California Environmental Protection Agency

Air Resources Board

LOCATION:
Air Resources Board
Byron Sher Auditorium, Second Floor
1001 I Street
Sacramento, California 95814

PUBLIC MEETING AGENDA

This facility is accessible by public transit. For transit information, call (916) 321-BUSS, website: http://www.sacrt.com
(This facility is accessible to persons with disabilities.)

March 22, 2007
9:00 a.m.

Item #

07-3-1: Health Update for the Board on Health Effects Associated with Traffic-Related Air Pollution

Health effects from traffic-related pollution have recently received much media attention and the subject is an important research priority at ARB. Staff will present findings from several new studies examining associations between traffic-related pollution and outcomes such as asthma, lung function, respiratory symptoms, heart attacks, strokes, and death. Several studies have been conducted right in California, and there are new findings from the Southern California Children's Health Study cohort. This research examined the effect of exposure to traffic on lung function development in children over an 8-year period in 12 southern California communities.

07-3-2: Report to the Board on the 2007/08 State Implementation Plan

Staff will brief the Board on the status of State Implementation Plan (SIP) development. SIPs for the federal 8-hour ozone and PM2.5 standards are due to the U.S. Environmental Protection Agency in June 2007 and April 2008 respectively.

06-11-5: ITEM CONTINUED FROM DECEMBER 2006 BOARD HEARING: Public Hearing to Consider Proposed Amendments to California Emission Warranty Information Reporting and Recall Regulation and Emission Test Procedures

This item was continued from the December 7, 2006 hearing. Staff has made modifications to the original proposal dated October 20, 2006 based on public comments and discussion at the December Board hearing. Amendments will be proposed to the existing Emission Warranty Information Reporting and Recall regulations to require that corrective action be conducted by manufacturers when their warranty claims for an emission control component exceeds a valid four percent failure rate (ten percent unscreened rate). Once a true four percent failure rate is established, manufacturers will be required to either extend their warranties to a vehicle or engine's useful life, or in some cases conduct a recall for the emission component. In addition, the reporting burden has been substantially reduced by raising trigger levels from one to four percent and by reducing the frequency of reporting to yearly instead of quarterly.

07-3-3: Public Hearing to Consider Proposed Amendments to the Statewide PERP Regulation and the ATCM for Diesel-Fueled Portable Engines

The Board adopted emergency amendments on December 7, 2006 that allowed the permitting or registration of portable engines that were previously ineligible. The emergency amendments are only effective for a period of 120 days from December 27, 2006. The proposed amendments to be considered at this hearing will make permanent the emergency changes. In addition, there are proposed minor revisions that will improve implementation of the Statewide PERP Regulation.

07-3-4: Public Hearing to Consider Emergency Amendments to the Statewide Portable Equipment Registration Program (PERP) Regulation and the Airborne Toxic Control Measure (ATCM) for Diesel-Fueled Portable Engines

The Board adopted 120-day emergency amendments on December 7, 2006 that allowed the permitting or registration of portable engines that were previously ineligible. Staff is proposing amendments that would make permanent the December 7, 2006 emergency regulatory changes to the PERP Regulation and the Portable ATCM, but they will not become effective before the expiration of those emergency amendments. Therefore staff is proposing that the Board once again adopt short-term emergency amendments to the PERP Regulation and the Portable ATCM so there will be no loss of regulatory authority between the time the original emergency amendments expire and when the permanent amendments take effect.

CLOSED SESSION – LITIGATION

The Board will hold a closed session as authorized by Government Code section 11126(e) to confer with, and receive advice from, its legal counsel regarding the following pending litigation:

Central Valley Chrysler-Jeep, Inc. et al. v. Witherspoon, U.S. District Court (E.D. Cal. – Fresno), No. CIV-F-04-6663 REC LJO.

Fresno Dodge, Inc. et. al. v. California Air Resources Board and Witherspoon, Superior Court of California (Fresno County), Case No. 04CE CG03498.

General Motors Corp. et. al. v. California Air Resources Board and Witherspoon, Superior Court of California (Fresno County), No. 05CE CG02787.

Massachusetts v. U.S. EPA, 415 F. 3d 50 (D.C. Circ. 2005), Certiorari granted, 126 S. Ct. 2960 (June 26, 2006.)

OPPORTUNITY FOR MEMBERS OF THE BOARD TO COMMENT ON MATTERS OF INTEREST.

Board members may identify matters they would like to have noticed for consideration at future meetings and comment on topics of interest; no formal action on these topics will be taken without further notice.

OPEN SESSION TO PROVIDE AN OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO ADDRESS THE BOARD ON SUBJECT MATTERS WITHIN THE JURISDICTION OF THE BOARD.

Although no formal Board action may be taken, the Board is allowing an opportunity to interested members of the public to address the Board on items of interest that are within the Board's jurisdiction, but that do not specifically appear on the agenda. Each person will be allowed a maximum of three minutes to ensure that everyone has a chance to speak.

SMOKING IS NOT PERMITTED AT MEETINGS OF THE CALIFORNIA AIR RESOURCES BOARD

TO SUBMIT WRITTEN COMMENTS ON AN AGENDA ITEM IN ADVANCE OF THE MEETING GO TO:
http://www.arb.ca.gov/lispub/comm/bclist.php

IF YOU HAVE ANY QUESTIONS,
PLEASE CONTACT THE CLERK OF THE BOARD
1001 I Street, 23rd Floor, Sacramento, CA 95814

(916) 322-5594
FAX: (916) 322-3928
ARB Homepage: www.arb.ca.gov

To request special accommodation or language needs, please contact the following:

- **For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette or computer disk. Please contact ARB's Disability Coordinator at 916-323-4916 by voice or through the California Relay Services at 711, to place your request for disability services.**

- **If you are a person with limited English and would like to request interpreter services to be available at the Board meeting, please contact ARB's Bilingual Manager at 916-323-7053.**

THE AGENDA ITEMS LISTED ABOVE MAY BE CONSIDERED IN A DIFFERENT ORDER AT THE BOARD MEETING.

SMOKING IS NOT PERMITTED AT MEETINGS OF THE CALIFORNIA AIR RESOURCES BOARD

California Environmental Protection Agency

Air Resources Board

PUBLIC MEETING AGENDA

INDEX

LOCATION:
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March 22, 2007
9:00 a.m.

NOTICE OF CONTINUATION

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO CALIFORNIA'S EMISSION WARRANTY INFORMATION REPORTING AND RECALL REGULATIONS AND EMISSION TEST PROCEDURES

The Air Resources Board (the Board or ARB) will conduct a continuation of a public hearing at the time and place noted below to consider amendments to California's Emission Warranty Information Reporting (EWIR) and recall regulations and emission test procedures. The proposed amendments would revise, clarify and make specific vehicle and engine manufacturers' responsibilities regarding the reporting of emission-related warranty activities and required corrective action for systemic emission-control defects identified through the EWIR Program.

DATE: March 22, 2007

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium, Second Floor
1001 I Street
Sacramento, California 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., March 22, 2007, and may continue at 8:30 a.m., March 23, 2007. This item may not be considered until March 23, 2007. Please consult the agenda for the meeting, which will be available at least 10 days before March 22, 2007, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette or computer disk. Please contact ARB's Disability Coordinator at (916) 323-4916 by voice or through the California Relay Services at 711, to place your request for disability services. If you are a person with limited English and would like to request interpreter services, please contact ARB's Bilingual Manager at (916) 323-7053.

THE CONTINUED HEARING

The continued hearing will be conducted as described in the original notice, except that written submissions must be addressed to and received by the Clerk of the Board as described below. All comments submitted for the December 8, 2006, hearing will remain part of the rulemaking record. The original notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB

Internet site for this rulemaking at http://www.arb.ca.gov/regact/recall06/recall06.htm and are available as described in the original notice.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received **no later than 12:00 noon,** March 21, 2007, and addressed to the following:

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

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

Facsimile submittal: (916) 322-3928

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons: Mr. Tom Valencia, Air Pollution Specialist, Field Inspection and Testing Section, at (626) 575-6726, or tvalenci@arb.ca.gov, or Mr. Tony Dickerson, Air Resources Engineer, Field Inspection and Testing Section, at (626) 459-4350 or tdickers@arb.ca.gov.

CALIFORNIA AIR RESOURCES BOARD

Catherine Witherspoon
Executive Officer

Date: December 21, 2006

Air Resources Board

Robert F. Sawyer, Ph.D., Chair
9480 Telstar Avenue, Suite 4
El Monte, California 91731 www.arb.ca.gov

Linda S. Adams
Secretary for
Environmental Protection

Arnold Schwarzenegger
Governor

January 23, 2007 Mail-Out #MSO 2007-01

TO: ALL PASSENGER CAR MANUFACTURERS
ALL LIGHT-DUTY/MEDIUM-DUTY VEHICLE MANUFACTUERS
ALL HEAVY-DUTY VEHICLE MANUFACTURERS
ALL MOTORCYCLE MANUFACTURERS
ALL OTHER INTERESTED PARTIES

SUBJECT: NOTICE OF PUBLIC WORKSHOP REGARDING PROPOSED AMENDMENTS TO THE PROCEDURES FOR REPORTING FAILURES OF EMISSION-RELATED COMPONENTS AND CORRECTIVE ACTIONS; SUPPLEMENT TO THE INITIAL STATEMENT OF REASONS

I. Introduction

This notice announces that the staff of the Air Resources Board (ARB or Board) will conduct a workshop on February 14, 2007 at ARB's El Monte facility on additional modifications to proposed amendments to ARB's regulations on procedures for reporting failures of emissions-related components and corrective actions. Proposed amendments on this topic were initially considered by the Board at a December 7, 2006, hearing, and staff plans to present the modified amendments for the Board's consideration at a hearing on March 22 or 23, 2007, in Sacramento.

At the December 7, 2006 hearing, the Board considered amendments designed by staff to improve California's emission warranty information reporting and recall regulations and emission test procedures. Staff identified three aspects of the existing regulation that needed improvement, specifically: (1) the proof required to demonstrate violations of ARB's emission standards or test procedures, (2) the corrective action available to ARB to address the violations and, (3) the manner in which emissions warranty information is reported to ARB. The objective of the proposed amendments is to obtain more corrective actions to more vehicles that have systemic defective emission control devices or systems, when compared to the current regulations.

During the 45-day comment period prior to the December hearing staff continued to meet with industry and stakeholders, as it had done before the comment period. These discussions lead to the development of additional changes to the staff proposal which were presented to the Board as concepts at the hearing. The Board heard testimony from 14 representatives from the motor vehicle manufacturing industry, the

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automotive aftermarket industry, and the independent service and repair industry all who raised concerns with the staff proposal. Several witnesses asked the Board for a delay on their consideration of this item. Testimony in favor of the staff proposal was provided by the Sierra Club and the South Coast Air Quality Management District.

The witnesses in opposition to the regulatory proposal made certain claims which are summarized in nine main points as follows. Witnesses claimed that:

(1) The staff's proposal lacked the legal authority to impose corrective actions on violations not linked to exceedances of emission standards,
(2) The staff did not provide industry and stakeholders sufficient time to fully realize and comment on the October 20, 2006 staff proposal,
(3) The staff did not provide industry and stake holders sufficient time to respond to the proposed conceptual changes developed during the 45 day process and presented at the December 7, 2006 hearing,
(4) The staff's proposal did not provide for a hearing process for corrective actions other than recall,
(5) The staff's proposal lacked the legal authority to mandate extended warranties as a corrective action, especially beyond the useful life of the vehicles,
(6) The staff's proposal did not provide special consideration for the motorcycle industry since their warranty period is already equal to the useful life,
(7) The staff proposal did not provide delays to the proposed warranty reporting program for the heavy duty-industry since OBD will not be fully integrated until 2016 and new NOx after-treatment technology will be implemented in the 2010 model year,
(8) The staff's proposal did not address for potential monetary impacts on the aftermarket service and parts industry resulting from extended warranties for failing components, and
(9) The staff did not provide sufficient consideration to industry's alternative proposals.

Some witnesses commented that if additional time were given they believed resolution to most outstanding issues could be reached and requested additional time to work on the proposal with staff. The Board agreed that additional time could be helpful. The Board emphasized that the proposal presented by staff at the December hearing is on the correct path for addressing systemic emission component failures and the decision to continue the item to a future date was not intended to result in a restructuring or change in the scope of the proposal.

Accordingly, the hearing date for the item has been continued to the Board's hearing scheduled for March 22-23, 2007 and staff is conducting additional industry meetings in combination with a workshop at the time and place listed below to allow

additional participation by stakeholders in the final proposal. The staff's revised regulatory and test procedure proposal is contained in Attachment A and B respectively. Specific regulatory language for each of the proposed additional concepts presented at the hearing have been incorporated along with additional changes in response to hearing testimony. This notice also serves as a supplement to the Initial Statement of Reasons (ISOR) released on October 20, 2006, for these proposed changes. The reader is encouraged to reference the entire ISOR at http://www.arb.ca.gov/regact/recall06/risor.pdf for additional information.

II. Changes to October 20, 2006 Proposal

A. Concepts Presented at the December 7, 2006 Hearing

After release of the initial proposal on October 20, 2006, and several discussions with industry, staff drafted additional conceptual changes that were presented to the Board as 15-day changes on December 7, 2006 as an attempt to address many stakeholder concerns (see Attachment C). It was anticipated that staff and industry would work on the final regulatory language subsequent to the hearing provided the board adopted the conceptual language. However industry, as well as the Board, felt the final regulatory language should be developed and presented for consideration at a future date prior to the continued hearing. The original concepts presented at the hearing are listed below along with staff's proposed actions and which main points identified in the previous section they relate to.

1) Manufacturers commented that the proposal did not allow for delays in submitting corrective action plans. Staff agreed legitimate reasons could exist for a delay in submitting corrective action plans provided good cause was shown. Regulatory language has been added that allows manufacturers to request a delay in the submission of a corrective action plan provided good cause is shown and approved by the Executive Officer. (See proposed Section 2172 and 2172.2 in Attachment A.)

2) Manufacturers commented that the proposal did not allow for consideration to eliminate warranty claims that were generated as a result of an "infant mortality" defective component situation. Staff acknowledges that infant mortality cases do occur and should be addressed as a special case. Regulatory language has been added to address infant mortality warranty issues provided appropriate corrective action is implemented and satisfactorily completed very early in the warranty period of the affected vehicles or engines. It should be noted that manufacturers must continue to monitor and report Emission Warranty Information Reports (EWIR) as necessary, and corrective action may be required if the failure rate threshold is exceeded. (See proposed Section 2168(b) in Attachment A.)

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3) Manufacturers commented that the proposal did not allow for consideration to eliminate warranty claims that were generated as a result of a voluntary recall. Staff acknowledges that this consideration should be included in the proposal similar to that of the infant mortality issue. Regulatory language has been added to allow a manufacturer to voluntarily initiate corrective action for defects that it wishes to correct before any trigger is exceeded. In such a case, the manufacturer may eliminate only these components from the EWIR or Supplemental Emission Warranty Information Report (SEWIR). However, if the recall applies to a subgroup of vehicles, the non-affected vehicles are still subject to reporting requirements and possible corrective action. Also, the replacement components must begin their own tracking process. (See Proposed Section 2168(c) in Attachment A.)

4) The heavy-duty vehicle and engine manufacturers commented that the proposal should allow "light-heavy" duty engines to be considered in the medium-duty category when determining extended warranty time and mileage periods. Staff originally agreed with industry; however, the Board discussion suggested that the extended warranty time and mileage periods should not exceed the certified useful life period. As a result the staff has added regulatory language that limits the extended warranty period to equal the applicable useful life period for all vehicle and engine categories as they were certified. (See proposed Section 2166.1(j) in Attachment A; This relates to Main Point 5 discussed above.)

5) The heavy-duty vehicle and engine manufacturers commented that the proposal lacked specific definitions for the terms "defective emission-control component" or "defective emission-related component." Staff agrees and regulatory language has been added to define those terms. (See proposed Section 2166.1(e) in Attachment A.)

6) Manufacturers commented that the proposal required a new "demonstration" during certification that a manufacturer's vehicles or engines would not exceed the four percent warranty failure rate during its useful life period. Staff acknowledges that a demonstration beyond what is already required by new engine or vehicle certification was not staff's intent. The proposal has been revised to only require a statement of compliance that based on good engineering judgment and information available at the time of certification the parts will be durable for the full useful life and will not exceed the four percent warranty claim rate during the warranty reporting period. The staff added additional language clarifying the requirement and relating it to Health and Safety Code section 43106. (See proposed Test Procedures in Appendix B.)

7) The heavy-duty vehicle and engine manufacturers commented that the proposal lacked specific definitions regarding for the terms "emission-control component" or

"emission-related component." Staff agrees and regulatory language has been added to define those terms. (See proposed Section 2166.1(f) in Attachment A.)

8) Manufacturers commented that the ARB had previously agreed to a shorter warranty for the battery pack of a HEV, in order to reflect uncertainty in the lifetime of this component. As a result, any corrective action involving an extended warranty for battery packs should not exceed its warranty period. After reviewing HEV-certified vehicle warranty requirements, staff agrees and regulatory language has been added that limits the extended warranty time and mileage period for propulsion battery packs to 10 years or 150,000 miles (whichever first occurs) (See proposed Section 2166(j) in Attachment A.)

9) Manufacturers commented that the proposed test procedures required the manufacturer to state that the emission control devices installed on their vehicles would not exceed a failure rate of greater than four percent or 50 vehicles (whichever is greater) within their useful life. The correct statement should state "...would not exceed a failure rate greater than four percent or 50 vehicles (whichever is greater) within the warranty period." Staff agrees and has made changes to the applicable test procedures. (See proposed Test Procedures in Appendix B.)

10) Manufacturers commented that the proposal should tie corrective action for emission component defects to only exceedances of the applicable emission standards and not a violation of test procedures. The staff disagrees with the manufacturers' position. Health and Safety Code Sections 43105 and 43106 give the ARB authority to invoke corrective action for violations of test procedures as well as emission standards and therefore the staff proposal is appropriate. However, regulatory language has been added that would allow manufacturers to submit information as part of the SEWIR to demonstrate for the review and approval of the Executive Officer that under no conceivable circumstance may a specific emission control component defect result in an increase in emissions over that of a properly operating vehicle or engine without the defect. For example, if a manufacturer discovered that catalysts were being replaced due to a cracked or broken heat shield, this failure could be argued that the defect would not cause any conceivable emissions impact. In proven cases, the Executive Officer may elect to withdraw any corrective action requirement. (See proposed Section 2168(f)(6) in Attachment A; This relates to Main Point 1, discussed above.)

11) Staff identified three non-substantive regulatory language changes that needed clarification.

    a. Staff inadvertently included the 2010 and subsequent model year off-road motorcycle categories in the proposal. The staff acknowledges that off-road

motorcycles should not be included as part of this proposal. The proposed regulations have been revised to eliminate the off-road motorcycle categories. [See proposed Section 2166(a)(1)]

b. The ARB's in-use vehicle enforcement test procedures were inadvertently removed in the 2010 and subsequent model years. Staff has added language to re-establish the in-use vehicle enforcement test procedures for these model years. (See revised Section 2136)

c. Staff determined that manufacturers of partial zero emission vehicles shall be limited to filing EWIRs for exhaust after-treatment devices, computer related repairs including calibration updates, battery cells used for vehicle propulsion, and any emission-control device not subject to the 15 year/150,000 mile emission control warranty provisions for such vehicles. Regulatory language has been added to reflect this change. (See proposed Section 2167(a)(4) in Attachment A.)

B. Other Proposed Changes

Since the December 7, 2006 hearing, the staff determined that several additional changes were appropriate based on the testimony and comments submitted by industry. The following is a summary of these proposed changes.

1) The Board discussion at the hearing suggested that the extended warranty period should not exceed the certified useful life period. As a result, the staff has added regulatory language that limits the extended warranty period to equal the applicable certified useful life period for all vehicle and engine categories. (See proposed Section 2166.1(j) in Attachment A; this relates to Main Point 5, discussed above.)

2) The Motorcycle Industry Council testified that, since there are no adopted or implemented requirements for OBD, this proposal would lead to recall for all failing components and that some consideration should be given to the fact that motorcycles are already warranted for their entire useful life period. Staff agrees that all component failures would be subject to recall since they are not monitored by OBD, but also acknowledges that unlike other manufacturers, motorcycles do already have warranties for the full useful life of their emission components. However, since OBD is not available to detect component failures and exhaust after treatment devices are so crucial to limiting emissions staff feels they should remain primarily subject to recall. Since motorcycles are a smaller emission source relative to the light-duty and heavy-duty industries and do carry useful life warranties, staff does propose allowing non exhaust aftertreatment components be addressed through their useful life warranties. Staff has added language to incorporate this

change. (See proposed Section 2171(c) in Attachment A; This relates to Main Point 6 discussed above.)

3) Industry commented that the October 20, 2006 proposal provided for a public hearing to contest recalls, but not other corrective actions. The staff has added language to the proposed regulations that would allow a manufacturer to challenge any corrective action including extended warranties through the public hearing process. (See proposed Section 2174(a) in Attachment A; This relates to Main Point 4.)

A flow diagram that depicts the current proposal is shown in Attachment D. It is only meant to be a pictorial guide and not part of the regulatory package.

Industry also expressed concerns regarding the staff proposal because they believes it creates a prescriptive standard. The October 20, 2006 proposed amendments, including the amendments discussed above, would set a performance standard, the four percent failure rate, establishing an "objective with the criteria stated for achieving the objective." Government Code section 11342.570. The means of compliance with the performance standard is left to the manufacturers. The proposed amendments do not establish a prescriptive standard. They do not specify "the sole means of compliance with a performance standard by specific actions, measurements, or other quantifiable means." Government Code section 11342.590. The proposed amendments are not prescriptive standards because they would not mandate the use of specific technologies or equipment. See Government Code section 11346.2(b)(1) and (3)(A).

Much testimony at the hearing was critical of the staff's proposal to allow an extended warranty in lieu of recall as corrective action. One board member asked whether in light of criticism, we should return to recall as the only corrective action. Although staff is not proposing such a change at this time, staff is requesting comments from interested stakeholders.

III. Analysis of Regulatory Alternatives

The original ISOR dated October 20, 2006 contains an analysis of regulatory alternatives that the staff believes is adequate and in keeping with ARB practice. Nevertheless, the Alliance of Automobile Manufacturers has contended that this original analysis is deficient, main point 9. Without conceding that this contention is correct, the staff supplements the original analysis of regulatory alternatives as set forth below. This supplemental analysis, and the submittals in Attachments E, F and G, are being made available to the public more than 45 days before the March 22-23, 2007 hearing at which the Board will further consider the proposed regulatory amendments. The public

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will have the opportunity to comment on these materials at that hearing and in a supplemental 15-day comment period after the hearing.

The regulatory alternatives to the staff's proposal (including those advanced by the Alliance and the alternative the staff presented at the May 2, 2006 workshop) are based on using emissions testing to show the emissions impact of a failing emissions-related component. The staff believes that basing the availability of recall or other corrective action on the emissions impact of a systemic failure of emissions-related components is undesirable and unnecessarily frustrates the implementation of proper remedies. Emissions testing needed to demonstrate emissions impacts of failures of emissions-related components is expensive, time-consuming, seldom dispositive and is fraught with issues regarding the validity of any particular test plan. Taking these circumstances into account, the staff believes that it is desirable to base the availability of recall or other corrective action on a clearer standard that does not have the disadvantages that plague standards based on emissions impacts and emissions testing.

Accordingly, the staff developed the proposed standard which is based on the simple showing that an emissions-related component failed in use at a particular percentage rate, as evidenced in the emissions warranty reports that vehicle manufacturers file with the ARB. In addition to avoiding the pitfalls of standards based on emissions impacts and emissions testing, the staff believes that the approach it proposes has several other advantages. These advantages include: allowing the implementation of swifter recalls or other corrective actions at lower transaction costs, harnessing the powers of on-board diagnostic systems to detect emission component failures and warn drivers to seek repairs, relating the recall/corrective action decision to the durability demonstration that manufacturers must make to obtain ARB's certification, and guaranteeing that the vehicles that manufacturers use for certification testing are substantially the same in construction in all material respects to the vehicles that they sell to the public (Main Points - Section I. 5). Staff believes that emission-control components are installed by the manufacturers to control emissions. Those components are required to be durable for the certified useful life; and, if they fail at systemic rates early in customer use, they violate certification test procedures and will lead to increased emission levels. Those defects should be addressed quickly and the current proposal serves these purposes more effectively than the alternatives, which are based on emissions impact and emissions testing.

The rest of the ISOR contains a much more detailed description of the reasons why the staff believes that the alternative it is proposing is superior to alternatives based on emissions impacts and emissions testing, particularly alternatives based on the status quo, which the Alliance of Automobile Manufacturers also advocates. The rest of the ISOR is incorporated here. 'Staff does provide further detailed analysis on each of the industry alternatives below.

9.

A. Alliance of Automobile Manufacturers – Alternative dated May 31, 2006

The Alliance of Automobile Manufacturers (Alliance) submitted an alternative proposal (see Attachment E) to the warranty reporting procedures on May 31, 2006, in response to the ARB's initial workshop notice, and presented the item at ARB's El Monte office on June 8, 2006. The alterative was very similar to the ARB's initial proposal discussed at the May 2006 workshop, however the proposal involved a calculation of a "projected emission factor" that took into account the vehicle's emissions with the defect and how long the vehicle would be driven with the defect installed (an assumption would have to be made on how long the average owner would drive with the failed component before repair). Recall would be based on the calculation of the projected emission factor and would only be required if the problem was not overt. If the calculation showed corrective action was necessary and the problem was overt, an extended warranty would only be authorized if the problem reached an unscreened repair level of greater than 20 percent.

The staff carefully analyzed the Alliance's alternative and discovered that a vehicle would have to fail the standard(s) by an extreme amount and be driven in this condition for thousands of miles before corrective action would be considered. For example, an oxygen sensor failure could fail the emission standards by a factor of two and be driven for 7,000 miles in this "unrepaired" condition. According to the Alliance's calculations, this vehicle would never be recalled because the emissions over the useful life would not exceed the emission standards. If the same vehicle with the oxygen sensor problem failed the emission standards by a factor of eight and was driven for 10,000 miles before repair, the vehicle would fail the emission standards but only by about five percent. The manufacturer could argue that five percent is a marginal failure and would not require corrective action because ARB has allowed such marginal failures to forego corrective action during in-use compliance testing. Based on the staff's analysis of this alternative and the discussion above, the ARB staff did not consider the Alliance's alternative in this case to be a viable program. The Alliance was verbally notified of the staff's position on August 9, 2006. The Alliance again asked staff to consider their May proposal and staff responded again in a November 3, 2006 meeting, that the proposal was not reasonable and was similar to the status quo but more complicated.

B. Alliance of Automobile Manufacturers – Alternatives dated November 20, 2006 and January 16, 2007

The Alliance submitted a second alternative proposal (see Attachment F) to the warranty reporting procedures on November 20, 2006, within the 45-day comment period of the ISOR rulemaking proposal dated October 20, 2006. The Alliance's proposal closely followed the staff's proposal but incorporated an emissions test

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sequence for determining the emissions impact of systemic emission component failures. The Alliance's plan would only result in corrective action if the defective component causes emissions to exceed the standard(s). This alternative was not considered because emission component durability will no longer be tied to emissions testing for establishing an exceedance of the emission standard(s) which is again similar to the current warranty reporting program, or status quo.

On January 16, 2007, the Alliance again submitted a very similar proposal as to the November 20, 2006 submission, but included a generic test plan for evaluating systemic emission component defects (See Attachment G). The test sequence requires a minimum of five emission tests of typical failures that could take as long as seven months to complete. Staff anticipates disagreements between staff and industry regarding the representation of typical emission component failures and what would be considered to be a proper test vehicle(s). Staff believes that these test program variables will lead to additional emissions testing to be performed by ARB to prove that corrective action is necessary for a given emission component defect case. In addition to these shortcomings, the staff is well aware of discrepancies and inaccuracies of emission test results due to laboratory quality control issues and other influenced deviations from the emission testing procedures through other in use test programs. Although the staff is not supportive of the emissions test plan and is not being considered in this proposal, some of the issues listed by the Alliance on the January 16, 2007 proposal are addressed by the changes presented in this notice.

C. Motorcycle Industry Council – Alternative dated May 31, 2006

The Motorcycle Industry Council (MIC) presented an alternative to the warranty reporting regulations (see Attachment H) dated May 31, 2006, that also involved emissions testing, and worked with ARB staff over the following month to clarify specific issues. Based on discussions at that time, the ARB staff was considering options that involved emissions testing but has changed strategies for correcting systemic emission component defects since that time. The MIC's comments dated December 4, 2006, reiterates the industry's belief that the proposal is too strict because it imposes corrective action on emission component failures regardless of whether the defect causes the vehicle to exceed the applicable emissions standards. As already stated, the staff believes that provisions exist in the H & S Code that authorizes corrective action for emission components that lack the durability required by certification.

Staff acknowledges that since the motorcycle industry already warrants their vehicles to the certified useful life, corrective action will be limited to systemic exhaust after-treatment defects. However, the industry will still be required to monitor and report warranty activity for all emission-related components. This will allow staff to identify suspect engine families that would be subject to potential ARB in-use compliance testing.

11.

D. Heavy-Duty Industry Concerns

The Engine Manufacturers Association (EMA) that represents the heavy-duty engine and vehicle manufacturers testified that the proposal lacked specific definitions for terms used in the proposed regulations. The current proposal has been revised to address these concerns as noted in section II. A(5) and A(7) of this document. Additionally, EMA stated that both OBD and NOx after-treatment technology will be implemented on heavy-duty applications beginning with the 2010 model year and will not be fully implemented until the 2013 model year. EMA requested special consideration for corrective action during this time period. Staff acknowledges this concern but since exhaust after-treatment is the primary emission control device, the staff proposal cannot accommodate this request. Finally, a concern was raised regarding the proposed extended warranty periods exceeding the certified useful life. As stated earlier, all extended warranties will be equal to the applicable certified useful life period. (Main Point 7, discussed above.)

