

## TITLE 13. CALIFORNIA AIR RESOURCES BOARD

### NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF A PROPOSED REGULATION TO ESTABLISH A STATEWIDE PORTABLE EQUIPMENT REGISTRATION PROGRAM

The Air Resources Board (the "ARB" or "Board") will conduct a public hearing at the time and place noted below to consider the adoption of a proposed regulation to establish a Statewide Portable Equipment Registration Program.

DATE: March 27, 1997

TIME: 9:00 a.m.

PLACE: Board Hearing Room, Lower Level  
2020 L Street  
Sacramento, California 95814

This item will be considered at a one-day meeting of the Board, which will commence at 9:00 a.m., March 27, 1997. Please consult the agenda for the meeting, which will be available at least ten days before March 27, 1997, to determine the time when this item will be considered.

#### INFORMATIVE DIGEST OF PROPOSED ACTION/ PLAIN ENGLISH POLICY OVERVIEW

##### Sections Affected:

Proposed adoption of Title 13, California Code of Regulations (CCR), article 5, sections 2450-2465 creating a Statewide Portable Equipment Registration Program.

##### Background:

Under California law, the authority to regulate stationary sources resides with local and regional air quality districts (districts). Historically, districts have regulated portable equipment through stationary source permitting programs. Under existing district programs, owners and/or operators of portable equipment are required to pay fees, obtain permits, and adhere to different sets of regulatory requirements each time they move portable equipment to a different district.

In 1995, in an effort to reduce the burden on business caused by inconsistent permitting requirements of the districts, the California Legislature adopted section 41750 et seq. of the Health and Safety Code. State law mandates the Board to develop and implement a uniform system for statewide registration and regulation of portable equipment. Once regulations establishing a Statewide Portable Equipment Registration Program (program) are adopted and implemented, district authority to permit, assess fees, and adopt emission limits or control requirements for portable equipment registered with the State is preempted. Districts, however, are directed to

enforce the program, emission limitations, and control requirements in the same manner as a district rule or regulation (Health and Safety Code section 41755).

Proposed Regulation:

The Board's staff is proposing to add sections 2450-2465, Statewide Portable Equipment Registration Program, to Title 13 of the CCR. The proposed Regulation outlines the process which will be followed and the requirements that must be met for the ARB's Executive Officer to register portable equipment. Portable equipment registered under the ARB program may operate throughout California without authorization or permits from the districts.

The regulation would apply to portable engines and associated equipment. A portable engine is an internal combustion engine which is designed and capable of being carried or moved from one location to another. Associated equipment is a portable piece of equipment associated with, and driven by, any portable engine.

Most portable engines and associated equipment registered in the State's program would be required to meet daily, annual, or pollutant concentration emission limits, or control technology requirements, including, for portable engines the phase-in over time of lower-emission technologies.

Owners of registered portable engines and associated equipment would be required to maintain daily operational records and submit annual summaries of quarterly operations to the ARB. Records to be maintained for each location operated include equipment registration number, date, total fuel used and estimated or actual hours of operation, or process weight or throughput and hours of operation.

Registered engines and associated equipment would be subject to inspection from the State or districts including possible emissions testing, to verify compliance with the proposed Regulation. The suspension, denial, or revocation of a registration could be appealed to the ARB Executive Officer by filing a written request. Any challenges to a district's inspection results would be made to the district, following procedures established in the district's rules and regulations.

The ARB would collect fees for registration, renewal, and associated administrative tasks. The proposed fees are based on the estimated cost to California to administer the program. In addition, the proposed Regulation establishes a uniform statewide inspection fee for districts. The inspection fee can only be charged once per year by each district for each registered piece of portable equipment inspected. The State's program fees are expected to lower the overall costs of registration to most businesses owning or operating portable engines and associated equipment in multiple districts. Under the program, the State would assume regulation of a large number of portable engines and associated equipment that were previously regulated by the local districts. As a result, districts could experience a decrease of revenues because the ARB would be registering and collecting fees from portable engine and associated equipment owners that had previously registered or had been permitted by the districts. The districts will, however,

experience a corresponding reduction in workload because they will no longer be permitting these units.

Comparison with Similar Federal Requirements:

In section 213 of the Clean Air Act, Congress directed the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) to (1) determine whether emissions from nonroad engines (as a general category of which engines used in portable equipment is a part) cause or significantly contribute to air pollution which may reasonably be anticipated to endanger public health and safety, and (2) if so, promulgate emission standards for the control of such engines. To date, the U.S. EPA has adopted emission standards for new spark-ignition engines at or below 19 kilowatts (25 horsepower)<sup>1</sup> and compression-ignition engines at or above 37 kilowatts (50 horsepower).<sup>2</sup>

Concurrent with authorizing U.S. EPA to adopt emission standards and other regulations for nonroad engines, Congress established a nonroad engine preemption prohibiting all states, including California, from adopting emission standards and other requirements related to the control of emissions from new nonroad engines under 175 horsepower used in farm and construction equipment and vehicles.<sup>3</sup> In contrast to other states, however, the Clean Air Act permits California to request authorization from the U.S. EPA to adopt and enforce necessary emission standards and regulations for California for all nonroad engines not otherwise expressly preempted.<sup>4</sup> To date, California has adopted several nonroad regulations, including emission standards for new spark-ignition engines at or below 25 horsepower and compression-ignition engines at or above 50 horsepower. Both regulations have received authorization from the U.S. EPA.

