



# **Portable Equipment Registration Program Combined Regulation and ATCM**

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# Final Regulation Order

Effective November 30, 2018

## Regulation to Establish a Statewide Portable Equipment Registration Program

### § 2450. Purpose.

- (a) These regulations in this Article establish a statewide program for the registration and regulation of portable engines and engine-associated equipment (portable engines and equipment units) as defined herein. Registration under this program allows portable engines and equipment units to operate throughout the State of California without authorization (except as specified herein) or permits from air quality management or air pollution control districts (districts). These regulations preempt districts from permitting, registering, or regulating portable engines and equipment units, including equipment necessary for the operation of a portable engine (e.g. fuel tanks), registered with the Executive Officer of the Air Resources Board except in the circumstances specified in the regulations.
- (b) Registration under these regulations does not relieve any obligation under other applicable law.

NOTE: Authority cited: Section 39600, 39601, 41752, 41753, 41754, 41755, 43013(b), and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

### § 2451. Applicability.

- (a) Registration under this regulation is voluntary for owners of portable engines or equipment units.
- (b) This regulation applies to portable engines and equipment units as defined in section 2452. Except as provided in paragraph (c) of this section, any portable engine or equipment unit may register under this regulation. Examples include, but are not limited to:
  - (1) portable equipment units driven solely by portable engines including confined and unconfined abrasive blasting, Portland concrete batch plants, sand and gravel screening, rock crushing, and unheated pavement recycling and crushing operations;
  - (2) consistent with section 209 (e) of the federal Clean Air Act, engines and associated equipment used in conjunction with the following types of portable operations: well drilling, service or work-over rigs; power generation, excluding cogeneration; pumps; compressors; diesel pile-driving hammers; welding; cranes; wood chippers;

dredges; equipment necessary for the operation of portable engines and equipment units; and military tactical support equipment.

- (c) The following are not eligible for registration under this program:
- (1) any engine used to propel mobile equipment or a motor vehicle of any kind as defined in section 2452 (aa)(1)(A);
  - (2) any engine or equipment unit not meeting the definition of portable as defined in section 2452 (dd) of this regulation;
  - (3) engines, equipment units, and associated engines determined by the Executive Officer to qualify as part of a stationary source;
  - (4) any engine or equipment unit subject to an applicable federal Maximum Achievable Control Technology standard, or National Emissions Standard for Hazardous Air Pollutants, or federal New Source Performance Standard, except for equipment units subject to the requirements of 40 CFR Part 60 Subpart OOO (Standards of Performance for Nonmetallic Mineral Processing Plants) as they relate to portable plants as defined in 40 CFR section 60.671;
  - (5) any engine or equipment unit operating within the boundaries of the California Outer Continental Shelf (OCS). [Note: This shall not prevent statewide registration of portable engines and equipment units already permitted by a district for operation in the OCS. Such statewide registration shall only be valid for operation onshore and in State Territorial Waters (STW).];
  - (6) any dredging operation in the Santa Barbara Harbor;
  - (7) any dredging unit owned by a single port authority, harbor district, or similar agency in control of a harbor, and operated only within the same harbor;
  - (8) engines and equipment units used exclusively in agricultural operations as defined in title 17 Cal. Code Regs., section 93116.2(a), unless owned by a rental business; and
  - (9) any engine that is certified for stationary use according to 40 CFR part 60 Subparts IIII or JJJJ, unless the engine is also certified to the applicable nonroad standards as indicated on the emission control label.
- (d) In the event that the owner of an engine or equipment unit elects not to register under this program, the engine or equipment unit shall be subject to district permitting requirements pursuant to district regulations.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

## § 2452. Definitions.

Any term used in this article that is not defined in this section has the same meaning as those in title 17 section 93116.2. The following definitions shall apply for the purposes of this article:

- (a) **“Air Contaminant”** shall have the same meaning as set out in section 39013 of the Health and Safety Code.
- (b) **“ARB”** means the California Air Resources Board.
- (c) **“Certified Compression-Ignition Engine”** means an engine certified pursuant to 40 CFR Part 86, 40 CFR Part 89, 40 CFR Part 1039, 40 CFR Part 94, 40 CFR Part 1042, or as set forth in the equivalent categories in title 13, Cal. Code Regs.
- (d) **“Certified Spark-Ignition Engine”** means an engine meeting the emission standards for spark-ignition engines, as set forth in title 13, Cal. Code Regs., or 40 CFR Part 1048.
- (e) **“Compression-Ignition (CI) Engine”** means an internal combustion engine with operating characteristics significantly similar to the theoretical diesel combustion cycle. Compression-ignition engines usually control fuel supply instead of using a throttle to regulate power.
- (f) **“Corresponding Onshore District”** means the district which has jurisdiction for the onshore area that is geographically closest to the engine or equipment unit.
- (g) **“Crane”** means the same as “Two-Engine Crane” defined in title 13, Cal. Code Regs., section 2449(c).
- (h) **“District”** means an air pollution control district or air quality management district created or continued in existence pursuant to provisions of Part 3 (commencing with section 40000) of the California Health and Safety Code.
- (i) **“Electrical Upgrade”** means replacement or addition of electrical equipment and systems resulting in increased generation, transmission and/or distribution capacity.
- (j) **“Emergency Event”** means any situation arising from sudden and reasonably unforeseen natural disaster such as earthquake, flood, fire, or other unforeseen events beyond the control of the portable engine or equipment unit operator, its officers, employees, and contractors that threatens public health and safety and that requires the immediate temporary operation of portable engines or equipment units to help alleviate the threat to public health and safety.
- (k) **“Engine”** means any piston driven internal combustion engine.

- (l) **“Equipment Failure”** means any failure of the engine, fuel delivery system, or associated equipment that necessitates the removal of the equipment from service.
- (m) **“Equipment Unit”** means equipment that emits PM<sub>10</sub> over and above that emitted from an associated engine.
- (n) **“Essential public service”** means a service provided to the general public to protect the public health and safety or the environment
- (o) **“Executive Officer”** means the Executive Officer of the California Air Resources Board or his/her designee.
- (p) **“Hazardous Air Pollutant (HAP)”** means any air contaminant that is listed pursuant to section 112(b) of the federal Clean Air Act.
- (q) **“Home District”** means the district designated by the responsible official as the district in which the registered engine or equipment unit resides most of the time. For registered engines or equipment units based out of California, the responsible official shall designate the home district based on where the registered engine or equipment unit is likely to be operated a majority of the time the registered engine or equipment units is in California.
- (r) **“Identical Replacement”** means a substitution due to equipment failure of a registered portable engine or equipment unit with another portable engine or equipment unit that has the same manufacturer, type, manufacturer’s maximum rated capacity, and rated brake horsepower; and is intended to perform the same or similar function as the original portable engine or equipment unit; and meets the emission requirements of title 17 Cal. Code of Regs; section 93116.3(c)(1); and meets the emission requirements of sections 2455 through 2457 of this article.
- (s) **“In-field Inspection”** means an inspection that is conducted at the location that the portable engine or equipment unit is operated under normal load and conditions.
- (t) **“Location”** means any single site at a building, structure, facility, or installation.
- (u) **“Maximum Achievable Control Technology (MACT)”** means any federal requirement promulgated as part of 40 CFR Parts 61 and 63.
- (v) **“Maximum Rated Capacity”** is the maximum throughput rating or volume capacity listed on the nameplate of the registered equipment unit as specified by the manufacturer.

- (w) **“Maximum Rated Horsepower (brake horsepower (bhp))”** is the maximum brake horsepower rating specified by the registered engine manufacturer and listed on the nameplate or emission control label of the registered engine.
- (x) **“Modification”** means any physical change to, change in method of operation of, or an addition to a registered engine or equipment unit, which may cause or result in an increase in the amount of any air contaminant emitted or the issuance of air contaminants not previously emitted. Routine maintenance and/or repair shall not be considered a physical change. Unless previously limited by an enforceable registration condition, a change in the method of operation shall not include:
- (1) an increase in the production rate, unless such increase will cause the maximum design capacity of the registered equipment unit to be exceeded;
  - (2) an increase in the hours of operation;
  - (3) a change of ownership; and
  - (4) the movement of a registered engine or equipment unit from one location to another.
- (y) **“New Source Performance Standard (NSPS)”** means any federal requirement promulgated as part of 40 CFR Part 60.
- (z) **“Non-field Inspection”** means an inspection that is either conducted at a location that is mutually acceptable to the district and the owner or operator or where the engine or equipment unit is stored and does not require operation of the engine or equipment unit for purposes of the inspection.
- (aa) **“Nonroad Engine”** means:
- (1) Except as discussed in paragraph (2) of this definition, a nonroad engine is any engine:
    - (A) in or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers); or
    - (B) in or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or
    - (C) that, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.
  - (2) An engine is not a nonroad engine if:
    - (A) the engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under section 202 of the federal Clean Air Act; or

- (B) the engine is regulated by a federal New Source Performance Standard promulgated under section 111 of the federal Clean Air Act; or
  - (C) the engine otherwise included in paragraph (1)(C) of this definition remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (at least two years) and that operates at that single location approximately three (or more) months each year.
- (bb) **“Outer Continental Shelf (OCS)”** shall have the meaning provided by section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. Section 1331 et seq.).
- (cc) **“Placard”** means a visible indicator supplied by the Air Resources Board to indicate that an engine or equipment has been registered in the Portable Equipment Registration Program and is in addition to the registration identification device.
- (dd) **“Portable”** means designed and capable of being carried or moved from one location to another. Indicia of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform. For the purposes of this regulation, dredge engines on a boat or barge are considered portable. The engine or equipment unit is not portable if any of the following are true:
- (1) the engine or equipment unit or its replacement is attached to a foundation, or if not so attached, will reside at the same location for more than 12 consecutive months. The period during which the engine or equipment unit is maintained at a storage facility shall be excluded from the residency time determination. Any engine or equipment unit such as back-up or stand-by engines or equipment units, that replace engine(s) or equipment unit(s) at a location, and is intended to perform the same or similar function as the engine(s) or equipment unit(s) being replaced, will be included in calculating the consecutive time period. In that case, the cumulative time of all engine(s) or equipment unit(s), including the time between the removal of the original engine(s) or equipment unit(s) and installation of the replacement engine(s) or equipment unit(s), will be counted toward the consecutive time period; or
  - (2) the engine or equipment unit remains or will reside at a location for less than 12 consecutive months if the engine or equipment unit is located at a seasonal source and operates during the full annual operating period of the seasonal source, where a seasonal source is a stationary source that

- remains in a single location on a permanent basis (at least two years) and that operates at that single location at least three months each year; or
- (3) the engine or equipment unit is moved from one location to another in an attempt to circumvent the portable residence time requirements.
- (ee) **“Process”** means any air-contaminant-emitting activity associated with the operation of a registered engine or equipment unit.
- (ff) **“Project, for the purposes of onshore operation,”** means the use of one or more registered engines or equipment units operated under the same or common ownership or control to perform a single activity.
- (gg) **“Project, for the purposes of State Territorial Waters (STW),”** means the use of one or more registered engines and equipment units operating under the same or common ownership or control to perform any and all activities needed to fulfill specified contract work that is performed in STW. For the purposes of this definition, a contract means verbal or written commitments covering all operations necessary to complete construction, exploration, maintenance, or other work. Multiple or consecutive contracts may be considered one project if they are intended to perform activities in the same general area, the same parties are involved in the contracts, or the time period specified in the contracts is determined by the Executive Officer to be sequential.
- (hh) **“Provider of Essential Public Service (PEPS)”** means any privately-owned corporation or public agency whose primary purpose is to own, operate, control, or manage an essential public service as determined by the Executive Officer. PEPS include:
- (1) electrical corporations as defined by Public Utilities Code, section 218;
  - (2) electric service providers as defined by Public Utilities Code, section 218.3;
  - (3) fire departments;
  - (4) gas corporations as defined by Public Utilities Code, section 222;
  - (5) hospitals that provide trauma services;
  - (6) irrigation districts formed pursuant to the Irrigation District Law, Water Code division 11, commencing with section 20500;
  - (7) public water systems as defined in California Health & Safety Code section 116275(h);
  - (8) publicly owned treatment works as defined in 40 CFR Part 403.3(q);
  - (9) joint powers authorities that include one or more of the public agencies identified in this definition;
  - (10) municipal utility districts formed pursuant to The Municipal Utility District Act, Public Utilities Code, division 6, commencing with section 11501;
  - (11) municipalities or municipal corporations operating as a “public utility” as provided in Public Utilities Code, section 10001;
  - (12) police departments;
  - (13) prisons and detention facilities;



- (14) public utility districts formed pursuant to the Public Utility District Act, Public Utilities Code, division 7, commencing with Section 15501;
- (15) public transportation and transit systems;
- (16) sewer system corporations as defined by Public Utilities Code, section 230.6;
- (17) telegraph corporations, as defined by Public Utilities Code, section 236;
- (18) telephone corporations, as defined by Public Utilities Code, section 234;
- (19) railroads and street railroads, as defined by Public Utilities Code, section 229;
- (20) municipal solid waste landfills, as defined in 40 Code of Federal Regulations section 258.2;
- (21) services for handling, as defined in Public Resources Code, section 40195, municipal solid waste, with the exception of converting solid waste and treating and reconstituting materials as part of recycling, as that term is defined in Public Resources Code Section 40180;
- (22) transfer stations, as defined in Public Resources Code, section 40200, with the exception of facilities utilized to convert solid waste; and
- (23) sewer systems as defined in Public Utilities Code, section 230.5;
- (24) commercial air operators as defined in Public Utilities Code, section 5500.

PEPS do not include their contractors.