E. Automotive Aftermarket Industry Association – Comments dated December 1, 2006

The Automotive Aftermarket Industry Association (AAIA) and its affiliates have met with ARB staff on several occasions to discuss the proposed amendments to the emission warranty reporting regulations. The AAIA has made it very clear that they do not agree with the extended warranty provisions of the proposed amendments but are willing to support the corrective action requirements of the proposal provided the independent repair industry could be utilized as warranty repair stations. The AAIA submitted this position officially based on their comments dated December 1, 2006. The AAIA claims that ARB's proposal will have a negative economic impact on small businesses that compose the independent aftermarket parts and service industry. The ARB staff has informed AAIA that the extended warranty corrective actions would only be imposed on the component that is shown to be defective. The 2005 RAND Corporation study projects that the independent vehicle repair industry will earn a revenue of $15.4 billion for the 2010 calendar year. As a point of comparison, staff estimated the actual corrective action costs for 2002 model year vehicles at approximately $41 million assuming repairs were all performed in one year at dealership facilities. Staff believes that the corrective action costs for 2010 model year vehicles and engines, under the proposed regulations, will closely follow the 2002 model year costs. Based on this estimate, independent repair facilities would lose 0.3% of their revenue based on this proposal The RAND Corporation study shows that the vehicle repair industry is a multi-billion dollar business and the significant economic impacts claimed in the testimony presented at the December 7, 2006, Board Hearing are not supportable.

AAIA and its members also argued that owners who return to the dealer for extended warranty repairs will receive add-on services at that time of repair (e.g., owners will opt for an oil change or brake repair at the time the extended warranty repair is being performed). This statement is speculative and add-on type repairs being performed by the dealer are clearly the choice of an owner that may or may not occur. The AAIA has suggested that ARB require manufacturers to allow independent repair facilities to perform warranty repairs. ARB has no authority to implement AAIA's suggestion. However, the ARB staff has changed Section 2166(i) to redefine extended warranty corrective action as the time and mileage period equivalent to the vehicle's useful life. This change will reduce the time and mileage period of an extended warranty for the majority of the affected vehicles covered by this proposal and help assure that any adverse economic impact to the independent repair industry in California is reduced. (Main Point 8, discussed above.)

IV. Cost Analysis

In order to calculate the cost of the staff proposal, the cost of the current program is compared to the cost had the proposed regulations been in effect. The corrective actions involve extended warranties, and recalls. The cost of each is evaluated separately. Staff has used model year 2002 as the base year for comparison because reporting for that year is nearly complete and most corrective actions have been decided. In 2002, corrective actions involved 11 extended warranties (300,000 vehicles) and 15 recalls (130,000 vehicles). The 430,000 vehicles involved is typical for recent years.

The cost of the corrective actions involving extended warranties is estimated at $32 million. Included in the cost estimate are labor and parts cost for repairing the vehicles. These are based on labor estimates using the Mitchell's repair manual, and a dealership survey indicating a typical labor rate of $90 per hour. Staff assumed 30 percent of the affected vehicles would receive warranty repairs outside the normal warranty period (within the warranty period the rate is typically 15 to 30 percent).

The cost of the corrective actions involving recall was calculated in a similar manner, except the 93 percent of the affected vehicles were assumed to be repaired. The cost of the recalls is estimated at $9 million, for a total cost of the current warranty reporting program for the 2002 model year of $41 million. Of the $41 million, $7 million is contributed to the heavy duty industry. The motorcycle industry has received no emission induced corrective actions to date for that model year.

Had the proposed revisions to the warranty reporting program been in effect for the 2002 model year, 700,000 vehicles would have been identified as having systemic defects, a 63 percent increase compared to the current program. All affected models would have had extended warranties as the corrective action; none would have clearly

met the requirement for recall. Using the same assumptions discussed above, the cost of the program for 2002 would have been $66 million, a 61 percent increase. Under the proposed program, heavy-duty costs would increase to $24 million due to additional corrective actions. Again, no increased cost to the motorcycle industry is expected to occur since they have had no emission induced corrective actions over the last few years and they already carry useful life warranties for their emission parts.

In 2010, when the proposed revisions are scheduled to go into affect, the cost of the warranty program will be less because about 43 percent of the light-duty vehicles will be PZEVs, which already carry a 150,000 mile warranty. For these models the warranty reporting period will cause no additional cost, other than redesign of the defective part. In addition, it is reasonable to assume that defect rates will reduce by at least ten percent with PZEV durability technology being passed onto to non-PZEV vehicles. Staff also accounted for an additional five percent reduction for emission-related defects reported over the ten percent EWIR rate and will be determined to be less than a true four percent failure through the SEWIR process. However, the above adjustments were not made to the heavy duty or motorcycle industries since those industries are expected to either remain constant or experience an increase in corrective actions due to the introduction of new after treatment technologies. Taking the above factors into account, the estimated costs of the proposed revised warranty reporting program is $42.8 million, close to the actual current program cost for 2002 model year.

A systemic defect in an after-treatment component, such as a catalyst, requires a recall under the staff proposed revisions. No recalls occurred in 2002, so staff has evaluated the impact on program cost had a catalyst recall, such as the Chrysler case involving 1996 to 1999 model light trucks, discussed in the staff report. In that case Chrysler recalled 41,000 vehicles at an estimated cost of $21 million. Had the proposed revised program been in effect, staff believes that 72,000 vehicles would have been recalled at an estimated cost of $38 million. Although this type of failure and recall is relatively rare, staff's assessment provides an estimate of how the annual cost of the program could vary.

Two other areas to consider are the costs of reporting and compliance, neither are factored into the analysis. The reporting burden and its associated costs will decrease since the frequency is changing from quarterly to annually, and the trigger level is increasing from one to four percent claim rates. It is hard to quantify reporting cost but is expected to be a very small savings. In the area of compliance cost, most manufacturers will experience either no or negligible additional compliance costs to build more durable parts, because based on our analysis of past warranty claims most manufacturers have not hit the four percent threshold. For the other manufacturers who may be affected we believe that their compliance costs attributable to the proposed amendments will be negligible due to the fact that the PZEV requirements will influence

manufacturers to build more durable parts to last for the duration of the PZEV warranty (15 years/150,000 miles), that these parts will be used in the rest of the on-road fleet and that any extra expense will be small and can be passed on to consumers. In addition, the staff believes that the cost of improving a part is relatively small compared to the total cost of the parts and labor levied for a corrective action.

A manufacturer provided confidential cost estimates to the Board on December 7, 2006. Staff evaluated the cost analysis and disagrees with the manufacturer's findings. Much of the data is based on early 1990 era failures and does not account for improvements in emission parts and the development of OBD II. With PZEV technology coming on line the manufacturer did not consider that improved emission component technology may be carried over into future non-PZEV vehicles, thus reducing warranty rates and the need for additional corrective actions. Staff believes that the approach discussed above accurately reflects the potential costs that may be associated with the proposal.

Workshop Information

Staff anticipates returning to the Board on March 22, 2007, for its consideration of the revised proposal and solicits public input on the attached regulatory and test procedure language.

ARB staff has scheduled a workshop to discuss its current proposal and to obtain information to further formulate specific language and finalize the regulatory language prior to the March 22, 2007, Board Hearing. The workshop will be held at the date, time, and location below:

Date:	Wednesday, February 14, 2007
Time:	1:30 pm – 5:00 pm
Location:	Air Resources Board Annex IV Auditorium 9530 Telstar Avenue El Monte, California 91731

If you would like to make a formal presentation during the workshop, please contact Mr. Harold Mace, Manager, Field Inspection and Testing Section, at (626) 575-6741 or email at hmace@arb.ca.gov.

Interested parties unable to participate in the workshop or those wishing to supply additional information are encouraged to submit written comments by April 25, 2006. Written comments should be sent to Ms. Annette Hebert, Chief, Mobile Source Operations Division, Air Resources Board, 9480 Telstar Avenue, Suite 4, El Monte, California 91731.

15.

A proposed summary of the amended warranty reporting regulations is available on the following ARB website: http://www.arb.ca.gov/regact/recall06/rappena.pdf.

If any party wishes the information it submits to be treated as confidential by ARB staff, it should be clearly marked as "confidential" and should be on pages that are easily detachable from other, non-confidential information. California guidelines (Sections 91000-91002, Title 17, CCR, and Health and Safety Code Section 39660(e)) will be followed in the handling of confidential information.

To request special accommodations for persons with disabilities, please contact Mr. Harold Mace no later than February 2, 2007. TTY/TDD/Speech-to-Speech users may dial 711 for the California Relay Service.

Sincerely,

Annette Hebert, Chief
Mobile Source Operations Division

Attachments

Attachment A

Proposed Regulation Changes

PROPOSED REGULATION ORDER

Set forth below are the proposed amendments to title 13, of the California Code of Regulations. Proposed amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions.

§ 1956.8. Exhaust Emission Standards and Test Procedures - 1985 and Subsequent Model Heavy Diesel-Engine and Vehicles.

Introduction. [No change.]

Section (a). [No change.]

(b) *Test Procedures.* The test procedures for determining compliance with standards applicable to 1985 and subsequent model heavy-duty diesel engines and vehicles and the requirements for participation in the averaging, banking and trading programs, are set forth in the "California Exhaust Emission Standards and Test Procedures for 1985 through 2003 Model Heavy-Duty Diesel Engines and Vehicles," adopted April 8, 1985, as last amended December 12, 2002, the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," adopted December 12, 2002, and the "California Interim Certification Procedures for 2004 and Subsequent Model Hybrid-Electric Vehicles, in the Urban Bus and Heavy-Duty Vehicle Classes," adopted ~~October 24, 2002~~, [insert date of amendment for this rulemaking]which are incorporated by reference herein.

Section (c). [No change.]

(d) *Test Procedures.* The test procedures for determining compliance with standards applicable to 1987 and subsequent model heavy-duty Otto-cycle engines and vehicles are set forth in the "California Exhaust Emission Standards and Test Procedures for 1987 through 2003 Model Heavy-Duty Otto-Cycle Engines and Vehicles," adopted April 25, 1986, as last amended December 27, 2000, the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Otto-Cycle Engines," adopted December 27, 2000, as last amended December 12, 2002, the "California Non-Methane Organic Gas Test Procedures," adopted July 12, 1991, as last amended July 30, 2002, and the "California Interim Certification Procedures for 2004 and Subsequent Model Hybrid-Electric Vehicles, in the Urban Bus and Heavy-Duty Vehicle Classes," adopted ~~October 24, 2002~~, [insert date of amendment for this rulemaking]which are incorporated by reference herein.

Section (e). [No change.]

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43104 and 43105, 43106 and 43806 Health and Safety Code and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39667, 43000, 43009.5, 43013,

43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, and 43806, Health and Safety Code.

§ 1958. Exhaust Emission Standards and Test Procedures – Motorcycles, motorcycle engines Manufactured on or After January 1, 1978

Introduction. [No change.]

Sections (a) through (c)(4). [No change.]

Amend (c) by adding (5) below:

(5) Amend: 86.408-78 (b) as follows: No change, except to add the following sentences to the paragraph: Beginning with 2010 model-year vehicles or engines, at the time of certification manufacturers shall state, based on good engineering judgment and information available at that time, that the emission control devices on their vehicles or engines are designed and will be manufactured to operate properly for the full useful life of the vehicles or engines. If any emission control device fails at a valid failure rate of at least 4% or 50 vehicles, whichever is greater, in an engine family or test group over the applicable warranty period of the vehicles or engines they are installed in, it constitutes a violation of these test procedures and it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174. Vehicles and engines tested for certification shall be, in all material respects, substantially the same as production vehicles and engines. If production vehicles have warranty claims rates in use that exceed four percent or fifty (whichever is greater) it is conclusive proof that vehicles and engines tested for certification are not, in all material respects, substantially the same as production vehicles and engines. If any emission control device fails at this rate, that constitutes a violation of these test procedures and it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174.

Note: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43101, 43104, 43105, and 43106 Health and Safety Code. Reference: Sections 39002, 39003, 39667, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, and 43205, Health and Safety Code.

Set forth below are the proposed amendments to title 13 of the California Code of Regulations. Proposed amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions. Amendments to § 1961 that were adopted by the Board on June 22, 2006 as part of a rulemaking for evaporative emissions, but which have not yet been approved by the Office of Administrative Law are indicated in double underline to indicate additions and ~~double strikeout~~ to indicate deletions.

§ 1961. Exhaust Emission Standards and Test Procedures - 2004 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.

Introduction. [No change.]

Sections (a) through (c). [No change.]

(d) *Test Procedures.* The certification requirements and test procedures for determining compliance with the emission standards in this section are set forth in the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended ~~August 4, 2005~~ ~~[insert date of amendment for the June 22, 2006 evaporative emissions rulemaking]~~ [insert date of amendment for this rulemaking], and the "California Non-Methane Organic Gas Test Procedures," as amended July 30, 2002, which are incorporated herein by reference. In the case of hybrid electric vehicles and on-board fuel-fired heaters, the certification requirements and test procedures for determining compliance with the emission standards in this section are set forth in the "California Exhaust Emission Standards and Test Procedures for 2005 and Subsequent Model Zero-Emission Vehicles, and 2001 and Subsequent Model Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes," incorporated by reference in section 1962.

Section (e). [No change.]

Note: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43101, 43104, 43105 and 43106 , Health and Safety Code. Reference: Sections 39002, 39003, 39667, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, and 43205, Health and Safety Code.

Set forth below are the proposed amendments to title 13, of the California Code of Regulations. Proposed amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions.

§ 1976. Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions.

* * * *

(c) The test procedures for determining compliance with the standards in subsection (b) above applicable to 1978 through 2000 model year vehicles are set forth in "California Evaporative Emission Standards and Test Procedures for 1978-2000 Model Motor Vehicles," adopted by the state board on April 16, 1975, as last amended August 5, 1999, which is incorporated herein by reference. The test procedures for determining compliance with standard applicable to 2001 and subsequent model year vehicles are set forth in the " California Evaporative Emission Standards and Test Procedu4es for 2001 and Subsequent Model Motor Vehicles, " adopted by the state board on August 5, 1999, and amended on ******, which is incorporated herein by reference.

* * * *

Note: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43101, 43104, 43105 and 43106, Health and Safety Code. Reference: Sections 39002, 39003, 39667, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, and 43205, Health and Safety Code.

§ 1978. Standards and Test Procedures for Vehicle Refueling Emissions.

* * * *

(b) The test procedures for determining compliance with standards applicable to 1998 through 2000 gasoline, alcohol, diesel, and hybrid electric passenger cars, light-duty trucks, and medium-duty vehicles are set forth in the:"California Refueling Emissions Standards and Test Procedures for 1998-2000 Model Year Motor Vehicles," as amended August 5, 2000, which is incorporated herein by reference. The test procedures for determining compliance with standards applicable to 2001 and subsequent gasoline, alcohol, diesel, and hybrid electric passenger cars, light-duty truck, and medium-duty vehicles are set forth in the "California Refueling Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles," adopted August 5, 1999, and amended *****, which is incorporated herein by reference.

* * * *

Note: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43101, 43104, 43105 and 43106, Health and Safety Code. Reference: Sections 39002, 39003, 39667, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, and 43205, Health and Safety Code.

Section 2111. Applicability.

(a) These procedures shall apply to:

(1) California-certified 1982 ~~and subsequent~~ through the 2009 model-year passenger cars, light-duty trucks, medium-duty vehicles, heavy-duty vehicles, motorcycles, and California-certified 1997 and subsequent model-year off-road motorcycles and all-terrain vehicles, including those federally certified vehicles which are sold in California pursuant to Health and Safety Code section 43102,

(2) California-certified motor vehicle engines used in such vehicles,

(3) California-certified 2000 and subsequent model-year off-road compression-ignition engines, and

(4) California-certified 2009 and subsequent model-year spark-ignition inboard and sterndrive marine engines.

(b) These procedures shall not apply to zero emission vehicles and those vehicles certified under Health and Safety Code section 44201.

(c) The Executive Officer may waive any or all of the requirements of these procedures if he or she determines that the requirement constitutes an unwarranted burden on the manufacturer without a corresponding emission reduction.

Note: Authority cited: Sections 39600, 39601, 43013, 43018 43105 and 43106, Health and Safety Code. Reference: Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2122. General Provisions.

The provisions regarding applicability of the ordered recall procedures and the definitions shall be the same as those set forth in Title 13, California Code of Regulations, Sections 2111 and 2112. The provisions of this Article shall apply to the vehicles and engines specified in section 2111 manufactured up to and including the 2009 model year, plus their useful lives. This Article shall apply not apply to vehicles and engines manufactured for the 2010 model year and thereafter.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2136. General Provisions.

The provisions regarding applicability of the enforcement test procedures and the definitions shall be the same as those set forth in Title 13, California Code of Regulations, Sections 2111 and 2112, and beginning with the 2010 model year, Sections 2166 and 2166.1. If the executive officer determines that an emissions violation exists under Health and Safety Code 43105, he/she may order a recall or corrective action to correct the affected vehicles.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2141. General Provisions.

(a) The provisions regarding applicability of the failure reporting procedures and the definitions shall be the same as those set forth in Title 13, California Code of Regulations, Sections 2111 and 2112, except that this Section 2141 does not apply to off-road compression-ignition engines, as defined in Section 2421. The provisions of this Article shall apply to the vehicles and engines specified in section 2111

manufactured up to and including the 2009 model year, plus their useful lives. This Article shall apply not apply to vehicles and engines manufactured for the 2010 model year and thereafter.

(b) The requirement to file emission warranty information reports and field information reports for a given class or category of vehicles or engines shall be applicable for the warranty period but not to exceed the useful-life period of the vehicles or engines beginning with the 1990 model-year vehicles or engines.

(c) The requirement to file an emissions information report for a given class or category of vehicles or engines shall be applicable for the useful-life period of the vehicles or engines.

(d) In the case of motor vehicles or engines for which certification of the exhaust and evaporative emission control systems is granted to different manufacturers, the information reporting responsibility in subsections (b) and (c) above shall be assigned to the certifying manufacturer.

Note: Authority cited: Sections 39600, 39601, 43105 and 43106, Health and Safety Code. Reference: Sections 43000, 43009.5, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Adopt New Regulations To Read:

Article 5. Procedures for Reporting Failures of Emission-Related Equipment and Required Corrective Action

Section 2166. General Provisions.

(a) The provisions of this article apply to:

(1) California-certified 2010 and subsequent model-year passenger cars, light-duty trucks, medium-duty vehicles, heavy-duty vehicles, and motorcycles.

(2) California-certified engines used in such vehicles.

(b) For the purposes of this article, the definitions shall be the same as those set forth in Title 13, California Code of Regulations, Section 2035 (c) and Section 2166.1.

(c) This procedures shall not apply to zero emission vehicles and those vehicles certified under Health and Safety Code 44201.

(d) The Executive Officer may waive any or all of the requirements of this Article if he or she determines that the requirement constitutes an unwarranted burden on the manufacturer.

(e) This article contains procedures for reporting emissions warranty information and procedures for determining, and the facts constituting, compliance or failure of compliance with and violations of test procedures based on emissions warranty information. This article also contains procedures for requiring recalls or other corrective action based on such information. Nothing in this article shall limit the Executive Officer's authority pursuant to Health and Safety Code section 43105 to require recalls or other corrective action in other types of situations.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2166.1. Definitions.

For purposes of this article, the following definitions apply.

(a) "Capture rate" means the percentage of in-use vehicles subject to recall which must be corrected to bring the class or category of vehicles into compliance. The number of vehicles subject to recall shall be based on the actual number of vehicles in use as verified by the Department of Motor Vehicles registration records, or vehicle or engine registration records compiled and prepared by R. L. Polk and Company or a comparable source at the time a recall is initiated.

(b) "Corrective Action" refers to any action taken by the manufacturer to remedy a violation of emission standards or test procedures. Corrective action may include recall, extended warranty, or other action ordered by the Executive Officer. The Executive Officer may order direct notification of corrective action to vehicle or engine owners.

(c) "Correlation factor" means a pollutant-specific multiplicative factor calculated by a manufacturer for an engine family or test group which establishes a relationship between chassis exhaust emission data, as determined from the test procedures specified in section 1960.1 or 1961, Title 13, California Code of Regulations, and engine exhaust emission data, as determined from the test procedures specified in section 1956.8, Title 13, California Code of Regulations.

(d) "Days", when computing any period of time, means normal working days on which a manufacturer is open for business, unless otherwise noted.

(e) "Defective emission-control component" or "defective emission-related component" means any component that is installed on a California-certified vehicle or engine that is considered to be a "warranted part" pursuant to Section 2035 that is not replaced or repaired solely for customer relations reasons or misdiagnosis and does not have a mechanical defect, will not fail to operate properly within the manufacturer's specifications during its certified useful life and will not increase emissions under any conceivable circumstance if it is not replaced.

(f) "Emission-control component" or "emission-related component" means a device, system or assembly described in the manufacturer's approved application for certification which is considered to be a "warranted part" pursuant to Section 2035 and subject to this Article.

(g) "Emission Warranty Claim" means an adjustment, inspection, repair or replacement of a specific emission-related component for which the vehicle or engine manufacturer is invoiced or solicited by a repairing agent for compensation pursuant to warranty provisions, regardless of whether compensation is actually provided.

(h) "Executive Officer" means the Executive Officer of the Air Resources Board or his or her authorized representative.

(i) "Exhaust after-treatment device" means any device or system designed to oxidize, reduce or trap post-combustion exhaust emissions, including those components that transport the exhaust emissions from the engine to the after-treatment device,

described in the manufacturer's application for certification, and installed on a vehicle or engine certified for sale in California.

(j) "Extended Warranty" means corrective action required by the Executive Officer that extends the warranty time and mileage periods for a specific emissions-related component pursuant to this article. For passenger cars, light-duty trucks, medium-duty vehicles and engines, and heavy-duty vehicles and engines used in such vehicles, the extended warranty shall be equal to the applicable certified useful life period of that vehicle or engine. The Executive Officer may order direct notification of corrective action to vehicle or engine owners. The extended warranty on hybrid electric vehicle battery packs used for vehicle propulsion shall be limited to 10 years or 150,000 miles (whichever first occurs).

(k) "Influenced Emission Recall" means an inspection, repair, adjustment, or modification program initiated and conducted by a manufacturer or its agent or representative as a result of any evidence of noncompliance to remedy any nonconformity for which direct notification of vehicle or engine owners is necessary.

(l) "Nonconformity" or "noncompliance" exists whenever an engine family, test group or subgroup of vehicles are determined to be in violation of test procedures pursuant to this article.

(m) "Ordered Recall" or "recall" means an inspection, repair, adjustment, or modification program required by the Board and conducted by the manufacturer or its agent or representative to remedy any nonconformity for which direct notification of vehicle or engine owners may be required.

(n) "Quarterly reports" refer to the following calendar periods: January 1- March 31, April 1-June 30, July 1-September 30, October 1-December 31.

(o) "Systemic Failure" means any emission-control component as defined in this article or warranted part as defined in Section 2035 (c) (2) (b), found to have valid failures meeting or exceeding four percent or 50 vehicles or engines (whichever is greater) within a specific engine family or test group, pursuant to this article.

(p) "Ultimate purchaser" has the same meaning as defined in section 39055.5 of the Health and Safety Code.

(q) "Useful life" means, for the purposes of this article:

(1) For Class I motorcycles and motorcycle engines (50 to 169 cc or 3.1 to 10.4 cu. in.), a period of use of five years or 12,000 kilometers (7,456 miles), whichever first occurs.

(2) For Class II motorcycles and motorcycle engines (170 to 279 cc or 10.4 to 17.1 cu. in.), a period of use of five years or 18,000 kilometers (11,185 miles), whichever first occurs.

(3) For Class III motorcycles and motorcycle engines (280 cc and larger or 17.1 cu. in. and larger), a period of use of five years or 30,000 kilometers (18,641 miles), whichever

first occurs.

(4) For light-duty and medium-duty vehicles certified under the Optional 100,000 Mile Certification Procedure, and motor vehicle engines used in such vehicles, a period of use of ten years or 100,000 miles, whichever first occurs.

(5) For 2001 and subsequent-model year medium-duty low-emission, ultra-low-emission and super-ultra-low-emission vehicles certified to the primary standards in section 1961(a)(1), and motor vehicle engines used in such vehicles, a period of use of ten years or 120,000 miles, whichever occurs first. For 2001 and subsequent medium-duty low-emission, ultra-low-emission and super-ultra-low-emission vehicles certified to the optional 150,000 mile standards in section 1961(a)(1), and motor vehicle engines used in such vehicles, a period of use of fifteen years or 150,000 miles, whichever occurs first. For all other 1995 and subsequent model-year medium-duty vehicles and motor vehicle engines used in such vehicles, and 1992 through 1994 model-year medium-duty low-emission and ultra-low-emission vehicles certified to the standards in Section 1960.1(h)(2), and motor vehicle engines used in such vehicles, a period of use of eleven years or 120,000 miles, whichever occurs first.

(6) For all other light-duty and medium-duty vehicles, and motor vehicle engines used in such vehicles, a period of use of five years or 50,000 miles, whichever first occurs. For those passenger cars, light-duty trucks and medium-duty vehicles certified pursuant to section 1960.1.5, Title 13, California Code of Regulations, the useful life shall be seven years, or 75,000 miles, whichever first occurs; however, the manufacturer's reporting and recall responsibility beyond 5 years or 50,000 miles shall be limited, as provided in section 1960.1.5. For those passenger cars and light-duty trucks certified pursuant to Title 13, California Code of Regulations, section 1960.1 (f) and section 1960.1(g), the useful life shall be ten years or 100,000 miles, whichever first occurs; however, for those vehicles certified under section 1960.1(f), the manufacturer's warranty failure and defects reporting and corrective action responsibility shall be subject to the conditions and standards specified in section 1960.1 (f).

(7) For 1997 and subsequent model year off-road motorcycles, all-terrain vehicles, and engines used in such vehicles, a period of use of five years or 10,000 kilometers (6,250 miles), whichever first occurs.

(8) For those passenger cars and light-duty trucks certified to the primary standards in section 1961(a)(1), the useful life shall be ten years or 120,000 miles, whichever occurs first. For 2001 and subsequent passenger car and light-duty truck low-emission, ultra-low-emission and super-ultra-low-emission vehicles certified to the optional 150,000 mile standards in section 1961(a)(1), and motor vehicle engines used in such vehicles, a period of use of fifteen years or 150,000 miles, whichever occurs first.

(9) For 2004 and subsequent model-year light heavy-duty diesel engines, for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbons emissions standards, a period of use of 10 years or 110,000 miles, whichever first occurs, or any alternative useful life period approved by the Executive Officer.

(10) For 2004 and subsequent model-year medium heavy-duty diesel engines, for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbons emissions standards, a period of use of ten years or 185,000 miles, whichever first occurs; or any alternative useful life period approved by the Executive Officer.

(11) For 2004 and subsequent model-year heavy heavy-duty diesel engines, 2004 and subsequent model-year heavy-duty diesel urban buses, 2004 and subsequent model-year heavy-duty diesel engines to be used in urban buses, and 2004 and subsequent model year hybrid-electric urban buses for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbon emissions standards, a period of use of 10 years or 435,000 miles, or 22,000 hours, whichever first occurs, or any alternative useful life period approved by the Executive Officer, except as provided in paragraphs (11)(i) and (11)(ii).

(i) The useful life limit of 22,000 hours in paragraph (11) of this definition is effective as a limit to the useful life only when an accurate hours meter is provided by the manufacturer with the engine and only when such hours meter can reasonably be expected to operate properly over the useful life of the engine.

(ii) For an individual engine, if the useful life hours limit of 22,000 hours is reached before the engine reaches 10 years or 100,000 miles, the useful life shall become 10 years or 100,000 miles, whichever occurs first, as required under Clean Air Act section 202(d) (42 U.S.C. 7521(d)).

(12) For 2004 and subsequent model-year heavy-duty Otto-cycle engines, for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbon emissions standards, a period of use of 10 years or 110,000 miles, whichever first occurs.

(13) For 2000 and later model year off-road compression-ignition engines, for oxides of nitrogen, hydrocarbon, oxides of nitrogen plus hydrocarbon (when applicable), carbon monoxide, particulate emission standards, and for smoke opacity:

(A) For all engines rated under 19 kilowatts, and for constant-speed engines rated under 37 kilowatts with rated speeds greater than or equal to 3,000 revolutions per minute, a period of use of five years or 3,000 hours of operation, whichever first occurs.

(B) For all other engines rated above 19 kilowatts and under 37 kilowatts, a period of use of seven years or 5,000 hours of operation, whichever first occurs.

(C) For engines rated at or above 37 kilowatts, a period of use of ten years or 8,000 hours of operation, whichever first occurs.

(14) For 2009 and subsequent model year spark-ignition inboard and sterndrive marine engines, a period of ten years or 480 hours, whichever first occurs.

(r) "Valid failure" or "valid failure rate" means an emission-control component or emission-related component that was properly diagnosed and replaced under warranty

by an authorized warranty station and represents the true and accurate failures of a specific component after legitimate screening (as specified in Section 2168) of the applicable warranty data authorized and acceptable to the Executive Officer, pursuant to this Article.

(s) "Vehicle or engine manufacturer" means the manufacturer granted certification for a motor vehicle or motor vehicle engine.

(t) "Violation of test procedures" means violation of any portion of any test procedure made applicable to motor vehicles by Division 26, Part 5 of the Health and Safety Code or by Division 3 of Title 13 of the California Code of Regulations or any test procedure violation determined pursuant to this article.

(u) "Voluntary Recall" means an inspection, repair, adjustment, or modification program voluntarily initiated and conducted by a manufacturer or its agent or representative to remedy any nonconformity for which direct notification of vehicle or engine owners may be necessary.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43104, 43105, 43106 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204-43205.5 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

Section 2167. Emission Warranty Information Report.

(a) A manufacturer shall:

(1) Review warranty claim records for each engine family or test group on a quarterly basis to determine and compile by cumulative total the number of claims made for emission-related components. The data compiled shall be based on all warranty claims, without any prescreening of data as to the validity of the claims. In the case of heavy-duty vehicles or engines, a manufacturer may use nationwide data for monitoring warranty claims of a California-certified engine family or test group which is also certified by the United States Environmental Protection Agency.

(2) Categorize warranty claims for each engine family or test group by the specific emission control component replaced or repaired.

(3) On the basis of data obtained subsequent to the effective date of these regulations, file an emission warranty information report for each calendar year when the cumulative number of unscreened warranty claims for a specific emission-related component or repair represent at least four percent or fifty (whichever is greater) of the vehicles or engines of a California-certified engine family or test group.

(4) The filing of an emission warranty information report for a partial zero emission vehicle shall be limited to exhaust after treatment devices, computer related repairs including calibration updates, battery cells used for vehicle propulsion, and any

emission-control device not subject to the 15 year, 150,000 emission control warranty provisions for such vehicles. The Executive Officer may add emission-related components to this list as technology changes.

(b) The emission warranty information report shall be submitted in an electronic format as specified by the ARB. The file must be structured so that the test group or engine family name and the part number are the primary file keys. These two data fields are unique and cannot be duplicated within the data file. The electronic file shall include the following information:

(1) The California-certified test group or engine family.

