

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF PROPOSED AMENDMENTS TO THE REGULATION FOR THE STATEWIDE PORTABLE EQUIPMENT REGISTRATION PROGRAM

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

DATE: June 22, 2006

TIME: 9:00 a.m.

PLACE: [South Coast Air Quality Management District Auditorium](#)
21865 East Copley Drive
Diamond Bar, California 91765-4182

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., June 22, 2006, and may continue at 8:30 a.m., June 23, 2006. This item may not be considered until June 23, 2006. Please consult the agenda for the meeting, which will be available at least ten days before June 22, 2006, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette or computer disk. Please contact ARB's Disability Coordinator at 916.323.4916 by voice or through the California Relay Services at 711, to place your request for disability services. If you are a person with limited English and would like to request interpreter services, please contact ARB's Bilingual Manager at 916.323.7053.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments of title 13, California Code of Regulations (CCR), sections 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, and 2465, which is the Statewide Portable Equipment Registration Program.

Background: The Statewide Regulation establishes a uniform program to register portable engines and equipment units in California. Portable equipment is any piston-driven engine and/or equipment unit that is designed and capable of being carried and moved from one location to another and would remain at a single location for less than 12 consecutive months. Portable engines and equipment units are used for a variety of applications, such as pumps, ground support equipment at airports, military tactical support equipment, cranes, oil well drilling, servicing and work-over rigs, power

generators, dredging equipment, rock crushing and screening equipment, welding equipment, and compressors. Once registered in this voluntary program, owners and operators of portable engines and equipment units, such as portable aggregate crushing and screening plants that have particulate matter emissions not associated with a portable engine, can operate throughout the State without having to obtain permits from individual air pollution control and air quality management districts (districts) for a three year period.

The current Statewide Regulation requires a phase-in of cleaner technologies that would result in the reduction and eventual elimination of high-emission engines. By January 1, 2010, any engine registered in the Portable Equipment Registration Program (PERP) must be certified to the more stringent of California or federal nonroad emission standards. Currently, PERP has about 20,700 portable engines, 2,250 associated equipment units, and another 4,700 pieces of military tactical support equipment (TSE) registered in the program.

The Statewide Regulation was approved by the Board on March 27, 1997, and became operative on September 17, 1997. The Board also approved amendments to the Statewide Regulation on December 11, 1998, and February 26, 2004. At the February 2004 meeting, the California Air Pollution Control Officers Association (CAPCOA) raised a number of concerns related to the enforceability of the Statewide Regulation. The Board directed staff to work with CAPCOA and affected industry to resolve the concerns. ARB staff, in consultation with CAPCOA and affected industries, developed proposed amendments to the Statewide Regulation.

DESCRIPTION OF THE PROPOSED REGULATORY ACTION

The following amendments are proposed in order to increase the accountability and enforceability of the Statewide Regulation, ensure that districts are reimbursed for enforcement costs, and provide a one-time limited application period for purchasers who experienced extended time lags between ordering and accepting delivery of portable equipment. As the program has grown and more equipment has been registered, the need for an effective enforcement program has become increasingly important to the overall effectiveness of the program. Additional funds are needed to cover the districts costs for enforcing the Statewide Regulation.

Home District Designation

The proposed amendments require owners of registered engines and equipment units to designate a home district. A home district is defined as the district in which the registered engine or equipment unit would reside most of the time. Owners currently holding valid registrations would be required within ninety days of the effective date of these proposed amendments to the Statewide Regulation to submit in writing to ARB a home district designation.

Hour Meters

The proposed amendments require that all registered engines have a functional, non-resettable hour meter or equivalent device installed on the engine. Owners and operators holding valid registrations would be required within six months of the effective date of these proposed amendments to the Statewide Regulation to install an hour meter or equivalent device and notify ARB in writing that the installation was completed. New applications would not be accepted unless an hour meter or equivalent device was installed on the portable engine.

Placards

The proposed amendments would require owners and operators of registered engines and equipment units to obtain a visible registration indicator (placard) that identifies the engine or equipment unit as being registered in the PERP. The estimated cost of the placard is \$5.00 each. Payment for the placard would be required upon renewal for existing participants or at the time of initial registration for new applicants.

Recordkeeping and Reporting

The proposed amendments would require all owners and operators of registered engines and equipment units to maintain records onsite of hours of operation, process throughput, or other indicator of operation as approved by the Executive Officer. The records would have to be maintained for a minimum of five years and made available to the district or ARB upon request. The proposed amendments would require vendors selling new engines or equipment units in California to notify the buyer about this regulation and to submit to the Executive officer on a monthly basis the number of portable engines and equipment units sold for use in California including the name, address, contact information of the purchaser and the description of the engine or equipment unit including make, model and engine family name. Staff also proposes that owners and operators of registered engines and equipment units be required to submit annual reports to ARB. In addition, staff proposes requiring districts to submit an annual report summarizing the district inspections.

