



Air Resources Board



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Edmund G. Brown Jr.
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June 15, 2011

Mail-Out #MSC 11-22

TO: ALL INTERESTED PARTIES

SUBJECT: EXCLUSION OF LIMITED HOURS OF USE EQUIPMENT FROM THE
LARGE SPARK IGNITION (LSI) ENGINE FLEET AVERAGE
REQUIREMENTS

The LSI Regulation contains requirements for operators of in-use LSI equipment fleets (LSI Fleet Requirements). The original LSI Fleet Requirements included limited hours of use (LHU) provisions. These provisions allowed LSI equipment operators to exclude LHU equipment from calculations to determine compliance with the fleet average emission level (FAEL) standards contained in Section 2775.1(a) Table 2 of the LSI Fleet Requirements if the equipment were used fewer than 251 hours per year on a three year running average. The original LHU provisions expired December 31, 2010.

However, at a December 17, 2010, Air Resources Board (ARB or Board) hearing, staff proposed, and the Board approved, amendments to the LSI Fleet Regulation, including the reestablishment of the LHU exclusion but at a lower annual threshold. In response to public comments received at the December 17, 2010 hearing, ARB staff has further modified the LHU provision, more clearly stating the LHU parameters in a definition. ARB will soon release the modified LHU language to the public, for a 15-day public comment period. There may be a second 15-day public comment period if, based on the comments received during the upcoming comment period, ARB believes additional changes to the regulatory language are needed.

This public review process and the subsequent process leading to the proposed LHU changes becoming law are lengthy, on the order of several months. The ARB will first prepare a final statement of reasons (FSOR) containing written responses to comments received during the Board meeting and the 15-day public comment period(s). The FSOR and other regulatory documents will then be provided to the California Office of Administrative Law (OAL) for review. The proposed amendments become law after OAL files the regulation with the Secretary of State. While ARB does not foresee any obstacles to the proposed changes becoming law, we do not control the process once it goes to OAL. Should the proposed changes not become law, ARB will provide additional guidance through a follow-up mail-out.

Via this mail-out, ARB is providing LSI fleet operators the ability to employ the newly proposed LHU regulatory language for any FAEL standards calculation performed on or

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after January 1, 2011 and until such time as the newly proposed LHU definition becomes law. Specifically, LSI fleet operators may exclude a piece of LSI equipment from FAEL standards calculations performed in a given calendar year if the piece of equipment were operated fewer hours in the prior calendar year than the threshold established for that prior year. The threshold for 2010 is 251 hours. The threshold for 2011 and subsequent calendar years is 200 hours. For example, a fleet operator could exclude a piece of equipment from FAEL standards calculations performed in 2011, if the piece of equipment were used fewer than 251 hours in 2010. The operator could continue to exclude the piece of equipment from 2012 FAEL standards calculations, but only if the piece of equipment were used fewer than 200 hours in 2011.

ARB proposed the 251 hour LHU threshold for 2010 because many operators had been employing the prior LHU provision that expired on December 31, 2010, which allowed exclusion of LSI equipment operated 250 hours per year or less, on average, over a three year running average. ARB proposed the 200 hour LHU threshold for 2011 and subsequent calendar years to harmonize with the low-use provisions contained in the off-road diesel regulation.

It is possible that local air districts could ignore this mail-out and attempt to enforce the LSI fleet requirements as they currently exist. Discussions with ARB Enforcement Division coupled with the fact that the United States Environmental Protection Agency has not granted ARB approval of our waiver request to commence enforcement, lead us to believe this is highly unlikely to occur.

Should you have any questions regarding this advisory, please contact Mr. Mark Williams, Air Pollution Specialist, at (916) 327-5610 or via email at mwilliam@arb.ca.gov, or Ms. Elise Keddie, Manager, at (916) 323-8974 or via email at ekeddie@arb.ca.gov.

Sincerely,

/s/

Robert H. Cross, Chief
Mobile Source Control Division

cc: Elise Keddie, Manager
ZEV Implementation Section

Mark Williams
Air Pollution Specialist
ZEV Implementation Section