(2) Part number, labor operation code or some other nomenclature that uniquely identifies a given component within a test group or engine family.

(3) The name of the specific emission-related component being replaced or repaired.

(4) A repair code to indicate if the emission-related component was repaired or replaced.

(5) The warranty coverage for each reported component.

(6) The California sales volume, the number of cumulative claims and percentage of vehicles or engines in each engine family or test group for which a warranty replacement or warranty repair of a specific emission-related component was identified.

(7) Time frame of the EWIR being submitted.

(8) The models of the test group or engine family for each component being repaired or replaced.

(9) A further action status report code as dictated by ARB to indicate if corrective action or no action is required or in process.

(c) Emission warranty information reports shall be submitted not more than 25 days after the end of each calendar year unless a recall for specific components has been implemented. The Executive Officer may request that a manufacturer file quarterly emission warranty information reports for a specific emission-related component(s) for a specified period of time. Emission warranty information reports and updates shall be submitted and provided on electronic media to the Chief, Mobile Source Operations Division, 9480 Telstar Avenue, Suite 4, El Monte, CA 91731 and/or can be emailed to a designated ARB staff.

(d) The records described in this section shall be made available to the Executive Officer upon request.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013,

43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2168. Supplemental Emissions Warranty Information Report.

(a) A manufacturer shall file a Supplemental Emissions Warranty Information Report within 60 days when an emission warranty information report as specified in Section 2167 indicates that a cumulative total of unscreened warranty claims for a specific emission-related component exceeds ten percent or 100 components (whichever is greater) of the vehicles or engines of an engine family or test group. The Supplemental Emissions Warranty Information Report shall be submitted in an electronic format similar to the Emissions Warranty Information Report as required in Section 2167. The manufacturer must continue to update and report the Supplemental Emissions Warranty Information Report on a quarterly basis. A manufacturer shall submit an updated Supplemental Emissions Warranty Information Report within 60 days after each calendar quarter until the warranty reporting requirements for the given warranty item ends or corrective action is launched for the reported emission component.

(b) Additionally, a Supplemental Emissions Warranty Information Report shall be required if the manufacturer demonstrates, to the Executive Officer's satisfaction, that a systemic defect exists on a specific subgroup of vehicles and has been corrected under warranty within 18 months after the last vehicle or engine of the affected engine family or test group was manufactured. In such a case, the manufacturer would not be subject to corrective action but must establish the upper limits of the defect failure rate. However, should the emission component defect exceed this defect rate by an additional four percent or 50 vehicles (whichever is greater) the manufacturer must re-file a Supplemental Emissions Warranty Information Report pursuant to this Article or launch the appropriate corrective action.

(c) A Supplemental Emissions Warranty Information Report shall not be required if the manufacturer has committed to perform a recall to correct a defective emission control component by notifying the ARB of its intent in writing. In such a case, the manufacturer may eliminate only these components from the Emission Warranty Information Report. However, if the recall applies to a sub-group of vehicles, the non-affected vehicles are still subject to reporting requirements pursuant to this Article. Also, if the components replaced under recall fail within the warranty period exceeding four percent or 50 vehicles (whichever is greater) the manufacturer must report these defects pursuant to this Article.

(d) All Supplemental Emissions Warranty Information Reports shall be submitted to the Chief, Mobile Source Operations Division, 9480 Telstar Avenue Suite No. 4, El Monte, CA 91731 and shall contain the following information in substantially the format outlined below.

(e) Upon the manufacturer's request and with the approval of the executive officer, any reported emission component that is replaced as part of a corrective action may be waived from further reporting requirements.

(f) The Supplemental Emission Warranty Information report shall be submitted in an electronic format as specified by the ARB. The Supplemental Emissions Warranty Information Report shall be an extension of the Emission Warranty Information Report data file and shall include only those data fields from the Emissions Warranty Information Report for which the Supplemental Emission Warranty Information report is being filed. Supplemental Emissions Warranty Information Reports shall contain the following fields for each data file:

(1) The manufacturer's corporate name.

(2) Each Supplemental Emissions Warranty Information Report shall be filed individually for each defective emission-related component. Manufacturers shall designate a unique supplemental emissions warranty information report number to assist in tracking individual emission-related component problems. The nomenclature format for assigning a tracking number shall follow the sequence using the manufacturer's four digit name designation followed by the letters SEWIR, the calendar year filed and then a three digit sequential number. An example of this format would be as follows: MFRX-SEWIR-2010-001.

(3) A description of each class or category of California-certified vehicles or engines affected including make, model, model-year, engine family or test group and such other information as may be required to identify the vehicles or engines affected. The description shall include those engine families or test groups related to the affected engine family or test group through common certification test data allowed under Title 40, Code of Federal Regulations, Section 86.085-24(f), as amended December 10, 1984 or Title 40 Code of Federal Regulations, Section 86.1839-01, as adopted May 4, 1999 ("carry-over" and "carry-across" engine families).

(4) A description of the emission-related component that failed, the failure, the probable cause of failure and the emission-related component part number. A description of all other vehicles that contain the failing component. A description of whether the failure has been detected by the On-Board Diagnostic system in the affected vehicles or engines as required by title 13 CCR sections 1968.1-1968.5.

(5) Manufacturers conducting computer recalibrations or reflashes shall explain the vehicle conditions/parameters that are being changed by the recalibration action. The manufacturer must also indicate if OBD compliance requirements are being remedied and/or affected.

(6) Any information necessary to demonstrate that the defective emissions-related component will not, under any conceivable circumstance, result in an increase in emissions over that of a properly operating vehicle or engine without the defective emissions-related component.

(7) A statement whether the cumulative total of valid warranty claims for a specific emission-related component meets or exceeds 4 percent or 50 (whichever is greater) for any engine family, test group or subgroup. On the basis of data obtained and reported pursuant to this article, a manufacturer may determine that a cumulative total

of valid warranty claims for a specific emission-related component is found to exist in less than 4 percent or 50 (whichever is greater). If this is the case, the manufacturer must supply the following information:

(i) The number and percentage of vehicles or engines in each engine family or test group for which a failure of a specific emission-related component was identified.

(ii) The total number and percentage of unscreened warranty claims and failures of a specific emission-related component projected to occur during the engine family's or test group's useful life and a description of the method used to project this number.

(iii) An estimated date when the failure of a specific emission-related component will reach 4 percent or 50 (whichever is greater).

(iv) If the failure of a specific c emission-related component is found to exist in less than 4 percent or 50 (whichever is greater), provide a brief explanation why the vehicles with this specific component replacement or repair are being repaired.

(v) If the failure of a specific emission-related component is found to exist in less than 4 percent or 50 (whichever is greater), the manufacturer must re-evaluate this failure as stated in this section in the following calendar year until warranty reporting is no longer required.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2169. Recall and Corrective Action for Failures of Exhaust After-Treatment Devices

(a) A manufacturer shall recall an engine family, test group or subgroup of vehicles or engines to correct the systemic failure of an exhaust after-treatment device, as defined in Section 2166.1 when valid warranty claims in the engine family, test group, or subgroup meet or exceed four percent or 50 (whichever is greater) for the device.

(b) At the sole discretion of the Executive Officer, the manufacturer shall perform corrective action, including, but not limited to, providing an extended warranty as defined in Section 2166.1, for the circumstances specified in (a), either as an alternative to or in addition to the recall specified in (a).

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2170. Recall and Corrective Action for Other Emission-Related Component Failures

(a) A manufacturer shall perform corrective action, including, but not limited to, providing an extended warranty as defined in Section 2166.1, to correct the systemic failure of emission control components other than exhaust after-treatment devices, when valid warranty claims in the engine family or test group-meet or exceed four percent or 50 (whichever is greater) for any emission control component.

(b) At the sole discretion of the Executive Officer, the manufacturer shall conduct a recall for the circumstances specified in (a), either as an alternative to or in addition to the corrective action specified in (a).

(c) Manufacturers that warrant their vehicles or engines for the full useful life period may not, at the sole discretion of the Executive Officer, be required to perform corrective action on systemic failures of emission-control components (with the exception of exhaust after-treatment devices), found to meet or exceed four percent or 50 (whichever is greater) within an engine family or test group, or subgroup.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2171. Recall and Corrective Action for Vehicles without On-Board Diagnostic Systems, Vehicles with Non-Compliant On-Board Diagnostic Systems, or Vehicles with On-Board Computer Malfunction

(a) If vehicles or engines not equipped with on-board diagnostic (OBD) systems, or OBD-equipped vehicles or engines that do not detect emission-control failures as required by title 13 CCR sections 1968.1-1968.5, have systemic failures of emission-control components (including exhaust after-treatment devices), found to meet or exceed four percent or 50 (whichever is greater) within an engine family or test group, or subgroup the required corrective action will be the recall of all vehicles in the engine family or test group. If vehicles or engines have systemic failures of on-board computers, found to meet or exceed four percent or 50 (whichever is greater) within an engine family or test group the required corrective action will also be the recall of all affected vehicles.

(b) At the sole discretion of the Executive Officer, the manufacturer shall perform corrective action, including, but not limited to, providing an extended warranty as defined in Section 2166.1, for the circumstances specified in (a), either as an alternative to or in addition to the recall specified in (a).

(c) Manufacturers that warrant their vehicles or engines for the full useful life period may not, at the sole discretion of the Executive Officer, be required to perform corrective action on systemic failures of emission-control components (with the exception of exhaust after-treatment devices), found to meet or exceed four percent or 50 (whichever is greater) within an engine family or test group, or subgroup.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2172. Notification of Required Recall or Corrective Action by the Executive Officer.

The Executive Officer shall notify the manufacturer when recall or corrective action is required. The Executive Officer's notification shall include a description of each class or category of vehicles or engines encompassed by the determination of nonconformity, shall set forth the factual basis for the determination and shall designate a date within 45 days from the date of receipt of such notification (within 90 days for recalls) by which the manufacturer shall submit a plan to remedy the nonconformity unless the manufacturer can show good cause for the Executive Officer to extend the deadline.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2172.1. Ordered or Voluntary Corrective Action Plan.

(a) Unless a public hearing is requested by the manufacturer, the manufacturer shall submit a recall or corrective action plan to the Chief, Mobile Source Operations Division, 9480 Telstar Avenue, Suite 4, El Monte, CA 91731, within the time limit specified in the notification. The Executive Officer may grant the manufacturer an extension upon good cause shown.

(b) The recall or corrective action plan shall contain the following:

(1) A description of each class or category of vehicles or engines to be recalled or subject to corrective action, including the engine family, test group or sub-group thereof, the model-year, the make, the model, and such other information as may be required to identify the vehicles or engines to be recalled.

(2) A description of the nonconformity and the specific modifications, alterations, repairs, corrections, adjustments or other changes to be made to bring the vehicles or engines into conformity with the requirements of this article including a brief summary of

the data and technical studies which support the manufacturer's decision regarding the specific corrections to be made. Nonconformities shall be addressed by replacing a non-conforming component with an improved, conforming component.

(3) A description of the method by which the manufacturer will determine the names and addresses of vehicle or engine owners and the method by which they will be notified.

(4) A description of the procedure to be followed by vehicle or engine owners to obtain correction of the nonconformity including the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to perform the labor required to correct the nonconformity, and the designation of facilities at which the nonconformity can be remedied. The repair shall be completed within a reasonable time designated by the Executive Officer from the date the owner delivers the vehicle or engine for repair. This requirement becomes applicable on the date designated by the manufacturer as the date on or after which the owner can have the nonconformity remedied.

(5) If some or all of the nonconforming vehicles or engines are to be remedied by persons other than dealers or authorized warranty agents of the manufacturer, a description of such class of persons and a statement indicating that the participating members of the class will be properly equipped to perform such remedial action.

(6) A copy of the letter of notification to be sent to vehicle or engine owners.

(7) A description of the system by which the manufacturer will ensure that an adequate supply of parts will be available to perform the repair under the recall or corrective action plan including the date by which an adequate supply of parts will be available to initiate the repair campaign, and the method to be used to assure the supply remains both adequate and responsive to owner demand.

(8) A copy of all necessary instructions to be sent to those persons who are to perform the repair under the recall or corrective action plan.

(9) Any other information, reports, or data which the Executive Officer may reasonably determine to be necessary to evaluate the recall plan or other corrective action.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2172.2. Approval and Implementation of Corrective Action Plan.

If the Executive Officer finds that the recall or corrective action plan is designed effectively to correct the nonconformity and complies with the provisions of Section 2172.1, he or she will so notify the manufacturer in writing. Upon receipt of the approval notice from the Executive Officer, the manufacturer shall commence implementation of the approved plan. Notification of vehicle or engine owners and the implementation of

repairs shall commence within 45 days of the receipt of notice unless the manufacturer can show good cause for the Executive Officer to extend the deadline.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2172.3. Notification of Owners.

(a) Manufacturers shall notify vehicle or engine owners of a recall or other corrective action by first class mail or by such other means as approved by the Executive Officer provided, that for good cause, the Executive Officer may require the use of certified mail to ensure an effective notification.

(b) The manufacturer shall use all reasonable means necessary to locate vehicle or engine owners provided, that for good cause, the Executive Officer may require the manufacturer to use motor vehicle registration lists available from State or commercial sources to obtain the names and addresses of vehicle or engine owners to ensure effective notification.

(c) The Executive Officer may require subsequent notification by the manufacturer to vehicle or engine owners by first class mail or other reasonable means provided, that for good cause, the Executive Officer may require the use of certified mail to ensure effective notification.

(d) The notification of vehicle or engine owners shall contain the following:

(1) The statement: "the California Air Resources Board has determined that your (vehicle or engine) (is or may be) releasing air pollutants which exceed (California or California and Federal) standards, or that the manufacturer violated emissions test procedures. These standards and test procedures were established to protect your health and welfare from the dangers of air pollution."

(2) A statement that the nonconformity of any such vehicles or engines will be remedied at the expense of the manufacturer.

(3) A statement that eligibility may not be denied solely on the basis that the vehicle or engine owner used parts not manufactured by the original equipment vehicle manufacturer, or had repairs performed by outlets other than the vehicle or engine manufacturer's franchised dealers.

(4) A clear description of the components which will be affected by the recall or other corrective action and a general statement of the measures to be taken to correct the nonconformity.

(5) A statement that such nonconformity, if not repaired, may cause the vehicle or

engine to fail an emission inspection or Smog Check test when such tests are required under State law.

(6) A description of the adverse effects, if any, that an uncorrected nonconformity would have on the performance, fuel economy, or driveability of the vehicle or engine or to the function of other engine components.

(7) A description of the procedure which the vehicle or engine owner should follow to obtain correction of the nonconformity including the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to correct the nonconformity, and a designation of the facilities at which the nonconformity can be remedied.

(8) A statement that a certificate showing that the vehicle has been repaired under the recall program shall be issued by the service facilities and that such a certificate may be required as a condition of vehicle registration or operation, as applicable.

(9) A card to be used by a vehicle or engine owner in the event the vehicle or engine to be recalled has been sold. Such card should be addressed to the manufacturer, have postage paid, and shall provide a space in which the owner may indicate the name and address of the person to whom the vehicle or engine was sold.

(10) The statement: "In order to ensure your full protection under the emission warranty made applicable to your (vehicle or engine) by State or Federal law, and your right to participate in future recalls, it is recommended that you have your (vehicle or engine) serviced as soon as possible. Failure to do so could be determined to be a lack of proper maintenance of your (vehicle or engine)." This statement is not required for off-road motorcycles or all-terrain vehicles.

(11) A telephone number provided by the manufacturer, which may be used to report difficulty in obtaining recall repairs.

(e) The manufacturer shall not condition eligibility for repair on the proper maintenance or use of the vehicle except for strong or compelling reasons and with approval of the Executive Officer; however, the manufacturer shall not be obligated to repair a component which has been removed or altered so that the recall action cannot be performed without additional cost.

(f) No notice sent pursuant to Section 2172(b)(8), above, nor any other communication sent to vehicle or engine owners or dealers shall contain any statement, express or implied, that the nonconformity does not exist or will not degrade air quality.

(g) The manufacturer shall be informed of any other requirements pertaining to the notification under this section which the Executive Officer has determined are reasonable and necessary to ensure the effectiveness of the recall campaign.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013,

43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2172.4. Repair Label.

(a) The manufacturer shall require those who perform the repair under the recall plan to affix a label to each vehicle or engine repaired or, when required, inspected under the recall plan.

(b) The label shall be placed in a location as approved by the Executive Officer and shall be fabricated of a material suitable for such location and which is not readily removable.

(c) The label shall contain the recall campaign number and a code designating the facility at which the repair, inspection for repair, was performed.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2172.5. Proof of Correction Certificate.

The manufacturer shall require those who perform the recall repair to provide the owner of each vehicle or engine repaired with a certificate, through a protocol and in a format prescribed by the Executive Officer, which indicates that the noncomplying vehicle or engine has been corrected under the recall program.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2172.6. Preliminary Tests.

The Executive Officer may require the manufacturer to conduct tests on components and vehicles or engines incorporating a proposed correction, repair, or modification reasonably designed and necessary to demonstrate the effectiveness of the correction, repair, or modification.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2172.7. Communication with Repair Personnel.

The manufacturer shall provide to the Executive Officer a copy of all communications which relate to the recall plan directed to dealers and other persons who are to perform the repair. Such copies shall be mailed to the Executive Officer contemporaneously with their transmission to dealers and other persons who are to perform the repair under the recall plan.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2172.8. Recordkeeping and Reporting Requirements.

(a) The manufacturer shall maintain sufficient records to enable the Executive Officer to conduct an analysis of the adequacy of the recall or corrective action campaign. The records shall include, for each class or category of vehicle or engine, but need not be limited to, the following:

(1) Engine family involved and recall or corrective action campaign number as designated by the manufacturer.

(2) Date owner notification was begun, and date completed.

(3) Number of vehicles or engines involved in the recall or corrective action campaign.

(4) Number of vehicles or engines known or estimated to be affected by the nonconformity.

(5) Number of vehicles or engines inspected pursuant to the recall plan and found to be affected by the nonconformity.

(6) Number of inspected vehicles or engines.

(7) Number of vehicles or engines receiving repair under the recall plan.

(8) Number of vehicles or engines determined to be unavailable for inspection or repair under the recall plan due to exportation, theft, scrapping, or for other reasons (specify).

(9) Number of vehicles or engines determined to be ineligible for recall action due to removed or altered components.

(10) A listing of the identification numbers of vehicles or engines subject to recall but for whose repair the manufacturer has not been invoiced. This listing shall be supplied in a standardized computer data storage device to be specified by the Executive Officer. The frequency of this submittal, as specified in subsection (c) below, may be changed by the Executive Officer depending on the needs of recall enforcement.

(11) Any service bulletins transmitted to dealers which relate to the nonconformity and which have not previously been submitted.

(12) All communications transmitted to vehicle or engine owners which relate to the nonconformity and which have not previously been submitted.

(b) If the manufacturer determines that the original responses to subsections (a)(3) and (4) of these procedures are incorrect, revised figures and an explanatory note shall be submitted. Responses to subsections (a)(5), (6), (7), (8), and (9) shall be cumulative totals.

(c) Unless otherwise directed by the Executive Officer, the information specified in subsection (a) of these procedures shall be included in six quarterly reports, beginning with the quarter in which the notification of owners was initiated, or until all nonconforming vehicles or engines involved in the campaign have been remedied, whichever occurs sooner. Such reports shall be submitted no later than 25 days after the close of each calendar quarter.

(d) The manufacturer shall maintain in a form suitable for inspection, such as computer information storage devices or card files, and shall make available to the Executive Officer or his or her authorized representative upon request, lists of the names and addresses of vehicle or engine owners:

(1) To whom notification was given;

(2) Who received remedial repair or inspection under the recall plan; and

(3) Who were denied eligibility for repair due to removed or altered components.

(e) The records and reports required by these procedures shall be retained for not less than one year beyond the useful life of the vehicles or engines involved, or one year beyond the reporting time frame specified in subsection (c) above, whichever is later.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2172.9. Extension of Time.

The Executive Officer may extend any deadline in the plan if he or she finds in writing that a manufacturer has shown good cause for such extension.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2173. Penalties.

Failure by a manufacturer to carry out all recall or corrective action campaigns ordered by the Executive Officer pursuant to this article shall constitute a violation of this article and Health and Safety Code Section 43105. Civil penalties may be assessed for that violation and for any other violation of any other requirement of this article.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Section 2174. Availability of Public Hearing.

(a) The manufacturer may request a public hearing pursuant to the procedures set forth in Sections 60040 to 60053, Title 17, California Code of Regulations to contest the finding of nonconformity and the necessity for or the scope of any ordered recall, or other ordered corrective action. Notwithstanding any other provision in title 13 or title 17 of California Code of Regulations, the record in any public hearing conducted pursuant a request made under this section shall be limited to the information provided to the Executive Officer under sections 2167-2171 prior to the date the Executive Officer's notification is issued pursuant to section 2172, or to information referenced in the Executive Officer's notification.

(b) If a manufacturer requests a public hearing pursuant to subsection (a) above, and if the Executive Officer's determination of nonconformity is confirmed at the hearing, the manufacturer shall submit a recall or corrective action plan identical to the one required by Section 2172.1 within 30 days after receipt of the Board's decision.

Note: Authority cited: Sections 39600, 39601 and 43105, Health and Safety Code. Reference: Sections 43000, 43009.5, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

Attachment B

Emission Test Procedure Changes

California Environmental Protection Agency
AIR RESOURCES BOARD

CALIFORNIA EXHAUST EMISSION STANDARDS AND TEST PROCEDURES FOR 2001 AND SUBSEQUENT MODEL **PASSENGER CARS, LIGHT-DUTY TRUCKS, AND MEDIUM-DUTY VEHICLES**

Adopted:	August 5, 1999
Amended:	December 27, 2000
Amended:	July 30, 2002
Amended:	September 5, 2003 (corrected February 20, 2004)
Amended:	May 28, 2004
Amended:	August 4, 2005
Amended:	[INSERT DATE OF AMENDMENT]
Amended:	[INSERT DATE OF AMENDMENT]

Note: The proposed amendments to this document are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions compared to the test procedures as adopted by the Board on June 22, 2006. Amendments to this document as adopted on June 22, 2006 are indicated by double underline to indicate additions and ~~double strikeout~~ to indicate deletions compared to the test procedures as amended on August 2, 2005. Existing intervening test that is not amended is indicated by "* * * *".

CALIFORNIA EXHAUST EMISSION STANDARDS AND TEST PROCEDURES FOR 2001 AND SUBSEQUENT MODEL PASSENGER CARS, LIGHT-DUTY TRUCKS AND MEDIUM-DUTY VEHICLES

The provisions of Subparts B, C, and S, Part 86, Title 40, Code of Federal Regulations, as adopted or amended on May 4, 1999 or as last amended on such other date set forth next to the 40 CFR Part 86 section title listed below, and to the extent they pertain to exhaust emission standards and test procedures, are hereby adopted as the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," with the following exceptions and additions.

PART I: GENERAL PROVISIONS FOR CERTIFICATION AND IN-USE VERIFICATION OF EMISSIONS

* * * *

F. Requirements and Procedures for Durability Demonstration

* * * *

4. §86.1823 Durability demonstration procedures for exhaust emissions

4.1 §86.1823-01 October 6, 2000. Amend as follows: Add the following sentences to the first paragraph: Beginning with 2010 model-year vehicles or engines, at the time of certification manufacturers shall state, based on good engineering judgment and information available at that time, that the emission control devices on their vehicles or engines are designed and will be manufactured to operate properly for the full useful life of the vehicles or engines. If any emission control device fails at a valid failure rate of at least four percent or 50 vehicles (whichever is greater) in an engine family or test group over the applicable warranty period of the vehicles or engines they are installed in, it constitutes a violation of these test procedures and it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174. Vehicles and engines tested for certification shall be, in all material respects, substantially the same as production vehicles and engines. If production vehicles have warranty claims rates in use that exceed four percent or fifty (whichever is greater) it is conclusive proof that vehicles and engines tested for certification are not, in all material respects,

substantially the same as production vehicles and engines. If any emission control device fails at this rate, that constitutes a violation of these test procedures and it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174.

* * * *

State of California
AIR RESOURCES BOARD

CALIFORNIA EXHAUST EMISSION STANDARDS AND TEST PROCEDURES FOR 2004 AND SUBSEQUENT MODEL HEAVY-DUTY DIESEL-ENGINES AND VEHICLES

Adopted: December 12, 2002
Amended: July 24, 2003
]Amended: [INSERT DATE OF AMENDMENT]

Note: The proposed amendments to this document are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions compared to the test procedures as adopted by the Board. Existing intervening test that is not amended is indicated by "* * * *".

CALIFORNIA EXHAUST EMISSION STANDARDS AND TEST PROCEDURES FOR 2004 AND SUBSEQUENT MODEL HEAVY-DUTY DIESEL-ENGINES AND VEHICLES

The following provisions of Subparts A, I, and N, Part 86, Title 40, Code of Federal Regulations, as adopted or amended by the U.S. Environmental Protection Agency on the date set forth next to the 40 CFR Part 86 section listed below, and only to the extent they pertain to the testing and compliance of exhaust emissions from heavy-duty diesel engines and vehicles, are adopted and incorporated herein by this reference as the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," except as altered or replaced by the provisions set forth below.

* * * *

26. **§86.004-26 Mileage and service accumulation; emission measurements. October 6, 2000**

* * * *

§86.004-26 October 6, 2000. Amend as follows: Add the following sentences to the first paragraph: Beginning with 2010 model-year vehicles or engines, at the time of certification manufacturers shall state, based on good engineering judgment and information available at that time, that the emission control devices on their vehicles or engines are designed and will be manufactured to operate properly for the full useful life of the vehicles or engines. If any emission control device fails at a valid failure rate of at least four percent or 50 vehicles (whichever is greater) in an engine family or test group over the applicable warranty period of the vehicles or engines they are installed in, it constitutes a violation of these test procedures and it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174. Vehicles and engines tested for certification shall be, in all material respects, substantially the same as production vehicles and engines. If production vehicles have warranty claims rates in use that exceed four percent or 50 (whichever is greater), it is conclusive proof that vehicles and engines tested for certification are not, in all material respects, substantially the same as production vehicles and engines. If any emission control device fails at this rate, that constitutes a violation of these test

procedures and it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174.

* * * *

State of California
AIR RESOURCES BOARD

CALIFORNIA EXHAUST EMISSION STANDARDS AND TEST PROCEDURES FOR 2004 AND SUBSEQUENT MODEL HEAVY DUTY OTTO CYCLE ENGINES

Adopted: December 27, 2000
Amended: December 12, 2002
Amended: [INSERT DATE OF AMENDMENT]

Note: The proposed amendments to this document are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions compared to the test procedures as adopted by the Board. Existing intervening test that is not amended is indicated by "* * * *".

CALIFORNIA EXHAUST EMISSION STANDARDS AND TEST PROCEDURES FOR 2004 AND SUBSEQUENT MODEL HEAVY DUTY OTTO CYCLE ENGINES

The following provisions of Subparts A, N, and P, Part 86, Title 40, Code of Federal Regulations ("CFR"), as adopted or amended by the U.S. Environmental Protection Agency on the date set forth next to the 40 CFR Part 86 section listed below, and only to the extent they pertain to the testing and compliance of exhaust emissions from heavy-duty Otto-cycle engines, are adopted and incorporated herein by this reference as the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Otto-Cycle Engines," with the following exceptions and additions.

* * * *

26. **§86.004-26 Mileage and service accumulation; emission measurements. October 6, 2000**

* * * *

§86.004-26 October 6, 2000. Amend as follows: Add the following sentences to the first paragraph: Beginning with 2010 model-year vehicles or engines, at the time of certification manufacturers shall state, based on good engineering judgment and information available at that time, that the emission control devices on their vehicles or engines are designed and will be manufactured to operate properly for the full useful life of the vehicles or engines. If any emission control device fails at a valid failure rate of at least four percent or 50 vehicles (whichever is greater) in an engine family or test group over the applicable warranty period of the vehicles or engines they are installed in, it constitutes a violation of these test procedures and it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174. Vehicles and engines tested for certification shall be, in all material respects, substantially the same as production vehicles and engines. If production vehicles have warranty claims rates in use that exceed four percent or 50 (whichever is greater), it is conclusive proof that vehicles and engines tested for certification are not, in all material respects, substantially the same as production vehicles and engines. If any emission control device fails at this rate, that constitutes a violation of these test procedures and it entitles the Executive Officer of the Air Resources Board to

require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174.

* * * *

State of California
AIR RESOURCES BOARD

CALIFORNIA REFUELING EMISSION STANDARDS AND TEST PROCEDURES FOR 2001 AND SUBSEQUENT MODEL MOTOR VEHICLES

Adopted: August 5, 1999
Amended: September 5, 2003
Amended: [INSERT DATE OF AMENDMENT]

Note: The proposed amendments to this document are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions compared to the test procedures as adopted by the Board. Existing intervening test that is not amended is indicated by "* * * *".

CALIFORNIA REFUELING EMISSION STANDARDS AND TEST PROCEDURES FOR 2001 AND SUBSEQUENT MODEL MOTOR VEHICLES

The provisions of Title 40, Code of Federal Regulations (CFR), Part 86, Subparts B (as adopted or amended by the U.S. Environmental Protection Agency (U.S. EPA) on the date listed) and S (as adopted on May 4, 1999, or as last amended on such other date set forth next to the 40 CFR Part 86 section title listed below) to the extent they pertain to the testing and compliance of vehicle refueling emissions for passenger cars, light-duty trucks and medium-duty vehicles, are hereby adopted as the "California Refueling Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles" with the following exceptions and additions.

Subpart S Requirements

I. General Certification Requirements for Refueling Emissions

* * * *

G. §86.1825-01 Durability Demonstration procedures for refueling emissions.

§86.1825-01 October 6, 2000. Amend as follows: Add the following sentences to the first paragraph: Beginning with 2010 model-year vehicles or engines, at the time of certification manufacturers shall state, based on good engineering judgment and information available at that time, that the emission control devices on their vehicles or engines are designed and will be manufactured to operate properly for the full useful life of the vehicles or engines. If any emission control device fails at a valid failure rate of at least four percent or 50 vehicles (whichever is greater) in an engine family or test group over the applicable warranty period of the vehicles or engines they are installed in, it constitutes a violation of these test procedures and it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174. Vehicles and engines tested for certification shall be, in all material respects, substantially the same as production vehicles and engines. If production vehicles have warranty claims rates in use that exceed four percent or 50 (whichever is greater), it is conclusive

proof that vehicles and engines tested for certification are not, in all material respects, substantially the same as production vehicles and engines. If any emission control device fails at this rate, that constitutes a violation of these test procedures and it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174.

