

AUG 05 1997

State of California  
AIR RESOURCES BOARD

RESOURCES AGENCY OF CALIFORNIA

Resolution 97-16

March 27, 1997

Agenda Item No.: 97-2-3

WHEREAS, sections 39600 and 39601 of the California Health and Safety Code (Health and Safety Code) authorize the Air Resources Board ("ARB" or "Board") to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, Health and Safety Code sections 39002 and 40000 provide that districts have primary responsibility for control of air pollution from all sources other than emissions from motor vehicles;

WHEREAS, sections 43013(b) and 43018 of the Health and Safety Code provide ARB authority to adopt standards and regulations for off-road vehicles and equipment;

WHEREAS, in sections 41750(a) and (b) of the Health and Safety Code, Legislature found that under existing law local districts have imposed separate and sometimes inconsistent emission control requirements and permits to operate for portable internal combustion engines and associated equipment that are used at various sites throughout the State; and that the multiplicity of permits and regulatory requirements impose a complex and costly burden on California businesses that use, hire, provide, and manufacture those engines and associated equipment;

WHEREAS, in section 41750(c) of the Health and Safety Code, the Legislature declared that a Statewide Portable Equipment Registration Program of portable internal combustion engines and associated equipment is necessary to ensure consistent and reasonable regulation of those engines and associated equipment without undue burden on their owners, operators, and manufacturers;

WHEREAS, sections 41752(a) through (d) of the Health and Safety Code direct the Board to evaluate emissions from the operation of portable internal combustion engines and associated equipment, identify emission reduction technologies that may be applied to portable internal combustion engines and associated equipment, hold at least one public hearing, and adopt a program providing for the voluntary registration of each portable internal combustion engine and associated equipment; such program shall establish emission limits and emission control requirements, and a fee schedule to cover the costs of adopting and administering the program, including a uniform fee to recover the cost of district enforcement;

WHEREAS, section 41752(e) of the Health and Safety Code provides that the Board may periodically revise and update the Portable Equipment Registration Program regulations, including, but not limited to, revising and updating, a determination of best available control technology (BACT) for portable internal combustion engines.

WHEREAS, sections 41753(a) and (b) of the Health and Safety Code provide that the registration program be done on a uniform, statewide basis and that portable internal combustion engines and associated equipment registered under the statewide program are preempted from further permitting, registration, and regulation by local districts;

WHEREAS, sections 41754(a)(1) through (a)(2) of the Health and Safety Code require that the ARB adopted regulations include provisions that ensure the following: emissions from portable internal combustion engines and associated equipment subject to the proposed regulation will not, in the aggregate, interfere with the attainment or maintenance of state or federal ambient air quality standards; the emissions from any one portable internal combustion engine or associated equipment, exclusive of background concentration, shall not cause an exceedance of any ambient air quality standard to the extent consistent with federal law; the registration program preserves the most stringent requirements adopted by a district which require the use of Best Available Control Technology (BACT) for each class or category of portable equipment determined appropriate by the Board and in effect on January 1, 1995; and the Board may consider technical and economic feasibility in establishing emission limits or control equipment requirements for any category or class of existing California resident portable equipment;

WHEREAS, section 41754(a)(3) of the Health and Safety Code provides that any registered portable internal combustion engines, including any turbines, used exclusively for military tactical support or other federal emergency purposes as specified in the proposed regulation by the Department of Defense or the National Guard are not subject to any statewide or district emission control or limit;

WHEREAS, section 41754(b) of the Health and Safety Code provides that the proposed regulation shall establish no emission limit or emission control requirement for any portable resident internal combustion engine and associated portable equipment unless the Board determines that the emission limit or emission control requirement is technologically and economically feasible, and is necessary to attain or maintain state or federal ambient air quality standards;

WHEREAS, Health and Safety Code section 41754(d) provides that the Board shall establish emission limits for any portable equipment or class of portable equipment that reflect the effectiveness of all control equipment installed and operated on the portable equipment or particular class of equipment;

WHEREAS, Health and Safety Code section 41754(f) provides that the Board shall establish recordkeeping and reporting requirements in the Statewide Portable Equipment Registration Program that are the minimum necessary to provide sufficient emission inventory data and allow adequate enforcement of the program;

WHEREAS, Health and Safety Code section 41754(g) provides that the Statewide Portable Equipment Registration Program regulation would not require source testing of portable equipment emissions for registration purposes if there is no emission standard established or if acceptable emission data is available;

WHEREAS, Health and Safety Code section 41755 prohibits testing under the Statewide Portable Equipment Registration Program more often than once every three years; source testing may be required more frequently only in the event where evidence of portable internal combustion engine tampering, lack of proper engine maintenance, or other problems or operating conditions that could affect emissions are identified;

WHEREAS, the Permit Reform Act of 1981, Government Code Section 15374 et seq., provides that all state agencies which issue permits, including registrations, shall adopt regulations regarding their procedures for considering and issuing permits, specifying, among other things, the time periods within which a state agency must notify an applicant that a permit application has been received and deemed complete, and within which the agency must reach a final decision;

WHEREAS, section 209(e)(1) of the federal Clean Air Act preempts the State of California and the local districts from adopting or enforcing emission standards or other requirements relating to the control of emissions (other than in-use operational controls) of new nonroad engines less than 175 horsepower primarily used in farm and construction equipment and vehicles;

WHEREAS, section 209(e)(2) requires that California seek authorization from the United States Environmental Protection Agency (U.S. EPA) prior to enforcing emission standards or other requirements relating to the control of emissions (other than in-use operational controls) from all other nonroad engines (of which portable internal combustion engines are a subpart), not otherwise preempted by section 209(e)(1);

WHEREAS, the staff now proposes adoption of new article 5, sections 2450-2465 to Title 13 of the California Code of Regulations (CCR) that, among other things, facilitate operation in multiple districts for businesses by creating a uniform statewide program for registering and regulating portable internal combustion engines and associated equipment;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the provisions of Chapter 3.5 (commencing with section 11340, Part I, Division 3, Title 2 of the Government Code).