- (ii) **“Registration”** means issuance of a certificate by the Executive Officer acknowledging expected compliance with the applicable requirements of this article, and the intent by the owner or operator to operate the engine or equipment unit within the requirements established by this article.
- (jj) **“Remote Location”** means any location more than one-half mile from any business, residence, school, daycare center, or hospital.
- (kk) **“Rental Business”** means a business which rents or leases registered engines or equipment units.
- (ll) **“Renter”** means a person who rents and/or operates registered engines or equipment units not owned by that person.
- (mm) **“Resident Engine”** means either of the following:
  - (1) a certified compression-ignition engine or certified spark-ignition engine that at the time of applying for registration, has a current, valid district permit or district registration that was issued before July 1, 2019, and the engine is owned by a large fleet that has elected to comply with the requirements of title 17 Cal. Code Regs., section 93116.3(c)(2); or
  - (2) a certified compression-ignition engine or certified spark-ignition engine that lost a permit to operate exemption through a formal district action. Moving an engine from a district that provides a permit to operate exemption to a

district that requires a permit to operate or registration does not qualify for consideration as a resident engine.

- (nn) **“Responsible Official”** refers to an individual employed by the company or public agency with the authority to certify that the registered engines or equipment units in the fleet comply with applicable requirements of this regulation. A fleet may only have one Responsible Official.
- (oo) **“Spark-Ignition (SI) Engine”** means an internal combustion engine with a spark plug (or other sparking device) with operating characteristics significantly similar to the theoretical Otto combustion cycle. Spark-ignition engines usually use a throttle instead of using fuel supply to control intake air flow to regulate power.
- (pp) **“State Territorial Waters (STW)”** includes all of the following: an expanse of water that extends from the California coastline to 3 miles off-shore; a 3 mile wide belt around islands; and estuaries, rivers, and other inland waterways.
- (qq) **“Statewide Registration Program”** means the program for registration of portable engines and equipment units set out in this article.
- (rr) **“Stationary Source”** means any building, structure, facility or installation which emits any air contaminant directly or as a fugitive emission. “Building,” “structure,” “facility,” or “installation” includes all pollutant emitting activities which:
  - (1) are under the same ownership or operation, or which are owned or operated by entities which are under common control;
  - (2) belong to the same industrial grouping either by virtue of falling within the same two-digit standard industrial classification code or by virtue of being part of a common industrial process, manufacturing process, or connected process involving a common raw material; and
  - (3) are located on one or more contiguous or adjacent properties.

[Note: For the purposes of this regulation a stationary source and nonroad engine are mutually exclusive.]

- (ss) **“Storage”** means a warehouse, enclosed yard, or other area established for the primary purpose of maintaining registered engines or equipment units when not in operation.
- (tt) **“Street Sweeper”** means the same as “Dual-engine Street Sweeper” defined in title 13, Cal. Code Regs., section 2022(b)(2).
- (uu) **“Tactical Support Equipment (TSE)”** means equipment using a portable engine, including turbines, that meets military specifications, owned by the U.S. Department of Defense, the U.S. military services, or its allies, and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations. Examples include, but are not limited to, internal

combustion engines associated with portable generators, aircraft start carts, heaters and lighting carts.

- (vv) **“Temporary Registration”** means issuance of a temporary certificate by the Executive Officer acknowledging expected compliance with the applicable requirements of this article. The temporary certificate shall be issued according to the provisions of title 13 Cal. Code Regs., Section 2453(g).
- (ww) **“Third-party Rental”** means a non-rental business renting or leasing registered engines and/or equipment units to another party by written agreement.
- (xx) **“Two-engine Vehicle”** means the same as “Two-engine Vehicle” defined in title 13 Cal. Code Regs., section 2449(c) and the vehicle meets the criteria listed in title 13 Cal. Code Regs., section 2449(b)(2)(C).
- (yy) **“U.S. EPA”** means the United States Environmental Protection Agency.
- (zz) **“Volatile Organic Compound (VOC)”** means any compound containing at least one atom of carbon except for the following exempt compounds: acetone, methyl acetate, perchloroethylene (tetrachloroethylene), ethane, parachlorobenzotrifluoride (1-chloro-4-trifluoromethyl benzene), methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonates, methylene chloride (dichloromethane), methyl chloroform (1,1,1-trichloroethane), CFC-113 (trichlorotrifluoroethane), CFC-11 (trichlorofluoromethane), CFC-12 (dichlorodifluoromethane), CFC-22 (chlorodifluoromethane), CFC-23 (trifluoromethane), CFC-114 (dichlorotetrafluoroethane), CFC-115 (chloropentafluoroethane), HCFC-22 (chlorodifluoromethane), HCFC-123 (dichlorotrifluoroethane), HFC-134a (tetrafluoroethane), HCFC-141b (dichlorofluoroethane), HCFC-142b (chlorodifluoroethane), HCFC-124 (chlorotetrafluoroethane), HFC-23 (trifluoromethane), HFC-134 (tetrafluoroethane), HFC-125 (pentafluoroethane), HFC-143a (trifluoroethane), HFC-152a (difluoroethane), HFE-7200 (ethoxy-nonafluorobutane), cyclic, branched, or linear completely methylated siloxanes, the following classes of perfluorocarbons:
  - (1) cyclic, branched, or linear, completely fluorinated alkanes;
  - (2) cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
  - (3) cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
  - (4) sulfur-containing perfluorocarbons with no unsaturations and with the sulfur bonds to carbon and fluorine, acetone, ethane, and parachlorobenzotrifluoride (1-chloro-4-trifluoromethyl benzene).
- (aaa) **“Water Well Drilling Rig”** means the same as “Two-Engine Water Well Drilling Rig” defined in title 13, Cal. Code Regs., section 2449(c).

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

**§ 2453. Application Process.**

- (a) In order for an engine or equipment unit to be considered for registration by the Executive Officer, the engine or equipment unit must be portable as defined in section 2452 (dd) and meet all applicable requirements established in this article.
- (b) For purposes of registration under this article, an engine and the equipment unit it serves are considered to be separate emissions units and require separate applications.
- (c) For an identical replacement, an owner or operator of a registered portable engine or equipment unit is not required to complete a new application and may immediately operate the identical replacement. Except for TSE, the owner or operator shall notify the Executive Officer in writing within 30 calendar days of replacing the registered engine or equipment unit with an identical replacement. Notification shall include company name, responsible official, phone number, registration certificate number of the engine or equipment unit to be replaced; and make, model, rated brake horsepower, serial number of the identical replacement, and description of the equipment failure. Applicable fees shall be submitted as required in section 2461. Misrepresentation of engine or equipment unit information or the failure to meet the requirements of this regulation shall be deemed a violation of this article.
- (d) The Executive Officer shall inform the applicant, in writing, if the application is deficient, within 30 days of receipt of an application. If the application is deemed deficient, the Executive Officer shall identify the specific information required to make the application complete. If the applicant fails to provide the requested information or fees, the application for registration shall be denied no later than 90 days of receipt.
- (e) The Executive Officer shall issue registration within 90 days of the date an application is deemed complete.
- (f) Upon finding that an engine or equipment unit meets the requirements of this article and all applicable fees have been submitted, the Executive Officer shall issue a registration for the engine or equipment unit. The Executive Officer shall notify the applicant in writing or electronic notification that the engine or equipment unit has been registered. The written or electronic notification shall include a registration certificate and any conditions to ensure compliance with State and federal requirements. For electronic notification, the applicant shall submit an agreement with the application to accept electronic notification in lieu of written notification. In addition, a registration identification device shall be

mailed by the Executive Officer for each engine or equipment unit registered pursuant to this regulation. Except for TSE, the registration identification device shall be affixed on the engine or equipment unit at all times, and the registration certificate including operating conditions shall be kept on the immediate premises with the engine or equipment at all times and made accessible to the Executive Officer or districts upon request. Failure to properly maintain the registration identification device shall be deemed a violation of this article.

- (g) Upon receiving an application for a Tier 4 final engine or a certified spark-ignition engine that meets the most stringent standards, the Executive Officer shall issue a temporary registration for the engine at the request of the applicant. The Executive Officer shall notify the applicant in writing or electronic notification that the engine has been given temporary registration. The written or electronic notification shall include a temporary registration certificate which will expire no later than 3 months from the date of issuance.
- (h) Except for TSE, each application for registration shall be submitted in a format approved by the Executive Officer and include, at a minimum, the following information:
  - (1) indication of general nature of business (e.g., rental business, etc.);
  - (2) the name of applicant, including mailing address, email address, and telephone number;
  - (3) a brief description of typical engine or equipment unit use;
  - (4) detailed description, including engine or equipment unit make, model, manufacture year (for portable engines only), rated brake horsepower, throughput, capacity, emission control equipment, and serial number;
  - (5) necessary engineering data, emissions test data, or manufacturer's emissions data to demonstrate compliance with the requirements as specified in sections 2455, 2456, and 2457;
  - (6) for owners of water well drilling rigs, a copy of a current, valid C-57 water well drilling contractors license;
  - (7) for resident engines, a copy of either a current permit to operate that was granted by a district, or documentation as described in section 2452 (mm); and
  - (8) the printed name and written or electronic signature of the responsible official and date of the signature.
- (i) For TSE, application for registration shall be submitted in a format approved by the Executive Officer and include, at a minimum, the following information:
  - (1) the name of applicant, including mailing address, email address, and telephone number;
  - (2) a brief description of typical engine use;
  - (3) engine or equipment unit description, including type and rated brake horsepower; and

- (4) the printed name and written or electronic signature of the responsible official and date of the signature.
- (j) All registered engines and equipment units shall have a designated home district as defined in section 2452 (q) according to the following:
  - (1) a home district shall be designated on each application for initial registration of an engine or equipment unit;
  - (2) except for registered engines or equipment units owned by a PEPS, rental business or involved in a third party rental, if the engine or equipment unit, based on operational and/or location records as required by 2458(a), operated the largest percentage of the time in a district other than the designated home district, the owner shall change the home district designation at the time of renewal. The change is not required if the difference between the home district operation percentage and the district with the largest operating percentage is 5 percent or less; and
  - (3) the Executive Officer may change the home district for a registered engine or equipment unit upon request from a local air district.
- (k) Engines or equipment units owned and operated for the primary purpose of rental by a rental business shall be identified as rental at the time of application for registration and shall be issued a registration specific to the rental business requirements of this article. Misrepresentation of portable engine or equipment unit use in an attempt to qualify under the rental business definition shall be deemed a violation of this article.
- (l) New applications for non-operational engines or equipment units will not be accepted by the Executive Officer.
- (m) Once registration or temporary registration is issued by the Executive Officer, district permits or district registrations for engines or equipment units registered in the Statewide Registration Program are preempted by the statewide registration and are, therefore, considered null and void, except for the following circumstances where a district permit shall be obtained where it is required:
  - (1) engines or equipment units used in a project(s) operating in the OCS. The requirements of the district permit or registration apply to the registered engine or equipment unit while operating at the project(s) in the OCS; or
  - (2) engines or equipment units used in a project(s) operating in both the OCS and STW. The requirements of the district permit or registration apply to the registered engine or equipment unit while operating at the project(s) in the OCS and STW; or
  - (3) at STW project(s) that trigger district emission offset thresholds; or
  - (4) except for TSE, at any specific location where statewide registration is not valid. Examples of where statewide registration is not valid include but are not limited to:

- (A) any location where an engine or equipment unit that has been determined to cause a public nuisance as defined in Health and Safety Code Section 41700;
- (B) engines, equipment units, and associated engines determined by the district to qualify as part of a stationary source;
- (C) any location where the permitted stationary engine has reached the operational limits on the permit, even during an emergency;
- (D) generators used for power production into the grid, except to maintain grid stability during an emergency event or other unforeseen event that affects grid stability; and
- (E) generators used to provide primary or supplemental power to a building, facility, stationary source, or stationary equipment, except during the following:
  - 1. unforeseen interruptions of electrical power from the serving utility;
  - 2. maintenance and repair operations to a building, facility, stationary source, or stationary equipment, including maintenance of stationary backup generators that have not experienced an equipment failure;
  - 3. electrical upgrade operations including-startup, shutdown, and testing-that do not exceed 90 calendar days, or a longer period as authorized in writing by the district.; or
  - 4. equipment failure of a stationary backup generator permitted by a district, only upon approval from the local district, and only under the following conditions:
    - a. the holder of the permit for the stationary engine notifies the district of the equipment failure within 72 hours from the time the equipment failure is discovered;
    - b. the temporary replacement engine has the same or lower mass per unit time emission rate;
    - c. the temporary replacement engine complies with all applicable requirements on the permit for the existing stationary engine; and
    - d. the temporary replacement engine operates for no more than 180 days, or a longer period as authorized in writing by the district.

Under no circumstances shall a portable engine or equipment unit be operated under both statewide registration and a district permit at any specific location. Where both a district permit for operation at a specific location and statewide registration have been issued for an engine or equipment unit, the terms of the district permit shall take precedence at that location.

- (n) When ownership of a registered engine or equipment unit changes, the new owner shall submit a change of ownership application. This application shall be filed within 30 days of the change of ownership. During the 30 day period the

new owner is authorized to operate the registered engine or equipment unit. If an application is not received within 30 days, the engine or equipment unit may not operate and the existing registration is not valid for the new owner until the application has been filed and all applicable fees have been paid. Registration will be reissued to the new owner after a complete application has been approved by the Executive Officer.

- (o) Change of ownership applications for registered engines will not be approved after the dates listed in the schedules below.

- (1) For certified compression-ignition engines:

Engine Certification	Engines rated 50 to 750 bhp	Engines rated >750 bhp
Tier 1	7/1/2019	7/1/2021
Tier 2 built prior to 1/1/2009	7/1/2022	7/1/2024
Tier 2 built on or after to 1/1/2009	NA	7/1/2026
Tier 3 built prior to 1/1/2009	7/1/2026	NA
Tier 3 built on or after 1/1/2009	7/1/2028	NA

- (2) For flexibility engines:

Engine Certification	Engines rated 50 to 750 bhp	Engines rated >750 bhp
Tier 1	7/1/2019	7/1/2021
Tier 2	7/1/2022	July 1 of the year 17 years after the date of manufacture
Tier 3	July 1 of the year 17 years after the date of manufacture	NA

- (p) Applications for modification to designate Tier 3 engines as low-use or emergency-use must be submitted in the month of January and include hour meter readings that were taken at the beginning of that month.
- (q) Except for TSE, a placard shall be required for every engine or equipment unit registered in the Statewide Registration Program. The placard shall be affixed on the registered engine or equipment unit at all times so that it may be easily viewed from a distance. Placards shall be purchased at the time of the first



renewal or at the time of initial registration, whichever occurs first. Failure to properly maintain the placard shall be deemed a violation of this article.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

**§ 2454. Registration Process.**

- (a) The Executive Officer shall make registration data available to the districts via the Internet.
- (b) The Executive Officer may conduct an inspection of an engine or equipment unit and/or require a source test in order to verify compliance with the requirements of this article prior to issuance of registration.
- (c) After obtaining registration in accordance with this article, an owner or operator of the registered engines or equipment units:
  - (1) shall comply with all conditions set forth in the issued registration. Failure to comply with such conditions shall be deemed a violation of this article; and
  - (2) may operate within the boundaries of the State of California so long as such registered engines or equipment units comply with all applicable requirements of this article and any other applicable federal or State law.
- (d) Districts shall provide the Executive Officer with written reports or electronic submittals via the Internet, describing any inspections and the nature and outcome of any violation of local, State or federal laws by the owner or operator of registered engines or equipment units. The Executive Officer shall make available to all districts such information via the Internet.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

## § 2455. General Requirements.

- (a) The emissions from engines or equipment units registered under this article shall not, in the aggregate, interfere with the attainment or maintenance of any California or federal ambient air quality standard. The emissions from one or more registered engines or equipment units, exclusive of background concentration, shall not cause an exceedance of any ambient air quality standard. This paragraph shall not be construed as requiring operators of registered engines or equipment units to provide emission offsets for engines or equipment units registered under this article.
- (1) For onshore projects as defined in section 2452(ff) of this article that operate in districts designated as extreme non-attainment for ozone, the person responsible for the project must notify the district in writing if the total maximum rated horsepower of registered engines located simultaneously on the project site exceeds 2,500 bhp. For projects that exceed 2,500 bhp at startup, the notification must be done at least 14 days prior to commencing operations, except for projects providing relief to an emergency as defined in title 17, Cal. Code Regs., section 93116.2(a)(12) for which the notification must be done within 72 hours of commencing operations. For projects that exceed 2,500 bhp after startup, the notification must be done within 72 hours of the exceedance. The notification shall include all of the following:
- (A) the registration number of each registered engine;
  - (B) the name and phone number of the contact person with information concerning the locations where the engines will be operated;
  - (C) estimated time the registered engines will be operating on the project;
  - (D) the Final CEQA Document and Notice of Determination and, if requested, supporting information.
- (2) Notification as specified in subdivision (a)(1) above shall not be required for the following:
- (A) projects that exclusively use Tier 4 interim engines and/or Tier 4 final engines; and
  - (B) projects operating in remote locations.
- (3) For projects subject to subdivision (a)(1) above, the district may perform an ambient air quality impact analysis (AQIA). The owner of engine(s) registered in the statewide registration program shall be required, at the request of the district, to submit any information deemed by the district to be necessary for performing the AQIA. Except for Tier 4 final engines, statewide registration shall not be valid at any location where the AQIA demonstrates that the operation of the registered engines will cause a violation of an ambient air quality standard.

- (b) Engines or equipment units registered under this article shall comply with article 1, chapter 3, part 4, division 26 of the California Health and Safety Code, commencing with section 41700.
- (c) Except for engines or equipment units permitted or registered by a district in which an emergency event occurs, a certified compression-ignition engine, certified spark-ignition engine, or equipment unit operated during an emergency event as defined in section 2452 (j) of this article, is considered registered under the requirements of this article for the duration of an emergency event that lasts no longer than 12 months, and is exempt from sections 2455, 2456, 2457, 2458, and 2459 of this article for the duration of the emergency event provided the owner or operator notifies the Executive Officer within 24 hours of commencing operation. The Executive Officer may for good cause refute that an emergency event under this provision exists. If the Executive Officer deems that an emergency event does not exist, all operation of engines and equipment units covered by this provision shall cease operation immediately upon notification by the Executive Officer. Misrepresentation of an emergency event and failure to cease operation under notice of the Executive Officer shall be deemed a violation of this article.
- (d) For the purposes of registration under this article, the owner or operator of a registered equipment unit must notify the U.S. EPA and comply with 40 CFR 52.21 if:
  - (1) the registered equipment unit operates at a major stationary source under 40 CFR 51.166 or 52.21, and
    - (A) the major stationary source is located within 10 kilometers of a Class I area; or
    - (B) the registered equipment unit, operating in conjunction with other registered equipment units, operates at the major stationary source and its operation would be defined as a major modification to the stationary source under 40 CFR 51.166 or 52.21; or
  - (2) the registered equipment unit, operating in conjunction with other registered equipment units, would be defined as a major stationary source, as defined under 40 CFR 51.166 or 52.21.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

## § 2456. Engine Requirements.

- (a) For TSE, no air contaminant shall be discharged into the atmosphere, other than uncombined water vapor, for a period or periods aggregating more than three minutes in any one hour which is as dark or darker in shade as that designated as No. 2 on the Ringelmann Chart, as published by the United States Bureau of Mines, or of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke designated as No. 2 on the Ringelmann Chart. No other requirements of this section are applicable to TSE.
- (b) Registered diesel pile-driving hammers shall comply with the applicable provisions of section 41701.5 of the California Health and Safety Code and are otherwise exempt from further requirements of this section.
- (c) Registered diesel engines used on a crane shall comply with the applicable requirements in title 13, Cal. Code Regs., section 2449 and are otherwise exempt from further requirements of this section, except for subdivision (f)(4).
- (d) Registered diesel engines used on a street sweeper that are not subject to the requirements of title 13, Cal. Code Regs., section 2022 shall comply with the applicable requirements in title 13, Cal. Code Regs., section 2025 and are otherwise exempt from further requirements of this section, except for subdivision (f)(4).
- (e) To be registered in the Statewide Registration Program, a registered engine rated less than 50 brake horsepower shall be a certified compression-ignition engine or a certified spark-ignition engine, unless no emission standards exist for that brake horsepower and year of manufacture. No other requirements of this section are applicable to portable engines rated less than 50 brake horsepower.
- (f) Engines rated equal to, or greater than 50 bhp registered under this article shall:
  - (1) be certified compression-ignition engines or certified spark-ignition engines that are certified to the most stringent emissions standard in effect for the applicable horsepower range at the time the application for initial registration is submitted by the responsible official. Spark-ignition engines that are not certified spark-ignition engines may be registered if they meet the emission standards in Table 1. Subdivision (f)(1) does not apply to the following:
    - (A) For flexibility engines rated at 50 bhp to 750 bhp, Tier 3 or Tier 4 interim engines;
    - (B) For flexibility engines rated over 750 bhp, Tier 2 or Tier 4 interim engines;
    - (C) engines that are resident engines;
    - (D) engines on dedicated snow removal vehicles as defined in title 13, Cal. Code Regs., section 2449(c);

- (E) changes of ownership;
  - (F) engines that meet the requirements of title 17, Cal. Code Regs., section 93116.3.1; or
  - (G) Tier 3 engines approved to operate in hazardous locations per 29 CFR part 1910.307 or 1926.407.
- (2) meet all applicable requirements in title 17, Cal. Code Regs., sections 93116 through 93116.5, except that engines used on vessels as defined in title 17, Cal. Code Regs., section 93118.5(d) shall meet the applicable requirements of title 17, Cal. Code Regs., section 93118.5;
- (3) use only CARB diesel fuel as defined in title 17, Cal. Code Regs., section 93116.2, or other fuels and/or additives that have been verified through the Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines;
- (4) not discharge air contaminants into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringelmann 1 or equivalent 20 percent opacity; and
- (5) for registered engines operating within STW:
- (A) the offset requirements of the corresponding onshore district apply. Authorization from the corresponding onshore district is required prior to operating within STW. If authorization is in the form of a current district permit, the terms and conditions of the district permit supersede the requirements of the statewide registration for the project, except that the most stringent of the technology and emission concentration limits required by the district permit or statewide registration are applicable. If the registered engine does not have a current district permit, the terms and conditions of the statewide registration apply, and the corresponding onshore district may require offsets pursuant to district rules and regulations. The requirement for district offsets shall not apply to the owner or operator of an engine(s) registered in the statewide registration program when the engine(s) is operated at a stationary source permitted by the district; and
  - (B) the corresponding onshore district may perform an ambient air quality impact analysis (AQIA) for the proposed project prior to granting authorization. The owner or operator of engine(s) registered in the statewide registration program shall be required, at the request of the district, to submit any information deemed by the district to be necessary for performing the AQIA. Statewide registration shall not be valid at any location where the AQIA demonstrates a potential violation of an ambient air quality standard.

- (6) Effective January 1, 2010, all registered spark-ignition engines rated at 50 brake horsepower or greater must be certified spark-ignition engines or must meet Table 1 requirements.
- (g) All registered engines must be equipped with a functioning non-resettable hour meter, fuel meter or other operation tracking device approved by the Executive Officer.
- (h) Registered TSE is exempt from district New Source Review and Title V programs, including any offset requirements. Further, emissions from registered TSE shall not be included in Title V or New Source Review applicability determinations.
- (i) Registered diesel engines used on a water well drilling rig shall comply with the applicable requirements in title 13, Cal. Code Regs., section 2449 and are otherwise exempt from further requirements of this section, except for subdivision (f)(4).
- (j) Registered diesel engines used on two-engine vehicles shall comply with the applicable requirements of title 13 Cal. Code Regs., sections 2449 and 2449.1, and are otherwise exempt from further requirements of this section, except for subdivision (f)(4).
- (k) Registered diesel engines approved for use in hazardous locations per 29 CFR part 1910.307 or 29 CFR part 1926.407 shall only operate under this Article until January 1, 2029.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

Table 1. Spark-ignition Engine Requirements\*

<i>Pollutant Emission Limits</i>		
<b><i>NOx**</i></b>	<b><i>VOC**</i></b>	<b><i>CO**</i></b>
80 ppmdv NOx (1.5 g/bhp-hr) **	240 ppmdv VOC (1.5 g/bhp-hr)	176 ppmdv CO (2.0 g/bhp-hr)

\* These requirements are in addition to requirements of section 2455 and 2456.

\*\* For the purpose of compliance with this article, ppmdv is parts per million @ 15 percent oxygen averaged over 15 consecutive minutes. Limits of ppmdv are the approximate equivalent to the stated grams per brake horsepower hour limit based on assuming the engine is 24.2 percent efficient.

**§ 2457. Requirements for Registered Equipment Units.**

- (a) Emissions from a registered equipment unit, exclusive of emissions emitted directly from the associated portable engine, shall not exceed:
  - (1) 10 tons per year per district of PM<sub>10</sub>; and
  - (2) 82 pounds per project per day of PM<sub>10</sub>.
  - (3) For registered equipment units that operate within STW and onshore, emissions released while operating both in STW and onshore shall be included toward the 10 tons per year limit.
  
- (b) Registered equipment units shall also meet the following applicable requirements:
  - (1) Confined abrasive blasting operations:
    - (A) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringelmann 1 or equivalent 20 percent opacity;
    - (B) the particulate matter emissions shall be controlled using a fabric or cartridge filter dust collector;
    - (C) as a part of application for registration, the applicant shall provide manufacturer's specifications or engineering data to demonstrate a minimum particulate matter control of 99 percent for the dust collection equipment;
    - (D) except for vent filters, each fabric dust collector shall be equipped with an operational pressure differential gauge to measure the pressure drop across the filters; and
    - (E) there shall be no visible emissions beyond the property line on which the equipment is being operated.
  
  - (2) Concrete batch plants:
    - (A) all dry material transfer points shall be ducted through a fabric or cartridge type filter dust collector, unless there are no visible emissions from the transfer point;
    - (B) all cement storage silos shall be equipped with fabric or cartridge type vent filters;
    - (C) the silo vent filters shall be maintained in proper operating condition;
    - (D) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringelmann 1 or equivalent 20 percent opacity;

- (E) open areas and all roads subject to vehicular traffic shall be paved, watered, or chemical palliatives applied to prevent fugitive emissions in excess of 20 percent opacity or Ringelmann 1;
  - (F) silo service hatches shall be dust-tight;
  - (G) as a part of application for registration, the applicant shall provide manufacturer's specifications or engineering data to demonstrate a minimum particulate matter control of 99 percent for the fabric dust collection equipment;
  - (H) except for vent filters, each fabric dust collector shall be equipped with an operational pressure differential gauge to measure the pressure drop across the filters;
  - (I) all aggregate transfer points shall be equipped with a wet suppression system to control fugitive particulate emissions unless there are no visible emissions;
  - (J) all conveyors shall be covered, unless the material being transferred results in no visible emissions;
  - (K) wet suppression shall be used on all stockpiled material to control fugitive particulate emissions, unless the stockpiled material results in no visible emissions; and
  - (L) there shall be no visible emissions beyond the property line on which the equipment is being operated.
- (3) Sand and gravel screening, rock crushing, and pavement crushing and recycling operations:
- (A) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringelmann 1 or equivalent 20 percent opacity;
  - (B) there shall be no visible emissions beyond the property line on which the equipment is being operated;
  - (C) all transfer points shall be ducted through a fabric or cartridge type filter dust collector, or shall be equipped with a wet suppression system maintaining a minimum moisture content unless there are no visible emissions;
  - (D) particulate matter emissions from each crusher shall be ducted through a fabric dust collector, or shall be equipped with a wet suppression system which maintains a minimum moisture content to ensure there are no visible emissions;
  - (E) all conveyors shall be covered, unless the material being transferred results in no visible emissions;
  - (F) all stockpiled material shall be maintained at a minimum moisture content unless the stockpiled material results in no visible emissions;
  - (G) as a part of application for registration, the applicant shall provide manufacturer's specifications or engineering data to demonstrate a



minimum particulate matter control of 99 percent for the fabric dust collection equipment;

- (H) except for vent filters, each fabric dust collector shall be equipped with an operational pressure differential gauge to measure the pressure drop across the filters;
- (I) open areas and all roads subject to vehicular traffic shall be paved, watered, or chemical palliatives applied to prevent fugitive emissions in excess of 20 percent opacity or Ringelmann 1; and
- (J) if applicable, the operation shall comply with the requirements of 40 CFR Part 60 Subpart OOO.