* * * *

State of California
AIR RESOURCES BOARD

CALIFORNIA EVAPORATIVE EMISSION STANDARDS AND TEST PROCEDURES FOR 2001 AND SUBSEQUENT MODEL MOTOR VEHICLES

Adopted: August 5, 1999
Amended: [INSERT DATE OF AMENDMENT]

Note: The proposed amendments to this document are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions compared to the test procedures as adopted by the Board. Existing intervening test that is not amended is indicated by "* * * *".

CALIFORNIA EVAPORATIVE EMISSION STANDARDS AND TEST PROCEDURES FOR 2001 AND SUBSEQUENT MODEL MOTOR VEHICLES

The provisions of Title 40, Code of Federal Regulations (CFR), Part 86, Subparts A and B as adopted or amended as of July 1, 1989, and Subpart S as adopted or amended on May 4, 1999, insofar as those subparts pertain to evaporative emission standards and test procedures, are hereby adopted as the California Evaporative Emission Standards and Test Procedures for 2001 and Subsequent Model Years, with the following exceptions and additions:

PART I. GENERAL CERTIFICATION REQUIREMENTS FOR EVAPORATIVE EMISSIONS

* * * *

PART II. DURABILITY DEMONSTRATION

* * * *

2. Durability Demonstration Procedures for Evaporative Emissions

Add new section 2.0: Amend as follows: Add the following sentences to the first paragraph: Beginning with 2010 model-year vehicles or engines, at the time of certification manufacturers shall state, based on good engineering judgment and information available at that time, that the emission control devices on their vehicles or engines are designed and will be manufactured to operate properly for the full useful life of the vehicles or engines. If any emission control device fails at a valid failure rate of at least four percent or 50 vehicles (whichever is greater) in an engine family or test group over the applicable warranty period of the vehicles or engines they are installed in, it constitutes a violation of these test procedures and it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174. Vehicles and engines tested for certification shall be, in all material respects, substantially the same as production vehicles and engines. If production vehicles have warranty claims rates in use that exceed four percent or 50 (whichever is greater), it is conclusive

proof that vehicles and engines tested for certification are not, in all material respects, substantially the same as production vehicles and engines. If any emission control device fails at this rate, that constitutes a violation of these test procedures and it entitles the Executive Officer of the Air Resources Board to require that the vehicles or engines they are installed in be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174.

* * * *

Attachment C

State of California
AIR RESOURCES BOARD

Staff Proposed 15-Day Changes
December 5, 2006

Regarding the ARB Staff's Proposed Amendments
to the
Emission Warranty Information Reporting
And Recall Regulations and Test Procedures

Staff will propose, as 15-day changes, the following:

1) Regulatory language that would allow the manufacturer to request a delay in the submission of the plan to remedy a nonconformity required in proposed Section 2172 provided good cause is provided to and approved by the Executive Officer.

2) Regulatory language in proposed Section 2168 that will address "infant mortality" warranty issues provided appropriate corrective action is implemented and satisfactorily completed early in the useful life of the affected vehicles or engines. Discounting of the infant mortality data against total parts claims should be noted in subsequent EWIR and SEWIR reports as appropriate, upon review and approval by the Executive Officer.

3) Regulatory language in proposed Section 2168 that will allow a manufacturer to voluntarily initiate voluntary corrective action for defects that it wishes to correct before any trigger is exceeded. Such corrective action must be done under the supervision of and with the approval of the Executive Officer and does not affect the "running change" process. Discounting of the voluntary action data should be noted in subsequent EWIR and SEWIR reports as appropriate.

4) Regulatory language in proposed Section 2166(i) that would include "light-heavy" duty engines in the medium-duty vehicle category when determining the extended warranty time and mileage period should corrective action be required. The extended warranty period would be 15 years or 150,000 miles (whichever first occurs) for "light-heavy" duty engines.

5) Regulatory language in proposed Section 2166 that defines the term "defective emission-control component" or "defective emission-related component" to be any component that is installed on a California-certified vehicle or engine that is considered

to be a "warranted part" pursuant to Section 2035 that is not replaced or repaired solely for customer relations reasons or misdiagnosis and does not have a mechanical defect, will not fail to operate properly within the manufacturer's specifications during its certified useful life and will not increase emissions under any conceivable circumstance if it is not replaced. Components replaced under warranty that meet this definition may be excluded from calculating the valid failure rate required in Section 2168 upon approval by the Executive Officer.

6) Regulatory language that clearly specifies that, when a manufacturer submits the Statement of Compliance that is required during the certification process, the manufacturer acknowledges, to the best of its knowledge at that time, that the emission-control components installed on vehicles or engines in a specific engine family or test group will be durable for the certified useful life and systemic failures are not anticipated to occur.

7) The definition of "emission-control component" or "emission-related component" in proposed Section 2166(e) will be revised to mean: a device, system or assembly described in the manufacturer's approved application for certification which is considered to be a "warranted part" pursuant to Section 2035 and subject to proposed Article 5: Procedures for Reporting Failures of Emission-Related Equipment and Related Corrective Action.

8) Regulatory language in proposed Section 2166(i) that limits the extended warranty time and mileage period to 10 years or 150,000 miles (whichever first occurs) as corrective action for systemic defects for the propulsion battery pack utilized on HEV-certified vehicles.

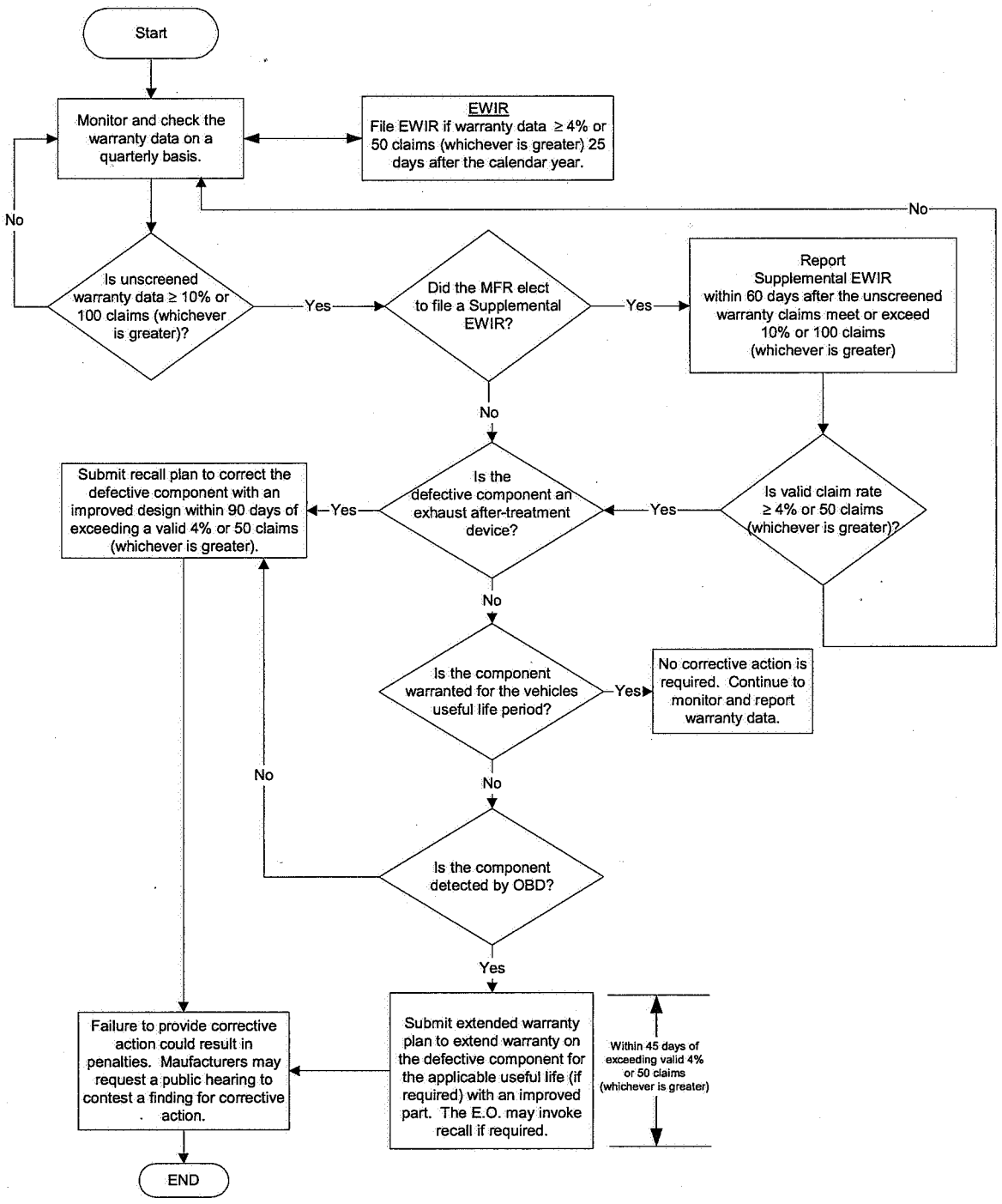
9) Changes to the applicable test procedure sections: clarifying the concepts of useful life and warranty periods for purposes of determining the four percent failure rate; and, providing that production vehicles must in all material respects be substantially the same as certification test vehicles, and further providing that component failures greater than four percent indicate a violation of this requirement as well as a violation of Article 5 of the proposed regulations.

10) Regulatory language that would allow manufacturers to submit information, which may include an engineering evaluation, as part of the SEWIR to demonstrate for the review and approval of the Executive Officer that under no conceivable circumstance may a specific emission control component defect result in an increase in emissions over that of a properly operating vehicle or engine without the defect. Components replaced under warranty that meet the above circumstance may be excluded from calculating the valid failure rate required in Section 2168 upon approval by the Executive Officer.

11) Additional non-substantive regulatory language changes needed for clarification.

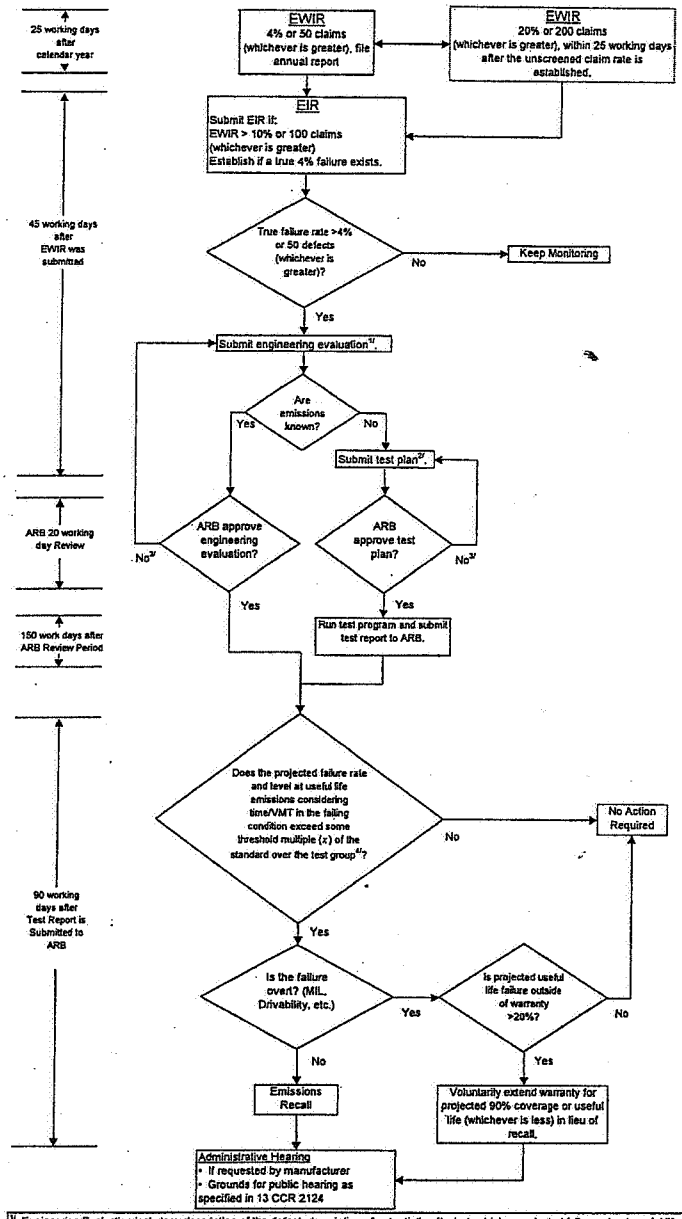
Attachment D

Proposed Warranty Reporting and Corrective Action Requirements



Attachment E
Alliance Proposal - May 2006

Proposed Amendments to the Warranty Reporting Requirement Regulations - Flowchart
Process Description for Passenger Cars and Light Duty Trucks (LDTs)



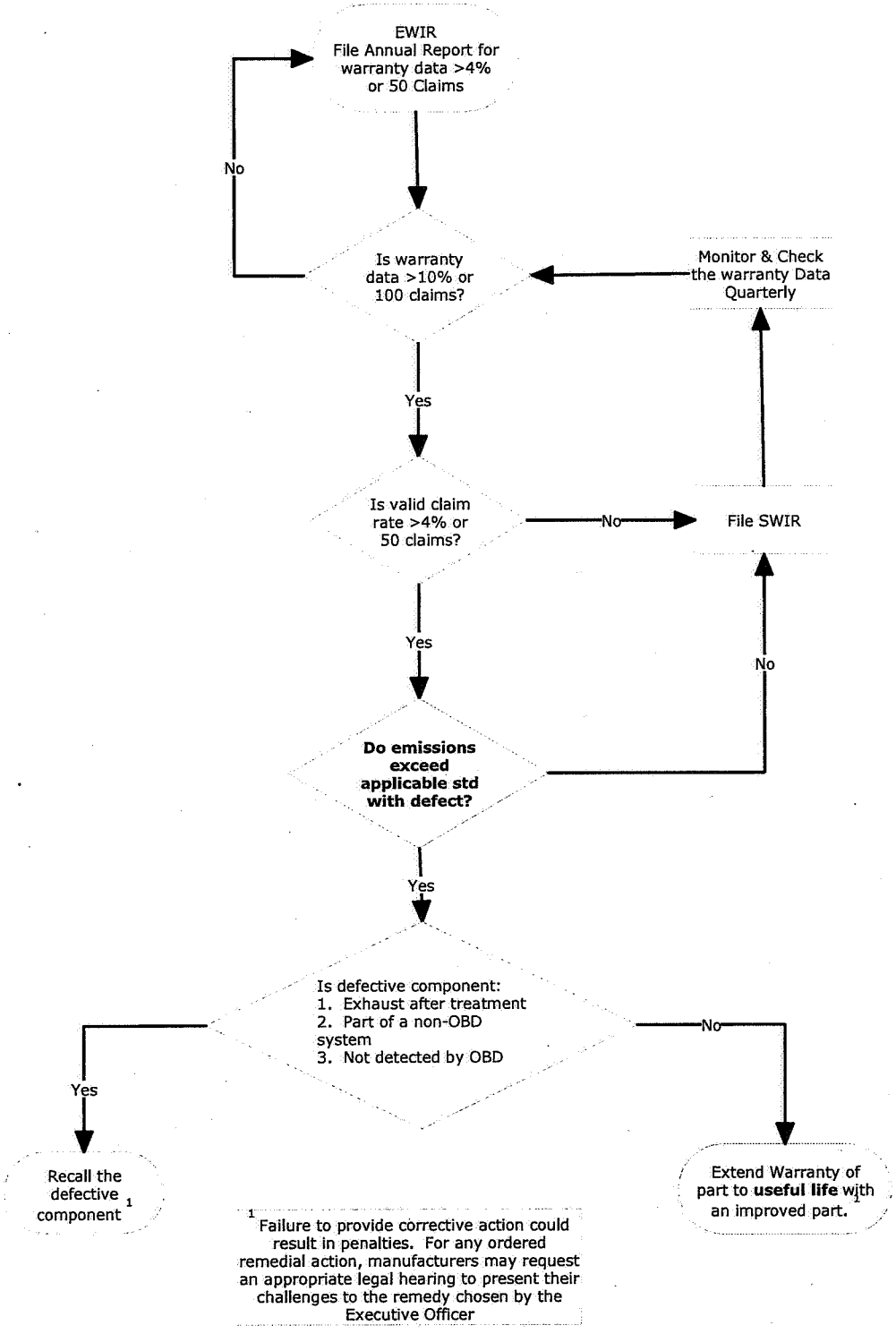
[1] Engineering Evaluation includes: description of the defect, description of potentially affected vehicles, projected failure rate at useful life (UL), evaluation of the emissions impact of the defect, available data, description of indicators that will notify the driver to the problem (e.g. driveability, MIL illumination), projected repair rate due to overt indication.

[2] Test plan must be representative of a typical failure mode to determine the emissions impact for a substantial number of vehicles.

[3] The manufacturer may request an Adjudicatory Hearing pursuant to Sections 60040 through 60053, Title 17, CCR after good faith efforts to resolve issues about the test plan or engineering evaluation have been exhausted.

[4] Please see attached examples for clarification.

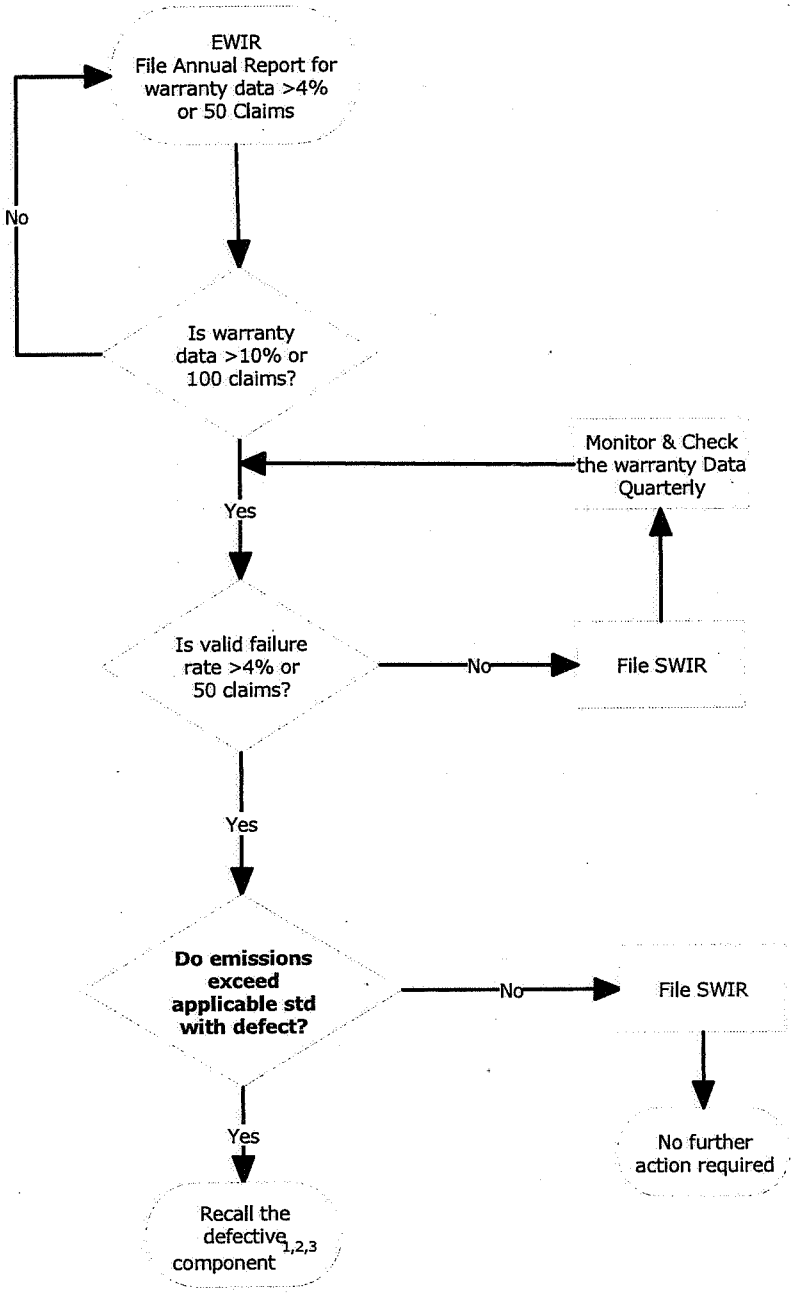
Attachment F
Alliance Proposal - November 2006



[1] Failure to provide corrective action could result in penalties. For any ordered remedial action, manufacturers may request an appropriate legal hearing to present their challenges to the remedy chosen by the Executive Officer

Attachment G

Alliance Proposal - January 16, 2007



[1]
[2] Failure to provide corrective action could result in penalties. For any ordered recall, manufacturers may request an appropriate legal hearing to present their challenges to the recall.
[3] The Executive Officer may negotiate other alternative remedial action, such as extended warranties to useful life with the manufacturer in lieu of recall.

Attachment H (continue) 2.

California Emission Warranty Defect Reporting
Emissions Evaluations

1. Within 15 working days of submitting the Supplemental Emission Warranty Information Report (SEWIR) in which a valid 4% failure rate is exceeded, the manufacturer will submit an engineering analysis or a test plan for approval by the Executive Officer. The Executive Officer shall approve or disapprove the engineering analysis or test plan within 30 working days of receipt providing appropriate justification for disapproval.

2. If the engineering analysis or test plan is disapproved by the Executive Officer, the manufacturer will conduct the following test program:

    a. *Number of tests:* A manufacturer must test a minimum of five typical failed components, as identified in the EWIR, on at least one vehicle. Any additional testing must be completed within the *Initiation and completion of testing* requirements specified below.

    b. *Initiation and completion of testing:* Testing must be completed within seven months of commencing the test program.

    c. *Test Vehicle Procurement:* The manufacturer will procure properly maintained and used vehicles, or the manufacturer may submit an alternative vehicle procurement plan with prior Executive Officer review and approval on a reasonable basis.

    d. *Emission Testing:* The manufacturer must, after consultation with the Executive Officer, submit a test plan describing the details of test procedures (e.g. FTP, Evap.) that will be conducted to adequately exercise the failed component.

    e. *Testing facilities, procedures, quality assurance and quality control:* Test facility requirements as specified in the IUVP regulations, 40 CFR 68.1845-04(e) shall be applicable.

3. Remedial action will be required if the results of the testing show that the average test program results of any pollutant(s) exceeds the emissions standards and 50% of the tests for corresponding pollutant(s) exceed the emissions standards.

Attachment H

D-R-A-F-T (5/31/06)

MOTORCYCLE INDUSTRY COUNCIL

Motorcycle (Non-OBD)
Recommended Warranty Reporting Process
(All days = working days unless noted otherwise)

1. EWIR Report

- Annually identify each emission-related part with warranty claims rate ≥4% or 50 claims, whichever is greater
    - Submit EWIR 25 days after end of each calendar year
- Claims rate rises to ≥20% or 200 claims, whichever is greater
    - Submit EWIR 25 days after data shows such rate
- Reporting obligation terminates after end of warranty period

2. EIR Report

- Submit EIR for any emissions-related part if:
    - The EWIR shows a claims rate of ≥10% or 100 claims, whichever is greater
        - EIR report due 45 days after EWIR is submitted
- EIR Report requirement waived if mfr agrees to conduct recall
- Contents of EIR
    - Show unscreened claims rate
    - Show true failure rate after screening of invalid claims
    - Discuss whether defect may cause secondary damage to another emissions-related part
    - If true failure rate is ≥4 % or 50 claims, whichever is greater, include a proposed Emissions Impact Evaluation Procedure (EIEP) for determining

whether the defect, by itself or through secondary damage if applicable, causes or is likely to cause a certification emission standard to be exceeded during the applicable warranty period. EIEP may be based on either or both of the following techniques:

- Engineering analysis
- Testing of one or more vehicle(s)
  - Can be a certification, durability, in-use, new production, or other representative vehicle
  - Can specify deviations from certification test procedure

- EIR Approval (ARB)
  - Deemed approved if not disapproved in writing in 20 days after submitted
  - If disapproved, manufacturer must submit revisions within 7 working days and CARB must approve/disapprove revisions within 7 working days after revisions submitted (repeat cycle until approval received)

3. Submittal of EIEP Results

- Results of EIEP must be submitted to CARB within 150 days after EIR approved, along with manufacturer's findings and proposed action
  - CARB must approve/disapprove within 20 days
    - Manufacturer entitled to meeting with staff (Division Chief or higher) to review/discuss any disapproval
  - If disapproved, and CARB orders a recall, manufacturer may request a hearing to contest necessity for or scope of recall order

4. Action Steps

- If EIEP results shows certification standard is not or will not be exceeded during warranty period, then NO FURTHER ACTION is required
  - Catalyst defect will be presumed to cause standard violation unless convincing evidence to contrary is presented

- If results show certification standard is or will be exceeded during warranty period, then RECALL is required unless:

Attachment H (continue) 3.

- Manufacturer has installed a device that will detect the defect within 200 miles after the defect has occurred and will continuously warn the operator that an emissions defect exists (e.g. catalyst light)

- Defect causes overt drivability problems in substantially all vehicles with the defect, and manufacturer agrees to undertake a warranty field fix program through its dealers

- Average emissions of the engine families or vehicle groups with the defect are shown to be in compliance with the applicable certification standards.

TITLES 13 AND 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF PROPOSED AMENDMENTS TO THE STATEWIDE PORTABLE EQUIPMENT REGISTRATION PROGRAM (PERP) REGULATION AND THE AIRBORNE TOXIC CONTROL MEASURE (ATCM) FOR DIESEL-FUELED PORTABLE ENGINES

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider adoption of amendments to the Statewide Portable Equipment Registration Program (Statewide PERP) Regulation and the Airborne Toxic Control Measure for diesel-fueled portable engines (Portable Engine ATCM).

DATE: March 22, 2007

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

This item will be considered at a two-day meeting of the ARB, which will commence at 9:00 a.m., March 22, 2007, and may continue at 8:30 a.m., March 23, 2007. This item may not be considered until March 23, 2007. Please consult the agenda for the meeting, which will be available at least ten days before March 22, 2007, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette or computer disk. Please contact ARB's Disability Coordinator at 916-323-4916 by voice or through the California Relay Services at 711, to place your request for disability services. If you are a person with limited English and would like to request interpreter services, please contact ARB's Bilingual Manager at 916-323-7053.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to title 13, California Code of Regulations (CCR), sections 2451, 2452, 2456, 2458, 2459, 2460, 2461, and 2462, which govern the Statewide Portable Equipment Registration Program. Proposed amendments to title 17, CCR, sections 93116.1, 93116.2 and 93116.3 and adoption of section 93116.3.1 which constitute the Airborne Toxic Control Measure for diesel-fueled portable engines.

Background

The Board adopted the Portable Engine ATCM in February 2004. Portable engines include a wide variety of engine types and uses. A portable engine may provide primary power to a piece of equipment or it may serve as an auxiliary engine.

The Legislature passed the portable equipment registration statutes in 1995. These statutes (Health and Safety Code §§41750 et seq.) required ARB to create and maintain a program for the registration of engines and equipment that are operated at more than one location throughout the State. Per these 1995 statutes, the Board adopted a regulation establishing Statewide PERP on March 27, 1997, and it became effective on September 17, 1997. The Board has since approved amendments to the Statewide PERP Regulation on December 11, 1998, February 26, 2004, and June 22, 2006. When an engine is registered in PERP, State law provides that the owner of that engine need not obtain local air district permits prior to operating. To be registered in PERP, however, the engine being registered must meet the most stringent emissions standards in effect at the time of application.

Most of the engines associated with portable equipment are diesel-fueled, making these engines also subject to the requirements of the Portable Engine ATCM. The Portable Engine ATCM covers all portable engines, not only those registered in PERP.

At its September 2006 meeting, the Board received public testimony concerning the inability to register older engines in the PERP. After January 1, 2006, the Statewide PERP Regulation only allowed registration of engines that met the current nonroad emission standards in effect at the time of application submittal. In response to the testimony, the Board directed staff to consider options and report back to the Board.

ARB staff, in consultation with affected industry and the local air districts, developed proposed emergency amendments to the Statewide PERP Regulation and the Portable Engine ATCM. The Board approved the emergency amendments at its December 7, 2006 public hearing, and they were approved by the Office of Administrative Law (OAL) on December 27, 2006. These emergency amendments have been filed with the Secretary of State and will be effective for a period not to exceed 120 days.

On March 22, 2007, staff will present to the Board amendments to the Statewide PERP Regulation and the Portable Engine ATCM. These proposed amendments would make permanent the emergency regulatory changes to Statewide PERP Regulation and the Portable Engine ATCM adopted by the Board on December 7, 2006. ARB staff is also proposing some minor revisions that are intended to provide additional clarity and expediency to the implementation of the Statewide PERP Regulation.

Description of the Proposed Regulatory Action

The following amendments are proposed in order to allow registration of certain engines that would not otherwise qualify. They would also provide regulatory relief for affected industry relative to the availability, sale, purchase, and registration of complying engines.

Statewide PERP Regulation

Resident Engines

ARB staff proposes a redefinition of what constitutes a resident engine in the Statewide PERP Regulation to include those Tier 1 and 2 engines that had been operating in California between March 1, 2004 and October 1, 2006. This revised definition will prevent the importation from out of State of Tier 1 or 2 engines, which would negatively affect California's ambient air quality.

Tier 1 and Tier 2 Engines

The proposed amendments would allow the registration in PERP of "resident" Tier 1 and Tier 2 engines that do not meet the current nonroad emission standard in effect. After January 1, 2010, only the cleanest tier available will be allowed to register.

Recordkeeping and Reporting

ARB staff proposes the removal of the hour meter requirement for rental equipment units. These rental equipment units are already required to track daily throughput, which is adequate for determining compliance with daily emission limitations. The tracking of hours of operation for these units is redundant and places an undue burden on industry.

Registration Fees

ARB staff proposes a requirement for collecting back registration and inspection fees for these Tier 1 and Tier 2 engines that do not meet the current nonroad emission standard in effect. The proposed fee schedule would favor owners and operators that act early. Fees would be collected from either the year of purchase, or the model year of the engine. Fees would be higher for those owners or operators of Tier 1 engines if a Tier 2 standard was in effect at the time of purchase. The bulk of these back fees will be redirected to the districts for compliance programs. Under the proposal, in addition to having to pay back fees, the owner or operator would also have to pay current registration fees that would be due.

Miscellaneous Amendments

The staff is proposing to delete the requirement that placards be placed on military tactical support equipment (TSE). The placard requirement was added for all registered portable engines as part of the June 2006 amendments. However, the staff has determined that placards on military TSE are not effective given how this equipment is registered. In addition, ARB staff is proposing the modification, addition, and deletion of terms in the definitions section, deletion of outdated provisions, and minor clarifications where needed. These changes are considered to be non-substantive and are intended to provide additional clarity and expediency to the Statewide PERP Regulation.