Notification Requirements

The proposed amendments would require owners and operators of registered equipment units, such as portable aggregate crushing and screening equipment, to notify the respective district when an equipment unit would be operated at a location for more than five days. Notification requirements for registered engines will not be required.

District Inspection Fee

The districts are responsible for enforcing the requirements of the Statewide Regulation. Pursuant to Health and Safety Code section 41752(d), ARB has established a fee schedule to cover resources necessary to operate, enforce, and maintain PERP.

ARB staff proposes increasing the district inspection fee for registered engines from \$75.00 per inspection each year to \$345.00 (\$315.00 home district inspection fee and \$30.00 general district inspection fee) every three years. In addition, staff proposes a multiple engine discount if owners make arrangements with the home district to inspect multiple engines at one time.

ARB staff proposes increasing the district inspection fee for equipment units from \$75.00 per inspection to \$98.00 per hour, not to exceed \$500.00, plus a general district inspection fee of \$75.00 every three years. For TSE, ARB staff proposes an annual general district inspection fee of \$10.00 per TSE unit.

District Inspections

The proposed amendments would require that within 45 days after the initial issuance of a registration or renewal, the owner or operator must contact the district to arrange for an inspection of the registered engine or equipment unit. The inspection must be completed within one year of the initial registration or renewal. The time for the inspection must be mutually agreed upon in advance. If the inspection does not occur, the inspection must be rescheduled within 90 days. If a registered engine or equipment unit will be out of California for that year, the owner or operator must arrange for an inspection within 30 days upon return of the registered engine or equipment unit into California.

Recognition of Longer Lead Time for Some Engines

The Statewide Regulation requires engines that are registered after January 1, 2006, to meet the most stringent current certified engine standard. ARB staff recently became aware that some manufacturers and distributors required a longer lead time for certain engines than was originally anticipated. Recognizing this issue, ARB staff is proposing Statewide Regulation amendments to allow Tier 2 engines rated in the 175 to 750 brake horse power (bhp) range and Tier 1 engines rated greater than 750 bhp to be registered in PERP, provided the engine is in a new piece of equipment that was sold to the ultimate user between July 1, 2005, and December 31, 2005; a complete application and associated fees are received by the Executive Officer no later than November 1, 2006; and valid documentation of proof-of-purchase date of the above requirements is provided. This provision is intended to allow the registration of a limited number of new engines that, because of unexpectedly long lead times to order, manufacture, and deliver equipment, are no longer eligible for registration in PERP.

Miscellaneous Amendments

ARB staff is proposing to modify, add, and delete terms in the definitions section, delete outdated provisions, and strengthen the appeals process. These changes are generally nonsubstantive and are intended to provide additional clarity and enforceability to the Statewide Regulation.

COMPARABLE FEDERAL REGULATIONS

In section 213 of the federal Clean Air Act, Congress directed the Administrator of the United States Environmental Protection Agency (U.S. EPA) to determine whether emissions from nonroad engines cause or significantly contribute to air pollution which may reasonably be anticipated to endanger public health and safety, and if so, promulgate emission standards for the control of such engines. Engines used in portable equipment are a general category of nonroad engines. To date, U.S. EPA has adopted emission standards for new spark-ignition nonroad engines at or below 19 kilowatts (25 horsepower) and compression-ignition nonroad engines at or above 37 kilowatts (50 horsepower). Concurrent with authorizing U.S. EPA to adopt emission standards and other regulations for nonroad engines, in section 209(e)(1) 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 less than 175 horsepower used in farm and construction equipment and vehicles.

In contrast to other states, however, the Clean Air Act permits California to request authorization from U.S. EPA to adopt and enforce necessary emission standards and regulations for California for all nonroad engines not otherwise expressly preempted by section 209(e)(1). To date, California has adopted several nonroad regulations, including emission standards for new spark-ignition engines at or below 19 kilowatts (25 horsepower) and compression-ignition engines at or above 37 kilowatts (50 horsepower). Both regulations have received authorization from U.S. EPA.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary to the economic and environmental impacts of the proposal. The report is entitled: Proposed Amendments to the Regulation for the Statewide Portable Equipment Registration Program.

Copies of the ISOR and the full text of the proposed regulatory language may be obtained from the Board's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing which will begin on June 22, 2006.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the web site listed below.

