

UPDATED INFORMATIVE DIGEST

**AMENDMENTS TO THE REGULATIONS APPLICABLE TO
PORTABLE DIESEL ENGINES AND DIESEL ENGINES USED IN
OFF-ROAD AND ON-ROAD VEHICLES**

Sections Affected

Amendments to title 13, California Code of Regulations (Cal. Code Regs.), article 5, sections 2451, 2452, 2453, 2456, 2457, 2458, and 2459, which is the Statewide Portable Equipment Registration Program Regulation (PERP Regulation).
Amendments to title 17, Cal. Code Regs., sections 93116.1, 93116.2 and 93116.3 which is the Airborne Toxic Control Measure for Diesel-Fueled Portable Engines (Portable Engine ATCM).

Background:

The Legislature passed the portable equipment registration statutes in 1995. These statutes (Health and Safety Code §41750 et seq.) required ARB to create and maintain a program for the registration of engines and equipment that are operated at more than one location throughout the State. Under these 1995 statutes, the Board approved a Statewide Regulation establishing the Portable Equipment Registration Program (PERP) on March 27, 1997, and it became effective on September 17, 1997. The Board approved amendments to the Statewide PERP Regulation on December 11, 1998, February 26, 2004, June 22, 2006, March 22, 2007, and December 11, 2008. When an engine is registered in PERP, State law provides that the owner of that engine need not obtain local air district permits prior to operating. To be registered in PERP, however, the engine being registered must meet strict eligibility requirements at the time of application.

Most of the engines associated with portable equipment are diesel-fueled, making these engines also subject to the requirements of the Portable Engine ATCM. The Portable Engine ATCM covers all portable engines, not only those registered in PERP. The Board adopted the Portable Engine ATCM in February 2004. Portable engines include a wide variety of engine types and uses. A portable engine may provide primary power to a piece of equipment or it may serve as an auxiliary engine.

The Portable Engine ATCM requires that all diesel engines operating pursuant to a permit or registration in California must be certified to an off-road emission standard contained in 40 CFR Part 89 as of January 1, 2010, except for those engines designated as emergency use or low use. This requirement was first established in 1997 as part of PERP, giving businesses a maximum of 13 years to plan for the replacement or retirement of the older, uncertified engines.

In 2004, this requirement was moved from the PERP regulation to the Portable Engine ATCM so that it would apply to all diesel engines statewide, not just those registered in PERP. The PERP Regulation maintains a similar requirement for older spark-ignition engines to be put out of service by the same date. The owners of older spark-ignition engines have the option of seeking permits with the local districts in lieu of complying with the January 1, 2010 deadline in PERP.

In recent months, numerous members of the regulated community and the local air districts have expressed concerns about the requirement to replace all uncertified portable engines by January 1, 2010. In response, ARB staff proposed to allow smaller companies the ability to phase-in compliance by deferring a limited number of uncertified engines until January 1, 2011. This phased-in approach is consistent with other ARB diesel rules and provides some relief to over 90 percent of the companies that currently have uncertified engines, yet retains over 70 percent of the emissions benefits of the rule expected in 2010.

In addition, members of the California Groundwater Association expressed concern that the replacement of older deck engines on existing two-engine water well drilling rigs is either technologically infeasible or severely cost prohibitive, which would force these rigs out of service without replacement. Because engine replacement on these drilling rigs is often not possible, the only option available to the operators of these vehicles is to retire them or to purchase a new drilling rig. A new drilling rig can cost several hundred thousand dollars. This would severely impact the water well drilling industry and their ability to drill new water wells in the State. These issues are very similar to the issues with two-engine cranes, which were addressed in previous amendments that the Board approved in December 2008. As such, ARB staff proposed to add two-engine water well drilling rigs to the Off-Road Regulation consistent with other similar types of vehicles.

The Executive Officer determined it was necessary to bifurcate the regulations so that the final regulations with the most critical elements will become legally effective as expeditiously as possible. The first submittal for approval contained critical elements including the operating extension for non-certified engines, the changes to the regulations regarding water well drilling rigs, allowing for the continued operation of certified on-highway engines in portable applications, allowing certified marine engines used on vessels to register in PERP, and other changes necessary to result in stand-alone regulations.

Accordingly, on August 27, 2010, the Executive Officer issued Executive Order R-10-016, amending sections 2025, 2449, 2449.3, 2452, 2453, 2456, 2458, 2460, 2461 and 2462, title 13, Cal. Code Regs., and sections 93116.1, 93116.2, and 93116.3, title 17, Cal. Code Regs.,— reflecting the final modifications that had been made available for the first 15-day comment period.

On October 19, 2010, OAL approved the first part of the bifurcated rulemaking, and it became effective the same day.

The current rulemaking action adopts the remaining elements and thus completes the amendments to the PERP Regulation and the Portable Engine ATCM, as described in more detail below.

PERP Regulation

1. Allow for applicants to submit electronic applications for registration in PERP.
2. Prohibit certain non-current tier certified engines permitted by the district from registering in PERP by revising the definition of “resident”.
3. Allow portable engines on dedicated snow removal vehicles to register in PERP.
4. Revise the recordkeeping requirements for all registered engines and equipment units.
5. Revise the annual reporting requirement for all registered equipment units and delete the annual reporting requirements for all registered engines.
6. Require that rental business owners notify the local districts of long-term rental transactions.
7. Make miscellaneous language clarifications and remove obsolete language from the PERP Regulation.

Portable Engine ATCM

1. Exempt portable engines on dedicated snow removal vehicles from the requirements of the Portable Engine ATCM.
2. Revise the requirements for non-certified engines that are designated as emergency use or low use.
3. Allow the local air district to permit non-current tier certified engines under certain circumstances.
4. Revise the fleet average calculation provision to further specify emission factors in the calculations.
5. Make miscellaneous language clarifications and remove obsolete language from the Portable Engine ATCM.