

## PERP CONSENSUS DEVELOPMENT WORKGROUP

### PROPOSAL

#### 1. REGISTRATION RENEWAL PERIOD

All registrations and renewals would be valid for three years. There would be no five-year registrations or renewals.

#### 2. ARRANGED INSPECTIONS

##### A. Home District Designation

1. Each applicant for ARB registration would be required to designate in the application a “home district” based on the district in which the portable engine or equipment unit resides most of the time.
2. An owner/operator of a portable engine or portable equipment unit with an existing registration for which a home district has not been designated would be required to designate a home district within 90 days of the effective date of the amended regulation based on the district in which the portable equipment resides most of the time.
3. **Home-District Switch:** If, at the time of the registration renewal following the required submittal of three annual reports after the effective date of the amended regulation, the last three annual reports for a portable engine or portable equipment unit showed that the engine or unit, based on an averaging of the data for the three years for those reports, operated the largest percentage of the time in one non-home district, the owner/operator would be required to change the home district designation to that other district at the time of the next registration renewal for that engine or unit. The switch would not be required if the difference in the two largest percentages was 5 % or less. This review would then happen every three years at the time of the registration renewal.
  - a. **Exception to Home-District Switch for Rental Businesses:** The home-district switch provisions would not apply to a “rental business” as defined in the ARB regulation.

## **B. Arranged Inspections by Home District**

1. **Scope:** Each district would inspect all portable equipment registered with ARB for which the district in question is designated as the home district, as specified below.
2. **Contact:** Within 45 days of the date of issuance or renewal of a registration for the portable equipment in question, the owner/operator would be required to contact the district to start the arrangement process for the inspection of the portable equipment engine or portable equipment unit. The 45-day period would be the period in which the owner/operator must make that contact. The actual scheduling of the inspection, and the performance of the inspection, would not have to be completed within that period. [For clarity, the “arrangement” process includes the initial contact and the subsequent scheduling (date/time/location) of the inspection.]
3. **Time Period/Frequency:** The district and owner/operator would arrange the inspection of the portable engine or portable equipment unit so that the inspection would be completed within one year of the registration date or registration renewal date. Each engine or unit would have an arranged inspection every three years.
4. **Non-field Inspections:** Each district would conduct at least 80 percent of the arranged inspections for that district as “non-field” inspections at a location that is mutually acceptable to the district and the owner/operator (i.e., a company location or a district location). The at least 80 percent number applies on a district basis - not on an owner/operator basis.
5. **In-field Inspection:** Each district could conduct up to 20 percent of the arranged inspections for that district as “in-field” inspections with the portable engine or portable equipment unit under operation in the field. The up to 20 percent number applies on a district basis - not on an owner/operator basis.
  - a. Generally the district would work out with the owner/operator the number of engines or units that would be inspected in the field under operating conditions. This would be a reasonable number of engines and/or units and not a large number of engines and/or units.
  - b. If an owner/operator requested an in-field inspection for one or more of its portable engines or portable equipment units, the number of engines/units covered under that request would not have to count toward the district’s “up to 20 percent” number.

- c. There would be a provision to address reasonable situations where the engine or unit might not be running at the arranged time.
  - d. The owner/operator would be subject to enforcement if the district determined that owner/operator was trying to circumvent having an in-field inspection under operation based on a pattern of activity.
  - e. If a portable engine or portable equipment unit failed an in-field inspection, the next arranged inspection for that engine would be an in-field inspection.
  - f. Because utility/telecommunication industry registered portable engines and portable equipment units need to move frequently as they provide critical services to the public, the arranged inspections for utility/telecommunications industry registered portable engines and portable equipment units would all be non-field inspections at locations that are mutually acceptable to the district and the owner/operator (i.e., company locations or district locations).
6. **Time of Inspection:** The time for the arranged inspection would be arranged in advance and company preferences regarding time of day would be accommodated within reason. (CAPCOA recognizes that early or late afternoon inspections would be more workable for many businesses due to work force and operational reasons.)
- a. To the extent that part or all of an arranged early- or late-in- the-day inspection does not fall within the district's normal workday, the district could charge for the off-hour time based on a fee for service of \$50 per hour.
7. **Arranged Inspection in a Non-Home District:** In a situation where the portable engine/portable equipment unit was operating in another district for an extended period, the owner/operator or rental business could request that the home district contact that other district and request that the other district conduct the arranged inspection in that district. Such an inspection would be arranged in advance with the owner/operator.
8. **Engines and/or Equipment Units Operating Out of State/Country:** If a particular portable engine or portable equipment unit is out-of-state (or country) for the one-year period following the registration renewal date, the engine or equipment unit would be automatically be excused from having the arranged inspection within that one-year period if:
- a. the owner/operator submitted a letter to the district noting the registration number of the engine or unit and that the engine or unit is out-of-state for the one-year period;