The proposed program intends to promote consistency between the California and federal requirements. The program would not establish direct emission standards or other emission-related requirements (which does not include in-use operational controls) for engines that are expressly preempted under the Clean Air Act's section 209(e)(1). Further, the program would require that engines manufactured after January 1, 1996 meet applicable California or federal emission standards. As stated above, California has already received authorization for two of its regulations under section 209(e)(2) of the Clean Air Act. Finally, the ARB will be requesting the U.S. EPA to grant similar authorizations for all other emission standards and other requirements related to the control of emissions of nonroad engines that are adopted as part of this proposed rule.

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<sup>1</sup> 59 Fed. Reg. 25399 (May 16, 1994).

<sup>2</sup> 59 Fed. Reg. 31306 (June 17, 1994).

<sup>3</sup> Clean Air Act section 209(e)(1).

<sup>4</sup> Clean Air Act section 209(e)(2).

#### AVAILABILITY OF DOCUMENTS AND CONTACT PERSON

The Board staff has prepared a Staff Report which includes the Initial Statement of Reasons for the proposed action. Volume I of the Staff Report, *Executive Summary*, provides an overview of the proposed Regulation. It contains a summary of the recommendations and a brief discussion of the environmental and economic impacts of the proposal. Volume II, *Technical Support Document*, is a more detailed presentation of the technical aspects of the proposed Regulation. Copies of the Staff Report and the full text of the proposed regulatory language may be obtained from the Board's Public Information Office, 2020 L Street, Sacramento, CA 95814, (916) 322-2990.

The Board staff has compiled a record which includes all information upon which the proposal is based. This material is available for inspection upon request to the contact person identified immediately below. The ARB has determined that the regulations may affect small businesses and it is not feasible to draft the regulation in plain English due to the technical nature of the regulation. Chapter II of the Executive Summary, however, presents a summary of the regulation in plain English.

Further inquiries regarding this matter should be directed to Mr. Mike Tollstrup, manager of the Project Support Section in the Stationary Source Division, at (916) 323-8473.

#### COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred in reasonable compliance with the proposed regulations are presented below.

The Executive Officer has determined that the proposed regulatory action will not create costs or savings, as defined in Government Code section 11346.5(a)(6), to any California agency or in federal funding to California, costs or mandate to any local agency or school district whether or not reimbursable by the State pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code, or other nondiscretionary savings to local agencies.

In developing the regulatory proposal, the ARB staff evaluated the potential economic impact of the registration program. The State's program should have a beneficial impact on California business. Participants in the program would no longer need to seek (and pay for) permits in each district in which they wish to operate, or pay for emissions testing each time they operate in a different district. Since for the most part this would be a voluntary program, portable engine and associated equipment owners may choose either the State's program or district regulations, based on the most favorable economic outcome. Where the registration program is mandatory, the program is not expected to have a significant economic impact.

The Executive Officer has determined pursuant to Government Code section 11346.5(a)(8) that adoption of the proposed regulatory action will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

The Executive Officer has further determined that there will be no, or an insignificant, potential cost impact, as defined in Government Code section 11346.5(a)(9), on private persons or businesses directly affected resulting from the proposed action.

Finally, in accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within California, or the expansion of businesses currently doing business within California. A more detailed assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

Before taking final action on the proposed regulatory action, the Board must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

#### SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing. To be considered by the Board, written submissions must be addressed to and received by the Board Secretary, Air Resources Board, P. O. Box 2815, Sacramento, CA 95812, no later than 12:00 noon, March 26, 1997, or received by the Board Secretary at the hearing.

The Board requests (but does not require) that 20 copies of any written statement be submitted and that all written statements be filed at least ten days prior to the hearing. The Board encourages members of the public to bring to the attention of staff (in advance of the hearing) any suggestions for modification of the proposed regulatory action.

#### STATUTORY AUTHORITY AND HEARING PROCEDURES

This regulatory action is proposed under that authority granted in Health and Safety Code sections 39515, 39600, 39601, 41750-41755, 43013. This action is proposed to implement, interpret and make specific Health and Safety Code sections 41750-41755, and 43013.

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event

the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted. The public may request a copy of the modified regulatory text from the Board's Public Information Office, 2020 L Street, Sacramento, CA 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Michael P. Kenny  
Executive Officer

Date: