State of California
AIR RESOURCES BOARD

Notice of Public Availability of Modified Text

PROPOSED AMENDMENTS TO THE AIRBORNE TOXIC CONTROL MEASURE FOR DIESEL PARTICULATE MATTER FROM PORTABLE ENGINES RATED AT 50 HORSEPOWER AND GREATER - AND TO THE STATEWIDE PORTABLE EQUIPMENT REGISTRATION PROGRAM REGULATION

Public Hearing Date: November 16, 2017
Public Availability Date: February 21, 2018
Deadline for Public Comment: March 8, 2018

At its November 16, 2017, public hearing, the California Air Resources Board (CARB or Board) approved for adoption the proposed amendments to California Code of Regulations Title(s) 17 sections 93116, 93116.1, 93116.2, 93116.3, 93116.4, and 93116.5, which are the Portable Engine Airborne Toxic Control Measure (ATCM), and title 13, chapter 9, article 5, sections 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, and 2465, which are the Portable Equipment Registration Program (PERP) Regulation.

The Board directed the Executive Officer to determine if additional conforming modifications to the regulation were appropriate and to make any proposed modified regulatory language available for public comment, with any additional supporting documents and information, for a period of at least 15 days in accordance with Government Code section 11346.8. The Board further directed the Executive Officer to consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days, and present the regulation to the Board for further consideration if warranted, or take final action to adopt the regulation after addressing all appropriate modifications. The Executive Officer was directed to evaluate all comments received during the public comment periods, including comments raising significant environmental issues, and prepare written responses to such comments as required by CARB's certified regulations at California Code of Regulations, title 17, sections 60000-60007 and Government Code section 11346.9(a). The Executive Officer was further directed to present to the Board, at a subsequently scheduled public hearing, staff's written responses to environmental comments and the final environmental analysis for consideration for approval, along with the finalized amendments for consideration for adoption.

The resolution and all other regulatory documents for this rulemaking are available online at the following CARB website:

https://www.arb.ca.gov/regact/2017/perp2017/perp2017.htm

The text of the modified regulatory language is shown in Attachments A and B. The originally proposed regulatory language is shown in ~~strikethrough~~ to indicate deletions and underline to indicate additions. New deletions and additions to the proposed language that are made public with this notice are shown in ~~double strikethrough~~ and double underline format, respectively.

In the Final Statement of Reasons, staff will respond to all comments received on the record during the comment periods as required by law. (Gov. Code, § 11346.9.) The Administrative Procedure Act requires that staff respond to comments received regarding all noticed changes. Therefore, staff will only address comments received during this 15-day comment period that are responsive to this notice, documents added to the record (if any), or the changes detailed in Attachments A and B.

Summary of Proposed Modifications

The following summary does not include all modifications to correct typographical or grammatical errors, changes in numbering or formatting, nor does it include all of the non-substantive revisions made to improve clarity.

1. In section 93116.2(a) of the ATCM, a definition was added for the term "this ATCM". This term has replaced the phrase "these Regulations" that was previously used, and the definition clarifies that the term includes all sections of the Portable Engine ATCM.

2. In section 93116.3(c)(1) of the ATCM, language was added to clarify that engines using the phase-out schedule compliance option may not be operated on the actual dates listed in the schedule. This will allow the ARB and the local air districts to set an expiration date of December 31st of the appropriate year on their permits and registrations.

3. In section 2452 of the PERP Regulation, one definition has been modified. The term "Engine Failure" has been changed to the term "Equipment Failure". The definition of "Engine Failure" pertained only to the engine and its related components. The definition of "Equipment Failure" includes the engine as well as the associated equipment that the engine powers. This modification will allow the regulated community to use the provisions in Sections 2453(c) and 2453(m) when there is a failure of the associated equipment that necessitates its removal from service.

4. In section 2453(o) of the PERP Regulation, the dates in the table for Tier 3 engines have been adjusted one year earlier. It is clearly stated in the Initial Statement of Reasons (ISOR or Staff Report) that the dates in this table are supposed to be 6 months prior to the corresponding dates in the phase-out schedule in the ATCM. These dates were listed incorrectly in the proposed draft, and this adjustment corrects that typographical error.

5. In section 2455(a) of the PERP Regulation, language was added to specify that the notification described in this section is triggered when the engines are simultaneously located at a project site. This clarifies that notification is not triggered based on the cumulative horsepower brought on and off the site over the life of the project.

These modifications do not change implementation of the regulation in any way that affects the conclusions of the environmental analysis included in the Staff Report because the modifications consist primarily of definition and provision clarifications that do not alter the compliance responses, so no additional environmental analysis or recirculation of the analysis is required.

Agency Contacts

Inquiries concerning the substance of the proposed regulation may be directed to James Aguila, Air Resources Engineer, Portable Equipment Registration Section, at (916) 229-0976 or Joseph Gormley, Air Pollution Specialist, Training Section, at (916) 229-0634.

Public Comments

Written comments will only be accepted on the modifications identified in this Notice. Comments may be submitted by postal mail or by electronic submittal no later than 5:00 pm on the due date to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: http://www.arb.ca.gov/lispub/comm/bclist.php

Please note that under the California Public Records Act (Gov. Code § 6250 et seq.), your written and verbal comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

In order to be considered by the Executive Officer, comments must be directed to CARB in one of the two forms described above and received by CARB by 5:00 p.m., on the deadline date for public comment listed at the beginning of this notice. Only comments relating to the above-described modifications to the text of the regulations shall be considered by the Executive Officer.

If you need this document in an alternate format or another language, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alterno u otro idioma, por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de cinco (5) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

CALIFORNIA AIR RESOURCES BOARD

Richard W. Corey
Executive Officer

Date: February 21, 2018

Attachment

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see CARB's website at www.arb.ca.gov.