(4) Unconfined abrasive blasting operations:

- (A) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringelmann 2 or equivalent 40 percent opacity;
- (B) only California Air Resources Board-certified abrasive blasting material shall be used [Note: see title 17, Cal. Code Regs., section 92530 for certified abrasives.];
- (C) the abrasive material shall not be reused;
- (D) no air contaminant shall be released into the atmosphere which causes a public nuisance;
- (E) all applicable requirements of title 17, Cal. Code Regs. shall also apply; and
- (F) there shall be no visible emissions beyond the property line on which the equipment is being operated.

(5) Tub grinders and trommel screens:

- (A) there shall be no visible emissions beyond the property line on which the equipment is being operated;
- (B) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark or darker than Ringelmann 1 or equivalent 20 percent opacity; and
- (C) water suppression or chemical palliatives shall be used to control fugitive particulate emissions from the tub grinder whenever the tub grinder is in operation, unless there are no visible emissions.

- (c) Registered equipment units not described in section 2457(b) above, shall be subject to the most stringent district Best Available Control Technology (BACT) requirements in effect for that category of source at the time of application for registration.
- (d) No change in equipment unit configuration, operating scenario, or number of transfer points from that set out in the registration for the equipment unit shall be

made unless a complete application for modification has been filed and approved by the Executive Officer prior to operation.

- (e) Registration is not valid for any equipment unit operating at a location if by virtue of the activity to be performed hazardous air pollutants will be emitted (e.g., rock crushing plant operating in a serpentine quarry). [Note: The equipment unit would be subject to the requirements of the district in which the equipment unit is operated.]

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

### **§ 2458. Recordkeeping and Reporting.**

- (a) The recordkeeping requirements for registered engines and equipment units are as follows:
  - (1) The requirements in subdivision (a)(2) are not applicable to the following:
    - (A) Engines and equipment units owned by a rental business;
    - (B) Engines and equipment units used in a third-party rental;
    - (C) Certified compression-ignition engines and certified spark-ignition engines owned by a PEPS;
    - (D) Engines used on a crane;
    - (E) Engines used on a street sweeper;
    - (F) Engines on a two-engine vehicle;
    - (G) Engines used on a water well drilling rig; and
    - (H) Tactical Support Equipment.
  - (2) The operator of registered engines or equipment units, including engines otherwise preempted under section 209 (e) of the federal Clean Air Act, shall maintain records of operation of each registered engine and equipment unit. The records shall be maintained at a central place of business for five years, and made accessible to the Executive Officer or districts upon request. Records shall include, at a minimum, all of the following:
    - (A) Engine or equipment unit registration number;
    - (B) For registered equipment units subject to a daily and/or annual operational limitation, daily and/or annual records as appropriate of process throughput.
    - (C) For equipment units subject to the requirements of section 2457(b)(3), daily throughput shall be the sum of measurements of material introduced into the equipment unit by weight. These measurements shall be taken at the initial loading point.

- (D) For equipment units, the specific location where the registered equipment unit is located (i.e. street address and city; or county and UTM coordinates; or other location indicator) shall be recorded each time the equipment unit is brought to a new location including relocation for the purposes of storage. The date the equipment unit was placed at the new location shall also be recorded.
  - (E) For engines, the specific location where the registered engine is located (i.e. street address and city; or county and UTM coordinates; or other location indicator) shall be recorded no less than once a month.
- (b) The recordkeeping requirements for registered engines and equipment units owned by a rental business or involved in a third-party rental are as follows:
- (1) A rental business or the owner of a registered engine or equipment unit involved in a third party rental shall:
    - (A) provide each person who rents a registered engine or equipment unit with a written copy of the registration for each engine or equipment unit as a part of the rental agreement; and
    - (B) maintain written evidence of receipt of the registration(s) by the person who rents the registered engine or equipment unit.
  - (2) A rental business or the owner of a registered engine or equipment unit involved in a third party rental shall provide a written log to be kept with the registered engine or equipment unit for the purpose of documenting compliance with the requirements specified in section 2458(b)(5). Separate logs may be kept for each rental transaction, but the rental business must maintain the records contained in each log on a calendar year basis for each registered engine or equipment unit. All previous annual logs shall be kept at a central place of business for five years, and made accessible to the Executive Officer or districts upon request.
  - (3) The written rental or lease agreement, or other equivalent document as approved by the Executive Officer, must be made available to the Executive Officer or districts no later than 2 business days after the request.
  - (4) A rental business or the owner of a registered engine or equipment unit involved in a third party rental shall maintain records for each rental or lease transaction. The records shall be maintained at a central place of business for five years, and made accessible to the Executive Officer or districts upon request. Records shall include, at a minimum, all of the following:
    - (A) company identification number that can be cross referenced with the engine or equipment unit registration number; and

- (B) dates for the start and end of the rental transaction.
- (5) The renter of a registered engine or equipment unit shall maintain records in the written log specified in section 2458(b)(2) for each rental or lease transaction that include the following:
- (A) For equipment units subject to a daily and/or annual operational limitation, daily and/or annual records as appropriate of process throughput. If the equipment unit is subject to the requirements of section 2457(b)(3), daily throughput shall be the sum of measurements of material introduced into the equipment unit by weight. These measurements shall be taken at the initial loading point;
  - (B) For equipment units, the specific location (i.e. street address and city; or county and UTM coordinates; or other location indicator) where the registered equipment unit is located while out on rent and the date shall be recorded each time the equipment unit is brought to a different location; and
  - (C) For engines, the specific location (i.e. street address and city; or county and UTM coordinates; or other location indicator) and date where the registered engine is located while out on rent shall be recorded no less than once a month.
- (c) For TSE, each military installation shall provide the Executive Officer an annual report, in a format approved by the Executive Officer, within 60 days after the end of each calendar year. The report shall include the number, type, and rating of registered TSE at each installation as of December 31 of that calendar year. The applicable fees shall be submitted pursuant to section 2461. Any variation of registered TSE to actual TSE shall be accounted for in this annual report, and the Executive Officer shall issue an updated TSE list accordingly. A renewal registration will be issued with the updated TSE list every three years according to expiration date.
- (d) For each registered engine subject to the requirements of title 17, Cal. Code Regs., section 93116, the owner shall keep records and submit reports in accordance with title 17, Cal. Code Regs., section 93116.4.
- (e) The owner of a registered equipment unit shall provide the Executive Officer an annual report signed by the responsible official, in a format approved by the Executive Officer, by March 1 of each calendar year containing all of the following information:
- (1) the reporting year;
  - (2) the registration number of each registered equipment unit; and
  - (3) annual summaries of the total process weight or throughput for each district in which the registered equipment unit was operated.

- (f) Records requests made by a district or Executive Officer shall be made to the responsible official. The responsible official shall provide the requested records within 30 days from receipt of the request. Failure to provide the records by the specified date shall be deemed a violation of this article.
- (g) Except for districts that have been submitting all of their inspection reports electronically to the Executive Officer, each district shall provide the Executive Officer with an annual report by March 31 following the year in which the information was collected containing all of the following information:
  - (1) the registration number of each registered engine and equipment unit inspected; and
  - (2) summary of results for each inspection.
- (h) Registered diesel engines used on a crane shall comply with the applicable requirements in title 13, Cal. Code Regs., section 2449 and are otherwise exempt from the requirements of this section.
- (i) Registered diesel engines used on a street sweeper that are not subject to the requirements of title 13, Cal. Code Regs., section 2022 shall comply with the applicable requirements in title 13, Cal. Code Regs., section 2025 and are otherwise exempt from the requirements of this section.
- (j) Registered diesel engines used on a water well drilling rig shall comply with the applicable requirements in title 13, Cal. Code Regs., section 2449 and are otherwise exempt from the requirements of this section.
- (k) Registered diesel engines shall submit an hour meter reading with the renewal payment for each engine being renewed per section 2461 of this regulation. The fleet owner must specify the date which the reading was taken, and the reading must be taken within 12 months prior to the expiration date of the registration.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

#### **§ 2459. Notification.**

- (a) Except as listed in subdivision (d) of this section, if a registered equipment unit will be at a location for more than five days, the operator of that registered equipment unit, shall notify the district in writing in a format approved by the Executive Officer, within two working days of commencing operations in that district. If the registered equipment unit is to be moved to different locations within the same district, the operator shall be subject to the notification requirements above, unless the operator and the district, by mutual agreement, arrange alternative notification requirements on a case-by-case basis. The notification shall include all of the following:

- (1) the registration number of the registered equipment unit;
  - (2) the name and phone number of the responsible official or renter with information concerning the locations where the registered equipment unit will be operated within the district; and
  - (3) estimated time the registered equipment unit will be located in the district.
- (b) If the district has not been notified as required in section 2459(a) above, because the owner or operator did not reasonably expect the duration of operation to trigger the notification requirement in section 2459(a) above, the owner or operator shall notify the district, in a format approved by the Executive Officer, within 12 hours of determining the registered equipment unit will be operating at a location more than five days.
- (c) Owners and operators of TSE are not subject to the notification requirements of this section 2459.
- (d) For STW projects, the owner or operator of a registered engine or registered equipment unit shall notify the corresponding onshore district in writing, in a format approved by the Executive Officer at least 14 days in advance of commencing operations in that district. The notification shall include all of the following:
- (1) the registration number of the registered engine or equipment unit;
  - (2) the name and phone number of the responsible official with information concerning the locations where the registered engine or equipment unit will be operated within the district;
  - (3) estimated time the registered engine(s) or equipment unit(s) will be located in the district; and
  - (4) calculations showing the estimation of actual emissions expected for the project.
- (e) Except as listed in section 2459(d) above, owners and operators of registered engines are not subject to notification requirements.
- (f) The Executive Officer shall make available via the Internet a list of approved notification methods for each district.
- (g) Failure to provide the required notifications within the timelines specified in this section shall be deemed a violation of this regulation.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

## § 2460. Inspections and Testing.

- (a) In determining if a portable engine or equipment unit is eligible for registration, the Executive Officer may inspect the portable engine or equipment unit and/or require a source test, at the owner's expense.
- (b) Each district shall inspect all registered engines and equipment units for which the district has been designated as the home district pursuant to section 2453(j) above, as specified below:
  - (1) Within 45 days after the date of initial issuance or renewal of a registration, the owner or operator shall contact the home district to arrange for inspection of the registered engine or equipment unit to be completed within one year of the initial registration or renewal date. If the registered engine or equipment unit shall be operating in a district, other than the home district, the owner or operator may request the home district to arrange for an inspection by the other district.
  - (2) For portable engines, each home district should conduct no more than 20 percent of the arranged inspections for that district as in-field inspections. All arranged inspections not conducted as in-field inspections shall be conducted as non-field inspections. If a portable engine is found in violation during an in-field inspection, the next arranged inspection for that engine shall be an in-field inspection. This section does not limit the authority of a district to conduct any number of non-arranged in-field or non-field inspections for which no fee is charged.
  - (3) For registered equipment units operating with registered engines, the owner or operator may not request that the registered engine be inspected at the hourly rate specified in Section 2461.1 for equipment unit inspections. Inspection fees for registered engines are to be paid as listed in item 14 in Section 2461.1.
  - (4) Arranged inspections for PEPS engines and registered equipment units shall be non-field inspections unless an in-field inspection is requested by the holder of the registration and a reasonable in-field inspection location is arranged with the appropriate district.
  - (5) The time for an arranged inspection shall be agreed upon in advance with the district and company preferences regarding time of day shall be accommodated within reason. To the extent that an arranged inspection does not fall within the district's normal workday, the district may charge for the off-hour time based on a fee as specified in Section 2461.1.
  - (6) If an arranged inspection of a registered engine or registered equipment unit does not occur due to unforeseen circumstances, the owner or operator and the home district shall reschedule the arranged inspection no

later than 90 days of the initially scheduled inspection. Any unreasonable actions on the part of the owner or operator that prevents the inspection to occur within the specified time frame shall be deemed a violation of this article. Actions taken by the owner or operator that could be deemed “unreasonable” include, but are not limited to:

- (A) failing to respond to the district correspondences or other contracts made to schedule the inspection;
  - (B) failing to ensure that the registered engine or equipment unit is in operation for arranged “in-field inspections” or where the district has provided advance notification to the owner or operator that the registered engine or equipment unit is required to be observed in operation.
- (7) The owner or operator may request the scheduling of one or more arranged inspections for multiple engines in order to qualify for an inspection fee discount as specified in section 2461(d). Within 45 days of date of initial issuance of registration or by January 30 of each year for renewals, the owner or operator shall submit a letter of intent including an equipment list and registration numbers to the district to arrange for inspection of multiple engines. The inspections shall be completed within one year after the registration renewal date for each engine inspected. If the fleet owner pays the discounted inspection fee and then fails to qualify for the discount during the actual arranged inspection, then the district may bill the fleet owner for the difference between the discounted inspection fee and the full inspection fee. Upon the request of the district, the fleet shall not be eligible to use the discount in 2461(d) for any subsequent arranged inspections if the fleet failed to comply with the inspection fee discount requirements.
- (8) If a registered engine or equipment unit is out of California for one year or more following initial registration or renewal, the engine or equipment unit shall be excused from having the arranged inspection within that period if:
- (A) within 45 days after the date of initial issuance or renewal of the registration, the owner or operator submitted a letter to the district noting the registration number of the registered engine or equipment unit and that the engine or unit is out of California for the one-year period; and
  - (B) upon the return of the registered engine or equipment unit to the State, the owner or operator shall arrange to have the registered engine or equipment unit inspected within 30 days.
- (c) After issuance of registration, the Executive Officer or district may at any time conduct an inspection of any registered engine or equipment unit in order to verify compliance with the requirements of this article. The district shall not charge the owner or operator an additional inspection fee for that inspection. Source testing of engines for compliance purposes shall not be required more frequently than



once every three years (including testing at the time of registration), except as provided in section 2460 (e), unless evidence of engine tampering, lack of proper engine maintenance, or other problems or operating conditions that could affect engine emissions are identified. In no event shall the Executive Officer or district require source testing of a registered engine for which there is no applicable emission standard, emission limit or other emission related requirement contained in this regulation.