- b. The owner/operator arranged, upon the return of the portable engine or portable equipment unit to the state, to have the engine or unit inspected within 30 days of the return of the engine or unit to the state.
9. **Cooperation:** The regulation would provide that owner/operator would not unreasonably withhold the scheduling of the inspection. CAPCOA recognizes that there is a one-year period in which the inspection could be scheduled. An example of unreasonably withholding the scheduling would be where the owner/operator did not return the district's calls regarding scheduling within a reasonable period of time. Noncompliance with this provision could trigger a Notice to Comply.

**C. Arranged Inspections for Multiple Portable Engines/Portable Equipment Units**

1. The owner/operator could request the scheduling of one or more arranged inspections for multiple engines and/or equipment units in order to qualify for an inspection fee discount for multiple engines and/or equipment units. (This might involve multiple inspections with multiple engines and/or equipment units for one owner/operator.)
2. The scheduling of the multiple engine and/or equipment unit inspections would be arranged so that the home district would perform the inspection of a particular engine or equipment unit within one year of the registration renewal date for that engine or equipment unit.
3. If the owner/operator chose to make such a request, the owner operator would be required by January 30 to submit to the district an equipment list with the registration renewal dates, and the corresponding registration numbers, for the portable engines and equipment units for which the renewal date would occur in that year. The company would select which engines and/or equipment units would be aggregated at the particular arranged inspection for multiple engines and/or equipment units.

**D. "Based Out-Of-State" Optional Exception from Arranged Inspection and Automatic Fee Requirement**

1. At the time of registering a portable engine or equipment unit, or renewing the registration for a portable engine or equipment unit, which is based out-of-state and that occasionally operates in California, the owner/operator could elect in writing in the registration to except the engine/unit from the arranged inspection requirement.
2. An owner/operator that elects the exception for an engine or equipment unit would be required to:

- a. designate a home district in California based on where the engine or unit is most likely to be used.
  - b. pay the triennial inspection fee of \$345 or annual inspection fee of \$115 per year; and
  - c. notify the appropriate district via facsimile or e-mail as soon as the equipment is ordered for a job in California (i.e., this would be prior to movement of the engine or unit into the state for operation in that district).
3. This category would not be subject to the arranged inspection requirement if the owner/operator did not bring the engine into the State. However, once the owner/operator notified a district that it was moving the engine or unit into a district in the State, that district could arrange an inspection with the owner/operator in coordination with the designated home district.

#### **E. Non-Arranged Inspections**

The regulation would not preclude a district from conducting a non-arranged inspection for a registered portable engine or registered portable equipment unit. However, the district could not charge the owner/operator and additional inspection fee for that inspection. In other words, an owner/operator would be required to pay only one inspection fee for a portable engine or portable equipment unit for each 3-year registration cycle.

### **3. NEW PORTABLE ENGINES AND EQUIPMENT UNITS**

The vendor that sells the new portable engine or portable equipment unit would be required to:

- A) notify ARB of the sale of the engine. Such notifications could be made on a monthly basis to allow “bundling” of the notifications; and
- B) notify the buyer of the PERP requirements (e.g., with a fact sheet).

### **4. READILY VISIBLE INDICATOR OF REGISTRATION**

The Workgroup wants to explore the notion of a larger sticker or other indicator that would be stuck to or mounted to the engine/equipment unit or the engine/equipment unit cover (along with the registration sticker) so that the engine or equipment unit could be easily identified as a registered engine or equipment unit or a permitted engine or equipment unit. This new generic indicator would be separate from the registration sticker to simplify distribution and installation (i.e., the new indicator

would not have the registration number on it). For registered engines or equipment units, the indicator could include an indication of the home district (e.g., with a number assigned to each district).

## 5. HOUR METERS

- A. **Scope:** Non-resettable hour meters or functionally equivalent devices would be required for both non-certified and certified engines.
- B. **Phase-In:** A phase-in period of 6 months from the effective date of the amended regulation would be provided for installation of the meter/devices.

