

**STATE OF CALIFORNIA
AIR RESOURCES BOARD**

**Amendments to the Current Regulations)
For Small Off-Road Engine)
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Agenda Item: 08-10-3

**Board Hearing:
November 21, 2008**

**COMMENTS OF THE
ENGINE MANUFACTURERS ASSOCIATION**

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On October 3, 2008, the California Air Resources Board (“ARB”) published its Notice of Public Hearing to Consider Amendments to the Current Regulations for Small Off-Road Engines (referred to herein as the “proposed amendments” or the “proposal”).

The Engine Manufacturers Association (“EMA”) is the international trade association that represents the interests of the world’s leading manufacturers of engines, including manufacturers of small off-road non-handheld spark ignition engines. EMA’s comments are limited to those aspects of the proposed amendments that affect non-handheld engines included in the small off-road engine regulatory category.

I. Background

EMA has worked with ARB concerning the small spark ignition (SSI) emission reduction program since its introduction in 1995, including the development of certain of the proposed amendments to the regulations presented in the proposal.

At the outset, and throughout the rulemaking process, EMA and its members explained the need to maintain the averaging, banking, and trading (AB&T) program and have repeatedly demonstrated the fact that manufacturers have provided a quantifiable benefit to California’s environment by producing products that emit at lower levels than required by applicable standards. These air quality benefits have been achieved at a significant cost to the manufacturers and the AB&T credits associated therewith are valuable assets of the companies that hold them.

The staff discussion, industry workshops and industry involvement leading up to this rulemaking were focused almost exclusively on the reduction of manufacturer AB&T credits. However, the published version of the proposed amendments include a zero emission equipment credit program that was not included in any detail in any of industry’s discussions with ARB staff prior to the publication of the notice or raised during any industry workshops leading up to the publication of the proposed amendments.

II. Impact of the Proposal

The proposal reduces manufacturers ability to generate emission credits and also imposes a credit life period on credits previously earned and held by manufacturers. Both of these changes impact a manufacturer's ability to certify, produce, and sell these engines in California. Further, the addition of a zero emission equipment credit program adds considerable confusion regarding the agency's intention to control credit generation and use for the SSI engine industry.

The proposed elimination of the production line credit program will result in reductions in compliance margins between the manufacturer's family emission limit (FEL) and the applicable standard. Additionally, both industry and the agency will experience increased administrative workload related to running changes to reduce FEL levels based on PLT confidence levels. Manufacturers believe the production line credit program is a good and reasonable means to quantify the emission benefits the State of California is receiving from these engines, but also agree with ARB that alignment with U.S. EPA programs is important. While staff is correct in asserting that this program is not available federally (and elimination of the program would provide alignment between the U.S. EPA and ARB SSI requirements), EPA's current practice requires both manufacturers and EPA to process FEL changes based on production line test results – thereby creating a substantial additional administrative workload for both EPA and the manufacturer. ARB must recognize that this change will result in a similar increase in administrative burden to ARB.

In addition, the proposal also includes a 5 year credit life for all existing and future certification credits. By imposing a one size fits all credit life of 5 years the incentive for manufacturers to certify, manufacture, and sell engines that emit at lower levels than required by the standard is compromised. Agency concerns regarding delayed implementation of product meeting the latest standard level due to credits banked from prior standard levels should be segregated from concerns regarding credits generated from products that emit at lower levels than the current standard requirements. EMA has proposed that ARB pursue an approach similar to EPA to segregate credits generated by manufacturers when building products to meet prior standard requirements from credit potential for products meeting the current stringent ARB standard levels. In the recently adopted EPA Phase 3 program, existing credit banks, treatment of transition credits, and treatment of full compliance credits are all part of the standard setting and implementation schedule. EMA's proposed segregation, combined with a limitation on the use of credits derived from the prior standard, would control the use of such credits and ensure introduction of engines that emit at levels required by the current standard without creating a disincentive for manufacturers to certify, produce, and sell engines that emit at lower levels than the current standards require.

Finally, EMA acknowledges that the proposal's proposed zero emission equipment credit program provides a reasonable outline of the agency's desire to pursue zero emission alternatives to conventional engine powered equipment. However, the proposed program is incomplete and substantial additional regulatory development is required before equipment could be certified, produced, and sold that would generate credits as intended by the proposed regulation. The current proposal correctly identifies the existence of zero emission alternatives in the marketplace today and recognizes that allowing these products, or similar technologies, to generate credits which could be utilized to introduce higher emitting engine powered products would result in increased emissions from the category. However, the proposal fails to provide an adequate means to determine what would constitute acceptable performance of zero emission

equipment to qualify for the proposed credit. Because electric motor performance is substantially different from small engine performance, complete equipment utilizing these different means of power will have substantially different means to transmit power to the work being performed. As a result, engine vs. motor-battery combinations are not sufficient to determine acceptability of a zero emission alternative product. A demonstration of complete product functionality and work performance over time must be required for certification and resulting credit generation by zero emission equipment. The required test protocols for this certification protocol do not exist today. Such test protocols must be developed through a public rule making process before they can be utilized to certify products and before such products generate credits.

III. Recommendation

EMA recommends that ARB fully align their AB&T credit program with EPA by: (i) eliminating the PLT credit program (as proposed); (ii) imposing a 5 year credit life on manufacturer AB&T credits generated prior to the current standard levels; and (iii) allow unlimited life of credits generated by engines that emit at lower levels than required by the current standard levels.

EMA also recommends that the zero emission equipment credit program be deleted from the current amendment in order to provide the time necessary to develop an appropriate and complete program in order to ensure credits generated by zero emission equipment provide real environmental benefit to the State of California.

EMA would like to thank the ARB Staff for working with industry to develop the proposed amendments. If you have any questions about EMA's comments, or would like to discuss this matter further, please do not hesitate to contact us.

Respectfully submitted,

Engine Manufacturers Association