b)(2)(A) and (b)(2)(B).
- E. Staff revised the definitions of "Certified Engine" in section 93116.2(a)(5) and "Emergency Event" in section 93116.2(a)(13) so that they will be consistent with the same definitions in the PERP Regulation.
- F. Staff made minor language changes where needed. These changes are considered to be non-substantive and are intended to provide additional clarity to the Portable Engine ATCM.

Attachment 1 to this notice contains the text of the modified regulatory language for the PERP Regulation. Attachment 2 contains the text of the modified regulatory language for the Portable Engine ATCM. The amendments shown in underline and ~~strikeout~~ indicate additions and deletions as published in the original Initial Statement of Reasons (ISOR). Double underline and ~~double-strikeout~~ denote additions and deletions since the ISOR that were published in the first 15-day notice. ***Underline*** and ***bold italic-strikeout*** denote additions and deletions since the ISOR that are being published with this second 15-day notice. Amended sections shown with **shading** were approved by the Office of Administrative Law on October 19, 2010 and are currently in effect.

The regulatory documents for this rulemaking, including the Board Resolution 10-2 approving modifications to sections 2450-2465, title 13, and sections 93116-93116.5, title 17, CCR, are available online at the following ARB internet site:

<http://www.arb.ca.gov/regact/2010/perp2010/perp2010.htm>

Comments and Subsequent Action

Written comments will only be accepted on the modifications identified in this notice, and may be submitted by postal mail or electronic mail submittal as follows:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

In order to be considered by the Executive Officer, comments must be directed to the Air Resources Board (ARB) in one of the two forms described above and received by ARB by 5:00 p.m., on the deadline date for public comment listed at the beginning of this notice. Only comments relating to the above-described modifications to the text of the regulations will be considered by the Executive Officer.

If you need this document in an alternate format (i.e., Braille, large print, etc.) or another language, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si usted necesita este documento en un formato alternativo (es decir, sistema Braille, letra grande, etc.) u otro idioma, por favor llame a la oficina del Consejo a (916) 322-5594 o envíe un fax a (916) 322-3928 no menos de cinco días después de la fecha de comunicado de este aviso. TTY/TDD/Personas que necesitan este servicio pueden marcar el 711 para la Servicio de Retransmisión de Mensajes de California.

Attachments (2)