## 6. RECORD KEEPING

- A. **Non-Certified Engines (General Provision):** The record keeping provisions that are currently proposed to go to OAL for non-certified engines would apply to non-certified engines (with the exceptions noted below). Under these provisions, the owner/operator would record for each day of operation the hours of operation (for engines that are subject to hour limits) or fuel usage (for engines that are subject to fuel use limitations) and the location(s) by district, county or specific location. (See the proposed amended rule for more detail.) See Sections 6.C., 6.D., 6.E and 6.F. for exceptions.
- B. **Certified Engines (General Provision):** The record keeping provisions that are currently proposed to go to OAL for **non-certified** engines would apply to **certified** engines. Under these provisions, the owner/operator would record for each day of operation the hours of operation (for engines that are subject to hour limits) or fuel usage (for engines that are subject to fuel use limitations) and the location(s) by district, county or specific location. (See the proposed amended rule for more detail.) See Sections 6.C., 6.D., 6.E, and 6.F. for exceptions.
- C. **Rental Business:** Record keeping for a rental business would consist of the following for both non-certified and certified engines:
  - 1) the portable engine or equipment unit registration number;
  - 2) the hours at the start of the rental transaction, the hours at the return of the rental transaction and the difference (the hours of operation for the rental period);
  - 3) the location of use (by district, county or specific location) that was reported to the rental business by the entity renting the portable engine or portable equipment unit for the rental period.

[Note – the rental business would be required to request that the company renting the portable engine or portable equipment provide the location of use.]

**D. Third-Party Rentals:** For third-party rentals not involving a rental business, the record keeping for the owner/operator would consist of the following for both non-certified and certified engines:

- 1) the portable engine or equipment unit registration number;
- 2) the hours at the start of the rental transaction, the hours at the return of the rental transaction and the difference (the hours of operation for the rental period);
- 3) the location of use (by district, county or specific location) that was reported to them by the entity renting the portable engine or portable equipment unit for the rental period.

[Note – the owner/operator would be required to request that the company renting the portable engine or portable equipment provide the location of use.]

**E. Record Keeping and Annual Report for Portable Engines and Portable Equipment Units Owned/Operated/Rented/Leased by Utilities/ Telecommunication Industry:** This category would report the total annual hours operated in the annual report (from the hour meter or functionally equivalent device) and **estimate** the percentage of hours for the three counties in which the engine operates the most (e.g., 50% San Joaquin, 30% Sacramento, 20% Colusa) - for both non-certified and certified engines. This category would not have to maintain daily or other records under PERP.

**F. Tactical Support Equipment (TSE):** This package does not propose any changes to the record keeping requirements for TSE.

## 7. RECORDS REQUESTS

- A. A PERP records request would have to be made by the district in writing;
- B. the records request would go to the designated contact person;
- C. the requirement would cover records prospectively (records made after the effective date of the regulation);
- D. the owner/operator would have 30 days to provide the records; and
- E. the APCO would be willing to meet with the owner/operator if the owner/operator believed that the district in question was making unreasonable multiple requests for PERP records.

## 8. ANNUAL OWNER/OPERATOR REPORT

### A. Contents:

1. **Non-Certified Engines (General Provision):** Except as noted below, the annual report requirement that applies currently applies to non-certified engines (and is proposed to be stricken in the current proposal going to OAL) would apply again for non-certified portable engines and portable equipment units.
2. **Certified Engines (General Provision):** Except as noted below, the annual report requirement that applies currently to non-certified engines and equipment units (and does not apply to certified engines) **would apply to certified** portable engines and portable equipment units.
3. **Rental Businesses:** For non-certified and certified portable engines or portable equipment units that a rental business rents, the rental business would include in the annual report:
  - a. the reporting year;
  - b. the portable engine or equipment unit registration number;
  - c. the total hours of operation for that year for that engine or equipment unit based on, and including, [beginning and ending annual hour meter readings and dates upon which the total hours of annual operation calculation is based](#);
  - d. a list of all counties that the portable engine or portable equipment operated in during that reporting year as reported to the rental business by the entity(ies) that operated the rented engine;
  - e. an estimate of the percentage of total hours operated in the reporting year that the portable engine or portable equipment unit operated in the county in question for each of those counties.
4. **Third-Party Rentals:** For non-certified and certified portable engines or portable equipment units that an owner/operator (as opposed to a rental business) rents to a third party, the owner/operator would include in the annual report:
  - a. the reporting year;
  - b. the portable engine or equipment unit registration number;
  - c. the total hours of operation for that year based on, and including, the hour reading at the beginning of the year, and for the last time out for that year;
  - d. a list of all counties that the portable engine or portable equipment operated in during that reporting year as reported to the owner/operator by the entity(ies) that operated the rented engine;

- e. an estimate of the percentage of total hours operated in the reporting year that the portable engine or portable equipment unit operated in the county in question for each of those counties.