- (d) Testing shall be conducted in accordance with the following methods or other methods approved by the Executive Officer:

Particulate Matter:	ARB Test Method 5 with probe catch and filter catch only
VOC:	ARB Test Method 100 or U.S. EPA Test Method 25A
NOx:	ARB Test Method 100 or U.S. EPA Test Method 7E
Carbon Monoxide:	ARB Test Method 100 or U.S. EPA Test Method 10
Oxygen:	ARB Test Method 100 or U.S. EPA Test Method 3A
Gas Velocity and Flow Rate:	ARB Test Method 1 & 2 or U.S. EPA Test Method 1 & 2

- (e) Initial or follow-up source testing of engines to verify compliance with the requirements of this regulation shall not be required for certified compression-ignition engines and spark-ignition engines.
- (f) The exemption provided in section 2460(e) shall not apply to source testing of engines for compliance purposes where evidence of engine tampering, lack of proper engine maintenance, or other problems or operating conditions that could affect engine emissions are identified.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

**§ 2461. Fees.**

- (a) Except as otherwise set out herein, the Executive Officer shall assess and collect reasonable fees for registration, renewal, and associated administrative tasks, to recover the estimated costs to the Executive Officer for evaluating registration applications, and issuing registration documentation.
- (b) Fees shall be due and payable to the Executive Officer. Fees are nonrefundable except in circumstances as determined by the Executive Officer.
- (c) The owner of an engine or equipment unit shall submit fees to the Executive Officer in accordance with Section 2461.1.
- (d) The Executive Officer shall collect an inspection fee as listed in Section 2461.1 one time per every three calendar years for each registered engine. Except for TSE, when multiple registered engines are inspected at a given source or

location, the owner shall receive a discount if the owner or operator intends to arrange multiple engines inspections with the district and complies with the requirements specified in section 2460(b)(7). The discounts shall be applied as follows:

- (1) no discount for 1 to 3 engines
  - (2) 25 percent discount for 4 to 9 engines
  - (3) 35 percent discount for 10 or more engines
- (e) Failure to pay renewal fees when due shall result in penalties. If a fee payment is not received or postmarked by the specified due date, then fee penalties shall be assessed per unit in accordance with Section 2461.1. Failure to pay renewal fees prior to expiration shall result in cancellation of the registration. If a registration has expired for an engine or equipment unit that is eligible for reactivation, a canceled registration may be reactivated after payment of all renewal and penalty fees. Registration shall be reissued under the original registration number and expiration date. A portable engine or equipment unit without valid registration is subject to the rules and regulations of the district in which it operates.
- (f) Fees shall be periodically revised by the Executive Officer to recover the reasonable costs of administering the statewide registration program, in accordance with the following benchmarks: (i) the consumer price index, as published by the United States Bureau of Labor Statistics, (ii) costs that are attributable directly to the statewide registration program, and (iii) a percentage of the indirect Board and statewide costs as agreed to by the Department of Finance and the U.S Environmental Protection Agency, under Title 2, Code of Federal Regulations, Part 200.
- (g) A district may collect a fee for the inspection of a registered equipment unit pursuant to section 2460(b)(3). The district shall bill the owner of the equipment unit at a rate as specified in Section 2461.1 of the regulation for actual staff time taken to perform the inspection, not to exceed the amount specified in Section 2461.1. Upon receipt of the invoice for the inspection fee, the owner shall have the right to appeal the district's fee determination to the district Air Pollution Control Officer pursuant to the provisions of the district's rules and regulations that govern appeals of fee determinations.
- (h) The Executive Officer shall annually distribute district inspection fees collected for that year. General inspection fees will be distributed equally among the districts. Home district inspection fees will be distributed to the corresponding home district.
- (i) TSE fees are due pursuant to section 2458(c). Failure to submit the annual report and applicable fees within six calendar months after the end of the year will result in cancellation of the registration. For TSE, if registration is cancelled or allowed to expire, the applicant shall reapply, and initial registration fees will be applicable.

- (j) The district may collect an inspection fee as listed in Section 2461.1 one time per calendar year for each registered TSE inspected. When multiple registered TSE units are inspected at a given source or location, the inspection fee shall be equal to the lesser of the actual cost, including staff time, for conducting the inspection or the fee as listed in Section 2461.1 per registered portable engine or equipment unit inspected. If the district performs an inspection leading to determination of non-compliance with this article, or any applicable state or federal requirements, the district may charge a fee as listed in Section 2461.1 per portable engine or equipment unit for each inspection necessary for the determination and ultimate resolution of the violation. In no event shall the total fees exceed the actual costs, including staff time, to the district of conducting the investigations and resolving any violations.

**§ 2461.1. Fee Schedule.**

**Fees for Statewide Registration Program  
(Fees are per registered unit except where noted otherwise)**

1	Initial Registration with placard	\$400.00
2	TSE, initial registration	
A	Registration of first 25 units (or portion thereof)	\$1,090.00
B	Registration of every additional 50 units (or portion thereof)	\$1,090.00
3	Identical replacement	\$110.00
4	Renewal, non-TSE	\$330
5	Penalty fee for late renewal payments, non-TSE	
A	Postmarked within 2 calendar months prior to registration expiration date	\$65.00
B	Postmarked within the calendar month prior to registration expiration date	\$130.00
C	Postmarked after the registration expiration date	\$365.00
6	Annual TSE inventory fee	
A	first 25 units (or portion thereof)	\$545.00
B	every additional 50 units (or portion thereof)	\$545.00
7	Modification to registered portable engine or equipment unit	\$110.00
8	Change of ownership	\$110.00
9	Replacement of registration identification device	\$45.00
10	Replacement of registration placard	\$50.00
11	Correction to an engine or equipment unit description	\$65.00
12	Update company information, copy of registration documents	\$65.00
13	Copy of registration documents	\$65.00
14	Total district inspection fee per registered portable engine, paid once every 3 years	\$405.00
A	General district inspection fee	\$35.00
B	Home district inspection fee	\$370.00
15	District off-hour service fee per hour	\$60.00
16	District inspection fees for equipment units:	
A	General district inspection fee, paid once every 3 years	\$90.00
B	District inspection fee per equipment unit, per hour	\$115.00 (not to exceed \$590.00)
17	TSE inspection fees:	
A	General district inspection fee per TSE unit, paid annually	\$10.00
B	District inspection fee per TSE unit per inspection	\$90.00

**NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.**

### **§ 2462. Duration of Registration.**

- (a) Except for registrations that will expire on December 31, 2029 pursuant to section 2456(k) and except for registrations that expire pursuant to title 17, Cal. Code Regs., section 93116.3(c)(1), registrations and renewals will be valid for three years from date of issuance. For change of ownership, the registration shall retain the original expiration date, except where the registration has expired.
- (b) The Executive Officer shall mail to the owner of a registered engine or equipment unit a renewal invoice at least 60 days prior to the registration expiration. Failure to send or receive a renewal invoice does not relieve the responsible official from paying all applicable fees when due.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

### **§ 2463. Suspension or Revocation of Registration.**

- (a) The Executive Officer for just cause may suspend or revoke registration in any of the following circumstances:
  - (1) the holder of registration has violated one or more terms and conditions of registration or has refused to comply with any of the requirements of this article;
  - (2) the holder of registration has materially misrepresented the meaning, findings, effect or any other material aspect of the registration application, including submitting false or incomplete information in its application for registration regardless of the holder's personal knowledge of the falsity or incompleteness of the information;
  - (3) the test data submitted by the holder of registration to show compliance with this regulation have been found to be inaccurate or invalid;
  - (4) enforcement officers of the ARB or the districts, after presentation of proper credentials, have been denied access, during normal business hours or hours of operation, to any facility or location where registered engines and equipment units are operated or stored and are prevented from inspecting such engines or equipment units as provided for in this article (the duty to provide access applies whether or not the holder of registration owns or controls the facility or location in question);
  - (5) enforcement officers of the ARB or the districts, after presentation of proper credentials, have been denied access to any records

- required by this regulation for the purpose of inspection and duplication;
- (6) the registered engine or equipment unit has failed in-use to comply with the findings set forth in the registration. For the purposes of this section, noncompliance with the registration may include, but is not limited to:
    - (A) a repeated failure to perform to the standards set forth in this article; or
    - (B) modification of the engine or equipment unit that results in an increase in emissions or changes the efficiency or operating conditions of such engine or equipment unit, without prior notice to and approval by the Executive Officer; or
  - (7) the holder of registration has failed to take requested corrective action as set forth in a Notice of Violation or Notice to Comply within the time period set forth in such notice or as otherwise specified in writing by the issuing district.
  - (8) the holder of the registration has failed to pay fees assessed by either the Executive Officer or district within 120 after the specified due date and there is no pending appeal.
- (b) A holder of registration may be subject to a suspension or revocation action pursuant to this section based upon the actions of an agent, employee, licensee, or other authorized representative.
  - (c) The Executive Officer shall notify each holder of registration by certified mail of any action taken by the Executive Officer to suspend or revoke any registration granted under this article. The notice shall set forth the reasons for and evidence supporting the action(s) taken. A suspension or revocation is effective upon receipt of the notification.
  - (d) A holder of registration having received a notice to revoke or suspend registration may request that the action be stayed pending a hearing under section 2464. In determining whether to grant the stay, the Executive Officer shall consider the reasonable likelihood that the registration holder will prevail on the merits of the appeal and the harm the holder of registration will likely suffer if the stay is not granted. The Executive Officer shall deny the stay if the adverse effects of the stay on the public health, safety, and welfare outweigh the harm to the holder of registration if the stay is not granted.
  - (e) Once a registration has been suspended pursuant to (a) above, the holder of registration shall satisfy and correct all noted reasons for the suspension and submit a written report to the Executive Officer advising him or her of all such steps taken by the holder before the Executive Officer will consider reinstating the registration.

- (f) After the Executive Officer suspends or revokes a registration pursuant to this section and prior to commencement of a hearing under section 2464, if the holder of registration demonstrates to the Executive Officer's satisfaction that the decision to suspend or revoke the registration was based on erroneous information, the Executive Officer will reinstate the registration.
- (g) Nothing in this section shall prohibit the Executive Officer from taking any other action provided for by law for violations of the Health and Safety Code.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

#### **§ 2464. Appeals.**

- (a) Hearing Procedures.
  - (1) Any applicant for registration whose application has been denied or a holder of registration whose registration has been, suspended, or revoked may request a hearing to review the action taken by sending a request in writing to the Executive Officer. A request for hearing shall include, at a minimum, the following:
    - (A) name of applicant or holder of registration;
    - (B) registration number;
    - (C) copy of the Executive Order revoking or suspending registration or the written notification of denial;
    - (D) a concise statement of the issues to be raised, with supporting facts, setting forth the basis for challenging the denial, suspension, or revocation (mere conclusory allegations will not suffice);
    - (E) a brief summary of evidence in support of the statement of facts required in (D) above; and
    - (F) the signature of an authorized person requesting the hearing.
  - (2) A request for a hearing shall be filed within 20 days from the date of issuance of the notice of the denial, suspension, or revocation.
  - (3) A hearing requested pursuant to this section shall be heard by a qualified and impartial hearing officer appointed by the Executive Officer. The hearing officer may be an employee of the ARB, but may not be any employee who was involved with the registration at issue. In a request for a hearing of a denial of registration, after reviewing the request for a hearing and supporting documentation

- provided under subdivision (1) above, the hearing officer shall grant the request for a hearing if he or she finds that the request raises a genuine and substantial question of law or fact.
- (4) Except as provided in (3) above, the hearing officer shall schedule and hold, as soon as practicable, a hearing at a time and place determined by the hearing officer.
  - (5) Upon appointment, the hearing officer shall establish a hearing file. The file shall consist of the following:
    - (A) the determination issued by the Executive Officer which is the subject of the request for hearing;
    - (B) the request for hearing and the supporting documents that are submitted with it;
    - (C) all documents relating to and relied upon in making the determination to deny registration or to suspend or revoke registration; and
    - (D) correspondence and other documents material to the hearing.
  - (6) The hearing file shall be available for inspection by the applicant at the office of the hearing officer.
  - (7) An applicant may appear in person or may be represented by counsel or by any other duly-authorized representative.
  - (8) The ARB may be represented by staff or counsel familiar with the registration program and may present rebuttal evidence.
  - (9) Technical rules of evidence shall not apply to the hearing, except that relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to relying in the conduct of serious affairs. No action shall be overturned based solely on hearsay evidence, unless the hearsay evidence would be admissible in a court of law under a legally recognized exception to the hearsay rule.
  - (10) The hearing shall be recorded either electronically or by a certified shorthand reporter.
  - (11) The hearing officer shall consider the totality of the circumstances of the denial, suspension, or revocation, including but not limited to, credibility of witnesses, authenticity and reliability of documents, and qualifications of experts. The hearing officer may also consider relevant past conduct of the applicant including any prior incidents involving other ARB programs.
  - (12) The hearing officer's written decision shall set forth findings of fact and conclusions of law as necessary.
  - (13) Within 30 days of the conclusion of a hearing, the hearing officer shall submit a written proposed decision, including proposed finding as well as a copy of any material submitted by the hearing participants as part of that hearing and relied on by the hearing



officer, to the Executive Officer. The hearing officer may recommend to the Executive Officer any of the following:

- (A) uphold the denial, suspension, or revocation action as issued;
- (B) reduce a revocation to a suspension;
- (C) increase a suspension to a revocation if the registration holder's conduct so warrants; or
- (D) overturn a denial, suspension, or revocation in its entirety.