Portable Engine ATCM

Tier 0 Engines

Tier 0 engines are those that are not certified to a California or federal nonroad emission standard. The proposed amendments to the Portable Engine ATCM would allow local air districts to permit Tier 0 engines at their discretion.

Tier 1 and Tier 2 Engines

The Portable Engine ATCM would only allow the permitting by the local air districts or registration in PERP of Tier 1 and 2 engines that had been operating in California between March 1, 2004 and October 1, 2006. This revised definition will prevent the importation from out of State of Tier 1 or 2 engines, which would negatively affect California's ambient air quality. After January 1, 2010, only the cleanest tier available will be allowed to register or seek local air district permitting, as is required by the existing Portable Engine ATCM.

Compliance Flexibility

ARB staff proposes provisions in the Portable Engine ATCM that would provide compliance flexibility during those periods where it can be verified to a local air district or ARB's Executive Officer that compliant engines are not sufficiently available.

Miscellaneous Amendments

ARB staff is proposing the modification, addition, and deletion of terms in the definitions section, deletion of outdated provisions, and minor clarifications where needed. These changes are considered to be non-substantive and are intended to provide additional clarity and expediency to the Portable Engine ATCM.

COMPARABLE FEDERAL REGULATIONS

In section 213 of the federal Clean Air Act, Congress directed the Administrator of the United States Environmental Protection Agency (U.S. EPA) to determine whether emissions from nonroad engines cause or significantly contribute to air pollution which may reasonably be anticipated to endanger public health and safety, and if so, promulgate emission standards for the control of such engines. Engines used in portable equipment are a general category of nonroad engines. To date, U.S. EPA has adopted emission standards for new spark-ignition nonroad engines at or below 19 kilowatts (25 horsepower) and compression-ignition nonroad engines at or above 37 kilowatts (50 horsepower). Concurrent with authorizing U.S. EPA to adopt emission standards and other regulations for nonroad engines, Congress established a nonroad engine preemption prohibiting all states, including California, from adopting emission standards and other requirements related to the control of emissions from new nonroad engines less than 175 horsepower used in farm and construction equipment and vehicles.

In contrast to other states, however, the Clean Air Act permits California to request authorization from the U.S. EPA to adopt and enforce necessary emission standards and regulations for California for all nonroad engines not otherwise expressly preempted. To date, California has adopted several nonroad engine regulations, including emission standards for new spark-ignition engines at or below 19 kilowatts (25 horsepower) and compression-ignition engines at or above 37 kilowatts (50 horsepower). Both regulations have received authorization from the U.S. EPA. The Statewide Regulation promotes consistency between the California and federal requirements and does not establish direct emission standards or other emission related requirements (not including in-use operational controls) for engines that are expressly preempted under Clean Air Act section 209(e)(1).

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report which contains the Initial Statement of Reasons (ISOR) for the proposed regulatory action, including a summary of the economic and environmental impacts of the proposal. The report is entitled: Proposed Amendments to the Statewide Portable Equipment Registration Program and the Air Toxic Control Measure for Diesel-Fueled Portable Engines. Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 "I" Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing on March 22, 2007.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons identified in this notice, or may be accessed on the ARB's website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Michael Guzzetta, Manager of the Rule Evaluation Section at (916) 322-6025, or by email at mguzzett@arb.ca.gov, or Joseph Gormley, Air Resources Engineer, Rule Evaluation Section, at (916) 322-5616, or by email at jgormley@arb.ca.gov.

Further, the agency representative and designated back-up contact persons to whom non-substantive inquiries concerning the proposed administrative action may be directed are Alexa Malik, Regulations Coordinator at (916) 322-4011, or Amy Whiting, Regulations Coordinator at (916) 322-6533. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at http://www.arb.ca.gov/regact/2007/perp07/perp07.htm.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action will create costs or savings to state agencies but not in federal funding to the state, costs or mandate to local agencies and school districts whether or not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, and title 2 of the Government Code, and other nondiscretionary cost or savings to state or local agencies.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. The costs are from the collection of back registration and inspection fees that a private business or a local agency would have had to pay had been registered upon the operational startup of the engine. ARB staff estimates that the total economic impact of the proposed amendments to the Statewide Regulation to affected private businesses and public (local, State, and federal) agencies is $6.6 million (6.1 million private and 0.5 public) over the next three years. The costs are due to the collection of back registration fees that the businesses would have had to pay had they properly registered the engine upon initial start up.

Staff estimates that 6 State agencies will be affected by the proposed amendments. The total economic cost for State agencies to comply with the proposed amendments to the Statewide PERP Regulation is estimated by ARB staff to be $93,000.

Staff estimates that 8 federal agencies will be affected by the proposed amendments. The total economic cost for federal agencies to comply with the proposed amendments to the Statewide PERP Regulation is estimated by ARB staff to be $42,000.

The alternative to paying these back fees is to replace the engine with a new engine that meets the current emission standards. The cost savings of these engines being registered instead of being replaced is significant. The average cost of a new engine is approximately $25,000 (based on an estimated average size of 140 bhp). An estimated 10,000 older engines are expected to register in PERP over the next three years. Therefore, the cost to private businesses and public agencies to replace these engines could have been as high as $250 million dollars. Consequently, the proposed action will result in substantially lower overall costs to businesses and public agencies.

Staff estimates that about 107 local agencies will be affected by the proposed amendments. The total economic cost for local agencies to comply with the proposed amendments to the Statewide PERP Regulation is estimated by ARB staff to be $450,000.

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting

businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will affect small businesses.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

The proposed amendments to the Statewide PERP Regulation will continue to have a beneficial effect on the California business climate by allowing for the continued operation of some small businesses.

Before taking final action on the proposed regulatory changes, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the amendment is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by email before the hearing. To be considered by the Board, written submissions must be received **no later than 12:00 noon, March 21, 2007**, and addressed to the following:

Postal mail: Clerk of the Board
Air Resources Board
1001 "I" Street, 23rd Floor
Sacramento, California 95814

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

Facsimile submittal: (916) 322-3928

The Board requests, but does not require that **30 copies** of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The ARB encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in sections 39600, 39601, 39650, 39658, 39659, 39666, 41752, 41753, 41754, 41755, 43013, and 43018 of the Health and Safety Code. This regulatory action is proposed to implement, interpret, and make specific sections 39650, 39666, 41750, 41751, 41752, 41753, 41754 and 41755 of the Health and Safety Code.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 "I" Street, Visitors and Environmental Center, First Floor, Sacramento, California 95814, (916) 322-2990.

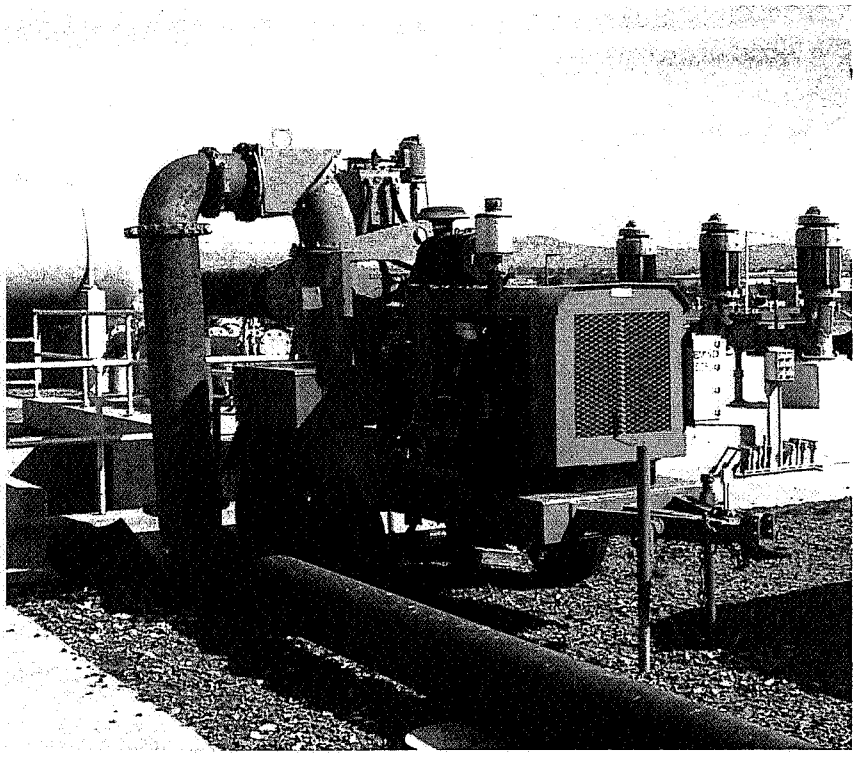
CALIFORNIA AIR RESOURCES BOARD

Catherine Witherspoon
Executive Officer

Date: January 23, 2007

California Environmental Protection Agency
AIR RESOURCES BOARD

STAFF REPORT: INITIAL STATEMENT OF REASONS FOR THE PROPOSED AMENDMENTS TO THE STATEWIDE PORTABLE EQUIPMENT REGISTRATION PROGRAM REGULATION AND THE AIRBORNE TOXIC CONTROL MEASURE FOR DIESEL PARTICULATE MATTER FROM PORTABLE ENGINES



Stationary Source Division
Program Evaluation Branch

Release Date: February 2, 2007

State of California
AIR RESOURCES BOARD

STAFF REPORT: INITIAL STATEMENT OF REASONS FOR PROPOSED RULEMAKING

Public Hearing to Consider

Proposed Amendments to the Statewide Portable Equipment Registration Program Regulation and the Airborne Toxic Control Measure For Diesel Particulate Matter From Portable Engines

To be considered by the Air Resources Board on March 22, 2007 at:

California Environmental Protection Agency
Headquarters Building
1001 "I" Street
Byron Sher Auditorium
Sacramento, California

STATIONARY SOURCE DIVISION

Robert Fletcher, Chief
Robert D. Barham, Assistant Chief
Jorge Fernandez, Chief, Program Evaluation Branch
Michael Guzzetta, Manager, Rule Evaluation Section

State of California
AIR RESOURCES BOARD

PROPOSED AMENDMENTS TO THE STATEWIDE PORTABLE EQUIPMENT REGISTRATION PROGRAM REGULATION AND AIRBORNE TOXIC CONTROL MEASURE FOR DIESEL PARTICULATE MATTER FROM PORTABLE ENGINES

Primary Author

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Rich Miller

Legal Counsel

George Poppic, Office of Legal Affairs

Acknowledgements

This report was prepared with the assistance and support from the other divisions and offices of the Air Resources Board. In addition, we would like to acknowledge the assistance and cooperation that we have received from many individuals and organizations.

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Staff Report: Initial Statement of Reasons for the Proposed Amendments to the Statewide Portable Equipment Registration Program Regulation and Airborne Toxic Control Measure For Diesel Particulate Matter From Portable Engines

Executive Summary

A. INTRODUCTION

This Executive Summary outlines the Air Resources Board (ARB or Board) staff's proposal to amend the Statewide Portable Equipment Registration Program Regulation (Statewide PERP Regulation). In addition, this summary will also outline the proposal to amend the Airborne Toxic Control Measure For Diesel Particulate Matter From Portable Engines (Portable Engine ATCM).

This report comprises the Initial Statement of Reasons for the Proposed Amendments to the Statewide PERP Regulation and the Portable Engine ATCM as required by the Administrative Procedures Act (Government Code 11340 et seq.). The Executive Summary of this report provides an overview of the proposed amendments, a summary of staff recommendations, and a brief discussion of the environmental and economic impacts resulting from the proposal. The following portion of the report provides a more detailed presentation of the technical aspects of the proposed amendments.

B. BACKGROUND

The Statewide PERP Regulation

The ARB was mandated by California Health and Safety Code (HSC) sections 41750 through 41755 to adopt a regulation to establish a uniform statewide program for the voluntary registration and regulation of portable engines and equipment units in California. Once registered in this voluntary program, portable engines and equipment units may operate throughout the State without having to obtain permits from the local air pollution control and air quality management districts (districts), providing industry with the flexibility to operate portable engines and equipment units under a uniform statewide registration program. The Statewide PERP Regulation was originally adopted by the Board on March 27, 1997, and subsequently amended by the Board on December 10, 1998, February 26, 2004, and June 22, 2006.

The Portable Engine ATCM

The Board adopted The Portable Engine ATCM on February 26, 2004 to reduce the emissions of diesel particulate matter (PM) from diesel-fueled portable engines. The Portable Engine ATCM is one element in the implementation of ARB's "Risk Reduction Plan to Reduce PM Emissions from Diesel-Fueled Engines and Vehicles" (Diesel Risk Reduction Plan). It establishes requirements for both the registration of diesel engines with the ARB and the permitting or registration of diesel engines by the districts.

At its September 2006 meeting, the Board received public testimony concerning the inability to register older engines in PERP. After January 1, 2006, the Statewide PERP Regulation only allowed engines to register that met the current nonroad emission standards in effect at the time of application submittal. Pursuant to the testimony, the Board directed staff to consider options and report back to the Board.

ARB staff, in consultation with affected industry and the districts, developed proposed emergency amendments to the Statewide PERP Regulation and the Portable Engine ATCM. The Board approved the emergency amendments at its December 7, 2006 public hearing, and they were approved by the Office of Administrative Law (OAL) on December 27, 2006. These emergency amendments have been filed with the Secretary of State and will be effective for a period not to exceed 120 days.

The proposed amendments include recommendations to allow the permitting or registration of resident Tier 1 and 2 engines by either ARB or the districts (resident engines are those that have historically operated in California), the permitting of Tier 0 engines by the districts, compliance flexibility provisions for affected industry, collecting of back registration and inspection fees, and changes to the recordkeeping and reporting requirements. The proposed amendments contained in staff's proposal are the result of discussions and negotiations with affected parties. These amendments will make permanent the emergency regulatory changes to Statewide PERP Regulation and the Portable Engine ATCM adopted by the Board on December 7, 2006, and provide additional clarity and expediency to the implementation of the Statewide PERP Regulation and Portable Engine ATCM.

C. PORTABLE EQUIPMENT AND CURRENT REGULATIONS

1. What is portable equipment?

Portable equipment is any piston-driven internal combustion engine and/or equipment unit that is designed and capable of being carried or moved from one location to another and would remain at a single location for less than 12 consecutive months. Unlike stationary engines and equipment, portable equipment may be moved to multiple locations throughout the State, where it may operate for several hours or several months. Portable engines and equipment units registered in the Portable Equipment Registration Program (PERP) are used for a variety of applications, such as: pumps; military tactical support equipment (TSE); cranes; oil well drilling; servicing and work-over rigs; power generators; dredging equipment; rock crushing; and screening equipment; welding equipment; woodchippers; and compressors.

2. What types of businesses and public agencies use portable equipment?

Both private businesses and public agencies operate portable equipment registered in PERP. The types of businesses registering engines in PERP include motion picture studios; amusement parks; utilities; telecommunications; construction services; crushing, screening, and recycling services; industrial cleaning services; marine construction and dredging services; oil and gas operations; and rental services. Public agencies include schools and universities, county landfills, municipal utilities, wastewater treatment facilities, defense, public works departments, and transportation agencies.

3. How is portable equipment regulated in California?

a. ARB/U.S. EPA off-road engines standards

Since January 1, 1996, new diesel-fueled portable engines sold in California have been subject to ARB's Off-Road Compression Ignition emission standards. These standards are equivalent to the United States Environmental Protection Agency (U.S. EPA) emission standards for newly manufactured nonroad engines. (In California statutes, nonroad engines are referred to as off-road engines, therefore, these engines will be referred to as "off-road" in this report). The standards are tiered (i.e. Tier 1, 2, 3, and 4) with each set of standards phased in over several years based on the power rating of the engine and becoming progressively more stringent with each tier introduced.

Since January 1, 2001, newly-manufactured large (greater than 25 bhp) spark-ignition (LSI) engines sold in California have been subject to ARB's off-road LSI standards.
The U.S. EPA also adopted federal standards that were equivalent to ARB standards, but also included a more stringent standard. Beginning in 2007, new LSI engines must meet a combined standard for oxides of nitrogen (NOx) and hydrocarbons (HC) of 2.0 grams per brake horsepower-hour (g/bhp-hr).

b. Airborne Toxic Control Measure for Diesel-Fueled Portable Engines

On February 26, 2004, the Board adopted the Portable Engine ATCM. This regulation became effective on March 11, 2005. The current Portable Engine ATCM requires portable diesel-fueled engines that have not been permitted or registered prior to January 1, 2006, to meet the most stringent of the federal or California emission standards for nonroad engines in effect at the time of registration or permitting. This requirement was also incorporated into the Statewide PERP Regulation.

c. Portable Equipment Unit Standards

Registered equipment units are required to meet emission limits (82 pounds per day and 10 tons per year per district of PM10 (particulate matter sized less than 10 microns)) as well as emission control requirements based on the type of equipment unit.

d. District Permit Programs

Permit requirements vary from district to district depending on the state of the air quality in the district. While some districts exempt portable engines altogether, other districts may require portable engines to meet emission limits that are equivalent to Best Available Control Technology (BACT). For some districts, BACT for portable engines means that the engine is certified to ARB/U.S. EPA off-road emissions standards. Districts may also restrict the operating hours of portable engines to reduce air quality impacts to acceptable levels. An owner that operates portable equipment in multiple districts would be required to obtain a permit from each district, pay fees, and adhere to different sets of regulations as they move equipment among different districts.

e. Statewide Portable Equipment Registration Program

In lieu of obtaining multiple permits from individual districts, a portable equipment owner can register in PERP. Currently, portable equipment owners have registered over 33,500 engines, equipment units, and Tactical Support Equipment (TSE) in PERP. Of this amount, there are over 24,500 engines registered which represent nearly half of the estimated statewide inventory of portable engines. Most of the engines are diesel-fueled engines. The Statewide PERP Regulation was designed to promote the use of clean portable engines in California. By January 1, 2010, only diesel engines certified to ARB/U.S. EPA nonroad engine emission standards (Tier 1, 2, or 3) can continue to operate in PERP. This means that any diesel engines currently registered in the program that do not meet at least Tier 1 standards must be replaced with certified engines by that date. After January 1, 2010, spark-ignition engines may continue to operate if they are certified to ARB/U.S. EPA LSI engine standards, or if the emission standards listed in Table 1 of the Statewide PERP Regulation are met.

D. PUBLIC PROCESS

On November 20, 2006, ARB staff held a public consultation meeting in Sacramento. Staff provided attendees with the option of participating in the meetings by audio teleconference or in person. Staff also conducted a number of additional conference calls and in-person stakeholder meetings to further discuss the proposed amendments.

ARB staff held public a workshop on January 19, 2007 in Sacramento to solicit comments from the public on the proposed amendments. The Sacramento workshop was also teleconferenced for meeting participants that were unable to attend in person. In addition, the workshop was also broadcast on the Internet for meeting participants that were unable to attend in person. Broadcast viewers were able to submit comments and questions by email during the workshop so that staff could address their concerns or answer their questions.

Staff also used an e-mail list serve to notify interested parties of the meeting dates and the availability of information to be discussed at the meetings. In addition, a web site was developed where interested parties could download information such as meeting agendas and staff proposals, as well as providing links to other-related ARB websites. The website address is located at *http://www.arb.ca.gov/portable/perpact/perpact.htm*.

Staff participated in numerous individual meetings and conference calls with affected industries to address specific concerns. Staff revised the proposed amendments to the Statewide PERP Regulation and Portable Engine ATCM in consideration of the comments received during the public process. Staff made every effort to consider all comments and recommendations received.

E. SUMMARY OF THE PROPOSED AMENDMENTS

The proposed amendments to the Statewide PERP Regulation and Portable Engine ATCM are summarized below:

1. Tier 0 Engines

Tier 0 engines are those that are not certified to a California or federal nonroad emission standard. The Portable Engine ATCM will be amended to allow the districts to permit or register Tier 0 engines at their discretion, as long as the engines were operated in California at any time between March 1, 2004 and October 1, 2006, or are designated as exclusively emergency use or low use.

2. Resident Engines

The definition of resident engine will be amended in the Statewide PERP Regulation to include those Tier 1 and Tier 2 engines that have been operating in California at any time between March 1, 2004 and October 1, 2006. This revised definition will prevent the importation of Tier 1 and 2 engines from out of State, which would negatively impact the State's ambient air quality. The Portable Engine ATCM will also incorporate the residency time period requirement to allow only certified engines operating in California during that timeframe to be permitted or registered by the districts.

3. Tier 1 and 2 Engines

The Portable Engine ATCM and Statewide PERP Regulation will be amended to allow either the district to permit or ARB to register "resident" Tier 1 and Tier 2 engines that do not meet the current nonroad emission standard in effect. Under certain conditions, previous tier engines will be eligible for PERP or district permits for 6 months after a tier standard change. Starting January 1, 2010, only engines meeting the most current tier in effect will be allowed to seek a Permit to Operate or Registration, as is required by the current regulations.

4. Recordkeeping and Reporting

The Statewide PERP Regulation will be amended to remove the hour meter requirement for rental equipment units. These rental equipment units are already required to track daily throughput, which is sufficient for determining compliance with daily emission limitations. The additional tracking of hours of operation for these units is redundant and places an undue burden on industry.

5. Registration Fees

The Statewide PERP Regulation will be amended to collect back registration and inspection fees for the resident Tier 1 and Tier 2 engines that do not meet the current nonroad emission standards in effect. The proposed fee schedule would favor those owners and/or operators that act early. Fees would be collected from either the year of purchase or the model year of the engine. Fees would be higher for the registration of Tier 1 engines if a Tier 2 standard was in effect at the time of purchase. The bulk of these back fees will be redirected to the districts for compliance programs.

6. Compliance Flexibility

ARB staff proposes a new provision be added to the Portable Engine ATCM that would provide compliance flexibility during those times when it can be verified to the ARB Executive Officer that compliant engines are not available in sufficient quantities. During these times, it would not be required for engines registering in PERP to show residency or pay the back fees as proposed in these amendments.

7. Miscellaneous Amendments

ARB Staff proposes that TSE be exempt from the Placard requirement. The purpose of the placards is to assist the districts in the identification of unpermitted equipment. Since TSE may be moved on and off a military base without notification, placards on TSE will not be useful to the districts in detecting unpermitted units.

ARB staff are proposing to modify, add, and delete terms in the definitions section, delete outdated provisions, and to make minor revisions where needed. These changes are generally non substantive and are intended to provide additional clarity and expediency to the Statewide PERP Regulation and Portable Engine ATCM, and to ensure consistency between regulatory requirements and registration processing practices.

F. ENVIRONMENTAL AND ECONOMIC IMPACTS OF THE PROPOSED AMENDMENTS

1. What are the expected environmental impacts of the proposed amendments?

Over time, it is expected that the proposed amendments to the Statewide PERP Regulation and Portable Engine ATCM would likely result in reductions of NOx and diesel particulate matter (PM) emissions, however, the reductions cannot be quantified. These reductions would occur primarily due to increased participation by businesses in either the statewide registration program or district permitting programs. Increased participation will be encouraged in part though increased enforcement activities and outreach funded by the fees associated with these amendments. This increased participation will ensure that registered engines and equipment units are in compliance with all applicable emission requirements, particularly engine replacement requirements. The biggest benefit for air quality is expected to come from the thousands of engines operating without permits or registrations that will be brought into compliance and eventually replaced with cleaner engines in the future. All Californians would benefit, particularly those living in areas where the State and federal ambient air quality standards for ozone and PM are exceeded.

2. What are the economic impacts of the proposed amendments?

ARB staff estimates that the total economic impact of the proposed amendments to the Statewide PERP Regulation to affected private businesses and public agencies is $6.6 million over its lifetime ($6.1 million for private businesses and $0.5 million for public agencies). The economic impact is due to the collection of back fees. There is no economic impact from the proposed amendments to the Portable Engine ATCM.

The alternative to paying these back fees is to replace the engines with new engines that meet the current emission standards. The cost savings of these engines being regulated instead of being replaced is significant. The average cost of a new engine is approximately $25,000 (based on an estimated average size of 140 bhp). An estimated 10,000 older engines are expected to register in PERP over the next three years under these proposed amendments. Therefore, the cost to replace these engines would have been $250 million. With an expected cost of just 6.6 million to register these engines in PERP, that is an estimated savings of $243.4 million to the private businesses and public agencies.

G. NEXT STEPS

Upon approval by the Board, ARB staff will continue to implement the Statewide PERP Regulation and conduct outreach efforts with affected parties, industry associations, and governmental agencies. ARB staff will work with the California Air Pollution Control Officers Association (CAPCOA) and affected parties to inform owners and operators of PERP registered equipment of the amendments to the Statewide PERP Regulation and Portable Engine ATCM. ARB staff will work with the districts to identify portable equipment owners that have not obtained permits or registration in PERP. These owners will need to be brought into the regulatory process so that all portable engines and equipment units in the State are ultimately complying with applicable requirements. Efforts have already been underway to compile a comprehensive list of every contractor in California, who will then be mailed an informational postcard about PERP. Flyers are in development that will be posted at other local government agencies where owners of portable equipment will have to conduct business. ARB staff is also contacting industry associations in an effort to inform owners and operators of the proposed amendments.

H. RECOMMENDATION

The staff recommends that the Board approve the proposed amendments to the Statewide PERP Regulation and Portable Engine ATCM. The proposed amendments would retain the flexibility of operating registered engines and equipment units throughout the State without having to obtain multiple district permits. In addition, the amendments would provide clarity, increase participation in PERP, and provide for increased resources needed by the districts to effectively enforce the Statewide PERP Regulation.

State of California
AIR RESOURCES BOARD

I. INTRODUCTION

In this section, the ARB staff provides an overview of this report, discusses the purpose of the proposed amendments, and discusses the regulatory authority ARB has to adopt the proposed amendments. This chapter also provides background information on the Statewide PERP Regulation and Portable Engine ATCM, and discusses the outreach efforts of ARB staff in developing the proposed amendments.

A. OVERVIEW

This staff report outlines ARB staff's proposed amendments to the Statewide PERP Regulation (contained in Appendix A) and the Portable Engine ATCM (contained in Appendix B). The Statewide PERP Regulation was originally approved by the Board on March 27, 1997, and subsequently amended by the Board on December 10, 1998, February 26, 2004, and June 22, 2006. The Statewide PERP Regulation establishes a voluntary program for the registration and regulation of portable engines and equipment units operating in California. Once registered in this voluntary program, portable engines and equipment units can operate throughout the State without having to obtain permits from the local air pollution control and air quality management districts (districts). However, the districts are responsible under State law for enforcing the requirements of the Statewide PERP Regulation.

The Board adopted The Portable Engine ATCM on February 26, 2004 to reduce the emissions of diesel particulate matter (PM) from diesel-fueled portable engines. The Portable Engine ATCM is one element in the implementation of ARB's "Risk Reduction Plan to Reduce PM Emissions from Diesel-Fueled Engines and Vehicles" (Diesel Risk Reduction Plan). It establishes requirements for both the registration of diesel engines with the ARB and the permitting or registration of diesel engines by the districts.

At its September 2006 meeting, the Board received public testimony concerning the inability to register older engines in PERP. After January 1, 2006, the Statewide PERP Regulation only allowed engines to register that met the current nonroad emission standards in effect at the time of application submittal. Pursuant to the testimony, the Board directed staff to consider options and report back to the Board.

ARB staff, in consultation with affected industry and the districts, developed proposed emergency amendments to the Statewide PERP Regulation and the Portable Engine ATCM. The Board approved the emergency amendments at its December 7, 2006 public hearing, and they were approved by the Office of Administrative Law (OAL) on December 27, 2006. These emergency amendments have been filed with the Secretary of State and will be effective for a period not to exceed 120 days.

The proposed amendments contained in staff's proposal are the result of extensive discussions and negotiations with affected parties. They will make permanent the emergency regulatory changes to Statewide PERP Regulation and the Portable Engine ATCM that the Board adopted on December 7, 2006, provide additional clarity and expediency to the Statewide PERP Regulation and Portable Engine ATCM, and ensure consistency between regulatory requirements and registration processing practices.

This report discusses portable equipment use and existing regulatory programs for portable equipment and summarizes the proposed amendments to the Statewide PERP Regulation and Portable Engine ATCM. Chapters IV and V discuss the environmental and economic impacts of the proposal. The proposed amended Statewide PERP Regulation and Portable Engine ATCM are presented in Appendix A and B.

B. PURPOSE

The primary purpose of the proposed amendments to the Statewide PERP Regulation is to more readily bring diesel engines into a regulatory structure so that they may meet current and future emission requirements. The control and replacement of these engines under a permit or registration program will bring forth faster emission reductions than seeking out unpermitted engines. In addition, staff is proposing minor changes to increase clarity and expediency of the regulation.

The primary purpose of the amendments to the Portable Engine ATCM is to enhance the reduction of the general public's exposure to diesel PM from diesel-fueled portable engines. This is accomplished by allowing more engines to be under the regulatory structure that imposes diesel PM emission standards which get progressively more stringent by 2013, 2017, and 2020. These standards create additional diesel PM emission reductions beyond those that would be achieved from normal engine turnover after 2010.

C. REGULATORY AUTHORITY

Statewide PERP Regulation

California Health and Safety Code (HSC) sections 41750 through 41755 mandate that the ARB adopt a regulation to establish a uniform statewide program for the registration and regulation of portable engines. In developing these regulations, ARB is required to evaluate emissions, identify emission control technologies, hold public hearings, establish emission limits and control requirements, and develop a fee schedule to cover the costs to adopt and administer the program, including the cost of district enforcement.

HSC section 41752(e) specifies that the Board may periodically revise and update the registration regulations including, but not limited to, revising and updating a determination of best available control technology for portable engines. As stated earlier, the Board approved the Statewide PERP Regulation on March 27, 1997, and amended it on December 10, 1998, February 26, 2006, and June 22, 2006.

In addition, HSC sections 39600 (General Powers) and 39601 (Standards, Definitions, Rules, and Measures) confers on ARB the general authority and obligation to adopt rules and measures necessary to execute the Board's powers and duties imposed by State law. The California Clean Air Act of 1988 granted ARB authority to adopt standards and regulations for off-road vehicles and equipment. (HSC sections 43013(b) and 43018).

The federal Clean Air Act Amendments (CAA) of 1990 gave the United States Environmental Protection Agency (U.S. EPA) authority to regulate new nonroad (off-road) engines. The amendments created a federal preemption that, in general, prevents states from adopting emissions standards or other requirements for nonroad engines [CAA, section 209(e)]. Portable engines are a subset of off-road engines. However, recognizing the special circumstances confronting California, Congress allows California, upon receiving authorization from the U.S. EPA, to adopt standards for preempted equipment with the exception of new engines less than 175 brake-horsepower (bhp) used in farm and construction operations.