WHEREAS, the Board finds that:

The proposed regulation to Title 13, CCR, sections 2450-2465 establishes uniform requirements for registration and control of portable internal combustion engines and associated equipment that allows for the operation of such engines and associated equipment throughout the state;

The proposed regulation establishes uniform, consistent and reasonable emission standards for portable internal combustion engines and associated equipment;

The Statewide Portable Equipment Registration Program would be mandatory for portable internal combustion engines rated at 50 horsepower or greater that are located in a district having a permit or registration program applicable to those engines that was in effect on or before January 1, 1997, if the Executive Officer has determined that the district program has been preempted by federal law;

The proposed regulation establishes emission standards consistent with current state and federal air quality law, including the prohibitions on nuisances, limitations on visible emissions, protection of ambient air quality standards, and the federal preemptions for nonroad engines;

Portable internal combustion engines used in military tactical support equipment are exempt from control technology requirements and in-use operational controls;

The proposed emission standards for resident internal combustion engines, reasonably available control technology and BACT, are technologically and economically feasible;

Nonresident portable internal combustion engines are subject to the most stringent district BACT that was in effect on January 1, 1995; this is consistent with existing district programs for new engines;

The emission limits that have been established for portable internal combustion engines minimize the emission impacts from these engines and protect the ambient air quality standards;

Equipment units associated with portable internal combustion engines are subject to BACT, daily, and annual emission limits that have been established to protect ambient air quality standards;

The proposed regulation requires that portable internal combustion engines used on dredges that operate on a continuous basis on any given day install a selective catalytic reduction or other control technology to achieve the BACT determined emission limit; dredges that operate intermittently are required to meet the same requirements as other portable internal combustion engines of comparable engine size;

In the event of an emergency, the proposed regulation establishes provisions for automatic registration for the duration of an emergency for internal combustion engines and associated equipment not permitted or registered by a district where the emergency occurs;

With the exception of military tactical support equipment, internal combustion engines shall 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;

To reduce and eventually eliminate high-emission engines, the proposed regulation, in general, requires a scheduled phase-in of cleaner technologies; with the exception of military tactical support equipment, engines rated at less than 175 horsepower used in farm and construction operations, and engines rated at less than 50 horsepower, all engines are required to meet, through retrofit or replacement, the equivalent emission limitations of federal- or State-certified new engine standards by January 1, 2010;

Source testing of portable internal combustion engines for compliance purposes shall not be required more frequently than once every three years, including testing at the time of registration, except where evidence of engine tampering, lack of proper engine maintenance, or other problems that could affect engine emissions are identified;

The recordkeeping and reporting requirements required by the Statewide Portable Equipment Registration Program are the minimum necessary to provide sufficient emission inventory data and allow adequate enforcement of the registration program, the owners of registered portable internal combustion engines and associated equipment must maintain daily operation records and submit to the ARB an annual report consisting of quarterly summaries of operation;

The proposed regulation establishes an application process for applicants to submit required information for registration, renewals, and change of ownership; additionally, procedures for identical and equivalent replacements of registered portable engines, and non-operational portable internal combustion engines and associated equipment have been established;

The proposed regulation establishes a fee structure to cover the costs of adopting and administering the program, including a uniform fee to recover the cost of district enforcement;

The proposed regulation establishes a process for appeals for portable internal combustion engines and associated equipment if registration has been suspended, revoked, or denied;

The time periods set forth in Title 13, CCR, section 2453(e) and (f), within which the Executive Officer must inform the applicant in writing that the application is complete or deficient and must issue or deny registration, are necessary given the potential volume of applicants that may apply for registration into the program; moreover, it is reasonable to anticipate that the volume will be the highest during the first year of the program and that the Executive Officer will need additional time provided to process the applications during this period;

The reporting requirement of Title 13, CCR, section 2458 that is applicable to business is necessary for the health, safety, and welfare of the people of the State;

WHEREAS, the California Environmental Quality Act (CEQA) and Board regulations require that no project which may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, the Board finds that with respect to the requirements of CEQA, in the aggregate, the Statewide Portable Equipment Registration Program will attain greater emission reductions throughout the state over the next 10 to 15 years than under the present district-by-district permitting programs, and that no feasible regulatory alternatives or mitigation measures exist that will better accomplish the Legislature's directives regarding establishing a uniform and consistent statewide program;

WHEREAS, pursuant to section 41754(c) of the Health and Safety Code, the Board has considered the magnitude of the resultant air quality benefit and the potential effects of the regulation on the costs to businesses that use portable internal combustion engines and associated equipment prior to adopting any emission limit or emission control requirement;

WHEREAS, the Board has considered the impact of the proposed regulatory action on the economy of the state and finds that, overall, the proposed regulation would have a positive environmental impact and would not interfere with the attainment or maintenance of state or federal ambient air quality standards;

WHEREAS, the Board finds that the Statewide Portable Equipment Registration Program is expected to have a beneficial impact on California business; participants in the program would no longer need to seek (and pay for) permits in each district in which they operate, or comply with different emission limits and control requirements each time the portable internal combustion engine or associated equipment is operated in a different district;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves sections 2450-2465, Title 13, California Code of Regulations, establishing a Statewide Portable Equipment Registration Program, as set forth in Attachment A hereto, with the modifications described in Attachment B and C hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt sections 2450-2465, Title 13, California Code of Regulations, after making the modified regulatory language identified in Attachment B and C and such other conforming modifications as may be appropriate, along with any additional supporting documents and information, available for public comment for a period of 15 days, provided that the Executive Officer shall consider such written comments regarding the modification and additional supporting documents and information as may be submitted during this period, shall make modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if he or she determines that this is warranted;

BE IT FURTHER RESOLVED that the Executive Officer shall, upon adoption of this regulation, forward the Statewide Portable Equipment Registration Program regulation to the Administrator of the U.S. EPA with a request that those regulations that pertain to emission standards and other requirements relating to the control of emissions from nonroad engines, as defined by the federal Clean Air Act and implementing regulations, receive authorization to enable California to enforce these provisions;

BE IT FURTHER RESOLVED that the Board hereby determines that pursuant to section 209(e) of the federal Clean Air Act the regulation adopted herein will, in the aggregate, be at least as protective of public health and welfare than applicable federal standards;

BE IT FURTHER RESOLVED that if pursuant to Title III of the Clean Air Act the U.S. EPA promulgates any maximum achievable control technology standards that are applicable to portable internal combustion engines covered by the Statewide Portable Equipment Registration Program, the Board directs ARB staff to meet and consult with the U.S. EPA and affected industry to address the implications of such standards on the statewide program;

BE IT FURTHER RESOLVED that the Board directs staff, in consultation with affected local air pollution control districts and sources and U.S. EPA, to evaluate the applicability of the Portable Equipment Registration Program to portable internal combustion engines that are operated in California territorial coastal waters and to report back to the Board if it is necessary to amend the regulation to include such engines in the Program;

BE IT FURTHER RESOLVED that staff is directed to periodically evaluate the control technology, emission standards, program effectiveness, and adequacy of fees, including enforcement fees that may not be sufficient to cover the reasonable costs of enforcement as required by California Health

Resolution 97-16

March 27, 1997

Identification of Attachments to the Resolution:

**Attachment A:** Proposed Regulation to Establish a Statewide Portable Equipment Registration Program (Regulation), Title 13, California Code of Regulations, sections 2450-2465, as set forth in Appendix A to the Staff Report, issued February 7, 1997.

**Attachment B:** Modifications to the proposed Regulation, approved by the Board on March 27, 1997.

**Attachment C:** Modifications to the proposed and approved Regulation, proposed by the Board on March 27, 1997.



**Attachment A**

**Proposed Regulation to Establish a  
Statewide Portable Equipment Registration Program**  
California Air Resources Board

Adopt new article 5 and sections 2450 - 2465, Title 13, California Code of Regulations, to read as follows:

(Note: the entire text of sections 2450 - 2465 set forth below is new language proposed to be added to the California Code of Regulations, therefore the proposed regulation text will be shown in normal type.)