(14) The Executive Officer shall render a final written decision within 60 working days of the last day of hearing. The Executive Officer may do any of the following:

- (A) adopt the hearing officer's proposed decision;
- (B) modify the hearing officer's proposed decision; or
- (C) render a decision without regard to the hearing officer's proposed decision.

(b) Hearing conducted by written submission.

(1) In lieu of the hearing procedure set forth in (a) above, an applicant may request that the hearing be conducted solely by written submission.

(2) In such case the requestor must submit a written explanation of the basis for the appeal and provide supporting documents within 20 days of making the request. Subsequent to such a submission the following shall transpire:

- (A) ARB staff shall submit a written response to the requestor's submission and documents in support of the Executive Officer's action no later than 10 days after receipt of requestor's submission;
- (B) The registration holder may submit one rebuttal statement which may include supporting information, as attachment(s), but limited to the issues previously raised;
- (C) If the registration holder submits a rebuttal, ARB staff may submit one rebuttal statement which may include supporting information, as attachment(s), but limited to the issues previously raised; and
- (D) the hearing officer shall be designated in the same manner as set forth in (a)(3) above. The hearing officer shall receive all statements and documents and submit a proposed written decision and such other documents as described in (a) 13 above to the Executive Officer no later than 30 working days after the final deadline for submission of papers. The Executive Officer's final decision shall be mailed to the

holder of registration no later than 60 days after the final deadline for submission of papers.

- (E) The Executive Officer shall render a final written decision within 60 working days of the last day of hearing. The Executive Officer may do any of the following:
- (1) adopt the hearing officer's proposed decision;
  - (2) modify the hearing officer's proposed decision; or
  - (3) render a decision without regard to the hearing officer's proposed decision.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

### **§ 2465. Penalties.**

Violation of the provisions of this article may result in civil, and/or criminal penalties pursuant to the California Health and Safety Code. Each day during any portion of which a violation occurs is a separate violation.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

*This document reflects nonsubstantive grammatical corrections that will be submitted to the Office of Administrative Law for official publication. The official publication of this regulation is in the California Code of Regulations and may be obtained from the Office of Administrative Law at the following link:*

<https://govt.westlaw.com/calregs/Index?transitionType=Default&contextData=%28sc.Default%29>

# Final Regulation Order

Effective November 30, 2018

## AIRBORNE TOXIC CONTROL MEASURE FOR DIESEL PARTICULATE MATTER FROM PORTABLE ENGINES RATED AT 50 HORSEPOWER AND GREATER

### **93116 Purpose.**

The purpose of this airborne toxic control measure (ATCM) is to reduce diesel particulate matter (PM) emissions from portable diesel-fueled engines having a rated brake horsepower of 50 and greater ( $\geq 50$  bhp).

Authority cited: Sections 39600, 39601, 39650, 39658, 39659, 39666, 41752, 43013 and 43018 Health and Safety Code. Reference: Sections 39650, 39666, 41752 Health and Safety Code.

### **§ 93116.1 Applicability.**

- (a) Except as provided below, all portable engines having a maximum rated horsepower of 50 bhp and greater and fueled with diesel are subject to this ATCM.
- (b) The following portable engines are not subject to this ATCM:
  - (1) Any engine used to propel mobile equipment or a motor vehicle of any kind;
  - (2) Any portable engine using an alternative fuel;
  - (3) Dual-fuel diesel pilot engines that use an alternative fuel or an alternative diesel fuel;
  - (4) Tactical support equipment;
  - (5) Portable diesel-fueled engines operated on either San Clemente or San Nicolas Island;
  - (6) Engines preempted from State regulation under 42 USC §7543(e)(1);
  - (7) Portable diesel-fueled engines used exclusively in agricultural operations, unless owned by a rental business as defined in 13 Cal. Code Regs., section 2452(kk).
  - (8) Engines used exclusively on two-engine cranes as defined in title 13, Cal. Code Regs., section 2449(c) which must meet all applicable requirements in title 13, Cal. Code Regs., commencing with section 2449;

- (9) Engines used exclusively on street sweepers that are not subject to title 13, Cal. Code Regs., section 2022, which must meet all applicable requirements in title 13, Cal. Code Regs., commencing with section 2025;
- (10) Engines used exclusively on two-engine water well drilling rigs as defined in title 13, Cal. Code Regs., section 2449(c), which must meet all applicable requirements in title 13, Cal. Code Regs., commencing with section 2449; and
- (11) Engines used exclusively on dedicated snow removal vehicles as defined in title 13, Cal. Code Regs., section 2449(c);
- (12) Engines use exclusively on two-engine vehicles as defined in title 13 Cal. Code Regs., section 2449(c) and the vehicle meets the criteria listed in title 13 Cal. Code Regs., section 2449(b)(2)(C);
- (13) Engines use exclusively on harbor craft as defined in title 17 Cal. Code Regs., section 93118.5(d) which must meet all applicable requirements in title 17 Cal. Code Regs., commencing with section 93118.5; and
- (14) Engines used exclusively to alleviate the threat to public health and safety during an emergency event.
- (15) Engines approved to operate in Hazardous Locations per title 29 CFR 1910.307 or 1926.407 and that meet Tier 3 emission standards.

NOTE: Authority cited: Sections 39600, 39601, 39650, 39658, 39659, 39666, 41752, 41754, 43013 and 43018, Health and Safety Code. Reference: Sections 39650, 39666, 41752, 41754, Health and Safety Code.

## **§ 93116.2 Definitions.**

- (a) For the purposes of this ATCM, the following definitions apply. Any term used in this subchapter that is not defined in this section has the same meaning as those in title 13 section 2452.
  - (1) “*Air Pollution Control Officer or APCO*” means the air pollution control officer of a district, or his/her designee.
  - (2) “*Agricultural Operations*” means the growing and harvesting of crops or the raising of fowl or animals for the primary purpose of making a profit, providing a livelihood, or conducting agricultural research or instruction by an educational institution. Agricultural operations do not include forest operations or activities involving the processing or distribution of crops or fowl.

- (3) “*Alternative Fuel*” means gasoline, natural gas, propane, liquid petroleum gas (LPG), hydrogen, ethanol, or methanol.
- (4) “*Alternative Diesel Fuel*” means any fuel used in a compression ignition (CI) engine that is not, commonly or commercially known, sold or represented by the supplier as diesel fuel No. 1-D or No. 2-D, pursuant to the specifications in ASTM Standard Specification for Diesel Fuel Oils D975-81, or an alternative fuel, and does not require engine or fuel system modifications for the engine to operate, although minor modifications (e.g., recalibration of the engine fuel control) may enhance performance. An emission control strategy using a fuel additive will be treated as an alternative diesel fuel based strategy unless:
  - (A) the additive is supplied to the engine fuel by an on-board dosing mechanism, or
  - (B) the additive is directly mixed into the base fuel inside the fuel tank of the engine, or
  - (C) the additive and base fuel are not mixed until engine fueling commences, and no more additive plus base fuel combination is mixed than required for a single fueling of a single engine.
- (5) “*CARB Diesel Fuel*” means any diesel fuel that is commonly or commercially known, sold, or represented by the supplier as diesel fuel No. 1-D or No. 2-D, pursuant to the specification for Diesel Fuel Oils D975-81, and that meets the specifications defined in title 13 Cal. Code Regs., sections 2281, 2282, and 2284.
- (6) “*Certified Engine*” refers to an engine meeting an applicable engine emission standard as set forth in 40 CFR Part 89, Part 86, Part 1039, or set forth in the equivalent categories in title 13, Cal. Code Regs.
- (7) “*Common ownership or control*” means being owned or managed day to day by the same person, corporation, partnership, or association. Equipment managed by the same directors, officers, or managers, or by corporations controlled by the same majority stockholders are considered to be under common ownership or control even if their title is held by different business entities.
- (8) “*Diesel Fuel*” means any fuel that is commonly or commercially known, sold, or represented by the supplier as diesel fuel, including any mixture of primarily liquid hydrocarbons—organic compounds consisting exclusively of the elements carbon and hydrogen—that is sold or represented as suitable for use in an engine.
- (9) “*Diesel Particulate Matter (PM)*” means the particles found in the exhaust of diesel-fueled engines which may agglomerate and adsorb other species to form structures of complex physical and chemical properties.

- (10) “*District*” means a District as defined in Health and Safety Code section 39025.
- (11) “*Dual-fuel Diesel Pilot Engine*” means a dual-fueled engine that uses diesel fuel as a pilot ignition source at an annual average ratio of less than 5 parts diesel fuel to 100 parts total fuel on an energy equivalent basis.
- (12) “*Emergency*” means providing electrical power or mechanical work during any of the following events and subject to the following conditions:
- (A) the failure or loss of all or part of normal electrical power service or normal natural gas supply to the facility:
    - 1. which is caused by any reason other than the enforcement of a contractual obligation the owner or operator has with a third party or any other party; and
    - 2. which is demonstrated by the owner or operator to the district APCO’s satisfaction to have been beyond the reasonable control of the owner or operator;
  - (B) the failure of a facility’s internal power distribution system:
    - 1. which is caused by any reason other than the enforcement of a contractual obligation the owner or operator has with a third party or any other party; and
    - 2. which is demonstrated by the owner or operator to the district APCO’s satisfaction to have been beyond the reasonable control of the owner or operator;
  - (C) the pumping of water or sewage to prevent or mitigate a flood or sewage overflow;
  - (D) the pumping of water for fire suppression or protection;
  - (E) the pumping of water to maintain pressure in the water distribution system for the following reasons:
    - 1. pipe break; or
    - 2. high demand on water supply system due to high use of water for fire suppression;
  - (F) the breakdown of electric-powered pumping equipment at sewage treatment facilities or water delivery facilities;
  - (G) the training of personnel in the use of portable equipment for emergency purposes.

- (13) “*Emergency Event*” refers to a situation arising from a sudden and reasonably unforeseen natural disaster such as an earthquake, flood, fire, or other unforeseen event that requires the use of portable engines to help alleviate the threat to public health and safety.
- (14) “*Engine*” means any piston-driven internal combustion engine.
- (15) “*Emergency-use Engines*” refer to engines that have been designated by the responsible official on the permit or registration to be used only during an emergency or emergency event, and includes appropriate maintenance and testing.
- (16) “*Executive Officer*” means the Executive Officer of the California Air Resources Board (CARB) or his/her designee.
- (17) “*Fleet*” refers to a portable engine or group of portable engines owned by a person, business, or government agency that are operated within California and meet the applicability listed in 17 Cal. Code Regs., section 93116.1. For engines owned by the U.S. Department of Defense or the U.S. military services, the portable engines at each facility or installation constitute separate fleets.
- (A) For the purposes of this ATCM, a large fleet has a total maximum horsepower over 750 bhp for all portable engines under common ownership and control of a fleet on June 30, 2019.
- (B) For the purposes of this ATCM, a small fleet has a total maximum horsepower of 750 bhp or less for all portable engines under common ownership and control of a fleet on June 30, 2019.
- (18) “*Flexibility engine*” means an engine certified to an emission standard according to the Transition Program for Equipment Manufacturers listed in 40 CFR part 89.102, 40 CFR part 1039.625, or Title 13 Cal. Code Regs., section 2423(d), or an engine that was included in the Averaging, Banking and Trading program and each of the certification emission levels listed on the Executive Order meet the Tier 4 Final emission standards.
- (19) “*Forest Operations*” means either of the following:
- (A) Forest fire prevention activities performed by public agencies, including but not limited to construction and maintenance of roads, fuel breaks, firebreaks, and fire hazard abatement; or
- (B) Cutting or removal or both of timber, other solid wood products, including Christmas trees, and biomass from forestlands for commercial purposes, together with all the work incidental thereto, including but not limited to, construction and maintenance of

roads, fuel breaks, firebreaks, stream crossings, landings, skid trails, beds for falling trees, fire hazard abatement, and site preparation that involves disturbance of soil or burning of vegetation following forest removal activities. Forest operations include the cutting or removal of trees, tops, limbs and or brush which is processed into lumber and other wood products, and or for landscaping materials, or biomass for electrical power generation. Forest operations do not include conversion of forestlands to other land uses such as residential or commercial developments.

- (20) *"Fuel Additive"* means any substance designed to be added to fuel or fuel systems or other engine-related systems such that it is present in-cylinder during combustion and has any of the following effects: decreased emissions, improved fuel economy, increased performance of the engine; or assists diesel emission control strategies in decreasing emissions, or improving fuel economy or increasing performance of the engine. Fuel additives used in conjunction with diesel fuel may be treated as an alternative diesel fuel.
- (21) *"Level-3 Verified Technology"* means a technology that has satisfied the requirements of the "Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines" in title 13, Cal. Code Regs., commencing with section 2700, and has demonstrated a reduction in diesel particulate matter of 85 percent or greater.
- (22) *"Location"* means any single site at a building, structure, facility, or installation.
- (23) *"Low-Use Engines"* refers to portable diesel-fueled engines that have been designated by the responsible official on the permit or registration to operate 200 hours or less in a calendar year.
- (24) *"Maximum Rated Horsepower (brake horsepower (bhp))"* is the maximum brake horsepower rating specified by the portable engine manufacturer and listed on the nameplate or emission control label of the portable engine.
- (25) *"Nonroad Engine"* means:
  - (A) Except as discussed in paragraph (2) of this definition, a nonroad engine is any engine:
    - 1. in or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers); or



2. in or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or
3. that, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

(B) An engine is not a nonroad engine if:

1. the engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under section 202 of the federal Clean Air Act; or
2. the engine is regulated by a federal New Source Performance Standard promulgated under section 111 of the federal Clean Air Act; or
3. the engine otherwise included in paragraph (1)(C) of this definition remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source. Any engine(s) that replace(s) an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (at least two years) and that operates at that single location approximately three (or more) months each year.

(26) “*Off-Road Engine*” means the same as nonroad engine.

(27) “*Outer Continental Shelf (OCS)*” shall have the meaning provided by section 2 of the Outer Continental Shelf Lands Act (43 USC Section 1331 et seq.).