Portable Engine ATCM

Several sections of the California Health and Safety Code (HSC) provide the ARB with authority to adopt the proposed Portable Engine ATCM. HSC sections 39600 (General Powers) and 39601 (Standards, Definitions, Rules, and Measures) confer to the ARB the general authority and obligation to adopt rules and measures necessary to execute the Board's powers and duties imposed by State law.

More specifically, California's Air Toxics Program, established under California law by Assembly Bill (AB) 1807 (Stats. 1983, Ch. 1047), and set forth in Health and Safety Code sections 39650 through 39675, mandates the identification and control of air toxics in California. The identification phase of the Air Toxics Program requires the ARB, with participation of other state agencies, such as the Office of Environmental Health Hazard Assessment (OEHHA), to evaluate the health impacts of and exposure to substances and to identify those substances that pose the greatest health threat as toxic air contaminants (TACs). The ARB's evaluation is made available to the public and is formally reviewed by the Scientific Review Panel (SRP), established under Health and Safety Code section 39670. Following the ARB's evaluation and the SRP's review, the Board may formally identify a TAC at a public hearing. Following the identification of a substance as a TAC, Health and Safety Code sections 39658 and 39665 require the ARB, with the participation of the districts, and in consultation with affected sources and interested parties, to prepare a report on the need and appropriate degree of regulation for that substance (risk management phase).

In August 1998, the Board identified diesel PM as a TAC, and in September 2000, the ARB adopted the "Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-fueled Engines and Vehicles" (Diesel Risk Reduction Plan). The Diesel Risk Reduction Plan was the first formal product of the risk management phase and serves as the needs assessment under the AB 1807 process. In the Diesel Risk Reduction Plan, the ARB identified the available options to reduce diesel PM and the recommended control measures to achieve reductions, including a measure to reduce diesel PM from diesel-fueled portable engines.

In 1999, California's Air Toxics Program was amended by Senate Bill 25 (Stats. 1999, Ch. 731) to provide additional requirements for further consideration of health impacts to infants and children. As part of these requirements, OEHHA was to identify up to five TACs as making children especially susceptible to illness. OEHHA published the "Prioritization of Toxic Air Contaminants under the Children's Environmental Health Protection Act" in October 2001, identifying diesel PM as one of the five TACs. Additional requirements established by Senate Bill 25 in Health and Safety Code section 39669.5 directs the ARB to adopt control measures, as appropriate, to protect public health, particularly infants and children, from these specially identified TACs.

This Portable Engine ATCM was established to fulfill the goals of the Diesel Risk Reduction Plan and to comply with the requirements of H&S Code section 39666 and 39669.5 to prevent an endangerment to public health.

D. PUBLIC PROCESS

On November 20, 2006, ARB staff held a public consultation meeting in Sacramento. Staff provided attendees with the option of participating in the meetings by audio teleconference or in person. Staff also conducted a number of additional conference calls and in-person stakeholder meetings to further discuss the proposed amendments.

ARB staff held a public workshop on January 19, 2007 in Sacramento to solicit comments from the public on the proposed amendments. The Sacramento workshop was also teleconferenced for meeting participants that were unable to attend in person. In addition, the workshop was also broadcast on the Internet for meeting participants that were unable to attend in person. Broadcast viewers were able to submit comments and questions by email during the workshop so that staff could address their concerns or answer their questions.

Staff also used an e-mail list serve to notify interested parties of the meeting dates and the availability of information to be discussed at the meetings. In addition, a website was developed where interested parties could download information such as meeting agendas and staff proposals, as well as providing links to other-related ARB websites. The website address is located at *http://www.arb.ca.gov/portable/perpact/perpact.htm*.

Staff participated in numerous individual meetings and conference calls with affected industries to address specific concerns. Staff revised the proposed amendments to the Statewide PERP Regulation in consideration of the comments received during the public process. Staff made every effort to consider all comments and recommendations received.

II. PORTABLE EQUIPMENT USE AND EXISTING REGULATORY PROGRAMS

This chapter describes the uses of portable equipment (engines and equipment units) that are registered in PERP. In addition, this chapter describes the types of businesses that use portable equipment and the existing regulatory programs that currently impact portable engines used in California.

A. SUMMARY OF PORTABLE EQUIPMENT USE AND ACTIVITIES

Portable equipment is any piston-driven internal combustion engine and/or equipment unit that is designed and capable of being carried or moved from one location to another and would remain at a single location for less than 12 consecutive months. Unlike stationary engines or equipment, portable equipment may be moved to several locations throughout the State, where it may operate for several hours or several months. Portable engines and equipment units registered in PERP are used for a variety of applications, such as pumps, military tactical support equipment, cranes, oil well drilling, servicing and work-over rigs, power generators, dredging equipment, rock crushing and screening equipment, welding equipment, woodchippers, and compressors.

Both private businesses and public agencies operate portable equipment in California. Examples of businesses that use portable engines in their activities include motion picture studios; amusement parks; utilities; construction services; crushing, screening, and recycling services; industrial cleaning services; marine construction and dredging services; oil and gas companies; and rental services. Examples of public agencies that use portable engines include public schools and universities, local governments, county landfills, municipal utilities, wastewater treatment facilities, military installations, and the California Department of Transportation.

There is significant variation in the size as well as the way that portable engines are used. The size of engines can range from about 50 horsepower to greater than 3,000 horsepower. The average annual operating hours for portable diesel-fueled engines is about 450 hours per year. Due to the mobile nature of portable engines, the emissions typically would not occur in one location, but would be spread out over many locations over the course of a year. In addition, the actual operation of a specific engine can vary significantly from the average. For example, engines used only for emergency applications may operate less than 20 hours per year. Conversely, some portable activities can operate more than 2,000 hours per year. Finally, the engine's load varies, depending upon the application. The average load is typically 50 percent of maximum load. Similar to the variability in the hours of operations, an engine's load can vary significantly from application to application, from 25 percent to 80 percent of maximum load.

B. EXISTING REGULATORY PROGRAMS

This section describes the federal preemption that limits the authority of ARB and districts to regulate portable engines. This section also describes specific federal, State, and local programs that currently impact portable engines used in California, including ARB/U.S. EPA emission standards for newly manufactured off-road engines, PERP, and the district permitting programs. All of these programs play a role in the efforts of ARB and the districts to attain the State and federal ambient air quality standards, particularly the ozone and

particulate matter standards. Consequently, the focus of the programs has been to reduce emissions of NOx and PM, and to a lesser extent reduce emissions of carbon monoxide (CO) and HC.

1. Federal Preemption

The federal Clean Air Act (CAA) Amendments of 1990 authorized U.S. EPA to regulate new nonroad engines. The amendments created a federal preemption that prevents states from adopting emission standards or other requirements for nonroad engines (CAA, section 209(e)). Portable engines are a subset of off-road engines. However, recognizing the special circumstances confronting California, Congress provided that the State of California, upon receiving authorization from the U.S. EPA, can adopt and enforce standards for most classes and categories of off-road engines. In California statutes, nonroad engines are referred to as off-road engines; therefore, these engines will be referred to as "off-road" in this report.

The federal preemption prevents all states, including California, from setting standards for regulating new off-road engines less than 175 hp that are used in farm and construction operations. However, states do maintain the authority to establish in-use restrictions such as limiting the hours of operation.

2. State and Federal New Engine Emission Standards

a. Compression-Ignition Engine Standards

Since January 1, 1996, new diesel fueled portable engines sold in California have been subject to ARB's Off-Road Compression Ignition emission standards (title 13, California Code of Regulations (CCR), sections 2320 et seq.), which are equivalent to the U.S. EPA emission standards for newly manufactured nonroad (off-road) engines (40 CFR, Part 89). The standards are tiered (i.e. Tier 1, 2, 3, and 4), with each set of standards phased in over several years based on the power rating of the engine and becoming progressively more stringent with each Tier introduced.

b. Airborne Toxic Control Measure for Diesel-Fueled Portable Engines

On February 26, 2004, the Board adopted the Portable Engine ATCM, which became effective on March 11, 2005. The Portable Engine ATCM requires portable diesel-fueled engines that have not been permitted or registered prior to January 1, 2006, to meet the most stringent of the federal or California emission standards for off-road engines in effect at the time the application is submitted. This requirement was also incorporated into the Statewide PERP regulation. The Portable Engine ATCM also imposes fleetwide emissions standards for PM10 which get progressively more stringent by 2013, 2017, and 2020.

c. Spark-Ignition Engine Standards

As mentioned above, the CAA Amendments provided for ARB to adopt and enforce its own standards and regulations for off-road engines. Since January 1, 2001, newly-manufactured large (greater than 25 bhp) spark-ignition (LSI) engines sold in California have been subject to ARB's off-road LSI engine standards (Title 13, CCR Sections 2410 et seq.). The standards are also tiered. The U.S. EPA also adopted federal standards (found in 40 CFR part 1048 (Control of Emissions From New, Large Nonroad Spark-ignition Engines)) that were equivalent to ARB standards, but also included a more stringent standard. Beginning in 2007, new LSI standards must meet a combined standard for NOx and HC of 2.0 grams per brake horsepower-hour (g/bhp-hr).

3. Statewide Portable Equipment Registration Program

In lieu of obtaining multiple permits from individual districts, a portable engine owner can register the engine in PERP. As of December 20, 2006, portable engine and equipment unit owners have registered an estimated 33,500 total engines, equipment units, and TSE in PERP. Of this amount, there are over 24,500 engines registered which represent nearly half of the estimated statewide inventory of portable engines. Of the 24,500 engines, approximately 23,600 are diesel fueled engines while the additional 900 engines are gasoline, natural gas, kerosene, methanol, or liquid petroleum gas-fueled engines.

There are also approximately 2,700 equipment units registered in PERP. Of these equipment units, approximately 40 percent are used in rock crushing and screening units, 23 percent media blasting units, 14 percent wood chippers. The remaining units include tub grinders, rock drills, conveyors, and other miscellaneous units. In addition, there are over 6,300 military TSE registered in the program. Approximately 90 percent of tactical support equipment utilize diesel or JP-8 fueled engines.

The Statewide PERP Regulation was designed to promote the use of clean portable engines in California. By January 1, 2010, only diesel engines certified to ARB/U.S. EPA nonroad engine emission standards (Tier 1, 2, or 3) can continue to operate in PERP. This means that any diesel engines currently registered in the program that do not meet at least Tier 1 standards must be replaced with certified engines by that date. After January 1, 2010, spark-ignition engines may continue to operate if they are certified to ARB/U.S. EPA LSI engine standards, or if they can meet the emission standards listed in Table 1 of the Statewide PERP Regulation.

4. District Permit Programs

Portable engines not registered in PERP may be subject to district permitting requirements. District permit requirements will vary, depending on the attainment status in the district. Some districts have implemented registration programs specifically for portable engines and equipment units. Owners of portable engines in these districts can register engines with the district by demonstrating the engines meet specific emission rates. Some districts specifically exempt portable engines from permit requirements or have specific requirements for individual types of portable engines and/or equipment.

III. SUMMARY OF THE PROPOSED AMENDMENTS

This chapter is intended to meet the requirements of Government Code section 11343.2 by providing to the public a "plain English" discussion of the proposed amendments to the Statewide PERP Regulation and Portable Engine ATCM.

A. MODIFICATIONS TO THE STATEWIDE PERP REGULATION

The Board is authorized by California Health and Safety Code (HSC) sections 41750 through 41755 to adopt a regulation to establish a uniform statewide program for the registration and regulation of portable engines. The Statewide PERP Regulation was first adopted by the Board on March 27, 1997, and amended by the Board on December 10, 1998, February 26, 2004, and June 22, 2006. The Statewide PERP Regulation establishes a program to register portable engines and equipment units in California. Once registered in this voluntary program, portable equipment units may operate throughout the State without having to obtain permits from the districts, providing industry with the flexibility to operate portable engines and equipment units under a uniform statewide registration program.

At its September 2006 meeting, the Board received public testimony concerning the inability to register older engines in PERP. After January 1, 2006, the Statewide PERP Regulation only allowed engines to register that met the current nonroad emission standards in effect at the time of application submittal. Pursuant to the testimony, the Board directed staff to consider options and report back to the Board.

ARB staff, in consultation with affected industry and the districts, developed proposed emergency amendments to the Statewide PERP Regulation. The Board approved the emergency amendments at its December 7, 2006 public hearing, and they were approved by the Office of Administrative Law (OAL) on December 27, 2006. These emergency amendments have been filed with the Secretary of State and will be effective for a period not to exceed 120 days.

The proposed amendments include recommendations to allow registration of resident Tier 1 and 2 engines, compliance flexibility provisions for affected industry, collection of back registration and inspection fees, and changes to the recordkeeping and reporting requirements. The proposed amendments contained in staff's proposal are the result of extensive discussions and negotiations with affected parties. They will make permanent the emergency regulatory changes to Statewide PERP Regulation adopted by the Board on December 7, 2006, and provide additional clarity and expediency to the Statewide PERP Regulation. Staff believes the proposed amendments represent a fair and equitable balance between flexibility for affected industries and the emission reductions from the Statewide PERP Regulation.

1. Resident engines

The proposed amendments would amend the definition of resident engine in the Statewide PERP Regulation and to include those Tier 1 and Tier 2 engines that have been operating in California at any time between March 1, 2004 and October 1, 2006. This revised definition will prevent the importation of Tier 1 and 2 engines from out of State, which would

negatively impact the State's ambient air quality. Engines that qualified in PERP as resident would have to show documentation as proof of residency. As before, when PERP accepted resident engines previously, acceptable forms of documentation may include purchase records, maintenance records, company inventory lists, tax records, or other usage records. A signed statement from the operator will not be sufficient proof of residency.

2. Tier 1 and Tier 2 engines

ARB staff recommends allowing the registration in PERP of Tier 1 and Tier 2 engines that do not meet the current nonroad emission standard in effect, provided that they meet the newly amended definition of resident engine.

Tier 1 engine means a certified nonroad engine according to the model year and brake horsepower (bhp) rating as follows:

bhp range	model years
≥50 to <100	1998 to 2003
≥100 to <175	1997 to 2002
≥175 to <300	1996 to 2002
≥300 to <600	1996 to 2000
≥600 to <750	1996 to 2001
>750	2000 to 2005

Tier 2 engine means a certified nonroad engine according to the model year and brake horsepower (bhp) rating as follows:

bhp range	model years
≥50 to <100	2004 to 2007
≥100 to <175	2003 to 2006
≥175 to <300	2003 to 2005
≥300 to <600	2001 to 2005
≥600 to <750	2002 to 2005
>750	2006 to 2010

In addition, ARB staff proposes a new provision be added to the Portable Engine ATCM that will be incorporated by reference into the Statewide PERP Regulation. This provision would allow the registration of previous Tier engines for 6 months after a new tier takes effect, under certain circumstances. These provisions would only affect engines that were subject to a tier standard change in any given year, and they would not have to demonstrate residency or pay the back fees as proposed in these amendments. New tier standards are

generally recognized to take effect at the start of the calendar year, so previous tier engines may be registered until July 1st on any year after a tier change. The provision would apply differently to equipment dealers or distributors than to the ultimate purchaser of the portable engine.

a. Ultimate user (owner or operator)

Anyone who buys a previous tier engine from a dealer or distributor would have to demonstrate that they ordered the engine up to six months prior to the tier change and that they had not taken possession of the engine before the tier change. Once they did take possession, they would then be able to register the engine up to 6 months after the new tier takes effect (by July 1st).

b. Equipment dealers or distributors

The engine must have met the current tier in effect when the dealer or distributor took possession of the engine. After the dealer takes possession, the engine must be registered within 6 months after a tier change takes effect. Since a customer can only buy a previous tier engine if it is demonstrated that they ordered it before the tier change, a dealer could not sell his existing fleet of previous tier engines. The dealer would have to register all of his existing stock to himself and then the customers could submit a change of ownership.

Starting January 1, 2010, only engines meeting the most current tier in effect at the time an application is submitted will be allowed to seek initial PERP Registration, as is required by the current Statewide PERP Regulation and Portable Engine ATCM.

3. Compliance Flexibility

Staff proposes that after 6 months has passed from the start of a new tier standard, there should be compliance flexibility during those times when it can be verified to the ARB Executive Officer that compliant engines are not available in sufficient quantities. This provision would only be available if reliable information from the engine manufacturers, equipment distributors, and equipment dealers is supplied to the ARB. Reliable information from engine manufacturers, dealers, or distributors may consist of inventory reports, production reports, or sales availability statements. A letter from a customer looking to purchase a compliant engine that states they are having difficulty finding them does not constitute reliable information.

During these times where engines are not available in sufficient quantity, an applicant would not be required to prove residency or pay the back fees as proposed in these amendments. These compliance flexibility provisions discussed above will be added to the Portable Engine ATCM and incorporated into the Statewide PERP Regulation by reference.

4. Collection of Back Fees

The Statewide PERP Regulation will be amended to collect back registration and inspection fees for the resident Tier 1 and Tier 2 engines that do not meet the current nonroad

emission standards in effect. These fees are meant to recover the fees that the owner or operator would have paid had the engine been properly registered at the time the engine was first put in use. The bulk of these back fees will be redirected to the districts for compliance programs. The proposed fee schedule would favor those owners and/or operators that act early, as they increase for submission of applications in 2008 and further increase in 2009. Fees would be collected based on either the year or purchase or the model year of the engine. Fees would be higher for the registration of Tier 1 engines if a Tier 2 standard was in effect at the time of purchase. A detailed explanation of how the fees were derived is listed in Appendix C.

5. Recordkeeping and Reporting Requirements

Staff is proposing to amended the Statewide PERP Regulation to remove the hour meter requirement for rental equipment units. These rental equipment units are already required to track daily throughput, which is adequate for determining compliance with daily emission limitations. The equipment units registered in the program that are designated as non-rental do not have this additional hour tracking requirement. The additional tracking of hours of operation for rental units is redundant and places an undue burden on industry. There is no increased enforceability gained from having rental equipment units subject to hour meters and tracking of daily hours. Therefore, staff proposes to make the daily recordkeeping and annual reporting requirements for rental equipment units the same as for non-rental equipment units.

6. Miscellaneous

ARB staff is proposing minor revisions which are discussed below.

Staff proposes to clarify the applicability section 2451(c)(3) to read that an engine operating as part of a stationary source is not excluded from the program, unless it is powering an equipment unit that is ineligible. PERP has always accepted engines that operate at stationary sources such as airports, water treatment plants, and the oilfields. The oilfields in Kern County are considered to be large stationary sources by the SJVUAPCD. It was never intended to exclude these types of engines from PERP.

ARB Staff proposes to clarify that TSE be exempt from the Placard requirement in section 2453(n). The purpose of the placards is to assist the districts in the identification of unpermitted equipment. TSE units are not individually registered, but a list for each base is updated annually. They may be moved on and off a military base without notification. Therefore, placards on TSE will not be useful to the districts in detecting unpermitted units.

Staff proposes the modification, addition, and deletion of terms in the definitions section, deletion of outdated provisions, and minor clarifications where needed. These changes are considered to be non-substantive and are intended to provide additional clarity and expediency to the Statewide PERP Regulation, and ensure consistency between regulatory requirements and registration practices.

B. MODIFICATIONS TO THE PORTABLE ENGINE ATCM

This Portable Engine ATCM has been established to fulfill the goals of the Diesel Risk Reduction Plan and to comply with the requirements of sections 39666 and 39669.5 to prevent an endangerment to public health.

At its September 2006 meeting, the Board received public testimony concerning the inability to permit or register older engines. After January 1, 2006, the Portable Engine ATCM only allowed engines that met the current nonroad emission standards in effect at the time of application submittal to obtain permits with the districts or registration with ARB. Pursuant to the testimony, the Board directed staff to consider options and report back to the Board.

ARB staff, in consultation with affected industry and the districts, developed proposed emergency amendments to the Portable Engine ATCM. The Board approved the emergency amendments at its December 7, 2006 public hearing, and they were approved by the Office of Administrative Law (OAL) on December 27, 2006. These emergency amendments have been filed with the Secretary of State and will be effective for a period not to exceed 120 days.

The proposed amendments include recommendations to allow the permitting or registration of resident Tier 1 and 2 engines by the districts, the permitting of Tier 0 engines by the districts, and compliance flexibility provisions for affected industry. The proposed amendments contained in staff's proposal are the result of extensive discussions and negotiations with affected parties. They will make permanent the emergency regulatory changes to Statewide PERP Regulation adopted by the Board on December 7, 2006, and provide additional clarity and expediency to the Statewide PERP Regulation.

1. Tier 0 Engines

Tier 0 engines are those that are not certified to a California or federal nonroad emission standard. The Portable Engine ATCM will be amended to allow the districts to permit or register Tier 0 engines at their discretion, as long as the engines were operated in California at any time between March 1, 2004 and October 1, 2006, or are designated as exclusively emergency use or low use.

2. Resident engines

The proposed amendments would allow the permitting or registration by either ARB or the districts of those Tier 1 and Tier 2 engines that have been operating in California at any time between March 1, 2004 and October 1, 2006. This revised provision will prevent the importation of Tier 1 and 2 engines from out of state, which would negatively impact the State's ambient air quality.

3. Tier 1 engines and Tier 2 engines

ARB staff recommends allowing the permitting or registration by either ARB or the districts of Tier 1 and Tier 2 engines that do not meet the current nonroad emission standard in effect, provided that they have been operating in California at any time between

March 1, 2004 and October 1, 2006. Refer back to tables in section A of this chapter for detailed discussion of what constitutes a Tier 1 and Tier 2 engine.

In addition, ARB staff proposes a new provision be added that would allow the permitting or registration of previous Tier engines for 6 months after a new tier takes effect, under certain circumstances. These provisions would only affect engines that were subject to a tier standard change in any given year, and they would not have to demonstrate residency as proposed in these amendments. New tier standards are generally recognized to take effect at the start of the calendar year, so previous tier engines may be registered until July 1st on any given year. The provision would apply differently to equipment dealers or distributors than to the ultimate purchaser of the portable engine.

a. Ultimate user (owner or operator)

Anyone who buys a previous tier engine from a dealer or distributor would have to demonstrate that they ordered the engine up to six months prior to the tier change and that they had not taken possession of the engine before the tier change. Once they did take possession, they would then be able to permit or register the engine up to 6 months after the new tier takes effect (by July 1st).

b. Equipment dealers or distributors

The engine must have met the current tier in effect when the dealer or distributor took possession of the engine. After the dealer takes possession, the engine must be registered within 6 months after a tier change takes effect. Since a customer can only buy a previous tier engine if it is demonstrated that they ordered it before the tier change, a dealer could not sell his existing fleet of previous tier engines. The dealer would have to permit or register all of his existing stock to himself and then the customers could submit a change of ownership.

Starting January 1, 2010, only engines meeting the most current tier in effect will be allowed to seek initial district permitting or PERP registration, as is required by the current Portable Engine ATCM.

4. Compliance Flexibility

Staff proposes that after 6 months has passed from the start of a new tier standard, there should be compliance flexibility during those times when it can be verified to the ARB Executive Officer that compliant engines are not available in sufficient quantities. This provision would only be available if reliable information from the engine manufacturers, equipment distributors, and equipment dealers is supplied to the ARB. Reliable information from engine manufacturers, dealers, or distributors may consist of inventory reports, production reports, or sales availability statements. A letter from a customer looking to purchase a compliant engine that states they are having difficulty finding them does not constitute reliable information.

5. Miscellaneous

ARB staff is proposing minor revisions which are discussed below.

Staff proposes the modification, addition, and deletion of terms in the definitions section, deletion of outdated provisions, and minor clarifications where needed. These changes are considered to be non-substantive and are intended to provide additional clarity and expediency to the Portable Engine ATCM.

IV. ENVIRONMENTAL IMPACTS

This chapter describes the potential environmental impacts of the proposed amendments to the Statewide PERP Regulation and Portable Engine ATCM. Based on staff's analysis, the proposed amendments to the Statewide PERP Regulation and Portable Engine ATCM would not result in any adverse impacts.

A. LEGAL REQUIREMENTS APPLICABLE TO THE ENVIRONMENTAL IMPACT ANALYSIS

The California Environmental Quality Act (CEQA) and ARB policy require an analysis to determine the potential environmental impacts of proposed regulations. The Secretary of Resources, pursuant to Public Resources Code section 21080.5, has certified the ARB regulatory program. Consequently, the CEQA environmental analysis requirements may be included in the Initial Statement of Reasons (ISOR) for this rulemaking. The ISOR serves as a functionally equivalent document of an initial study, a Negative Declaration, and an Environmental Impact Report. In addition, staff will respond, in the Final Statement of Reasons for the amended Statewide PERP Regulation and Portable Engine ATCM, to all significant environmental issues raised by the public during the public review period or at the Board public hearing.

Public Resources Code section 21159 requires that the environmental impact analysis conducted by ARB include the following:

- An analysis of reasonably foreseeable environmental impacts of the methods of compliance;
- An analysis of reasonably foreseeable feasible mitigation measures; and
- An analysis of reasonably foreseeable alternative means of compliance with the amended Statewide PERP Regulation and Portable Engine ATCM.

Regarding mitigation measures, CEQA requires an agency to identify and adopt feasible mitigation measures that would minimize any significant adverse environmental impacts described in the environmental analysis.

B. AIR QUALITY IMPACTS OF THE PROPOSED AMENDMENTS

The proposed amendments to the Statewide PERP Regulation and Portable Engine ATCM would likely result in reductions in NOx and diesel PM emissions. These reductions would occur because participation by industry in either the statewide registration program or district permitting programs would increase. This increased participation will ensure that registered engines and equipment units are in compliance with all applicable emission requirements, particularly engine replacement requirements. The biggest benefit for air quality is expected to come from the thousands of engines operating without permits or registrations that will be brought into compliance and eventually replaced with cleaner engines in the future. All Californians would benefit, particularly those living in areas where the State and federal ambient air quality standards for ozone and particulate matter are exceeded. No adverse impacts have been identified by the ARB staff. ARB staff has not been advised of any adverse impacts by the public during any of the outreach efforts or workshops.

C. IMPACTS OF THE PROPOSED AMENDMENTS ON MEETING AMBIENT AIR QUALITY STANDARDS

HSC section 41754 requires that emissions from engines and equipment units registered in PERP shall not, in aggregate, interfere with the attainment or maintenance of the State and federal ambient air quality standards. PERP requires that engines meet a nonroad emission standard and requires that any existing engine registered after 2010 must be certified. In addition, after 2010, any engine seeking initial permitting or registration must meet the most stringent emission standard in effect at the time of application. The Portable Engine ATCM has PM emission standards that will affect all registered or permitted engines in 2013, 2017 and 2020. The implementation of the current Statewide PERP Regulation and Portable Engine ATCM therefore will result in greater reductions of NOx, HC, and diesel PM emissions from registered engines now and in future years.

D. ANALYSIS OF REASONABLY FORESEEABLE ENVIRONMENTAL IMPACTS OF THE METHODS OF COMPLIANCE

As specified in Health and Safety Code section 41755, the districts have an important role in enforcing the requirements of the Statewide PERP Regulation. If the Board approves the proposed amendments, the districts would be able to increase their outreach and enforcement efforts of the Statewide PERP Regulation. The districts will also continue to implement the Portable Engine ATCM in their local permitting and compliance programs.

E. REASONABLY FORESEEABLE MITIGATION MEASURES

CEQA requires an agency to identify and adopt feasible mitigation measures that would minimize any significant adverse environmental impacts described in the environmental analysis. Neither ARB staff's own investigation nor comments from the affected regulatory community has identified any adverse impacts, therefore ARB staff has concluded that no significant adverse environmental impact would occur from adoption of, and compliance with, the proposed amendments to the Statewide PERP Regulation and Portable Engine ATCM. Therefore, no mitigation measures would be necessary.

F. REASONABLY FORESEEABLE ALTERNATIVE MEANS OF COMPLIANCE WITH THE PROPOSED AMENDMENTS

At its September 2006 meeting, the Board received comments from regulated parties that raised concerns regarding the requirements of the Statewide PERP Regulation and the Portable Engine ATCM. ARB staff, in consultation with affected industry and the districts, developed proposed amendments to the Statewide PERP Regulation and the Portable Engine ATCM.

If these amendments were not proposed, it would result in either older engines continuing to operate without a permit therefore resulting in higher emissions, or the replacement of these engines immediately at significant cost. If non-certified engines were let into PERP, this would potentially allow higher emissions in areas that have more severely impacted air quality. The decision of permitting of non-certified engines should be made by the districts where local air quality issues may be addressed more effectively. If engines were let into PERP without the collection of back fees, it may be deemed unfair to those who had been in

compliance since the startup of their portable equipment. Based on these alternative scenarios, ARB staff has concluded that the proposed amendments provide the most effective and least burdensome approach to ensuring air quality continues to be protected, that ARB can continue to operate and maintain the program effectively.

G. ENVIRONMENTAL JUSTICE

ARB is committed to evaluating community impacts of proposed regulations including environmental justice concerns. Because some communities experience higher exposure to air pollutants, it is a priority of ARB to ensure that full protection is afforded to all Californians. The proposed amendments to the Statewide PERP Regulation and Portable Engine ATCM are not expected to result in significant negative impacts in any community. The proposed amendments to the Statewide PERP Regulation and Portable Engine ATCM would likely result in decreased emissions of NOx and diesel PM. These reductions would result from the thousands of engines operating without permits or registrations that will be brought into compliance and eventually replaced with cleaner engines in the future. The proposed amendments would further reduce emissions of NOx and PM to residents and off-site workers living or working near the operation of registered engines and equipment units.

V. ECONOMIC IMPACTS

This chapter discusses legal requirements that must be satisfied in analyzing the economic impacts of the proposed amendments to the Statewide PERP Regulation and the methodology used to estimate cost impacts, and presents estimates of the economic impacts for the proposed amendments. The proposed amendments to the Statewide PERP Regulation are not expected to change the overall beneficial impact on affected business and industry. There are no economic impacts resulting from the proposed amendments to the Portable Engine ATCM.

A. SUMMARY OF THE ECONOMIC IMPACTS

Staff estimates the total potential economic impact of the proposed amendments to the Statewide PERP Regulation to affected businesses and governmental agencies is approximately $6.6 million. The total economic impact is attributable to the collection of back registration and inspection fees for approximately 10,000 older engines that will be entering PERP over the next 3 years.