**5. Portable Engines and Portable Equipment Units**

**Owned/Operated/Rented/Leased by Utilities/Telecommunication**

**Industry:** This category would report in the annual report for both non-certified and certified engines and equipment units:

- a. the reporting year;
- b. the portable equipment engine or equipment unit registration number;
- c. the total hours of operation (from the hour meter or functionally equivalent device);
- d. an estimate of the percentage of hours for the three counties in which the engine operates the most (e.g., 50% San Joaquin, 30% Sacramento, 20% Colusa).

- 6. Tactical Support Equipment:** ARB regulation requirements apply (i.e., if that is no annual report requirement, then no annual report requirement applies).

**B. Signatory:** The signatory for the owner/operator annual report would have to be a manager in the owner/operator company.

**9. DELETION OF PERP NOTIFICATION REQUIREMENTS**

With the exceptions noted below, the notification requirements would be deleted from the regulation because of the creation of the arranged inspection program and the addition of the other elements of this proposal.

**A. “Based Out-of State” Exception:** As noted above, a specific notification requirement would apply to portable engines and portable equipments that are based out-of-state and elect out of the arranged inspection program.

**B. Auxiliary Equipment Exception:** See Section 12 below.

**10. INCREASED UNIFORM INSPECTION FEE**

**A. Amount/Payee/Period:** The owner/operator would pay to ARB a district inspection fee according to one of the following two options from which the owner/operator would select:

- 1. Option 1 - Triennial: \$345 at the time of registration renewal (i.e., every three years) – which includes a \$30 general inspection fee;

- a. ARB would distribute the district inspection fee to the home district in question on an annual basis.
2. Option 2 - Annual: \$115 every year at the same date as the registration renewal date - which includes a \$10 general inspection fee.
  - a. This option would be available if the owner/operator owned or operated at least **X** registered engines.

[Note: “X” would be determined during the ARB process.]

**B. TSE Inspection Fees:** For TSE, the military would pay the \$30 triennial (\$10 per year) general inspection fee, but otherwise the existing fee structure would apply (i.e., the \$345 every three years would not apply except for the \$30 portion).

**C. Use:** The regulation would specify that the use of the inspection fee dollars is limited to enforcement of the PERP.

**D. Fee Discount for Inspection of Multiple Engines/Equipment Units:** A multiple engine/equipment unit discount would apply based on the number of engines and/or equipment units made available at the inspection as follows:

1. 1-3 engines and/or equipment units: no discount;
2. 4 -9 engines and/or equipment units: 25% discount;
3. 10 or more engines and/or equipment units: 35% discount.

**E. [UNDER REVIEW BY ARB] Inspection Fee “Credit” for Mid-Registration Cycle Replacement:** The Workgroup proposes that if an owner/operator pays the inspection fee but then replaces that engine at some point in the registration cycle, the owner/operator should not have to pay a PERP inspection fee for the replacement engine until the next registration renewal date (or annual inspection fee payment date). ARB is evaluating this proposal for feasibility.

**F. Renewal Date Options:** There would be options (at the choice of the owner/operator) related to renewal dates and consolidation and/or staggering of inspections/fee payment.

1. Option 1 – maintain the existing schedule for registration renewal;
2. Option 2 – consolidate renewal dates on one new date;
3. Option 3 - stagger/consolidate renewal dates with one renewal date each year so that one-third of the engines/units are inspected each year.

## 11. TACTICAL SUPPORT EQUIPMENT

This package does not propose any changes for PERP requirements for Tactical Support Equipment except where explicitly stated in this document.

## 12. AUXILIARY EQUIPMENT

The following PERP provisions would apply for a specified set of auxiliary equipment.