(28) “*Permit*” refers to a certificate issued by the Air Pollution Control Officer acknowledging expected compliance with the applicable requirements of the district’s rules and regulations.

(29) “*Portable*” means designed and capable of being carried or moved from one location to another. Indicia of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

For the purposes of this regulation, dredge engines on a boat or barge are considered portable. The engine is not portable if:

- (A) the engine or its replacement is attached to a foundation, or if not so attached, will reside at the same location for more than 12 consecutive months. The period during which the engine is maintained at a storage facility shall be excluded from the residency time determination. Any engine, such as a back-up or stand-by engine, that replace engine(s) at a location, and is intended to perform the same or similar function as the engine(s) being replaced, will be included in calculating the consecutive time period. In that case, the cumulative time of all engine(s), including the time between the removal of the original engine(s) and installation of the replacement engine(s), will be counted toward the consecutive time period; or
  - (B) the engine remains or will reside at a location for less than 12 consecutive months if the engine is located at a seasonal source and operates during the full annual operating period of the seasonal source, where a seasonal source is a stationary source that remains in a single location on a permanent basis (at least two years) and that operates at that single location at least three months each year; or
  - (C) the engine is moved from one location to another in an attempt to circumvent the portable residence time requirements.
- (30) “*Project*” means the use of one or more registered or permitted portable engines or equipment units operated under the same or common ownership or control to perform a single activity.
- (31) “*Registration*” refers to either:
- (A) a certificate issued by the Executive Officer acknowledging expected compliance with the applicable requirements of the Statewide Portable Equipment Registration Program; or
  - (B) a certificate issued by the Air Pollution Control Officer acknowledging expected compliance with the applicable requirements of the district's Portable Equipment Registration Program.
- (32) “*Replacement Engine*” means an engine built according to the requirements of 40 CFR part 1068.240 or Title 13 Cal. Code Regs., section 2423(j), and the engine is equipped with a label containing information that indicates the Tier level of the engine.
- (33) “*Responsible Official*” refers to an individual employed by the company or public agency with the authority to certify that the portable engines in the fleet comply with applicable requirements of this ATCM. A fleet may only have one Responsible Official.

- (34) “*Stationary Source*” means any building, structure, facility or installation that emits any air contaminant directly or as a fugitive emission. Building, structure, facility, or installation includes all pollutant emitting activities which:
- (A) are under the same ownership or operation, or which are owned or operated by entities which are under common control; and
  - (B) belong to the same industrial grouping either by virtue of falling within the same two-digit standard industrial classification code or by virtue of being part of a common industrial process, manufacturing process, or connected process involving a common raw material; and
  - (C) are located on one or more contiguous or adjacent properties.
- [Note: For the purposes of this regulation a stationary source and nonroad engine are mutually exclusive.]
- (35) “*Stock Engine*” means a certified diesel-fueled engine that has never been placed in service and is part of a supply of engines offered for sale, rent, or lease by a person or company who offers for sale, rent, or lease engines and related equipment for profit.
- (36) “*Storage*” means a warehouse, enclosed yard, or other area established for the primary purpose of maintaining portable engines when not in operation.
- (37) “*Street Sweeper*” means the same as “Dual-engine Street Sweeper” defined in title 13, Cal. Code Regs., section 2022(b)(2).
- (38) “*Tactical Support Equipment (TSE)*” means equipment using a portable engine, including turbines, that meets military specifications, owned by the U.S. Department of Defense and/or the U.S. military services or its allies, and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations. Examples include, but are not limited to, engines associated with portable generators, aircraft start carts, heaters and lighting carts.
- (39) “*this ATCM*” means the Airborne Toxic Control Measure for Diesel Particulate Matter from Portable Engines, California Code of Regulations, title 17, sections 93116 - 93116.5.
- (40) “*Tier 1 Engine*” means an engine subject to the Tier 1 new engine emission standards in title 13, Cal. Code Regs., section 2423(b)(1)(A) and/or Title 40, CFR, Part 89.112(a). This also includes engines certified under the averaging, banking, and trading program with respect to the Tier 1 Family Emission Limits (FEL) listed in title 13, Cal. Code Regs., section 2423(b)(2)(A) and/or Title 40, CFR, Part 89.112(d).

- (41) “*Tier 2 Engine*” means an engine subject to the Tier 2 new engine emission standards in title 13, Cal. Code Regs., section 2423(b)(1)(A) and/or Title 40, CFR, Part 89.112(a). This also includes engines certified under the averaging, banking, and trading program with respect to the Tier 1 Family Emission Limits (FEL) listed in title 13, Cal. Code Regs., section 2423(b)(2)(A) and/or Title 40, CFR, Part 89.112(d).
- (42) “*Tier 3 Engine*” means an engine subject to the Tier 3 new engine emission standards in title 13, Cal. Code Regs., section 2423(b)(1)(A) and/or Title 40, CFR, Part 89.112(a). This also includes engines certified under the averaging, banking, and trading program with respect to the Tier 1 Family Emission Limits (FEL) listed in title 13, Cal. Code Regs., section 2423(b)(2)(A) and/or Title 40, CFR, Part 89.112(d).
- (43) “*Tier 4 Interim Engine*” means an engine subject to the interim Tier 4 emission standards (also known as transitional) in title 13, Cal. Code Regs., section 2423(b)(1)(B) and/or Title 40, CFR, Part 1039.101. This also includes engines certified under the averaging, banking, and trading program with respect to the Tier 4 FEL listed in title 13, Cal. Code Regs., section 2423(b)(2)(B) and/or Title 40, CFR, Parts 1039.102 and 1039.104(g).
- (44) “*Tier 4 Final Engine*” means an engine subject to the final after-treatment based Tier 4 emission standards in title 13, Cal. Code Regs., section 2423(b)(1)(B) and/or Title 40, CFR, Part 1039.101. This also includes engines certified under the averaging, banking, and trading program with respect to the Tier 4 FEL listed in title 13, Cal. Code Regs., section 2423(b)(2)(B) and/or Title 40, CFR, Part 1039.101.
- (45) “*Verified Emission Control Strategy*” refers to an emission control strategy, designed primarily for the reduction of diesel PM emissions which has been verified pursuant to the “Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines” in title 13, Cal. Code Regs., commencing with section 2700, and incorporated by reference.
- (46) “*U.S. EPA*” refers to the United States Environmental Protection Agency.

NOTE: Authority cited: Sections 39600, 39601, 39650, 39658, 39659, 39666, 41752, 41754, 43013 and 43018, Health and Safety Code. Reference: Sections 39650, 39666, 41752, 41754, Health and Safety Code.

### § 93116.3 Requirements.

(a) Diesel-fueled portable engines must only use one of the following fuels:

- (1) CARB diesel fuel; or
- (2) alternative diesel fuel that has been verified through the Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines; or
- (3) CARB diesel fuel utilizing fuel additives that have been verified through the Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines.

[Note that credit for diesel PM reductions for diesel fuel or CARB diesel fuel blends that use an alternative diesel fuel such as biodiesel, Fischer-Tropsch fuels, or emulsions of water in diesel fuel is available only for fuel blends that have been verified through the Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines. The credit granted is based upon the verified level approved by the Executive Officer within the Executive Order for the fuel blend.]

(b) Diesel PM Standards

- (1) Starting January 1, 2010, all portable diesel-fueled engines must be certified to meet a federal or California standard for newly manufactured engines pursuant to 40 CFR Part 89, Part 86, or the equivalent categories in Title 13 of the California Code of Regulations.
- (2) Portable diesel-fueled engines that have not been permitted or registered prior to November 30, 2018, shall not be permitted or registered unless they are certified to the most stringent standard contained in the federal or California emission standards for nonroad engines, with the following exceptions:
  - (A) Engines meeting the definition of portable that have never been permitted or registered may be permitted or registered by a district or registered in the Statewide Portable Equipment Registration Program if they are certified to the on-road emission standards pursuant to 40 CFR Part 86, or the equivalent category in title 13, Cal. Code Regs.;
  - (B) Flexibility engines rated between 50 and 750 bhp that are manufactured to meet Tier 3 or Tier 4 interim emission standards
  - (C) Flexibility engines rated over 750 bhp that are manufactured to meet Tier 2 or Tier 4 interim emission standards;

- (D) Certified engines that lost permit exemption due to a change in district rules; or
- (E) A district may issue a permit or registration for an engine not meeting the most stringent of the federal or California emission standard for nonroad engines if:
1. The engine is certified to meet an emission standard set pursuant to 40 CFR Part 89, Part 1039 or set forth in the equivalent categories of title 13 , Cal. Code Regs.; and
  2. For Tier 1, Tier 2, and Tier 3 engines only, the engine shall have operated in California at any time prior to January 1, 2017. The responsible official shall provide documentation to prove the engine’s operation to the satisfaction of the Air Pollution Control Officer.
- (3) A fleet shall not newly designate an engine to be low-use or emergency-use after the dates listed in the schedule below. The schedule applies to flexibility engines according to the tier level to which the engine was built.

Engine Certification	Engines rated 50 to 750 bhp		Engines rated >750 bhp
	Large Fleet	Small Fleet	
Tier 1	7/1/2019	7/1/2019	7/1/2021
Tier 2 built prior to 1/1/2009	7/1/2021	7/1/2022	7/1/2024
Tier 2 built on or after 1/1/2009	NA	NA	7/1/2026

(c) Fleet Requirements

(1) Except as provided in section 93116.3(c)(2), engines may not operate in California on or after the dates listed in the following schedule:

(A)

Engine Certification	Engines rated 50 to 750 bhp		Engines rated >750 bhp
	Large Fleet	Small Fleet	
Tier 1	1/1/2020	1/1/2020	1/1/2022
Tier 2 built prior to 1/1/2009	1/1/2022	1/1/2023	1/1/2025
Tier 2 built on or after 1/1/2009	NA	NA	1/1/2027
Tier 3 built prior to 1/1/2009	1/1/2025	1/1/2027	NA
Tier 3 built on or after 1/1/2009	1/1/2027	1/1/2029	NA
Tier 1, 2, and 3 flexibility engines	December 31 of the year 17 years after the date of manufacture. This provision shall not apply to any engine operation before the effective date of this regulation.		

(B) Fleets complying with the schedule listed above must include all portable diesel-fueled engines operated in California, including engines registered with the Statewide Portable Equipment Registration Program or permitted by or registered with a district.

(C) For portable engines that are certified to the emission standards in 40 CFR part 86 or the equivalent categories in title 13, Cal. Code Regs., engines built to model year 2006 standards or older must comply with the schedule listed above for Tier 3 engines.

(2) For large fleets that elect not to comply with section 93116.3(c)(1), then the fleet must comply with the following weighted PM emission fleet averages expressed as grams per brake horsepower-hour (g/bhp-hr) by the listed compliance dates:

<i>Compliance Date</i>	<i>Fleet PM Standard (g/bhp-hr)</i>
1/1/2020	0.10
1/1/2023	0.06
1/1/2027	0.03

- (A) Large fleets shall only have the option to comply with the PM emission fleet average requirements of section 93116.3(c)(2) if the following conditions are met:
    - 1. All portable engines in the fleet, including low-use engines and emergency-use engines, must be registered in the Statewide Portable Equipment Registration Program by June 30, 2019;
    - 2. All portable engines added to the fleet on or after June 30, 2019 must be registered with the Statewide Portable Equipment Registration Program; and
    - 3. After June 30, 2019, if any large fleet is found to have unpermitted or unregistered engines rated at 50 bhp or greater, then the fleet must comply with the requirements of section 93116.3(c)(1) immediately upon discovery of such engines.
  
  - (B) In order to comply with fleet average option in section 93116.3(c)(2), the responsible official for a large fleet must submit a written request to the Executive Officer no later than June 30, 2019. At a minimum, the written request will include a listing of each engine in the fleet including registration number, serial number, maximum rated bhp, and engine family name.
  
  - (C) Portable alternative-fueled engines may be included in a fleet for the purposes of complying with the PM emission fleet average if the engine satisfies the requirements in section 93116.3(d)(2)(B).
- (3) The following portable diesel-fueled engines are excluded from the requirements in sections 93116.3(c)(1) and (c)(2):
    - (A) portable diesel-fueled engines operated exclusively outside of California or operated only within the OCS.
    - (B) portable diesel-fueled emergency-use engines.
    - (C) portable diesel-fueled low-use engines.
  
  - (4) Portable diesel-fueled engines equipped with a properly functioning level-3 verified technology are excluded from the requirements in section 93116.3(c)(1).
  
  - (5) Portable diesel-fueled low-use engines that subsequently exceed the allowed hours of operation in a calendar year, or portable diesel-fueled emergency-use engines that subsequently are used in non-emergency applications, become immediately subject to the requirements of section 93116.3(c)(1) or (c)(2) in the year such exceedence or use occurs. The responsible official must submit a request to convert the engine to regular use, subject to the limitations of section 93116.3(c)(6). For low-use engines, the hours of operation used for an



emergency event shall not be counted toward the allowed hours of operation.