**Article 5. Portable Engine and Equipment Registration**

§ 2450. Purpose.

This regulation establishes 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 or permits from air quality management or air pollution control districts (districts). This regulation preempts districts from permitting, registering, or regulating setting emission standards or limits for portable engines and equipment units registered with the Executive Officer of the Air Resources Board.

§ 2451. Applicability.

- (a) Except for (d) of this section, registration under this regulation is voluntary for owners and operators of portable engines or equipment units.
- (b) This regulation applies to portable engines and equipment units. Except as provided in paragraph (c), any portable engine or equipment unit, as defined in section 2452 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, unheated pavement recycling and crushing operations, and unconfined abrasive blasting;
  - (2) consistent with section 209(e) of the federal Clean Air Act, engines 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.

[Note: Under section 209 (e)(1) of the federal Clean Air Act (CAA) [42 U.S.C. 7543 (e)(1)], California is preempted from establishing emission standards or other requirements related to the control of emission (other than in-use operational controls) for engines under 175 horsepower used in new farm and construction operations, as defined by the U.S. EPA in 40 Code of Federal Regulations (CFR) Part 85, Subpart Q, Section 85.1601 et. Seq. [see 59 Fed. Reg. 36969 (July 20, 1994)]. Federal preemptions should only affect engines less than 175 horsepower used in construction operations because as stated in section (c)(2) below, state law exempts agricultural operations from permit and registration programs. Accordingly, references to the federal preemptions as they apply to this regulation will refer to requirements to construction equipment using engines less than 175 horsepower.

See Engine Manufacturers Association v. EPA, (88 F.3d1075 [D.C. Cir. 1996]). Under section 209 (e)(2) [42 U.S.C. 7543 (e)(2)], of the CAA, California is required to receive authorization from the U.S. EPA prior to enforcing its regulations for nonroad equipment not otherwise preempted under section 209 (e)(1). See Engine Manufactures Association, (supra). ARB has to date received authorization for regulations covered in Title 13, California Code of Regulation sections 2400-2407 (see 54 Fed. Reg. 37440 [July 20, 1995]) and sections 2420-2427 (see 59 Fed. Reg. 48981 [September 21, 1995]).

(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;
- (2) any portable engine or equipment unit used exclusively in agricultural operations, as defined in California Health and Safety Code section 42310 (e);
- (3) any engine or equipment unit not meeting the definition of portable as defined in section 2452 (w) of this regulation;
- (4) any equipment unit determined by the Executive Officer to qualify as part of a stationary source permitted by a district; and
- (5) any portable engine or equipment unit subject to an applicable federal New Source Performance Standards (NSPS) or Maximum Achievable Control Technology (MACT) standard or National Emissions Standards for Hazardous Air Pollutants (NESHAP).

(d) In the event that the owner or operator of a portable engine or equipment unit

elects not to register under this program, the unregistered portable engine or equipment unit shall be subject to district permitting requirements pursuant to district regulations. However, registration under this program is mandatory for those portable engines rated at 50 bhp or greater that are located in a district having a permit or registration program applicable to portable engines that was in effect on or before January 1, 1997, the Executive Officer has determined that the district program has been effectively preempted.

- (1) For the purpose of this provision, a permit or registration program applicable to portable engines is defined as a program which establishes, emission control technology requirements, in-use operational controls (e.g., daily or annual emission limits), or proposed control measures contained in the State Implementation Plan.
- (2) Upon determining that a district program has been preempted as to specific engines by the federal Clean Air Act, the Executive Officer will issue an Executive Order setting forth such findings. Affected owners and/or operators of portable engines will be notified within 30 days by the ARB and/or districts of the issuance of the Executive Order and shall, within 180 days of issuance of the Executive Order, submit an application for registration under this regulation.

§ 2452. Definitions.

- (a) **Air Contaminant** means any discharge, release, or other propagation into the atmosphere and includes, but is not limited to smoke, dust, soot, grime, carbon, fumes, gases, odors, particulate matter, acids, or any combination thereof.
- (b) **ARB** means the California Air Resources Board.
- (c) **Construction Equipment** means equipment that uses an engine and that is primarily used (as defined below) in construction and operated at commercial construction sites.
- (d) **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.
- (e) **Emergency** 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 threaten 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.

- (f) **Engine** means any piston driven internal combustion engine.
- (g) **Equipment Unit** means equipment that emits air contaminants over and above those emitted from the portable engine and is associated with, and driven solely by, any portable engine. Equipment units may include equipment necessary for the operation of a portable engine (e.g., fuel tanks).
- (h) **Equivalent Replacement** means a substitution of one or more registered portable engine(s) or equipment unit(s) with a portable engine or equipment unit that is intended to perform the same or similar function as the original portable engine or equipment unit, and where the following conditions exist:
  - (1) the replacement engine or equipment unit results in equal or lower air contaminant emissions than the existing engine or equipment unit (or sum of existing engines or equipment units) expressed as a mass per unit time (limitations on capacity or hours of operation shall not be taken into account in qualifying for lower air contaminant emissions);
  - (2) the replacement engine or equipment unit meets the emission control technology requirements of this article contained in section 2456 and 2457;
  - (3) the rated brake horsepower of the replacement engine does not exceed the rated brake horsepower of the existing engine (or sum of existing engines), by more than 20 percent. For every percentage point increase of the rated brake horsepower, there shall be an associated decrease in emissions of nitrogen oxides, expressed as a mass per unit time, equal to or exceeding two percentage points; and
  - (4) the manufacturer's maximum rated capacity of the replacement equipment unit does not exceed the maximum rated capacity of the existing equipment unit.
- (i) **Executive Officer** means the Executive Officer of the California Air Resources Board or his designee.
- (j) **Farm Equipment** means equipment that uses an engine and that is primarily used (as defined below) in the commercial production and or commercial harvesting of food, fiber, wood, or commercial organic products or in the processing of such products for further use on a farm.
- (k) **Hazardous Air Pollutant (HAP)** means any air contaminant that is listed pursuant to section 112(b) of the federal Clean Air Act.
- (l) **Identical Replacement** means a substitution 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 regulation.

- (m) **Location** means any single site at a building, structure, facility, or installation.
- (n) **Maximum Achievable Control Technology (MACT)** means any federal requirements promulgated as part of 40 CFR Parts 61 and 63.
- (o) **Maximum Rated Capacity** is the maximum throughput rating or volume capacity listed on the nameplate of the portable equipment unit as specified by the manufacturer.
- (p) **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.
- (q) **Military 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, 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.
- (r) **Modification** means any physical change in portable engine or equipment unit method of operation, or an addition to an existing portable engine or equipment unit, which may cause or result in 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 portable equipment unit to be exceeded;
  - (2) an increase in the hours of operation;
  - (3) a change of ownership; and
  - (4) the movement of a portable engine or equipment unit from one location to another;
- (s) **New Nonroad Engine** means a domestic or imported nonroad engine the equitable or legal title to which has never been transferred to an ultimate purchaser. Where 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 new nonroad engine, the first person who in good faith purchases new nonroad vehicle or new nonroad engine for purposes other than resale.