**A. Scope:** The provisions below would apply to the list of auxiliary equipment currently listed in the PERP regulation that is proposed to go to OAL (i.e., no additions or deletions – the list would be the portable equipment units associated with:

1. confined abrasive blasting operations;
2. concrete batch plants;
3. sand and gravel screening, rock crushing and pavement crushing and recycling operations;
4. unconfined abrasive blasting operations;
5. tub grinders and trommel screens).

**B. Inspection Type:** the arranged inspections for equipment in this category would all be in-field (under load) inspections when possible;

1. the owner/operator would work in good faith with the district to schedule an inspection time when the auxiliary equipment would be already be operating under load;
2. the owner/operator would make reasonable efforts to make it possible for the inspector to inspect the auxiliary equipment at a site under load;
3. there would be a provision to address reasonable situations where a particulate piece(s) of auxiliary equipment might not be running at the arranged time;
4. the owner/operator would be subject to enforcement if the district determined that owner/operator was trying to circumvent having an in-field inspection under load based on a pattern of activity.

**C. Inspection Fee:** a \$98/hour inspection fee (in lieu of regular inspection fee) for the first inspection within a **compliance year** to be billed by the local district for that inspection;

1. the inspection fee for auxiliary equipment would be **capped** at \$500.

2. if the owner/operator thought that the inspection fee was unreasonable, the district APCO would be willing to discuss that concern with the owner/operator.
3. the costs for all other inspections for that piece of equipment for that compliance year would be at the district's expense (i.e., no additional fee).
4. Inspection frequency defined in Section 2.B.3.

**[Note: CAPCOA and CMAC agreed that equipment under Section 12 of this proposal should be inspected on the same 3-yr cycle as all other PERP equipment/engines]**

- D. General Inspection Fee:** The owner/operator would pay a fee of \$75 per piece of registered auxiliary equipment per three-year registration cycle (or \$25 per year) for the general inspection pool funding to be divided among local air districts (analogous to the \$30 per engine general inspection fee that is part of the \$345 inspection fee per three-year cycle or \$10 per engine general inspection fee that is part of the \$115 per year annual inspection fee for the registered portable engines and equipment units).
- E. Inter-District Notification:** the existing notification (5-day inter-district notification) requirement would still apply for this category of equipment.
- F. Intra-District Notification:** The existing "Inter-district" notification requirement (see (E) above) would be extended to apply also to movement of auxiliary equipment within a district, except that the equipment owner and the district may, by mutual agreement, arrange a limited intra-district notification requirement that would apply as follows for auxiliary units under this section:
1. the district and owner/operator would work out an agreement designating the areas in which such notification would be required based on special circumstances (e.g., sites with naturally occurring asbestos):
  2. if the owner/operator was going to move the unit into a designated area, the owner/operator would be required to notify the district of the approximate arrival time and location by facsimile or e-mail prior to moving to that area;
  3. notification would be required if the owner/operator dismantled the equipment and moved it to a different location in a designated area.
- G. Related Engine Inspection Election:** The owner/operator would select in the registration whether the related portable **engine** would be inspected and assessed an inspection fee under the arranged inspection program or would be inspected

together with the auxiliary equipment under these provisions (with the time for the engine inspection being counted toward the hourly-based inspection fee).

**H. Public Meeting, Status Report and Potential Program Changes for Auxiliary Equipment:**

1. After the first 3-year cycle of implementation, ARB staff would prepare a report (or memorandum) to its Board regarding implementation of the new auxiliary equipment provisions. The intent would be to determine if changes are needed to the auxiliary provisions after implementation experience.
  - a. To solicit public input for the development of the report, ARB staff would notice and hold a public meeting prior to issuing the report for that purpose.
2. Staff would present the report (or memorandum) to the Board at a regular Board meeting, and the Board would hear public testimony on the item. The Board, at its discretion, could decide if changes to the auxiliary sections of the program were needed (i.e., whether or not a rulemaking should be initiated).

**13. ANNUAL DISTRICT REPORT**

Each district would be required to submit an annual report to ARB by March 31 of the following year that would include:

- A) the number of portable engines and equipment units inspected;
- B) the number of scofflaw engines and equipment units discovered (i.e., the number of engines and equipment units discovered that are neither registered with ARB nor permitted by a district);
- C) the number of registered engines and equipment units inspected;
- D) the number of registered auxiliary units (that fall under Section 12) inspected;
- E) summary results for its inspections as a whole.