The alternative to paying these back fees is to replace the engine with a new engine that meets the current emission standards. The cost savings of these engines being regulated instead of being replaced is significant. The average cost of a new engine is approximately $25,000 (based on an estimated average size of 140 bhp). An estimated 10,000 older engines are expected to register in PERP over the next three years, therefore the cost to replace these engines would have been $250 million. With an expected cost of just $6.6 million to register these engines in PERP, that is an estimated savings of $243.4 million to the regulated community

In addition, staff is proposing to remove the hour meter requirement for rental equipment units which will result in a cost savings of $144,000 for those affected businesses. ARB staff expects there to remain an overall benefit for most businesses affected by the proposed amendments to the Statewide PERP Regulation compared to having to obtain district permits (see Appendix D for more detail of cost analysis).

B. LEGAL REQUIREMENTS

Section 11346.3 of the Government Code requires state agencies to assess the potential for adverse economic impacts on California business enterprises and individuals when proposing to adopt or amend any administrative regulation. The assessment shall include a consideration of the impact of the proposed regulation on California jobs, business expansion, elimination or creation, and the ability of California business to compete with businesses in other states.

Also, state agencies are required to estimate the cost or savings to any state or local agency and school district in accordance with instructions adopted by the Department of Finance. The estimate shall include any non-discretionary cost or savings to local agencies and the cost or savings in federal funding to the State.

Finally, HSC section 57005 requires ARB to perform an economic impact analysis of submitted alternatives to a proposed regulation before adopting any major regulation. A major regulation is defined as a regulation that will have a potential cost to California business enterprises in an amount exceeding ten million dollars in any single year.

Because the estimated cost of the amendments to the Statewide PERP Regulation does not exceed ten million dollars in a single year, the proposed amendments to the Statewide PERP Regulation do not constitute a major regulation.

C. METHODOLOGY FOR ESTIMATING COSTS

This section provides the general methodology and assumptions used to estimate the costs associated with the amendments to the Statewide PERP Regulation. ARB staff describes the method used to estimate the number and types of engines and associated equipment subject to the proposed increased program fees. The basic methodology is also used to analyze the costs to private companies and governmental agencies. For determining the various costs for the life of the regulation, staff followed the instructions found in the State Administrative Manual, Section 6680 and utilized the annual cost multiplied out five years.

1. Analysis of the PERP Database

ARB staff conducted an analysis of the PERP database that existed on December 3, 2006 in order to evaluate the cost impacts from the proposed amendments to the Statewide PERP Regulation for federal, state, local agencies and small businesses. Based on the analysis, staff determined that there are over 2,540 organizations with about 24,200 engines registered in PERP. Of these organizations, staff estimates there are:
15 state agencies with about 340 engines (approximately 0.014 percent of the total),
260 local agencies with about 1640 engines (approximately 0.068 percent of the total),
19 federal agencies with about 150 engines (approximately 0.006 percent of the total), and
about 2,250 private businesses with 22,100 engines (approximately 91.2 percent of total).
Military TSE is not affected by these proposed amendments and therefore was not included in this fiscal impact analysis. ARB staff used these percentages to determine the cost of the proposed amendments to the various organizations. It is estimated that 10,000 older engines that were previously ineligible, will enter PERP due to these new amendments. 7,000 of these engines are expected to enter during 2007, with 2,000 in 2008 and the remaining 1,000 entering in 2009. Only engines meeting current emission standards will be allowed to enter PERP starting on January 1, 2010, so no back fees will be collected after that date.

ARB staff also used a representative sample of businesses to determine the percentage of "small businesses." Based on this analysis, staff determined that 70 percent of all businesses currently in PERP are small businesses and own five or fewer units.

2. Initial and Recurring Costs

The cost evaluation considers both initial costs and ongoing annual costs. Initial costs were calculated for the estimated number of units that would have to pay the back fees upon entering the program. There are no ongoing annual costs from the proposed amendements to the Statewide PERP Regulation.

D. BUSINESSES AFFECTED

Any business that owns or operates portable internal combustion engines and/or equipment units currently registered in PERP is affected by the proposed amendments. The affected businesses fall into different industry classifications. A list of the industries that may be impacted is provided in Table V-1.

Table V-1

Industries Affected by Statewide Registration Program and Portable Engine ATCM

SIC Code	Industry
1311	Crude petroleum and natural gas
1321	Natural gas liquids
1381	Drilling oil and gas wells
1382	Oil and gas exploration services
1389	Oil and gas field services, not elsewhere classified
1521	Single-family housing construction
1522	Residential construction, not elsewhere classified
1531	Operative builders
1541	Industrial buildings and warehouses
1542	Nonresidential construction, not elsewhere classified
1611	Highway and street construction
1622	Bridge, tunnel, and elevated highway
1623	Water, sewer, and utility lines
1629	Heavy construction, not elsewhere classified
1711	Plumbing, heating, air-conditioning
1771	Concrete work
1781	Water well drilling
1791	Structural steel erection
1794	Excavation work
1795	Wrecking and demolition work
4925	Gas production and/or distribution
4941	Water supply
4952	Sewerage systems
4953	Refuse systems
4959	Sanitary services, not elsewhere classified
4961	Steam and air-conditioning supply
4971	Irrigation systems
7349	Building maintenance services, not elsewhere classified
7353	Heavy construction engines and equipment units rental
7359	Equipment rental and leasing, not elsewhere classified
7519	Utility trailer rental
7812	Motion picture and video production
7819	Services allied to motion pictures
7996	Amusement parks
9711	National security

E. COST ESTIMATES

The proposed amendments to the Statewide PERP Regulation require the collection of back registration and inspection fees for engines that would have been due had the engines been properly registered when first put into operation. The proposed fee collection schedule and analysis is found in Appendix C. Following is a discussion of the economic impacts associated with the proposed requirements for the collection of back fees, and the removal of hour meter requirement.

1. Collection of Back Registration and Inspection Fees

ARB staff estimated the total potential economic impact due to collection of back fees for engines newly registering in PERP is approximately $6.6 million dollars over three years.

Prior to 2006, The annual fee for registration and renewal was $30 per year. In addition, districts charged $75 per year for performing an inspection of an engine registered in the Statewide Program. This results in a total registration and inspection cost of $105 per year to participate in PERP. This annual amount will be increased by 50% for applications submitted during 2007, 100% for applications submitted in 2008, and 200% for applications submitted in 2009. The vast majority of this amount will be redirected to the districts to fund additional outreach and compliance programs, in an effort to bring even more engines under a regulatory structure so that emissions can be further reduced.

The engines that are subject to the collection of back fees, will have to go back to either the year they purchased the engine or the model year of the engine, if purchase date can not be verified through documentation. If it can be documented that a Tier 1 engine was purchased when the Tier 2 standard was in effect, the fees must be based on the year Tier 2 standards took effect. In addition to the back fees, the current registration fee of $620 per engine will be required.

2. Hour Meters for Rental Equipment Units

Staff estimated the total potential economic impact due to owners/operators having to install hour meters on existing rental equipment units about $144,000. Staff proposal is to remove this requirement, therefore resulting in a cost savings of that amount.

Currently, equipment units registered in the Statewide Program must have hour meters installed as specified in the amendments made to the Statewide PERP Regulation that the Board adopted on June 22, 2006. Staff has determined that there are currently about 720 rental equipment units in PERP, and none of them have hour meters. Staff assumed the cost to purchase and install hour meters is $200, which would result in a cost savings of $144,000 for existing registered equipment units. The cost benefit for rental equipment units registering in the future was not estimated due to the unavailability of data concerning the number of future rental equipment unit application submissions.

F. POTENTIAL IMPACTS ON EMPLOYMENT

The proposed amendments to the Statewide PERP Regulation are not expected to cause a noticeable change in California employment because most businesses will find that the requirements will not require significant additional staffing.

G. POTENTIAL IMPACTS ON BUSINESS CREATION, ELIMINATION, OR EXPANSION

The majority of the increases costs would be borne by engine owners and government agencies, although some costs may be passed onto individuals from companies such as rental yards, and companies that contract directly with individuals. Overall, most affected private businesses and public agencies would be able to absorb the costs of the proposed regulation with no significant adverse impacts because most businesses will find that it is less expensive than obtaining multiple district permits. Because the proposed amendments to the Statewide PERP Regulation would not significantly alter the profitability of most businesses, a noticeable change in employment, business creation, elimination, or expansion, and business competitiveness in California is not expected.

The proposed amendments to the Statewide PERP Regulation maintain a benefit to California businesses due to the streamlined permitting process, standardized emissions limits, and lower overall cost compared to obtaining and maintaining multiple district permits.

H. POTENTIAL IMPACTS ON SMALL BUSINESSES

The total potential economic impact to small business is approximately $0.8 million dollars over three years. The cost impacts are due to the collection of back registration and inspection fees. (See Appendix D for more detail).

To determine the number of small businesses, staff relied on the following definition of small business. (As defined in Assembly Bill 2505 (Ch. 821, Statutes of 1998); the statute sets forth a simplified definition of small business that is utilized for State procurement activities):

> "Small Business" means an independently owned and operate business, which is not dominant in its field of operation, the principal of which is located in California, the offices of which are domiciled in California, and which, together with affiliates, has 100 or fewer employees, and average annual gross receipts of ten million dollars ($10,000,000) or less over the previous three years, or is a manufacturer with 100 or fewer employees."

I. POTENTIAL IMPACTS ON PUBLIC AGENCIES

The total potential economic impact to state agencies is approximately $93,000 over three years. The total potential economic impact to local agencies is approximately $450,000 million dollars over three years. The cost impacts are due to the collection of back registration and inspection fees.

Appendix A

Proposed Regulation Order

Amendments to the Statewide Portable Equipment Registration Program Regulation

California Air Resources Board
Title 17, California Code of Regulations

Article 5 and sections 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, and 2465 of Title 13, California Code of Regulations

(Note: Proposed amendments to the regulation are identified below. Underline is used to indicate the proposed additions. ~~Strikeout~~ is used to indicate proposed deletions from the regulation text.)

PROPOSED REGULATION ORDER

Amend sections 2451, 2452, 2453, 2455, 2456, 2458, 2459, 2460, 2461, and 2462 Title 13, California Code of Regulations. Sections 2450, 2454, 2457, 2463, 2464, and 2465 are not being amended but are included for clarity.

Article 5. Portable Engine and Equipment Registration

§ 2450. Purpose.

These regulations establish a statewide program for the registration and regulation of portable engines and engine-associated equipment (portable engines and equipment units) as defined herein. Portable engines and equipment units registered under the Air Resources Board program may 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.

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; woodchippers; 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,~~any equipment unit~~s,~~ and its associated engine~~s~~ determined by the Executive Officer to qualify as part of a stationary source permitted by a district;
(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 40 CFR Part 60 Subpart OOO (Standards of Performance for Nonmetallic Mineral Processing Plants);
(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) 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
(9) generators used to provide primary or supplemental power to a building, facility, stationary source, or stationary equipment, except during unforeseen interruptions of electrical power from the serving utility, maintenance and repair operations, electrical upgrade operations including startup, shutdown, and testing that do not exceed 60 calendar days, ~~including startup, shutdown, and testing,~~ operations where the voltage, frequency, or electrical current requirements can only be supplied by a portable generator, or remote operations where grid power is unavailable.

(d) The owner of any engine or equipment unit that loses eligibility for registration under this program shall apply for a permit with a district within 90 days of being notified of loss of eligibility. Registration shall remain valid and operation may continue under this article until the district grants or denies a permit or a registration for the engine or equipment unit.

(e) 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.

(a) "**Air Contaminant**" shall have the same meaning as setout 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 meeting the nonroad engine emission standards for compression-ignition engines, as set forth in Title 13 of the California Code of Regulations or 40 CFR Part 89 in effect at the time of application.

(d) "**Certified Spark-Ignition Engine**" means an engine meeting the nonroad engine emission standards for spark-ignition engines, as set forth in Title 13 of the California Code of Regulations or 40 CFR Part 1048 in effect at the time of application.

(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) "**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.

(h) "**Electrical Upgrade**" means replacement or addition of electrical equipment and systems resulting in increased generation, transmission and/or distribution capacity.

(i) "**Emergency Event**" means any situation arising from sudden and reasonably unforeseen natural disaster such as earthquake, flood, fire, or other acts of God, 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.

(j) "**Engine**" means any piston driven internal combustion engine.

(k) "**Equipment Unit**" means equipment that emits PM_{10} over and above that emitted from an associated engine.

(l) "**Executive Officer**" means the Executive Officer of the California Air Resources Board or his/her designee.

(m) "**Hazardous Air Pollutant (HAP)**" means any air contaminant that is listed pursuant to section 112(b) of the federal Clean Air Act.

(n) "**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 unit is in California.

(o) "**Identical Replacement**" means a substitution due to mechanical breakdown of a registered portable engine or equipment unit with another portable engine or equipment unit that has the same manufacturer, type, model number, 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 has equal or lower emissions expressed as mass per unit time; and meets the emission ~~control technology~~ requirements of sections 2455 through 2457 of this article.

(p) "**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.

(q) "**Location**" means any single site at a building, structure, facility, or installation.

(r) "**Maximum Achievable Control Technology (MACT)**" means any federal requirement promulgated as part of 40 CFR Parts 61 and 63.

(s) "**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.

(t) "**Maximum Rated Horsepower (brake horsepower (bhp)**" is the maximum brake horsepower rating specified by the registered engine manufacturer and listed on the nameplate of the registered engine.

(u) "**Mechanical Breakdown**" means any failure of an engine's electrical system or mechanical parts that necessitates the removal of the registered engine from service.

(v) "**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.

(w) "**New Nonroad Engine**" means a nonroad engine, the equitable or legal title to which has never been transferred to an ultimate purchaser. If the equitable or legal title to an engine is not transferred to an ultimate purchaser until after the engine is placed into service, then the engine will no longer be new after it is placed into service. A nonroad engine is placed into service when it is used for its functional purposes. The term "ultimate purchaser" means, with respect to a new nonroad engine, the first person who purchases a new nonroad engine for purposes other than resale.

(x) "**New Source Performance Standard (NSPS)**" means any federal requirement promulgated as part of 40 CFR Part 60.

(y) "**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) "**Prevention of Significant Deterioration (PSD)**" means any federal requirements contained in or promulgated pursuant to Part C of the federal Clean Air Act.

(ff) "**Process**" means any air-contaminant-emitting activity associated with the operation of a registered engine or equipment unit.

(gg) "**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.

(hh) "**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.

(ii) "**Provider of Essential Public Service (PEPS)**" means any privately-owned corporation or public agency that owns, operates, controls, or manages a line, plant, or system for the transportation of people or property, the transmission of telephone or telegraph messages, or the production, generation, transmission or furnishing of heat, light, water, power, or sanitation directly or indirectly to the public.

(jj) "**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.

(kk) "**Rental Business**" means a business ~~in~~ which ~~the principal use of its engines or equipment units is the~~ rentings or leasinges ~~for profit of,~~ 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 portable engine that at the time of applying for registration, has a current, valid district permit or registration ~~issued in accordance with district requirements~~ that was issued prior to January 1, 2006, or an 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~~.~~; or

(2) a certified compression-ignition engine that operated in California at any time between March 1, 2004 and October 1, 2006. The responsible official shall provide sufficient documentation to prove the engine's residency to the satisfaction of the Executive Officer. Examples of adequate documentation include but are not limited to: tax records, purchase records, maintenance records, or usage records.

An engine permitted or registered by a district pursuant to Title 17 of the California Code of Regulations Section 93116.3(b)(6) is not 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 under his/her jurisdiction comply with applicable requirements of this regulation. A company or public agency may have more than 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) "**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.

(uu) "**Third-party Rental"** means a non-rental business renting or leasing registered engines and/or equipment units to another party by written agreement.

(vv) "**Tier 1 Engine"** means a certified compression-ignition engine according to the horsepower and model year as follows:

≥50 bhp and <100 bhp; 1998 through 2003
≥100 bhp and <175 bhp; 1997 through 2002
≥175 bhp and <300 bhp; 1996 through 2002
≥300 bhp and <600 bhp; 1996 through 2000
≥600 bhp and ≤750 bhp; 1996 through 2001
>750 bhp; 2000 through 2005.

(ww) "**Tier 2 Engine"** means a certified compression-ignition engine according to the horsepower and model year as follows:

≥50 bhp and <100 bhp; 2004 through 2007
≥100 bhp and <175 bhp; 2003 through 2006
≥175 bhp and <300 bhp; 2003 through 2005
≥300 bhp and <600 bhp; 2001 through 2005
≥600 bhp and ≤750 bhp; 2002 through 2005
>750 bhp; 2006 through 2010.

(~~vv~~xx) "**Transportable**" means the same as portable.

(~~ww~~yy) "**U.S. EPA**" means the United States Environmental Protection Agency.

(~~xx~~zz) "**Vendor**" means a seller or supplier of portable engines or equipment units for use in California.

(~~yy~~aaa) "**Volatile Organic Compound (VOC)**" means any compound containing at least one atom of carbon except for the following exempt compounds: acetone,

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-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), 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).

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 five 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, description of the mechanical breakdown; and applicable fees 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 complete or deficient, within 30 days of receipt of an application. If deemed deficient, the Executive Officer shall identify the specific information required to make the application complete.

(e) The Executive Officer shall issue or deny registration within 90 days of receipt of a complete application.

(f) Upon finding that an engine or equipment unit meets the requirements of this article, the Executive Officer shall issue a registration for the engine or equipment unit. The Executive Officer shall notify the applicant in writing that the engine or equipment unit has been registered. The notification shall include a registration certificate, any conditions to ensure compliance with State and federal requirements, and a registration identification device 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 shall be kept on the immediate premises with the engine or equipment at all times and made accessible to the Executive Officer or district upon request. Failure to properly maintain the registration identification device shall be deemed a violation of this article.

(g) Except for TSE, each application for registration and the appropriate fee(s) as specified in section 2461, 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 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 resident engines, a copy of <u>either</u> a current permit to operate ~~or a registration certificate~~ that was granted by a district, or <u>documentation</u> as described in section 2452 (mm); and
(7) the printed name and signature of the responsible official and date of the signature.

(h) For TSE, application for registration and the appropriate fee(s) as specified in section 2461, 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 and telephone number;

(2) a brief description of typical engine or equipment-unit use;
(3) engine or equipment-unit description, including type and rated brake horsepower; and
(4) the printed name and signature of the responsible official and date of the signature.

(i) All registered engines and equipment units shall have a designated home district as defined in section 2452 (n) according to the following:

(1) Owners holding valid registration(s) prior to the effective date shall designate in writing to the Executive Officer a home district within 90 days of the effective date of this regulation. The Executive Officer shall designate the home district for any and all registered engines and equipment units for existing registration program participants that fail to designate a home district;
(2) a home district shall be designated on each application for initial registration of an engine or equipment unit; and
(3) except for registered engines or equipment units owned by a rental business or involved in a third part rental, if the engine or equipment unit, based on averaging of annual operation in each district from the three annual reports submitted during the 3 year registration cycle, 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.

(j) 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.

(k) New applications for non-operational engines or equipment units will not be accepted by the Executive Officer.

(l) Once registration is issued by the Executive Officer, district permits or 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 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) at any specific location where statewide registration is not valid. The owner of the engine or equipment unit shall obtain a district permit or registration for the location(s) where the statewide registration is not valid; or

(5) at 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.

Under no circumstance 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 ~~until the permit is no longer valid~~.

(m) 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.

(n) Except for TSE, ~~A~~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, which ever 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 standards. 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.

(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, an engine or equipment unit operated during an emergency event as defined in section 2452 (fi) of this article, is considered registered under the requirements of this article for the duration of the emergency event 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 ~~from a registered engine or equipment unit~~ 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) 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. In that event, the engine shall comply with the applicable daily and annual emission limits contained in section 2456 (d)(6) of this article. No other requirements of this section are applicable to portable engines rated less than 50 brake horsepower.

(d) After January 1, 2006, 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 meet the most stringent emissions standard in effect for the applicable horsepower range at the time the application is ~~received~~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. ~~This provision~~Subsection (d)(1) does not apply to certified compression-ignition engines built under the flexibility provisions ~~for equipment and vehicle manufacturers, post manufacture marinizers~~ listed in 40 CFR part 89.102, engines that ~~qualify as~~are resident engines, ~~or~~ changes of ownership, or engines that meet the requirements of Title 17 of the California Code of Regulations sections 93116.3(b)(7), 93116.3(b)(8), or 93116.3.1. ~~Notwithstanding the foregoing, until November 1, 2006, the requirement for a certified Tier 3 engine in the 175 to 750 bhp range and a certified Tier 2 engine for engines rated at greater than 750 bhp shall not apply to owners of new engines purchased on or after July 1, 2005, but before January 1, 2006, provided:~~

~~(A) the engine is in a new piece of equipment that was sold to the ultimate user by the manufacturer or an authorized distributor between July 1, 2005 and December 31, 2005 and is either a certified Tier 2 engine for engines in the 175 to 750 bhp range or a certified Tier 1 engine for engines rated at greater than 750 bhp; and~~

~~(B) a complete PERP application, including all forms and applicable fees, are received by the Executive Officer prior to November 1, 2006; and~~

~~(C) the application contains valid documentation of the date of sale as approved by the Executive Officer. Valid documentation of the date of sale includes, but is not limited to, the date shown on the front of the cashed check, the date of the financial transaction, or the date shown on the engine purchase agreement between the ultimate user or engine packager, and the engine manufacturer or dealer/distributor.~~

(2) meet all applicable requirements in Title 17 of the California Code of Regulations commencing with section 93116;

(3) use only fuels meeting the standards for California motor vehicle fuels as set forth in chapter 5, division 3, Title 13 of the California Code of Regulations, commencing with section 2250, 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 exceed particulate matter emissions concentration of 0.1 grain per standard dry cubic feet corrected to 12 percent CO_2. This provision does not apply to certified compression-ignition engines, certified spark-ignition engines, or any spark-ignition engine meeting Table 1 requirements;

(5) 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

(6) not exceed the following emission limits:

(A) 550 pounds per day per engine of carbon monoxide (CO);

(B) 150 pounds per day per engine of particulate matter less than 10 microns (PM_{10});

(C) for registered engines operating onshore, 10 tons for each pollutant per district per year per engine for NOx, SOx, VOC, PM_{10}, and CO in nonattainment areas; and

(D) for registered engines operating within STW:

(1) 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

(2) 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.

(E) for registered engines operating in the South Coast Air Quality Management District (SCAQMD), 100 pounds nitrogen oxides (NOx) per project per day [An owner may substitute SCAQMD permit or registration limits in effect on or before September 17, 1997 (optional)];

(F) 100 pounds NOx per registered engine per day, except in SCAQMD where the limit is 100 pounds NOx per project per day.

(7) In lieu of (6)(E) and (6)(F) above, operation of a registered new nonroad engine rated at 750 brake horsepower or greater for which a federal or California standard pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulations has not yet become effective, shall not exceed 12 hours per day.

(8) For registered engines that operate in both STW and onshore, the 10 tons per district per year per engine limit in (6)(C) above shall only apply onshore.

(9) For certified compression-ignition engines, certified spark-ignition engines, or any spark-ignition engine meeting Table 1 requirements, the daily and annual emission limitations in section 6 above shall not apply.

(e) All registered engines shall be equipped with a functioning non-resettable hour meter, fuel meter or other operation tracking device approved by the Executive Officer. Engines registered prior to the effective date of this regulation, that are not equipped with a functional non-resettable hour meter, fuel meter or other operation tracking device shall install one and notify ARB in writing within 6 months of the effective date of this regulation.

(f) 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.

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*

Pollutant Emission Limits		
NOx**	***VOC*****	***CO*****
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_{10}; and
(2) 82 pounds per project per day of PM_{10}.
(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, California Code of Regulations, 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 of California Code of Regulations 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) Except for registered engines ~~and equipment units~~ owned by a rental business, used in a third-party rental, operated by a PEPS, or TSE, the owner of ~~a~~ registered engines, including engines otherwise preempted under section 209 (e) of the federal Clean Air Act, or registered equipment units shall maintain records of operation of each registered engine and equipment unit. Recordkeeping for ~~units~~engines not previously required to maintain records shall begin upon the effective date of the regulation or January 1, 2007, which ever is later. For ~~units~~engines not previously required to have an hour meter, fuel meter or other device approved by the Executive Officer, the owner or operator shall record hours of operation until the hour meter, fuel meter or other device approved by the Executive Officer has been installed. 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 be maintained in a format approved by the Executive Officer and include, at a minimum, all of the following:

(1) engine or equipment unit registration number;
(2) recordings from an hour meter, fuel meter, or other device approved by the Executive Officer, and the corresponding dates of the recordings for each registered engine or equipment unit based on the following:

(A) for each project as defined in 2452 (gg) or (hh), readings shall be recorded prior to the commencement of operation and at the completion of the project; or
(B) for ongoing operation of a registered engine or equipment unit at multiple locations within a stationary source, readings shall be recorded at the beginning and end of each calendar week; or
(C) for each location, readings shall be recorded prior to commencement of operation and upon completion of operation at that location.

(3) For registered engines and equipment units subject to a daily operational limitation, daily records of either hours of operation, fuel usage, or process throughput as applicable.
(4) recordings from an hour meter, fuel meter, or other device approved by the Executive Officer and the corresponding dates of the recordings any

time an engine or equipment unit is undergoing service, repair, or maintenance; and

(5) for each start and stop reading specified in (2) and (3) above, the location identified by district, county, or other indicator (i.e., street address, UTM coordinates, etc.)

(b) 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 written rental or lease agreement shall be kept onsite with the registered engine or equipment unit at all times. Recordkeeping for registered ~~units~~engines not previously required to maintain records shall begin upon the effective date of the regulation or January 1, 2007, which ever is later. For registered ~~units~~engines not previously required to have an hour meter, fuel meter or other device approved by the Executive Officer, the owner or operator shall record hours of operation until the hour meter, fuel meter or other device approved by the Executive Officer has been installed. The owner shall provide each person who rents a registered engine or equipment unit with a written copy of applicable requirements of this article, including recordkeeping and notification requirements, as a part of the agreement. The records, including written acknowledgment by each renter of the registered engine or equipment unit of having received the above information, shall be maintained by the rental business or the owner of the registered engine or equipment unit involved in a third-party rental at a central location for five years, and made accessible to the Executive Officer or districts upon request. Records shall be maintained in a format approved by the Executive Officer and include, at a minimum, for each ~~registered~~ rental engine ~~or equipment unit~~ all of the following:

(1) registered engine ~~or equipment unit~~ registration number;
(2) dates for the start and end of the rental transaction
(3) hours of operation for each rental period including the hour meter reading at the start of the rental transaction and the hour meter reading at the end of the rental transaction; and
(4) location of use (by district, county or other indicator (i.e., street address, UTM coordinates, etc.)).

(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, and be accompanied by the applicable fees 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 California Code of Regulations section 93116, the owner shall keep records and submit

reports in accordance with Title 17 California Code of Regulations section 93116.4.

(e) Except for registered engines or equipment units owned by a rental business, used in a third-party rental, operated by a PEPS or TSE, the owner of a registered engine or 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 engine and/or equipment unit;
(3) for registered engines, quarterly summaries for each district or county the total fuel usage in gallons per quarter, or total hours of operation per quarter, for each registered engine; and
(4) for registered equipment units, quarterly summaries for each district or county in which the registered equipment unit was operated and the total process weight or throughput.

(f) The owner of a registered engine or equipment unit owned by a rental business or used in a third-party rental transaction 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 engine and/or equipment unit;
(3) total hours of operation for the reporting year for each registered engine based on, and including, beginning and ending annual hour meter readings and dates upon which the total hours of annual operation calculation is based;
(4) list of all counties in which the registered engine operated in during the reporting year as reported by the entity(ies) that operated the registered engine or equipment unit; and
(5) estimate of the percentage of total hours operated in each of the counties identified in (4) above.

(g) the owner or operator of a registered engine or equipment unit used by a PEPS shall provide the Executive Officer an annual report, in a format approved by the Executive Officer, by March 1st of each calendar year containing all of the following information:

(1) the reporting year;
(2) the registration number of each registered engine and/or equipment unit;
(3) total hours of operation; and
(4) estimate of the percentage of hours or fuel usage for the three counties in which the registered engine or equipment unit operated the most.

(h) 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.

(i) Each district shall provide the Executive Officer with an annual report, in a format approved by the Executive Officer, by March 31 following the year in which the information was collected containing all of the following information:

(1) the number of portable engines and equipment units inspected;
(2) the number of portable engines and/or equipment units found operating without valid district permits or statewide registrations;
(3) the number of registered engines and equipment units inspected; and
(4) summary of results of inspections.

(j) Vendors selling new portable engines and/or equipment units in California shall:

(1) notify the buyer about this regulation; and
(2) on a monthly basis submit to the Executive Officer the number of portable engines and/or portable equipment units sold by the vendor for use in California including: the name, address, and contact information of the purchaser, and description of the engine and/or equipment unit including make, model, and engine family name.

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 subsection (d) of this section, if a registered equipment unit will be at a location for more than five days, the owner or 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 owner or operator shall be subject to the notification requirements above, unless the owner or 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 ~~article~~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(i) 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 that 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 request that the registered engine be inspected under the arranged inspection program or together with the equipment unit at the hourly rate specified in Table ~~2~~3.

(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 Table ~~2~~3.

(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.

(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 at the time an application is filed or as part of any request requiring a fee. Fees are nonrefundable except in circumstances as determined by the Executive Officer.

(c) Except as provided in (k) below, ~~T~~the owner or operator of a registered engine or equipment unit shall submit fees to the Executive Officer and to districts in accordance with Table ~~2~~3.

(d) The Executive Officer shall collect an inspection fee as listed in Table ~~2~~3 one time per every three calendar years for each registered engine to be paid upon initial application and renewal. 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 may result in penalties. If a fee payment is not received or postmarked by the specified due date, fee penalties may be assessed per unit in accordance with Table ~~2~~3. Failure to pay renewal fees prior to expiration may 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 may 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 in accordance with the consumer price index, as published by the United States Bureau of Labor Statistics.

(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 Table 23 of the regulation for actual staff time taken to perform the inspection, not to exceed the amount specified in Table 23. 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/~~Executive Officer~~ pursuant to the provisions of the district's rules and regulations that govern appeals of fee determinations.

~~(h) The Executive Officer shall collect fees at the time of initial registration and renewal for each registered engine as specified in Table 2.~~

(ih) 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.

(ji) TSE fees are due at the time of the report 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 pay initial registration fees.

(kj) The district may collect an inspection fee as listed in Table 3 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 Table 23 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 Table 23 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.