- (t) **New Source Performance Standards (NSPS)** means any federal requirements promulgated as part of 40 CFR Part 60.
- (u) **Non-operational** means a portable engine or equipment unit that an owner or operator has demonstrated to the satisfaction of the Executive Officer as residing in the state but not operating. A portable engine or equipment unit determined to be non-operational may not operate under the registration program.
- (v) **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 (i.e., at least two years) and that operates at that single location approximately three (or more) months each year.

- (w) **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. 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 (i.e., 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.

[The period during which the engine or equipment unit is maintained at a storage facility shall be excluded from the residency time determination.]

- (x) **Prevention of Significant Deterioration (PSD)** means any federal requirements promulgated as part of 40 CFR Part 52.
- (y) **Primarily Used** is a determination by U.S. EPA under section 209 (e) of the federal Clean Air Act, that 51 percent or more of a specific type of engine or equipment, with an engine under 175 maximum brake horsepower (bhp) rating; is used in the farm and construction industries.
- (z) **Process** means any air contaminant emitting activity associated with the operation

of a portable engine.

- (aa) **Project** means one or more registered portable engines or equipment units operated at one location under the same or common ownership or control, and used to perform a single activity.
- (bb) **Registration** means issuance of a certificate by the Executive Officer acknowledging expected compliance with the applicable requirements of this regulation and the intent by the owner or operator to operate said portable engine or equipment unit within the requirements established by this regulation as it pertains to portable engines and equipment units.
- (cc) **Rental Business** means a business where the principal use of its engines or equipment units is to temporarily rent or lease for profit, portable engines or equipment units to operators other than the owner(s) of the engine or equipment unit.
- (dd) **Renter** is a person who rents a portable engine or equipment unit from a rental business.
- (ee) **Resident Engine** is:
  - (1) a portable engine that at the time of applying for registration, has a current, valid district permit or registration issued in accordance with local district requirements on or before [the effective date of this regulation]; or
  - (2) a portable engine that resided in the State of California at any time during calendar year 1995 and an application for registration is submitted to the Executive Officer no later than one year from [the effective date of this regulation]; or
  - (3) a portable engine where a permit or registration has not been granted by a district, but an application, accepted and deemed complete by the district prior to [the effective date of this regulation], and an application for registration is submitted to the Executive Officer no later than one year from [the effective date of this regulation]; or
  - (4) a portable engine where registration becomes mandatory pursuant to section 2451 (d) of this regulation.

[The owner or operator shall provide sufficient documentation to prove the portable engine's residency to the satisfaction of the Executive Officer. Examples of adequate documentation are existing permits issued by a district, tax records, and usage or maintenance records. With the exception of section 2456 (e)(8) of this regulation, an equivalent or identical replacement engine replacing a registered resident engine shall be treated as a resident engine.]

- (ff) **Stationary Source** means any building, structure, facility or installation which



emits any affected pollutant 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.

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

- (gg) **Storage** means a warehouse, enclosed yard or other area established for the primary purpose of maintaining portable engines or equipment units when not in operation.
- (hh) **Transportable** means the same as portable.
- (ii) **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).

(jj) U.S. EPA means the United States Environmental Protection Agency.

§ 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 (w) of this regulation and meet all applicable requirements established in this regulation.
- (b) An owner or operator of a registered portable engine or equipment unit is not required to complete a new application for an identical replacement 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 portable engine or equipment unit with an identical replacement. Notification shall include company name, contact, phone number, registration certificate number of the portable engine or equipment unit to be replaced; and make, model, rated brake horsepower, serial number of the identical replacement; and applicable fees as required in section 2461. Misrepresentation of portable engine or equipment unit information and failure to meet the requirements of this article shall subject the owner or operator to section 2465.
- (c) Except for TSE, the owner or operator of a registered portable engine or equipment unit shall file a new application for registration, including the surrender of the registration certificate for the portable engine or equipment unit being replaced, and appropriate fees as required in section 2461, with the Executive Officer prior to operating the equivalent replacement. Failure to meet the requirements of this article prior to operating equivalent replacement may subject the owner or operator to section 2465 of this article.
- (d) For the purposes of registration under this article, an owner or operator of a portable engine or equipment unit shall file a complete application, pursuant to this regulation, with the Executive Officer in accordance with the following schedule:
  - (1) portable engines or equipment units with current, valid district permits issued prior to [the effective date of this regulation], shall apply before January 1, 2001;
  - (2) resident engines or equipment units that do not have current, valid district permits issued prior to [the effective date of this regulation] no later than one year from [the effective date of regulation];
  - (3) TSE residing within the state as of [the effective date of this regulation], no later than six months from [the effective date of this regulation]; and
  - (4) all others may apply at any time.

- (e) The Executive Officer shall inform the applicant, in writing, if the application is complete or deficient. If deemed deficient, the Executive Officer shall identify the specific information required to make the application complete, according to the following schedule:
- (1) within 45 days of receipt of an application, for applications received within one year after [the effective date of this regulation]; and
  - (2) within 30 days of receipt of an application, for applications received after [one year following the effective date of this regulation].
- (f) The Executive Officer shall issue or deny registration according to the following schedule:
- (1) within 180 days of receipt of an application, for applications received within one year after [the effective date of this regulation]; and
  - (2) within 90 days of receipt of an application, for applications received after [one year following the effective date of this regulation].
- (g) Upon finding that a portable engine or equipment unit meets the requirements of this article, the Executive Officer shall issue a registration for the portable engine or equipment unit. The Executive Officer shall notify the applicant in writing that the portable engine or equipment unit has been registered. The notification shall include a registration certificate(s), any conditions to ensure compliance with state and federal requirements, and a registration identification for each registered portable engine or equipment unit. Except for TSE, the registration identification shall be maintained on the registered portable engine or equipment unit at all times. Failure to properly maintain registration identification shall be deemed a violation of this article.
- (h) 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 portable engine or equipment unit status (e.g., resident, non-resident, non-operational, rental business, etc.);
  - (2) indication of "home" district, the district in which the portable engine or equipment unit operates most of the time (optional);
  - (3) the name of applicant, and a contact person including mailing address and telephone number;
  - (4) a brief description of typical portable engine or equipment unit use;
  - (5) detailed description, including portable engine or equipment unit make, model, manufacture year (for portable engines only), rated brake horsepower, throughput, capacity, emission control equipment, and serial number;
  - (6) necessary engineering data, emissions test data, or manufacturer's