- (6) The responsible official of a fleet may not submit a request to convert a low-use engine or an emergency-use engine to regular use, except for the following:
  - (A) Tier 1 and Tier 2 engines that become subject to the requirements of section 93116.3(c)(5); and
  - (B) Tier 3 engines.
- (7) Beginning on January 1, 2020, the weighted average PM emission rate for a large fleet electing to comply with section 93116.3(c)(2) must not exceed the fleet standard that is in effect, even during the years between and after the fleet standard effective dates. Changes in the fleet, including portable engine additions and deletions, must not result in noncompliance with the standard.
- (8) Any fleet that demonstrates compliance with any of the applicable weighted PM emission fleet averages listed below shall receive benefits upon approval from the Executive Officer. The responsible official must submit a statement of compliance per section 93116.4(d)(2) to the Executive Officer no later than 60 days after November 30, 2018, to request the benefits listed below:

(A)

<i>Engines &lt;175 hp (g/bhp-hr)</i>	<i>Engines 175 to 750 hp (g/bhp-hr)</i>	<i>Engines &gt;750 hp (g/bhp-hr)</i>
0.18	0.08	0.08

- (B) Upon approval from the Executive Officer, one of the following methods may be used to modify compliance with the fleet requirements as specified below:
  1. a fleet may delay the requirements in section 93116.3(c)(1) by two years for the size category of engines for which the fleet average was met; or
  2. a fleet may double count Tier 4 interim engines and Tier 4 final engines when demonstrating compliance with the first two weighted PM emission fleet averages in section 93116.3(c)(2).
- (9) Upon approval from the Executive Officer, a fleet may delay the requirements in section 93116.3(c)(1), if the following conditions are met:
  - (A) For each Tier 1 engine in the fleet removed from service in California after November 30, 2018, but prior to January 1, 2019,

one Tier 3 engine with the same or smaller maximum rated bhp may be operated for one additional year;

- (B) For each Tier 2 engine in the fleet removed from service in California after November 30, 2018, but prior to January 1, 2021, one Tier 3 engine with the same or smaller maximum rated bhp may be operated for one additional year;
- (C) The responsible official must submit a written request specifying which Tier 3 engine will receive the delay at the time the Tier 1 or Tier 2 engine is removed from service; and
- (D) If the Tier 3 engine that received the delay is removed from the fleet prior to the dates specified in subdivision (c)(1), then the responsible official may submit a written request to transfer the delay to a different Tier 3 engine in the fleet.

(d) Fleet Average Calculations

(1) General Provisions

- (A) The average PM emission factor for the fleet is determined by the following formula:

$$\frac{\sum \text{Summation for each portable engine in the fleet (bhp x emission factor)}}{\sum \text{Summation for each portable engine in the fleet (bhp)}}$$

where:

bhp = maximum rated horsepower.

emission factor = diesel PM emission rate, as determined below:

- (B) The following diesel PM emission rates shall be used with the above formula to determine the weighted average fleet emission rate:
  1. for portable diesel-fueled engines certified to a nonroad engine standard, the results of emission measurements submitted to either the U.S. EPA or CARB for the purposes of satisfying the appropriate emission standard; or
  2. for Tier 1 engines less than 175 bhp for which no particulate matter emission standard exists, an emission rate of 0.87 g/bhp-hr shall be used for engines less than 120 bhp and 0.46 shall be used for engines 120 to 174 bhp; or
  3. for replacement engines and flexibility engines that do not have a family name indicated on the engine, the emission standard of the tier level to which the engine was built shall be used; or

4. results from emission measurements from a verified emission control strategy may be used in conjunction with engine emission information.
- (2) The following incentives may be used to revise the fleet average, as outlined below:
- (A) Where a fleet has used or leased electrification in lieu of operating a portable diesel-fueled engine, the fleet may modify the fleet calculation as specified below. To receive credit for electrification in the fleet calculation, the recordkeeping and reporting requirements in section 93116.4(b)(3) shall be satisfied.
1. For equipment that uses grid power for more than 200 hours in lieu of operating a portable diesel-fueled engine for a given project, the time period grid power is used may be used to reduce each affected engine's emission factor. The emission factor for each affected portable engine will be reduced proportionally by the percentage of time the equipment uses grid power.
  2. Where a fleet has chosen to replace an existing portable engine with electrification, the fleet may include the replaced engine in the fleet calculation with an emission factor of zero.
  3. Where a fleet has chosen to install electrification in lieu of adding a diesel powered engine to the fleet, a fleet may include that engine in the fleet calculation with an emission factor of zero.
- (B) Alternative-fueled portable engines
1. Alternative-fueled portable engines operating 100 or more hours may be included toward determining compliance with the applicable fleet emission standards. A diesel PM emission rate of zero shall be used in the fleet calculations for these engines.
  2. Alternative-fueled portable engines operating 100 or more hours per calendar year and added to a fleet prior to January 1, 2009, may be counted twice in the company's fleet average determination toward compliance with the 2020 and 2023 fleet emission standards. The alternative-fueled engine must be certified to meet a federal or California standard for newly manufactured nonroad engines pursuant to 40 CFR Part 89 or title 13, Cal. Code Regs.
- (C) Tier 4 interim engines and Tier 4 final engines rated over 750 bhp that were permitted or registered prior to January 1, 2017, may be counted twice in the fleet average determination toward compliance with the 2020 and 2023 fleet emission standards.

(e) Prohibition of Sale

As of November 30, 2018, no person shall sell or offer for sale to an end user in California a portable diesel-fueled engine under the circumstances listed below. The sale of engines for resale outside of California is not prohibited.

- (1) any engine that is not a certified engine; or
- (2) certified engines shall not be sold after the dates listed in the following schedule:

Engine Certification	Engines rated 50 to 750 bhp	Engines rated >750 bhp
Tier 1	1/1/2020	1/1/2022
Tier 2 built prior to 1/1/2009	1/1/2023	1/1/2025
Tier 2 built on or after 1/1/2009	NA	1/1/2027
Tier 3 built prior to 1/1/2009	1/1/2027	NA
Tier 3 built on or after 1/1/2009	1/1/2029	NA
Tier 1, 2, and 3 flexibility engines	December 31 of the year 17 years after the date of manufacture. This provision shall not apply to any sale of an engine before the effective date of this regulation.	

(f) Disclosure of Applicability

Any person selling a certified engine subject to this regulation in California must provide the following disclosure in writing to the buyer as part of the sales transaction: "When operated in California, any portable diesel engine may be subject to the California Air Resources Board Airborne Toxic Control Measure For Diesel Particulate Matter From Portable Engines Rated At 50 Horsepower And Greater. It therefore could be subject to retrofit or accelerated turnover requirements to reduce emissions of air pollutants. For more information, please visit the California Air Resources Board website at <http://www.arb.ca.gov/portable/portable.htm>."

Authority cited: Sections 39600, 39601, 39650, 39658, 39659, 39666, 41752, 41754, 43013 and 43018 Health and Safety Code. Reference: Sections 39650, 39666, 41752, 41754, Health and Safety Code.

### **§ 93116.3.1 Compliance Flexibility for Diesel PM Standards.**

If the Executive Officer finds, based on verifiable information from the engine manufacturer, distributor, or dealer, that current model year engines meeting the current emission standards are not available or not available in sufficient numbers or in a sufficient range of makes, models, and horsepower ratings, then the Executive Officer may allow the sale, purchase, or installation of a new stock engine meeting the emission standards from the previous model year to meet the emission standards in section 93116.3(b).

Authority cited: Sections 39600, 39601, 39650, 39658, 39659, 39666, 41752, 43013 and 43018 Health and Safety Code. Reference: Sections 39650, 39666, 41752, Health and Safety Code.

### **§ 93116.4 Fleet Recordkeeping and Reporting Requirements.**

- (a) The owner or operator of a fleet is not subject to the requirements of this section if each portable diesel-fueled engine in the fleet satisfies any one of the following requirements:
  - (1) the portable diesel-fueled engine is certified to Tier 4 interim or Tier 4 final emission standards for newly manufactured nonroad engines; or
  - (2) the portable diesel-fueled engine is equipped with a properly functioning level-3 verified technology.
- (b) The Responsible Official of a fleet must:
  - (1) Keep and maintain records for:
    - (A) alternative-fueled portable engines used as part of a company's fleet average, except as provided in section 93116.4(c); and
    - (B) portable diesel-fueled engines affected by the use of electrification; and
    - (C) portable diesel-fueled low-use engines; and
    - (D) portable diesel-fueled emergency-use engines.
  - (2) The Responsible Official, for all portable engines subject to section 93116.4(b)(1), must:
    - (A) install or cause to be installed and properly maintained on each portable engine subject to recordkeeping a non-resettable hour-meter; and

- (B) maintain on a calendar year basis a record of the total hours of operation for each portable engine. If the portable engine is used out-of-state, then the records may account for operation within California only, excluding operation within the OCS; and
  - (C) maintain on a calendar year basis a record of the types of operations for emergency-use engines. The records must include the specific nature of the emergency or emergency event and the dates the emergency or emergency event occurred; and
  - (D) maintain all required records at a central place of business for five years. The records must clearly identify each portable engine subject to the recordkeeping requirement as well as the annual hours of operation. These records are to be made available, upon request for inspection, to local air pollution control district or CARB personnel. The requested records must be provided to the appropriate personnel within ten business days of the request.
- (3) The Responsible Official of a fleet electing to use electrification in determining the fleet average must:
- (A) notify the Executive Officer identifying the dates, location, duration of the project, and a description of the project that will rely on electrification instead of using portable diesel-fueled engines as specified in section 93116.3(d)(2)(A)1. The notification must be provided prior to the start of the project;
  - (B) identify each portable diesel-fueled engine affected by the use of electrification as specified in section 93116.3(d)(2)(A)1., including: make, model, serial number, year of manufacture for each engine, emission factor (g/bhp-hr) and district permit or State/district registration number;
  - (C) must clearly identify the electrification activity as specified in section 93116.3(d)(2)(A)1., including indicating the amount of electricity used and the time period for the project;
  - (D) must retain copies of contracts or other documentation, with the project proponent and/or applicable utility, supporting the use of grid power as specified in section 93116.3(d)(2)(A)1.;
  - (E) For engines replaced by electrification as specified in section 93116.3(d)(2)(A)2., provide the registration number of the engine; and

- (F) For electrification in lieu of installing a diesel engine as specified in section 93116.3(d)(2)(A)3., provide the manufacturer, model, and brake horsepower rating of the engine that was not installed.
- (c) Effective January 1, 2008, for alternative-fueled engines added to a fleet prior to January 1, 2009, the Responsible Official must:
- (1) install or cause to be installed and properly maintained on each portable engine subject to recordkeeping a non-resettable hour-meter; and
  - (2) maintain on a calendar year basis a record of the total hours of operation for each portable engine. If the portable engine is used out-of-state, then the records may account for operation within California only, excluding operation within the OCS; and
  - (3) maintain all required records at a central place of business for five years. The records must clearly identify each portable engine subject to the recordkeeping requirement as well as the annual hours of operation. These records are to be made available, upon request for inspection, to local air pollution control district or CARB personnel. The requested records must be provided to the appropriate personnel within ten business days of the request.
- (d) The Responsible Official of the fleet must provide the following reports to the Executive Officer:
- (1) For low-use engines in the fleet, the responsible official must submit a report by March 1 of each calendar year indicating the following:
    - (A) The permit or registration number of each low-use engine; and
    - (B) The hour meter readings taken at the beginning and end of the previous calendar year for each low-use engine.
  - (2) For large fleets subject to the requirements of section 93116.3(c)(2), a statement of compliance signed by the Responsible Official that the fleet standards are being achieved and a summary that identifies each portable engine in the fleet and the associated emission rate (g/bhp-hr). Portable engines included in the fleet are those that are part of the fleet at the time the fleet standard became effective. The engine identification must include, at a minimum, registration number, bhp rating, engine family name, serial number, and year of manufacture for each engine. Alternative-fueled engines must be identified by fuel

type. The statements of compliance are due to the Executive Officer at the following times:

- (A) Upon application to add an engine to the fleet for any Tier 1 engine, Tier 2 engine, Tier 3 engine, including flexibility engines built to those standards.
  - (B) Upon a request to remove a Tier 4 interim engine or a Tier 4 final engine from a fleet, except for engine dealers and rental businesses.
  - (C) March 1, 2020, for the fleet standards that become effective January 1, 2020; and
  - (D) March 1, 2023, for the fleet standards that become effective January 1, 2023; and
  - (E) March 1, 2027 for the fleet standards that become effective January 1, 2027.
- (3) The Responsible Official must identify to the Executive Officer, as part of each compliance report required by section 93116.4(d)(2), the specific portable diesel-fueled engines, if any, used exclusively in emergency applications. The list must include the registration number for each portable diesel-fueled engine.
- (4) The Responsible Official must identify to the Executive Officer, as part of each compliance report required by section 93116.4(d)(2), the specific portable diesel-fueled engines, if any, excluded from the fleet because the portable diesel-fueled engine operated exclusively outside of California or operated only within the OCS. The list must include for each portable diesel-fueled engine: the serial number, year of manufacture, and district permit or registration number for each engine.
- (5) If compliance with the fleet average includes the use of electrification, the Responsible Official must provide documentation supporting the credit claimed for electrification.
- (6) As part of each compliance report required by section 93116.4(d)(2), the Responsible Official must, if applicable, certify the following:
- (A) all portable alternative-fueled engines included in the fleet average operated at least 100 hours during the previous 12 months prior to the fleet emission standard becoming effective.



- (B) for all portable diesel-fueled emergency-use engines, the engines were used only for emergency applications.
- (7) After March 1, 2020, the APCO or the Executive Officer may require the submittal of additional information demonstrating compliance with the applicable fleet standard. Upon receiving the request, the Responsible Official must provide the requested information within 30 days.
- (e) For fleets that are exempted from the requirements of section 93116.4 pursuant to section 93116.4 (a), the Responsible Official must certify that all portable diesel-fueled engines in the fleet satisfy the requirements of section 93116.4(a). The Responsible Official must provide the certification statement and a list of the portable diesel-fueled engines in the fleet to the Executive Officer when the fleet initially satisfies the requirements of section 93116.4(a). The list of engines must identify the serial number, and district permit or State/district registration number for each engine.

#### **§ 93116.5 Enforcement of Fleet Requirements.**

- (a) Both the Executive Officer and the APCO have the authority to review or seek enforcement action for violation of the fleet emission standard.
- (b) The CARB will make available to the districts the information the Responsible Official has provided to CARB to demonstrate compliance with the fleet standard.

Authority cited: Sections 39600, 39601, 39650, 39658, 39659, 39666, 41752, 41754, 43013 and 43018 Health and Safety Code. Reference: Sections 39650, 39666, 41752, 41754 Health and Safety Code.

*This document reflects nonsubstantive grammatical corrections that will be submitted to the Office of Administrative Law for official publication. The official publication of this regulation is in the California Code of Regulations and may be obtained from the Office of Administrative Law at the following link:*

<https://govt.westlaw.com/calregs/Index?transitionType=Default&contextData=%28sc.Default%29>