

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: March 15, 2010
Deadline for Public Comment: March 30, 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. The Board also directed the Executive Officer to consider such written comments as may be submitted during this period, to make such modifications as may be appropriate in light of the comments received, and to present the regulations to the Board for further consideration if the Executive Officer determines that it is warranted.

In this notice, ARB staff is proposing to address the following modifications specifically related to the exemptions for the operation of certain specified engines for one additional year. However, the Board directed staff to consider additional modifications to the regulations that are not addressed in this notice. These additional modifications will be addressed in a future 15-day notice after consultation with stakeholders. These potential 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; (2) revising recordkeeping and reporting requirements for rental companies; and (3) moving portable engines on two-engine snow blowing machines into the off-road regulation as was previously done for water well drilling rigs.

ARB staff is currently developing proposed regulatory language and, after consultation with the stakeholders, will issue a separate 15-day notice.

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

Summary of Proposed Modifications to the PERP Regulation

- A. In the staff's originally proposed regulation, section 2456(f)(11) of the regulation was designed to provide an operating extension for certain uncertified spark-ignition engines to only those fleet owners with 25 or fewer engines. Pursuant to the Board's direction, this extension is now proposed for all owners of registered, uncertified, portable engines. As revised, each fleet owner must select either one engine of any size or up to five engines that do not exceed 500 cumulative brake horsepower (bhp). These engines may then operate until December 31, 2010. The owners of these engines will have to submit a written request to designate which registered engines they wish to continue operating under this proposed regulatory amendment. The deadline for the submission of this written request has also been extended to give owners more time to make their selections.
- B. Staff provided strikeout underline notation to the amended definition of Providers of Essential Public Services as published in the ISOR because the notation was accidentally omitted. Staff will also correct the strikeout underline notation for the regulatory language in sections 2453(i)(3) and 2458(e) as needed. These changes are considered to be administrative and are intended to provide additional clarity to the PERP Regulation.
- C. Staff made corrections to typographical errors made in the regulation as published with the original Staff Report where needed. These changes are considered to be administrative and are intended to provide additional clarity to the PERP Regulation.

Summary of Proposed Changes to the Portable Engine ATCM

- A. Section 93116.3(b)(1)(C) of the Portable Engine ATCM was originally intended to provide an operating extension for certain uncertified diesel engines to only those fleet owners with 25 or fewer engines. Consistent with the change to the PERP Regulation, this extension is now proposed for all owners of registered, uncertified, portable engines. Each fleet owner must select either one engine of any size or up to five engines that do not exceed 500 cumulative brake horsepower (bhp). These engines, if registered or permitted by the local air district, may then operate until December 31, 2010. The owners of these engines will have to submit a written request to designate which registered engines they wish to continue operating under this proposed regulatory amendment. The deadline for the submission of this written request has also been extended to give owners more time to make their selections.

- B. Staff made corrections to typographical errors made in the regulation as published with the original Staff Report where needed. These changes are considered to be administrative 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 originally proposed amendments are shown in single underline for additions and ~~strikeout~~ for deletions. All modifications since the Initial Statement of Reasons (ISOR) publication date are shown in double underline to denote additions and ~~double strikeout~~ to denote deletions.

The regulatory documents for this rulemaking, including 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 website:

<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)

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see ARB's website at [\[www.arb.ca.gov\]](http://www.arb.ca.gov).