- emissions data to demonstrate compliance with the requirements as specified in sections 2455-2457;
- (7) for resident engines, a copy of a current permit to operate or a registration certificate that was granted by a district prior to [the effective date of this regulation], or other proof of California residency as described in section 2452 (ee); and
  - (8) the signature of responsible official and date of the signature.
- (i) 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, and a contact person including mailing address and telephone number;
  - (2) a brief description of typical portable engine or equipment unit use;
  - (3) portable engine or equipment unit description, including type and rated brake horsepower; and
  - (4) the signature of responsible official and date of the signature.
- (j) Portable 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 registration specific to the rental business requirements of this article. Portable engines or equipment units used primarily for purposes other than rental or not owned by a rental business shall not qualify for registration as a rental business. Misrepresentation of portable engine or equipment unit use in an attempt to qualify under the rental business definition shall subject the owner or operator to section 2465 of this article.
- (k) An owner or operator registering a portable engine or equipment unit as non-operational may choose to have the equipment evaluated for registration eligibility at the time the initial application is filed or at the time the portable engine or equipment unit is changing to operational status. Where an initial evaluation is performed, switching from non-operational status to operational status requires notification in writing to the Executive Officer of the change in operational status and payment of all applicable fees prior to operation. Where no initial evaluation is performed, switching from non-operational status to operational status requires a complete application to be filed and approved by the Executive Officer and payment of all applicable fees prior to operation.
- (l) Once registration is issued by the Executive Officer, any valid district permits or registrations for registered portable engines or equipment units are preempted by the statewide registration and are therefore considered null and void.

- (a) The Executive Officer shall make registration data available to districts (e.g., on the Internet).
- (b) The Executive Officer may conduct an inspection of a portable 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, the owner or operator of registered portable engines or equipment units may operate within the boundaries of the State of California so long as such portable 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 portable engines or equipment units. The Executive Officer will provide all districts with such information (e.g., on the Internet).

§ 2455. General Requirements.

- (a) The emissions from portable engines or equipment units registered under this regulation shall not, in the aggregate, interfere with the attainment or maintenance of state or federal ambient air quality standards and the emissions from any one portable engine or equipment unit, exclusive of background concentration, shall not cause an exceedance of any ambient air quality standard. This paragraph shall not be construed as requiring portable engine or equipment unit operators to provide emission offsets for a portable engine or equipment unit registered under this regulation.
- (b) Portable engines or equipment units registered under this regulation shall comply with article 1, chapter 3, part 4, division 26, of the California Health and Safety Code, commencing with sections 41700.
- (c) Except for portable engines or equipment units permitted or registered by a district in which an emergency occurs, a portable engine or equipment unit operated during an emergency as defined in section 2452 (e) of this article, is considered registered under the requirements of this regulation for the duration of the emergency and is exempt from sections 2455 through 2459 of this article for the duration of the emergency 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 under this provision exists. If the Executive Officer deems that an emergency does not exist, all operation of portable engines and equipment units covered by this provision shall cease

operation immediately upon notification by the Executive Officer.

Misrepresentation of an emergency and failure to cease operation under notice of the Executive Officer is a violation of this article and may subject the owner or operator to section 2465 of this article.

- (d) For the purposes of registration under this article, the owner or operator of any registered portable equipment unit whose operation at a given location is within 15 kilometers of a Class I area must notify the U.S. EPA and comply with any applicable provisions of the Prevention of Significant Deterioration program.

#### § 2456. Engine Requirements

- (a) For TSE, no air contaminant shall be discharged into the atmosphere, other than uncombined water vapor, for a period or periods aggregating more than three minutes in any one hour which is as dark or darker in shade as that designated as No. 2 on the Ringlemann 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 Ringlemann Chart. No other requirements of this section are applicable to TSE.
- (b) A new nonroad engine rated less than 175 bhp used in construction equipment as defined in 40 CFR Part 85, Subpart Q, section 85.1601 et seq. shall 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; comply with the applicable daily and annual emission limits contained in section 2456 (i) of this article; and is exempt from further requirements of this section.
- (c) 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.
- (d) To be registered in the Statewide Registration Program, a registered portable engine rated less than 50 bhp shall comply with the most stringent requirements, if any, for its horsepower and year of manufacture rating set forth in CFR 40 Part 89 or Title 13 California Code of Regulations which is in effect at the time application for registration is deemed complete by the Executive Officer. If no emission standards exist for that horsepower and year of manufacture at the time of registration, the engine shall comply with the applicable daily and annual emission limits contained in section 2456 (i) of this article. No other requirements of this section are applicable to portable engines rated less than 50 bhp.
- (e) Portable engines registered under this regulation shall:

- (1) comply with the applicable daily and annual emission limits contained in section 2456 (i) of this article;
- (2) 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;
- (3) not exceed particulate matter emissions concentration of 0.1 grain per standard dry cubic feet corrected to 12% CO<sub>2</sub>;
- (4) not discharge air contaminants into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringlemann 1 or equivalent 20 percent opacity;
- (5) for an engine manufactured before January 1, 1996, meet the applicable requirements of Table 1, for compression-ignition engines or Table 2, for spark-ignition engines;
- (6) for an engine manufactured on or after January 1, 1996, meet the most stringent emissions standard;
- (7) except for an engine that qualifies as a resident engine, any portable engine, regardless of engine manufacture date, registering on or after July 1, 1998, meet the most stringent emissions standards for the applicable horsepower range specified for State- or federally-certified newly-manufactured engines; if no emissions standards exists, then the applicable requirements contained in Table 1 or Table 2 must be met;
- (8) on or after July 1, 2001, except for change of ownership, applications filed for registration or replacement of a registered portable engine, meet the most stringent emissions standard; and
- (9) after January 1, 2010, any registered portable engine rated 50 bhp or above not previously meeting a federal or California standard pursuant to CFR 40 Part 89 or Title 13 of the California Code of Regulations, meet the most stringent emissions standard (resident portable engine must reapply at this time and demonstrate compliance with the most stringent emissions standard).

For the purpose of sub-section (e), the most stringent emissions standard shall be the applicable emissions standard in effect at the time an application is deemed complete and set forth in Title 13 of the California Code of Regulations for that engine rating. If no emissions standard exists under the California Code of Regulations, then the applicable emissions standard set forth in CFR 40 Part 89 shall apply. If no standard exists under the California Code of Regulations or CFR 40 Part 89, then the applicable requirements of Table 1 for compression-ignition engines or Table 2 for spark-ignition engines shall apply. Any engine meeting the most stringent emission standard, as defined above, is not subject to requirements (3) and (4) of sub-section (e).

- (f) Subject to Executive Officer approval, the owner or operator of a registered portable engine may obtain a temporary exemption, not to exceed 18 months in

duration, from daily and annual emission limits by submitting a compliance plan (in a format to be specified by prior agreement with the Executive Officer) to replace the existing portable engine with a newly manufactured engine or modify the existing portable engine to satisfy the requirements that have been set for new engines under CFR 40 part 89 or Title 13 of the California Code of Regulations. For the purposes of this section, a compliance plan shall include at a minimum:

- (1) registration number of portable engine being replaced or modified;
- (2) a schedule of increments of progress, which will be taken to replace or modify the registered portable engine;
- (3) the proposed date of replacement or completion of modifications;
- (4) the name of applicant, and a contact person including mailing address and telephone number;
- (5) a brief description of typical portable engine use;
- (6) newly manufactured portable engine description, including portable engine make, model, manufacture year, rated brake horsepower, emission control engine, and serial number;
- (7) detailed description of proposed modifications, including make and model of any add-on equipment;
- (8) all necessary engine engineering data, emissions test data, or manufacturer's emissions data to demonstrate compliance with the requirements as specified in section 2456; and
- (9) the signature of responsible official and date of the signature.