Inquiries concerning the substance of the proposed regulations may be directed to the designated agency contact persons, Kitty Howard, Manager of the Regulatory Assistance Section, at (916) 322-3984, or by email at khoward@arb.ca.gov or Chris Gallenstein, Air Pollution Specialist, Regulatory Assistance Section, (916) 324-8017, or by e-mail at cgallens@arb.ca.gov.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration and Regulatory Coordination Unit, (916) 322-6070, and Alexa Malik, Regulations Coordinator, (916) 322-4011. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at <http://www.arb.ca.gov/regact/perp06/perp06.htm>.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determination of the Executive Officer concerning the costs or savings necessarily incurred by public agencies, private persons, and businesses in reasonable compliance with the proposed amendments to the Statewide Regulation are presented below.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action will result in minor costs and/or savings impacts to some State agencies, no impact on federal funding to the state, and some costs to local agencies or school districts that are not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, and title 2 of the Government Code, as discussed below or other non-discretionary savings to local agencies.

The increased costs are from the proposed increase in district inspection fees, increased recordkeeping and reporting requirements, costs to install hour meters, and costs for obtaining placards. ARB staff estimates that the total economic impact of the proposed amendments to the Statewide Regulation to affected private businesses and public (local, State, and federal) agencies is \$54.2 million over its lifetime. The increased costs to private businesses is estimated to be \$50.5 million. The increased costs to public agencies is estimated to be \$3.7 million. Because this is a voluntary program, private businesses and public agencies that do not wish to participate in PERP may obtain permits from the districts.

Staff estimates that 1,900 private businesses will be affected by the proposed amendments. The total economic cost for private businesses to comply with the proposed amendments to the Statewide Regulation is estimated by ARB staff to be \$50.5 million.

Staff estimates that 181 local agencies will be affected by the proposed amendments. The total economic cost for local agencies to comply with the proposed amendments to the Statewide Regulation is estimated by ARB staff to be \$2.9 million.

Staff estimates that eight State agencies will be affected by the proposed amendments. The total economic cost for State agencies to comply with the proposed amendments to the Statewide Regulation is estimated by ARB staff to be \$53,000.

Staff estimates that 50 federal agencies will be affected by the proposed amendments. The total economic cost for federal agencies to comply with the proposed amendments to the Statewide Regulation is estimated by ARB staff to be \$780,000.

The Executive Officer has made an initial determination that the proposed regulatory action will have minimal statewide adverse economic impacts directly affecting businesses. The Executive Officer has also assessed that the proposed regulatory action will have minimal statewide adverse economic impacts directly affecting the ability of California businesses to compete with businesses in other states or representative private persons.

The Executive Officer has determined, pursuant to title 1, CCR, section 4, that the proposed amendments to the Statewide Regulation will affect small businesses. The total economic impact to small businesses would be \$35.4 million dollars over the five year period that the costs of the proposed amendments to the Statewide Regulation would be incurred.

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 California, the creation of new businesses or elimination of existing businesses within California, or the expansion of businesses currently doing business within California. A detailed assessment of economic impacts of the proposed regulatory action can be found in the ISOR.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the amended reporting requirements that apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

The proposed amendments to the Statewide Regulation will continue to have a beneficial effect on the California business climate by eliminating the need for duplicative permits, allowing increased flexibility, and lowering overall costs compared to obtaining and maintaining multiple district permits.

Before taking final action on the proposed regulation, the Board must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the amendment 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 at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions must be received **no later than 12:00 noon, June 21, 2006**, and addressed to the following:

Postal mail is to be sent to:

Clerk of the Board
Air Resources Board
1001 "I" Street, 23rd Floor
Sacramento, California 95814

Electronic submittal : <http://www.arb.ca.gov/lispub/comm/bclist.php> **no later than 12:00 noon, June 21, 2006.**

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB **no later than 12:00 noon, June 21, 2006.**

The Board requests, but does not require, 30 copies of any written submission. Also the ARB requests that written, facsimile, and e-mail statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The ARB 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 REFERENCES

This regulatory action is proposed under the authority granted to the ARB in Health and Safety Code sections 39600, 39601, 41752, 41753, 41754, 41755, 43013, and 43018. This action is proposed under the authority granted to the ARB in Health and Safety Code sections 41750, 41751, 41752, 41753, 41754, and 41755.

HEARING PROCEDURES

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 ARB may adopt the regulatory language as originally proposed or with non-substantial 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 the event that such modifications are made, 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 ARB's Public Information Office, Air Resources Board, 1001 "I" Street, Visitors and Environmental Center, First Floor, Sacramento, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Catherine Witherspoon
Executive Officer

Date: April 25, 2006