

REQUEST FOR EARLY EFFECTIVE DATE

Pursuant to Government Code section 11343.4(d), the Air Resources Board (ARB) requests that the amendment of the Small Off-Road Engine Regulations, sections 2400 through 2409 (formerly "Utility Engine and Lawn and Garden Regulations"), and related amendments to the Off-Highway Recreational Vehicles and Engines, section 2410 through 2414, Title 13, California Code of Regulations (CCR), become effective upon filing with the Secretary of State. Good cause for this request exists. An early effective date is necessary to reflect the postponement of the existing Tier II emission standard effective date of January 1, 1999, to the Board-adopted deadlines now beginning no earlier than January 1, 2000 and accompanying changes in the Tier II emissions standards for these engines.

At a public hearing held March 26, 1998, the ARB considered amendments to sections 2400 through 2414, Title 13, California Code of Regulations ("CCR") and incorporated test procedures for these engines. At the hearing, the Board adopted the staff's proposal to amend the 1999 (Tier II) small off-road engine regulations, including a one-year delay in implementation to 2000, relaxation of emissions standards for nonhandheld engines, emissions durability requirements, averaging/banking/trading, harmonization with the federal diesel engine regulation, and modifications to the production line testing requirements. The Board also adopted additional changes at the Hearing, most notably the replacement of the nonhandheld Tier 2 and Tier 3 standards with an alternative that would provide equivalent emissions benefits. The Board approved those changes, and requested the addition of "green" labeling and market incentive programs and a technology review every two years.

Post-hearing development of the green labeling program and numerous minor changes required a significant amount of staff time. As a result, the first 15-day comment period did not commence until December 21, 1998. Staff received enough comments on the first modified text to require a second 15-day notice, which commenced January 11, 1999.

These unavoidable delays make it essential that these amendments to the Small Off-Road Engine regulations become effective upon filing with the Secretary of State. It is unlikely that any further delay in the effective date will affect production plans for any affected manufacturer given their awareness of the Board's adoption and subsequent developments. In addition, ARB has no plans to enforce the existing Tier II standards once these amendments are adopted. However, to avoid any potential confusion over the need to comply with the official, existing 1999 Tier II regulations, the ARB respectfully requests that this regulation take effect immediately upon filing with the Secretary of State.

The parties directly affected by these regulations are the manufactures of engines and equipment manufacturers using such engines. An early effective date will not have an adverse impact on the ability of these manufacturers to comply with the regulations. To the contrary, an early effective date will confirm in regulation the Board-adopted changes on which the manufacturers are relying to refocus their production efforts toward the year 2000 or later year deadlines, as applicable.

Date: _____

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