[An owner or operator may revise a compliance plan by submitting a modified plan to the Executive Officer at least 30 calendar days prior to the date of replacing or modifying the portable engine. The modified compliance plan shall not extend the temporary exemption from daily and annual emission limits for the registered portable engine beyond 18 months. Misrepresentation of portable engine information in the compliance plan or failure to comply with an approved compliance plan may result in the registration being revoked and the owner or operator being subject to penalties.]

- (g) A registered portable engine owned and operated by a rental business and designated for use as a rental engine, shall have operational and properly maintained non-resettable time meters or an alternate method, as approved by the Executive Officer, for purposes of complying with the requirements of section 2458.
- (h) Subject to Executive Officer approval, 4-degree injection timing retard is not required for compression-ignition engines if it can be demonstrated that it is technologically infeasible for specific types of engines. The Executive Officer shall consider, but is not limited to considering, the following types of documentation in making his or her determination: a cost effectiveness study or an engineering analysis showing a high probability of engine damage. The



Executive Officer shall grant exemptions or require reduced injection timing (e.g., 3-, 2- or 1- degree) as determined appropriate on a case-by-case basis. The exemption or reduced requirement shall be applicable to all identical engines of the same make, model, model-year, and configuration.

- (i) Registered portable engines shall not exceed the following emission limits:
  - (1) 550 pounds per day per engine of carbon monoxide (CO);
  - (2) 150 pounds per day per engine of particulate matter less than 10 microns (PM<sub>10</sub>);
  - (3) 10 tons for each pollutant per district per year per engine;
  - (4) 100 pounds nitrogen oxides (NOx) per project per day in SCAQMD only; and
  - (5) for non resident engines, 100 pounds NOx per engine per day in all districts except SCAQMD [An owner may substitute SCAQMD permit or registration limits in effect on or before [the effective date of this regulation] (optional)].

[A portable engine meeting an applicable emissions standard, as set forth in Title 13 of the California Code of Regulations, CFR 40 Part 89, is exempt from the daily and annual emission limits specified above.]

- (j) Portable engines operated for dredging, deemed by the Executive Officer to operate on a continuous basis rather than intermittently on any given day, shall install selective catalytic reduction (SCR) or equivalent control technology as approved by the Executive Officer, that results in NOx emissions equal to or less than 130 ppm<sub>dv</sub> corrected to 15 percent oxygen averaged over 15 minutes (1.7 g/bhp-hr). Portable engines operated for dredging deemed not to operate on a continuous basis shall meet the requirements for their respective ratings set forth in this section.
- (k) 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.

Table 1 Compression-ignition Engine Requirements\*

Rated Brake Horsepower	Resident Engine	Non-resident Engine
50-116	810 ppmdv NOx (10.5 g/bhp-hr)** or turbocharger or 4-degree injection timing retard***	770 ppmdv NOx (10.0 g/bhp-hr)** or turbocharger and 4-degree injection timing retard***
117-399	770 ppmdv NOx (10.0 g/bhp-hr)** or turbocharger and aftercooler/intercooler or 4-degree injection timing retard***	550 ppmdv NOx (7.2 g/bhp-hr)** or turbocharger and aftercooler/intercooler and 4-degree injection timing retard***
400-749	550 ppmdv NOx (7.2 g/bhp-hr)** or turbocharger and aftercooler/intercooler or 4-degree injection timing retard***	535 ppmdv NOx (7.0 g/bhp-hr)** or turbocharger and aftercooler/intercooler and 4-degree injection timing retard***
750+	550 ppmdv NOx (7.2 g/bhp-hr)** or turbocharger and aftercooler/intercooler or 4-degree injection timing retard***	535 ppmdv NOx (7.0 g/bhp-hr)** or turbocharger and aftercooler/intercooler and 4-degree injection timing retard***

\* 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 NOx as NO<sub>2</sub> @ 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 35 percent efficient.

\*\*\* Requirements for 4-degree injection timing retard is not required where it can be demonstrated technologically infeasible to the satisfaction of the Executive Officer. (Refer to paragraph h)

Table 2 Spark-ignition Engine Requirements\*

Engine Status	Pollutant Emission Limits or Control Technology		
	NOx	VOC	CO
Resident	213 ppmdv NOx (4.0 g/bhp-hr)** or catalyst***	800 ppmdv VOC (5.0 g/bhp-hr) or catalyst***	25,344 ppmdv CO (288 g/bhp-hr) or catalyst***
Non-Resident	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 NOx as NO<sub>2</sub> @ 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 35 percent efficient.

\*\*\* The catalyst must provide a minimum of 80 percent control.

§ 2457. Requirements for Portable Equipment Units

- (a) Emissions from a registered portable equipment unit, exclusive of emissions emitted directly from the associated portable engine, shall not exceed:
  - (1) 10 tons per year of any single criteria pollutant; and
  - (2) 82 lbs/day of PM<sub>10</sub>.
  
- (b) Portable 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 Ringlemann 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; and
    - (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.
  
  - (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 Ringlemann 1 or equivalent 20 percent opacity;
    - (E) open areas shall be maintained adequately wet to prevent fugitive emissions in excess of 20 percent opacity or Ringlemann 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 dust collection equipment; and
    - (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.

- (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 Ringlemann 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 of 4 percent by weight;
  - (D) particulate matter emissions from each crusher shall be ducted through a fabric dust collector, or a wet suppression system which maintains a minimum moisture content of 4 percent by weight;
  - (E) all conveyors shall be covered, unless the material being transferred does not result in any visible particulate matter emissions;
  - (F) all stockpiled material shall be maintained at a minimum moisture content of 4 percent by weight, unless the stockpiled material does not result in any visible particulate matter 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 dust collection equipment; and
  - (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.
  
- (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 Ringlemann 2 or equivalent 40 percent opacity;
  - (B) only California Air Resources Board-certified abrasive blasting material shall be used;
  - (C) the abrasive material shall not be reused;
  - (D) no air contaminant shall be released into the atmosphere which causes a public nuisance; and
  - (E) all applicable requirements of Title 17 of California Code of Regulations shall also apply.

§ 2458. Recordkeeping and Reporting.