(k) Portable engines qualifying for initial registration as resident engines per section 2452(mm)(2) shall use the Table 2 fee schedule. The fees collected subject to this section shall be distributed to the districts, except that $270 dollars per engine for initial registration, and an additional $80 dollars per engine shall be retained by the Air Resources Board to provide for administrative costs. The fees

shall be determined as follows:

(1) For tier 1 engines, as defined in section 2452(vv), registration fees will be based on the year listed in Table 2, as determined below:

(A) Where date of purchase can be verified by the Executive Officer, the earlier of:
(1) for engines ≥50 bhp and <100 bhp: year of purchase or 2004;
(2) for engines ≥100 bhp and <300 bhp: year of purchase or 2003;
(3) for engines≥300 bhp and <600 bhp: year of purchase or 2001;
(4) for engines ≥600 bhp and ≤750 bhp: year of purchase or 2002;
(5) for engines >750 bhp: year of purchase or 2006.

(B) Where the date of purchase can not be verified, the model year shall be used.

(2) For tier 2 engines, as defined in section 2452(ww), registration fees as listed in table 3 will be based on the year the engine was purchased (as verified by the Executive Officer) or the model year of the engine (if purchase date is not available).

Table 2 Registration Fees For Resident Engines Per Section 2452(mm)(2)

Portable Engine Date*	Application Submitted on or Before 12/31/07	Application Submitted in 2008	Application Submitted in 2009
1996	$2,353	$3,130	$5,000
1997	$2,195	$2,920	$4,685
1998	$2,038	$2,710	$4,370
1999	$1,880	$2,500	$4,055
2000	$1,723	$2,290	$3,740
2001	$1,565	$2,080	$3,425
2002	$1,408	$1,870	$3,110
2003	$1,250	$1,660	$2,795
2004	$1,093	$1,450	$2,480
2005	$935	$1,240	$2,165
2006	$778	$1,030	$1,850

*As determined in section 2461(k)

Table 23 Fees for Statewide Registration Program
(Fees are per registered unit except where noted otherwise)

1	Initial Registration	$270.00
2	TSE, initial registration	
A	Registration of first 25 units (or portion thereof)	$750.00
B	Registration of every additional 50 units (or portion thereof)	$750.00
3	Change of status from non-operational to operational	
A	Where initial evaluation has not been previously completed	$180.00
B	Where initial evaluation has been previously completed	$90.00
4	Identical replacement	$75.00
5	Renewal, non-TSE	$225.00
6	Penalty fee for late renewal payments, non-TSE	
A	Postmarked within 2 calendar months prior to registration expiration date	$45.00
B	Postmarked within the calendar month prior to registration expiration date	$90.00
C	Postmarked after the registration expiration date	$250.00
7	Annual TSE inventory fee	
A	first 25 units (or portion thereof)	$375.00
B	every additional 50 units (or portion thereof)	$375.00
8	Modification to registered portable engine or equipment unit	$75.00
9	Change of ownership	$75.00
10	Replacement of registration identification device or placard	$30.00
11	Correction to an engine or equipment unit description	$45.00
12	Update company information, copy of registration documents	$45.00
13	Copy of registration documents	$45.00
14	Total district inspection fee per registered portable engine, paid once every 3 years	$345.00
A	General district inspection fee	$30.00
B	Home district inspection fee	$315.00
15	District off-hour service fee per hour	$50.00
16	District inspection fees for equipment units:	
A	General district inspection fee, paid once every 3 years	$75.00
B	District inspection fee per equipment unit, per hour	$98.00 (not to exceed $500.00)
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	$75.00
18	Placard	$5.00

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 as provided for in section 2456(d)(6), r~~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 subsection (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:

(E) adopt the hearing officer's proposed decision;
(F) modify the hearing officer's proposed decision; or
(G) 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.

Appendix B

Proposed Regulation Order

Amendments to the Airborne Toxic Control Measure For Diesel Particulate Matter From Portable Engines

California Air Resources Board

Amendments to sections 93116.1, 93116.2, 93116.3, and Adoption of section 93116.3.1, Title 17, California Code of Regulations

(Note: Proposed amendments to the regulation are identified below. Underline is used to indicate the proposed additions. ~~Strikeout~~ is used to indicate proposed deletions from the regulation text.)

PROPOSED REGULATION ORDER

Amend sections 93116.1, 93116.2, 93116.3 and adoption of section 93116.3.1, Title 17, California Code of Regulations. Sections 93116, 93116.4, and 93116.5 are not being amended, but are included for clarity.

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 (≥ 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 regulation.

(b) The following portable engines are not subject to this regulation:

(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); and

(7) Portable diesel-fueled engines operated at airports that satisfies~~y~~ the following requirements:

(A) the equipment is subject to the South Coast Ground Service Equipment Memorandum of Understanding (MOU); and

(B) the participating airlines have demonstrated to the satisfaction of the Executive Officer that the diesel PM reductions achieved by satisfying the requirements of the MOU are equivalent to the reductions achieved by this control measure.

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.

93116.2 Definitions.

(a) "**Air Pollution Control Officer or APCO**" means the air pollution control officer of a district, or his/her designee.

(b) "**Alternative Fuel**" means gasoline, natural gas, propane, liquid petroleum gas (LPG), hydrogen, ethanol, or methanol.

(c) "**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:

(1) the additive is supplied to the engine fuel by an on-board dosing mechanism, or

(2) the additive is directly mixed into the base fuel inside the fuel tank of the engine, or

(3) 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.

(d) "**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 CCR, sections 2281, 2282, and 2284.

(e) "**Certified Nonroad Engine**" refers to an engine meeting an applicable nonroad engine emission standard as set forth in Title 13 of the California Code of Regulations or CFR 40 Part 89.

(f) "**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.

(g) "**Diesel-Fueled**" means fueled by diesel fuel, or CARB diesel fuel, in whole or part.

(h) "**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.

(i) "**District**" means a District as defined in Health and Safety Code section 39025.

(j) "**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.

(k) "**Emergency**" means providing electrical power or mechanical work during any of the following events and subject to the following conditions:

(1) the failure or loss of all or part of normal electrical power service or normal natural gas supply to the facility:

(A) 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

(B) 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;

(2) the failure of a facility's internal power distribution system:

(A) 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

(B) 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;

(3) the pumping of water or sewage to prevent or mitigate a flood or sewage overflow;

(4) the pumping of water for fire suppression or protection;

(5) the pumping of water to maintain pressure in the water distribution system for the following reasons:

(A) pipe break; or

(B) high demand on water supply system due to high use of water for fire suppression;

(6) the breakdown of electric-powered pumping equipment at sewage treatment facilities or water delivery facilities;

(7) the training of personnel in the use of portable equipment for emergency purposes.

(l) "**Emergency Event**" refers to a situation arising from a sudden and reasonably unforeseen natural disaster such as an earthquake, flood, fire, or other acts of God, or other unforeseen event that requires the use of portable engines to help alleviate the threat to public health and safety.

(m) "**Engine**" means any piston-driven internal combustion engine.

(n) "**Engines Used Exclusively in Emergency Applications**" refer to engines that are used only during an emergency or emergency event, and includes appropriate maintenance and testing.

(o) "**Executive Officer**" means the Executive Officer of the California Air Resources Board (CARB) or his/her designee.

(p) "**Fleet**" refers to a portable engine or group of portable engines that are owned and managed by an individual operational entity, such as a business, business unit within a corporation, or individual city or state department under the control of a Responsible Official. Engines that are owned by different business entities that are under the common control of only one Responsible Official shall be treated as a single fleet.

(q) "**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.

(r) "**In-Use Engines**" refers to portable diesel-fueled engines operating under valid permits or registrations as of December 31, 2005.

(s) "**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, California Code of Regulations, commencing with section 2700, and has demonstrated an reduction in diesel particulate matter of 85% or greater.

(t) "**Location**" means any single site at a building, structure, facility, or installation.

(u) "**Low-Use Engines**" refers to portable diesel-fueled engines that operate 80 hours or less in a calendar year.

(v) "**Maximum Rated Horsepower (brake horsepower (bhp))**" is the maximum brake horsepower rating specified by the portable engine manufacturer and listed on the nameplate of the portable engine.

(w) "**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(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.

(x) "**Off-Road Engine**" means the same as nonroad engine.

(y) "**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.).

(z) "**Participating Airlines**" means the collective group of Individual Participating Airlines under the MOU, which currently is as follows: ABX Air, Inc. (formerly Airborne Express), Alaska Airlines, America West Airlines, American Airlines, ATA Airlines (formerly American Trans Air), Continental Airlines, Delta Air Lines, Astar Air Cargo (formerly DHL Airways), Federal Express, Hawaiian Airlines, Jet Blue Airways Corp., Midwest Airlines (formerly Midwest Express Airlines), Northwest Airlines, Southwest Airlines, United Airlines, United Parcel Service, and US Airways. Participating Airlines does not mean the Air Transportation Association of America, Inc.

(aa) "**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.

(bb) "**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:

(1) 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

(2) 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

(3) the engine is moved from one location to another in an attempt to circumvent the portable residence time requirements.

(cc) "**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.

(dd) "**Registration**" refers to either:

(1) a certificate issued by the Executive Officer acknowledging expected compliance with the applicable requirements of the Statewide Portable Equipment Registration Program; or

(2) a certificate issued by the Air Pollution Control Officer acknowledging expected compliance with the applicable requirements of the district's Portable Equipment Registration Program.

(ee) "**Responsible Official**" refers to an individual employed by the company or public agency with the authority to certify that the portable engines under his/her jurisdiction complies with applicable requirements of this regulation. A company or public agency may have more than one Responsible Official. ~~A contracted designee cannot certify compliance in lieu of the Responsible Official.~~

(ff) "**Selective Catalytic Reduction (SCR) System**" refers to an air pollution emissions control system that reduces oxides of nitrogen (NOx) emissions through the catalytic reduction of NOx by injecting nitrogen-containing compounds into the exhaust stream, such as ammonia or urea.

(gg) "**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:

(1) are under the same ownership or operation, or which are owned or operated by entities which are under common control; and

(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.]

(hh) "**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.

(~~hh~~ii) "**Storage**" means a warehouse, enclosed yard, or other area established for the primary purpose of maintaining portable engines when not in operation.

(~~ii~~jj) "**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.

(~~jj~~kk) "**Tier 4 Emission Standards**" refers to the final emission standards adopted by the U.S. EPA for newly manufactured nonroad engines.

(~~kk~~ll) "**Transportable**" means the same as portable.

(~~ll~~mm) "**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, California Code of Regulations, commencing with section 2700, and incorporated by reference.

(~~mm~~nn) "**U.S. EPA**" refers to the United States Environmental Protection Agency.

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.

93116.3 Requirements.

(a) Diesel-fueled portable engines shall 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 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) Requirements for in-use portable diesel-fueled engines

(A) Except as provided in sections 93116.3(b)(1)(B) and 93116.3 (b)(4), starting January 1, 2010, all portable diesel-fueled engines shall be certified to meet a federal or California standard for newly manufactured nonroad engines pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulations (that is, certified to Tier 1, 2 or 3 nonroad engine standards).[1]

(B) In lieu of complying with (b)(1)(A), owners of portable diesel-fueled engines used exclusively in emergency applications or portable diesel-fueled engines that qualify as low-use engines may commit to replacing these engines with Tier 4 engines, subject to the requirements below:

1. the Responsible Official shall submit written notification identifying the specific portable diesel-fueled engines to be replaced with portable diesel-fueled engines certified to the Tier 4 emission standards; and

2. for each class and category of nonroad engine, replace each portable diesel-fueled engine so identified within two years of the first engine being offered for sale that satisfies the Tier 4 emission standards.

[1] Tier 1, 2, 3, and 4 refer to nonroad engine emission standards promulgated by ARB and U.S. EPA for newly manufactured engines pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulation. Each successive Tier represents more stringent emission standards and the requirements are phased-in over time with the Tier 1 engine standards becoming effective for some engines manufactured in 1996 and becoming effective for all engines by 2000. Tier 2 engine standards are phased in for engines manufactured beginning in 2001 and becomes effective for all engines by 2006. Similarly, Tier 3 engines are phased in for engines manufactured beginning in 2006, and Tier 4 engines are phased in for engines manufactured beginning in 2011.

(2) Portable diesel-fueled engines that have not been permitted or registered prior to January 1, 2006, are subject to the following requirements:

(A) except as specified in 93116.3(b)(5), 93116.3(b)(6), 93116.3(b)(7), and 93116.3(b)(8) and except as allowed under flexibility provisions for equipment and vehicle manufacturers and post-manufacture marinizers pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulations, the portable diesel-fueled engine shall meet the most stringent of the federal or California emission standard for nonroad engines; ~~and~~or

(B) Upon approval by the air pollution control officer, a diesel-fueled portable engine not certified to an emission standard pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulations used exclusively in emergency applications or qualifying as a low-use engine designation may only be permitted or registered by a district. Any engine used exclusively in emergency applications or qualifying as a low-use engine designation is subject to the requirements of section 93116.3(b)(3).

(3) Except as provided in section 93116.3(b)(1)(B), portable diesel-fueled engines used exclusively in emergency applications or qualifying as low-use engines shall satisfy one of the following requirements by January 1, 2020:

(A) the portable diesel-fueled engine is certified to Tier 4 emission standards for newly manufactured nonroad engines; or

(B) the portable diesel-fueled engine is equipped with a properly functioning level-3 verified technology; or

(C) the portable diesel-fueled engine is equipped with a combination of verified emission control strategies that have been verified together to achieve at least 85% reduction in diesel PM emissions.

(4) Lattice boom cranes

(A) A portable diesel-fueled engine used in a lattice boom crane shall be exempt from the requirements of section 93116.3(b)(1)(A) if the Responsible Official has demonstrated to the satisfaction of the Executive Officer or the APCO that the portable diesel-fueled engine in the lattice boom crane cannot be replaced with a portable diesel-fueled engine that is certified to meet a federal or California standard for newly manufactured nonroad engines pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulations (that is, certified to Tier 1, 2 or 3 nonroad engine standards).

(B) Portable diesel-fueled engines exempt from the requirements of section 93116.3(b)(1)(A) pursuant to section 93116.3(b)(4)(A) shall satisfy one of the following requirements by January 1, 2020:

1. the portable diesel-fueled engine is certified to Tier 4 emission standards for newly manufactured nonroad engines; or

2. the portable diesel-fueled engine is equipped with a properly functioning level-3 verified technology; or

3. the portable diesel-fueled engine is equipped with a combination of verified emission control strategies that have been verified together to achieve at least 85% reduction in diesel PM emissions.

(5) Engines operated in California between March 1, 2004 and October 1, 2006 may be permitted or registered by a district or registered in the Statewide Portable Equipment Registration Program until 12/31/09 if they meet an emission standard pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulations.

(6) Upon approval by the air pollution control officer, a district may permit or register engines operated in California between March 1, 2004 and October 1, 2006 that are not certified to an emission standard pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulations.

(7) An engine dealer or distributor may permit or register a stock engine not meeting the most stringent emission standard providing the following are met:

(A) verifiable information is provided to the satisfaction of the Executive Officer or District that at the time of taking possession, the engine met the most stringent emission standard in effect prior to the change for that horsepower range; and

(B) The application for permit or registration of the engine is submitted within six months of the effective date of the change in emission standards.

(8) If the Executive Officer or District finds, based on verifiable information, that an owner had ordered or purchased, within six months prior to the date an emissions standard change for that horsepower range, but had not taken possession of, an engine meeting the most stringent emissions standard in effect at the time of order or purchase, then the owner will have up to six months after the date the new emissions standard for that engine became effective to submit an application to permit or register the engine.

(c) Fleet Requirements

(1) Each fleet is subject to and shall comply with the following weighted PM emission fleet averages expressed as grams per brake horsepower-hour (g/bhp-hr) by the listed compliance dates:

Fleet Standard Compliance Date	Engines <175 hp (g/bhp-hr)	Engines ≥175 to 749 hp (g/bhp-hr)	Engines ≥750 hp (g/bhp-hr)
1/1/13	0.3	0.15	0.25
1/1/17	0.18	0.08	0.08
1/1/20	0.04	0.02	0.02

(2) For the purposes of this regulation, the portable diesel-fueled engines affected by the fleet provisions of this regulation include all portable diesel-fueled engines operated in California, including portable diesel-fueled engines registered with the Statewide Portable Equipment Registration Program or permitted by or registered with a district.

(3) The following portable diesel-fueled engines shall be excluded from the fleet requirements:

(A) portable diesel-fueled engines operated exclusively outside of California or operated only within the OCS.

(B) portable diesel-fueled engines used exclusively in emergency applications.

(C) portable diesel-fueled engines that qualify as low-use engines.

(D) portable diesel-fueled engines used in a lattice boom crane.

(4) Portable diesel-fueled engines that qualify as low-use engines and subsequently exceed the allowed hours of operation in a calendar year, or portable diesel-fueled engines that are identified to be used exclusively in emergency applications but subsequently are used in non-emergency applications, become immediately subject to the requirements of section 93116.3(c) in the year such exceedence or use occurs. For low-use engines, the hours of operation used for an emergency event shall not be counted toward the allowed hours of operation.

(5) Portable alternative-fueled engines may be included in a fleet if the engine satisfies the requirements in section 93116.3(d)(2)(B).

(6) Portable diesel-fueled portable engines equipped with SCR systems.

(A) The diesel PM fleet emission standards in section 93116.3(c)(1) do not apply to:

1. portable diesel-fueled engines equipped with properly operating SCR systems as of January 1, 2004; and

2. with the approval of the Executive Officer, portable diesel-fueled engines equipped with properly operating SCR systems after January 1, 2004.

(B) At the request of the Responsible Official, portable diesel-fueled engine(s) equipped with a SCR system(s) may be included in the company's fleet for the purpose of complying with an applicable fleet emission standard. Once the engine(s) is included in a fleet, compliance with applicable fleet emission standards shall always include these diesel-fueled portable engine(s).

(C) For all diesel-fueled portable engines equipped with SCR systems, the following information shall be submitted to the Executive Officer to demonstrate that the SCR system is operating properly:

1. Tests results for NOx, PM, and ammonia slip

a. the following tests methods shall be used to demonstrate compliance:

i. NOX shall be measured with CARB test method 100 dated July 1997, or equivalent district-approved test method; and

ii. diesel PM shall be measured with CARB test method 5 dated July 1997 or equivalent district-approved test method. For the purposes of this requirement, only the probe catch and filter catch ("front half") is used to determine the emission rate, g/bhp-hr, and shall not include PM captured in the impinger catch or solvent extract; and

iii. ammonia slip shall be measured with Bay Area Air Quality Management District Source Test Procedure ST-1B, Ammonia Integrated Sampling, dated January 1982, or other equivalent district approved test method.

b. the duration of the emission test shall be sufficient to document the typical operation of the portable diesel-fueled engine(s); and

c. testing shall be performed at the frequency required by the permit or registration. In no event shall the time between emission tests exceed three years.

(7) Beginning on January 1, 2013, the weighted average PM emission rate for the fleet cannot exceed the fleet standard that is in effect. Changes in the fleet, including portable engine additions and deletions, shall not result in noncompliance with this standard.

(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. results from emission measurements from a verified emission control strategy may be used in conjunction with engine emission information; or

3. for portable diesel-fueled engine(s) equipped with SCR system(s), results from valid emission tests.

(2) The following incentives may be used to revise the fleet average, as outlined below:

(A) Where equipment 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. To receive credit for grid power in the fleet calculation, the recordkeeping and reporting requirements in section 93116.4(c)(3) shall be satisfied.

(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 2013 and 2017 fleet emission standards. The alternative-fueled engine shall be certified to meet a federal or California standard for newly manufactured nonroad engines pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulations.

(C) Portable diesel-fueled engines certified to Tier 4 nonroad engine standards that are added to a fleet prior to January 1, 2015, may be counted twice in the company's fleet average determination toward compliance with the 2013 and 2017 fleet emission standards.

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 sections 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 emission standards for newly manufactured nonroad engines; or

(2) the portable diesel-fueled engine is equipped with a properly functioning level-3 verified technology; or

(3) the portable diesel-fueled engine is equipped with a combination of verified emission control strategies that have been verified together to achieve at least 85% reduction in diesel PM emissions.

(b) Portable diesel-fueled engine(s) equipped with properly operating SCR system(s) shall be excluded from the requirements of section 93116.4(a) if the engine(s) is not subject to section 93116.3(c)(1).

(c) Effective January 1, 2012, the Responsible Official of a fleet shall:

(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(d); and

(B) portable diesel-fueled engines affected by the use of electrification; and

(C) portable diesel-fueled engines qualifying as low-use engines; and

(D) portable diesel-fueled engines used exclusively in emergency applications.

(2) The Responsible Official, for all portable engines subject to section 93116.4(c)(1), shall:

(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 all required records at a central place of business for five years. The records shall 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 shall 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 shall:

(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. The notification shall be provided prior to the start of the project; and

(B) identify each affected portable diesel-fueled engine, including: make, model, serial number, year of manufacture for each engine, emission factor (g/bhp-hr) and district permit or State/district registration number; and

(C) shall clearly identify the electrification activity, including indicating the amount of electricity used and the time period for the project; and

(D) shall retain copies of contracts or other documentation, with the project proponent and/or applicable utility, supporting the use of grid power.

(4) Test results for SCR compliance shall be maintained at a central place of business for five years. At the request of CARB or district personnel, the Responsible Official shall have three business days to provide a copy of the most recent test results.

(d) Effective January 1, 2008, for alternative-fueled engines added to a fleet prior to January 1, 2009, the Responsible Official shall:

(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 shall 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 shall be provided to the appropriate personnel within ten business days of the request.

(e) The Responsible Official of the fleet shall provide the following reports to the Executive Officer:

(1) A status report, due to the Executive Officer by March 1, 2011, that includes the following items:

(A) the fleet's weighted average PM emission rate for the 2010 calendar year, including a summary for each portable engine that is part of the fleet and each engine's emission rate (g/bhp-hr); and

(B) inventory of portable engines in the fleet identifying whether the engine is state-registered or permitted/registered with the district. Alternative-fueled engines should be identified by fuel type. The inventory shall identify the make, model, serial number, year of manufacture, primary fuel type, emission factor (g/bhp-hr), and district permit or State/district registration number for each engine to be used in the fleet average determination; and

(C) identify, if applicable, each portable diesel-fueled engine that the owner commits to replacing with a Tier 4 engine, including: make, model, serial number, year of manufacture for each engine, and district permit or State/district registration number; and

(D) listing of portable diesel-fueled engines, if applicable, used exclusively in emergency applications. The listing shall identify each engine claiming use only in emergency applications, including: make, model, serial number, year of manufacture for each engine, emission factor (g/bhp-hr), and district permit or State/district registration number; and

(E) listing of portable diesel-fueled engines, if applicable, satisfying the low-use engine requirements. The listing shall identify each engine, including: make, model, serial number, year of manufacture for each engine, emission factor (g/bhp-hr), and district permit or State/district registration number; and

(F) listing of portable alternative-fueled engines, if applicable, added to the fleet prior to January 1, 2009, pursuant to section 93116.3(d)(2)(B)2. The listing shall identify each engine, including: make, model, serial number, year of manufacture for each engine, U.S. EPA engine family name, emission factor (g/bhp-hr), and district permit or State/district registration number; and

(G) for portable diesel-fueled engine(s) equipped with SCR-system(s), documentation demonstrating that the SCR system is operating properly.

(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 shall include, at a minimum, the make, model, serial number, and year of manufacture for each engine. Alternative-fueled engines should be identified by fuel type. The statements of compliance are due to the Executive Officer by the following dates:

(A) March 1, 2013, for the fleet standards that become effective January 1, 2013; and

(B) March 1, 2017, for the fleet standards that become effective January 1, 2017; and

(C) March 1, 2020 for the fleet standards that become effective January 1, 2020.

(3) The Responsible Official shall identify to the Executive Officer, as part of each compliance report, the specific portable diesel-fueled engines, if any, used exclusively in emergency applications and the specific portable diesel-fueled engines, if any, claimed to be low-use engine. The list shall include for each portable diesel-fueled engine: the make, model, serial number, year of manufacture for each engine, emission factor (g/bhp-hr), and district permit or State/district registration number.

(4) The Responsible Official shall identify to the Executive Officer, as part of each compliance report, 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 shall include for each portable diesel-fueled engine: the make, model, serial number, year of manufacture, and, district permit or State/district registration number for each engine.

(5) If compliance with the fleet average includes the use of electrification, the Responsible Official shall provide documentation supporting the credit claimed for electrification.

(6) As part of each compliance report, the Responsible Official shall, 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 engines used exclusively in emergency applications, the engines were used only for emergency applications.

(C) for all portable diesel-fueled engines using the low-use designation, the engines operated no more than 80 hours for the reporting period.

(D) for all portable diesel-fueled engines equipped with SCR, the engine complies with applicable district or Statewide Portable Equipment Registration Program requirements.

(7) After March 1, 2013, the APCO or the Executive Officer may require the submittal of information demonstrating compliance with the applicable fleet standard. Upon receiving the request, the Responsible Official shall provide the requested information within 30 days.

(f) For fleets that are exempted from the requirements of section 93116.4 pursuant to section 93116.4 (a), the Responsible Official shall certify that all portable diesel-fueled engines in the fleet satisfy the requirements of section 93116.4(a). The Responsible Official shall 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 shall identify the make, model, serial number, and district permit or State/district registration number for each engine.

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.

93116.5 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, 43013 and 43018 Health and Safety Code. Reference: Sections 39650, 39666, 41752 Health and Safety Code.

Appendix C

Derivation Of Back Registration And Inspection Fees

Proposed Back Registration And Inspection Fees For Resident Engines

Portable Engine Purchase Date/Manufacture Date	Application Submitted on or Before 12/31/07 (1)	Application Submitted in 2008 (2)	Application Submitted in 2009 (3)
1996	$2,353	$3,130	$5,000
1997	$2,195	$2,920	$4,685
1998	$2,038	$2,710	$4,370
1999	$1,880	$2,500	$4,055
2000	$1,723	$2,290	$3,740
2001	$1,565	$2,080	$3,425
2002	$1,408	$1,870	$3,110
2003	$1,250	$1,660	$2,795
2004	$1,093	$1,450	$2,480
2005	$935	$1,240	$2,165
2006	$778	$1,030	$1,850

(1) Total = (((2007-purchase/manufacture date)*$105)*1.5) + $620
(2) Total = (((2006-purchase/manufacture date)*$105) + $205)*2) + $620
(3) Total = (((2006-purchase/manufacture date)*$105) + $410)*3) + $620

Note: $105 = 1 year in the old fee schedule (ie. $30 registration fee + $75 inspection fee).

$205 = 1 year in the new fee schedule (i.e. $270 registration fee + $345 inspection fee = $615/3 = $205 Note: $615 does not need to include the $5 placard fee which is collected with the $620.

$410 = 2 years in the new fee schedule (i.e. $270 registration fee + $345 inspection fee = $615/2 = $410 Note: $615 does not need to include the $5 placard fee which is collected with the $620.

$620 = Total fees to register for first three years (i.e. $270 registration fee $345 inspection fee + one-time $5 placard fee).

Appendix D

Economic Impacts Analysis

Current PERP Distribution

	Companies	Engines	% of Total Companies	% of total engines
Private	2246	22097	0.8843	0.9119
Local	260	1641	0.1024	0.0677
State	15	340	0.0059	0.0140
Federal	19	154	0.0075	0.0064
Total	2540	24232	1	1

	Companies	Engines	% of Private Companies	% of Private engines
Small Private	1488	2801	0.66	0.13

Engine Distribution Based on Current PERP

Year	2007	2008	2009
Total Engines	7000	2000	1000
Private	6383	1824	912
Local	474	135	68
State	98	28	14
Federal	44	13	6
Small Private	809	231	116

Portable Engine Purchase Date or Manufacture Date (as applicable)	Application Submitted on or before 12/31/07	Application Submitted between 1/1/08 and 12/31/08	Application Submitted between 1/1/09 and 12/31/09
1996	$866	$1,255	$2,920
1997	$788	$1,150	$2,710
1998	$709	$1,045	$2,500
1999	$630	$940	$2,290
2000	$551	$835	$2,080
2001	$473	$730	$1,870
2002	$394	$625	$1,660
2003	$315	$520	$1,450
2004	$236	$415	$1,240
2005	$158	$310	$1,030
2006	$79	$205	$820
Average Cost	$473	$730	$1,870

Cost Based on Average Cost and Engine Distribution (At 10,000 engines)

Year	2007	2008	2009	Total
Private	$3,016,087	$1,331,364	$1,705,241	$6,052,692
Local	$223,985	$98,872	$126,637	$449,494
State	$46,408	$20,485	$26,238	$93,131
Federal	$21,020	$9,279	$11,884	$42,183
Total	$3,307,500	$1,460,000	$1,870,000	$6,637,500

Small buisness private	$382,317	$168,763	$216,155	$767,235
A Small Business	low (1 engine at low average cost)	High (5 engines at high average cost)		
	$473	$9,350		
	Low-low	high-high		
	$79	$14,600		
A Typical Business	low (6 engines at average cost)	high (30 engines at average cost)		
	$2,835	$56,100		
	low-low	high-high		
	$473	$87,600		

Appendix E

List of Acronyms

Appendix E

List of Acronyms

AB	Assembly Bill
AQIA	Air Quality Impact Analysis
ARB or Board	Air Resources Board
ARB staff or Staff	Air Resources Board Staff
Portable Engine ATCM	Airborne Toxic Control Measure
BACT	Best Available Control Technology
bhp	Brake-horsepower
CAA	Federal Clean Air Act
CAPCOA	California Air Pollution Control Officers Association
CCR	California Code of Regulations
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
CO	Carbon Monoxide
Districts	Air Pollution Control Districts or Air Quality Management Districts
DOF	Department of Finance
g/bhp-hr	Grams per Brake Horsepower-hour
HAP	Hazardous Air Pollutant
HC	Hydrocarbons
HSC	California Health and Safety Code
ISOR	Initial Statement of Reasons
LAER	Lowest Achievable Emission Rate
MACT	Maximum Achievable Control Technology
NMHC	Non-methane Hydrocarbons
NOx	Oxides of Nitrogen
NSR	New Source Review
OCS	Outer Continental Shelf
PEPS	Provider of Essential Public Service
PERP	Statewide Portable Equipment Registration Program
PM	Particulate Matter
ppmvd	Parts Per Million by Dry Volume
PSD	Prevention of Significant Deterioration
SB	Senate Bill
SCAQMD	South Coast Air Quality Management District
SOx	Oxides of Sulfur
STW	State Territorial Waters
Statewide PERP Regulation	Statewide Portable Equipment Registration Program Regulation
TACs	Toxic Air Contaminants
TSE	Tactical Support Equipment
U.S. EPA	United States Environmental Protection Agency
UTM	Universal Transverse Mercator
VOC	Volatile Organic Compounds
Workgroup	Portable Equipment Workgroup