- (a) Any registered portable engine that meets an applicable emissions standard as set forth in Title 13 of the California Code of Regulations or CFR 40 Part 89, is exempt from the requirements of this section.
- (b) Except for a rental business and TSE, the owner of a registered portable engine, including engines otherwise preempted under section 209(e), or portable equipment unit shall maintain daily records for each registered portable engine and equipment unit. The daily records shall be maintained at a central place of business for two years, and made accessible to the Executive Officer or districts upon request. Daily records shall be maintained in a format approved by the Executive Officer and include, at a minimum, all of the following:
  - (1) portable engine or equipment unit registration number;
  - (2) month, day and year;
  - (3) the location(s) at which the portable engine or equipment unit was operated, identified by district, county, or specific location(s);
  - (4) for engines, either total fuel used in gallons per hour or day and an estimate of hours of operation, or actual hours of operation; and
  - (5) for equipment units, the total process weight or throughput.
- (c) The owner of a registered portable engine or equipment unit owned by a rental business and designated for the purpose of renting, shall maintain records for each transaction. The owner shall provide each person who rents the portable engine or equipment unit with a written copy of applicable requirements of this rule, including recordkeeping and notification requirements, as a part of the agreement. The records, including written acknowledgment by each renter of the portable engine or equipment unit of having received the above information, shall be maintained at a central location for two 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 portable engine or equipment unit all of the following:
  - (1) portable engine or equipment unit registration number;
  - (2) dates portable engine or equipment unit left and returned to a rental yard;
  - (3) location of operation, identified by district, county, or specific location(s); and
  - (4) hours of operation for each rental period and estimation of hours operated per day.
- (d) Except for TSE, the owner of a registered portable engine or equipment unit, shall provide the Executive Officer in a format approved by the Executive Officer,

within 60 days after the end of each calendar year all of the following information:

- (1) reporting year;
  - (2) for engines, quarterly summaries for each district or county of total fuel usage in gallons per quarter and an estimate of hours of operation, or total hours of operation per quarter, for each portable engine or equipment unit; and
  - (3) for equipment units, quarterly summaries for each district or county of total process weight or throughput.
- (e) For TSE, each military installation shall provide the Executive Officer in a format approved by the Executive Officer, within 60 days after the end of each calendar year, the number, type, and rating of registered TSE at each installation. Any variation of registered TSE to actual TSE shall be accounted for in this annual report. Any increase of TSE at each military installation during the calendar year shall require the military installation to submit an application for registration for the additional TSE along with any applicable fees to the Executive Officer, within 60 days after the end of each calendar year.

§ 2459. Notification.

- (a) If a registered portable engine or equipment unit will be in a district for more than five days, the owner/operator, or in the case of rental equipment, (except as noted in (c) below), the renter shall notify the district in writing, via facsimile, or by telephone, within two working days of coming into the district. The notification shall include all of the following:
  - (1) the registration number of the portable engine or equipment unit;
  - (2) the name and phone number of a contact person with information concerning the locations where the portable engine or equipment unit will be operated within the district; and
  - (3) estimated time the portable engine or equipment unit will be located in the district.
- (b) If the district has not been notified as required in paragraph (a), because the owner or operator did not expect the duration of operation in the district to trigger the notification requirement, the owner or operator, or in the case of rental equipment, (except as noted in (c) below), the renter shall notify the district within 12 hours of determining the portable engine or equipment unit will be operating in the district more than five days.
- (c) Owners and operators of registered portable engines rated less than 200 bhp and designated by the Executive Officer for rental use by a rental business are not

subject to notification requirements.

- (d) Owners and operators of TSE are not subject to notification requirements.
- (e) Owners and operators of registered portable engines or equipment units moving from one location to another location within the boundaries of the designated "home" district are not subject to notification requirements, providing the home district is identified at the time of registration.

§ 2460. Testing.

- (a) In determining if a portable engine or equipment unit is eligible for registration, the Executive Officer may inspect a portable engine or equipment unit and/or require a source test, at the owners expense, in order to verify information submitted in the application.
- (b) After issuance of registration, the Executive Officer or district may at any time conduct an inspection of any registered portable engine or equipment unit in order to verify compliance with the requirements of this article. However, 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 where 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 portable engine for which there is no applicable emission standard, emission limit or other emission related requirement contained in this regulation.
- (c) Testing shall be conducted in accordance with the following methods or other methods approved by the Executive Officer:

Particulate Matter:	ARB Test Method 5
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

§ 2461. Fees.

- (a) 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.
- (c) The owner or operator of a portable engine or equipment unit shall submit fees to the Executive Officer in accordance with Table 3.
- (d) An owner or operator of a registered portable engine or equipment unit may, at time of renewal, change from operational to non-operational status by notifying the Executive Officer in writing and paying the applicable fee of \$45.00.
- (e) An owner or operator of a non-operational portable engine or equipment unit evaluated for registration eligibility at the time of registration shall be assessed a fee of \$60.00 at the time of application. Prior to switching from non-operational to operational status, the owner or operator shall pay a fee of \$30.00.
- (f) An owner or operator of a non-operational portable engine or equipment unit not evaluated for registration eligibility at the time of registration shall be assessed a fee of \$30.00 at the time of application. Prior to switching from non-operational to operational, the owner or operator shall notify the Executive Officer by submitting an application including a fee of \$60.00. The Executive Officer shall verify that the portable engine or equipment unit meets the requirements of this article prior to operation of the portable engine or equipment unit. Misrepresentation of portable engine or equipment unit information and failure to meet the requirements of this article may subject the owner or operator to revocation or suspension of registration and/or penalties under this article.
- (g) A district may collect an enforcement inspection fee of \$75.00, one time per calendar year for each registered portable engine or equipment unit inspected, unless for reasonable cause the district performs an inspection leading to determination of non-compliance with this regulation, or any applicable state or federal requirements. In this instance, the district may charge \$75.00 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.
- (h) If the registration is valid for more than three years, the renewal fee shall be the sum of the standard renewal fee of \$90.00 and a prorated fee of \$30.00 per year based on the number of years the registration exceeds three years.
- (i) Failure to pay fees when due may result in penalties. If no fee payment is received within 30 days of written notice, fee penalties ranging from \$15.00 to \$45.00 shall be assessed. Failure to pay within 90 days of written notice may result in cancellation of registration. Canceled registration may be reinstated by



reapplying for registration and payment of all penalty fees within 90 days of written notice of cancellation. A portable engine or equipment unit without valid registration is subject to the rules and regulations of the district in which it operates.

- (j) The Executive Officer may consolidate renewal fees by prorating the renewal fees of multiple registered portable engines and equipment units.
- (k) 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.

**Table 3 Registration and Renewal Fees for Statewide Registration Program**  
 (Fees are per registered unit except where noted otherwise)

1	Registration	\$90.00
2	Military tactical support equipment	
a	Registration of first 25 units (or portion thereof)	\$1,500.00
b	Registration of every additional 50 units (or portion thereof)	\$1,500.00
3	Non-operational portable engines or equipment units	
a	Without initial evaluation	\$30.00
b	With initial evaluation	\$60.00
4	Change of status from non-operational to operational	
a	Where initial evaluation has not been previously completed	\$60.00
b	Where initial evaluation has been previously completed	\$30.00
5	Identical replacement	\$15.00
6	Equivalent replacement (treated as a new registration, fees are the same as above for new registration)	
7	Renewal	
a	Every 3 years per registered portable engine or equipment unit	\$90.00
b	Pro-rated yearly per registered portable engine or equipment unit	\$30.00
c	Non-operational 3 years (prorated @ \$10/year) per registered portable engine or equipment unit	\$30.00
d	Change of status from operational to non-operational plus non-operational renewal	\$45.00
8	Renewal for Military tactical support equipment	
a	Renewal of first 25 units (or portion thereof)	\$750.00
b	Renewal of every additional 50 units (or portion thereof)	\$750.00
9	Penalty fee for late payments per registered portable engine or equipment unit	
a	30-60 days after receiving renewal notice	\$15.00
b	60-90 days after receiving renewal notice	\$30.00
c	90 days after receiving renewal notice	\$45.00
10	Modification to registered portable engine or equipment unit	\$15.00
11	Change of ownership per registered portable engine or equipment unit	\$15.00
12	Replacement of registration identification	\$10.00
13	District inspection fee per registered portable engine or equipment unit inspected	\$75.00*

\* Where multiple registered portable engines or equipment units are inspected at a given source, the district inspection fee shall be equal to the lesser of the actual cost, including staff time, for conducting the inspection or \$75 per registered portable engine or equipment unit inspected.

§ 2462. Duration of registration.

- (a) For registration applications received within one year after [the effective date of this regulation], the Executive Officer may issue registration valid for more than three years in order to evenly distribute future renewals.
- (b) Except for registrations issued the first year, registrations and renewals will be valid for three consecutive years from date of issuance.
- (c) The Executive Officer shall mail the owner or operator of a registered portable engine or equipment unit a renewal invoice at least 60 days prior to the registration expiration.

§ 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 portable 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 portable 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.
- (b) A registration holder 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 party 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 hearing officer shall consider the reasonable likelihood that the registration holder will prevail on the merits of the appeal and the harm the registration holder 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 registration holder if the stay is not granted.
- (e) Once a registration has been suspended pursuant to (a) above, the holder of registration must 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 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.

#### § 2464. Appeals.

- (a) Hearing Procedures

- (1) Any applicant for, or a holder of, registration whose application or registration has been denied, 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 an applicant or registration holder;
  - (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 hearing of a denial of registration, after reviewing the request for 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 certified shorthand reporter.
  - (11) If a hearing is held, the hearing officer shall render a written decision within 30 working days from the last day of hearing. The hearing officer may do 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; and
    - (D) overturn a denial, suspension, or revocation in its entirety.
  - (12) 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.
  - (13) The hearing officer's written decision shall set forth findings of fact and conclusions of law as necessary.
- (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 requestors 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 render a written decision. The hearing officer's decision shall be mailed to the requestor no later than 30 working days after the final deadline for submission of papers.

§ 2465. Penalties.

Violation of the provisions of this article may result in a nuisance, civil, and/or criminal violations which may result in imprisonment and/or fines as specified by article 3 and referenced sections of the California Health and Safety Code.

## Attachment B

Modification to the Proposed Regulation to Establish a Statewide Portable Equipment Registration Program made available at the March 27, 1997 Board Hearing.

### Sections Affected:

Proposed adoption of Title 13, California Code of Regulations (CCR), article 5, sections 2450-2465 creating a Statewide Portable Equipment Registration Program.

(Note: the entire text of sections 2450 - 2465 is new language proposed to be added to the California Code of Regulations, therefore the Proposed Regulation to Establish a Statewide Portable Equipment Registration Program (Regulation) text will be shown in normal type. Proposed amendments to the proposed Regulation are identified below. Underline is used to indicate the proposed additions. ~~Strikeout~~ is used to indicate proposed deletions from proposed Regulation text.)

1.

§ 2450.

This regulation preempts districts from permitting, registering, or regulating setting emission standards or limits for portable engines and equipment units registered with the Executive Officer of the Air Resources Board.

2.

§ 2451 (b)(1).

portable equipment units driven solely by portable engines including, confined and unconfined abrasive blasting, Portland concrete ...

3.

§ 2451 (c).

...Hazardous Air Pollutants (NESHAP); and  
(6) any portable engine or equipment unit operating within the boundaries of the California Outer Continental Shelf and State Territorial Waters.

4.

§ 2451 (d).

...However, registration under this program is mandatory for those portable engines rated at 50 bhp or greater that are located in a district having a permit or registration program which establishes emission standards or emission limits applicable to portable engines ~~that was in affect before January 1, 1997, and for~~



which the Executive Officer has determined that emission standards or limits are district program has been effectively preempted by federal law.

5.

§ 2451 (d)(2).

...submit an application for registration under this regulation. Portable engines required to register as a result of this section may transfer district daily and annual emission limit permit conditions to take the place of daily and annual requirements of this regulation. Any conditions transferred to the Statewide Registration Program are valid only in the district of origin. In all other districts where these engines are operated, this Regulations daily and annual emission limits are applicable. All other requirements of this regulation are applicable to the portable engine.

6.

§ 2455 (d).

~~For the purposes of registration under this article, the owner or operator of any registered portable equipment unit whose operation at a given location is within 15 kilometers of a Class I area must notify the U.S. EPA and comply with any applicable provisions of the Prevention of Significant Deterioration program.~~ For the purposes of registration under this article, the owner or operator of a registered portable equipment unit must notify the U.S. EPA and comply with 40 CFR 52.21 if:

- (1) the portable equipment unit is part of a facility defined as a major source under 40 CFR 51.166 or 52.21, and
  - (A) the facility is located within 10 kilometers of a Class I area; or
  - (B) the portable equipment unit, operating in conjunction with other registered portable equipment units, is part of the stationary source and would be defined as a major modification to the stationary source under 40 CFR 51.166 or 52.21; or
- (2) the portable equipment unit, operating in conjunction with other registered portable equipment units, would be defined as a major stationary source, as defined under 40 CFR 51.166 or 52.21.

7.

§ 2456 (d).

...requirements, if any, for its horsepower rating and year of manufacture rating set forth in CFR 40 Part 89 or Title 13 California Code of Regulations which is in effect at the time application for registration is deemed complete by the Executive Officer. If no emission standards exist for that horsepower...

8.

§ 2456 (f).

...exceed 18 months in duration, from daily and annual emission limits, and recordkeeping and reporting requirements, by submitting a compliance plan (in a format to be specified by prior agreement...

9.

§ 2456 (h).

Subject to Executive Officer approval, 4-degree injection timing retard is not required for compression-ignition engines if it can be demonstrated that it is technologically infeasible or that such modification will cause an exceedance of a pollutant standard (e.g., opacity limit) for specific types of engines. The Executive Officer shall consider appropriate documentation, such as, but is not limited to ~~considering, the following types of documentation in making his or her determination:~~ a cost effectiveness study, or an engineering analysis showing a high probability of potential for engine damage or that such a modification is technologically infeasible or will increase another pollutant level such that it exceeds a pollutant standard. The Executive Officer ~~shall~~ may grant exemptions or require reduced injection timing (e.g., 3-, 2- or 1- degree) as determined appropriate on a case-by-case basis, ~~The exemption or reduced requirement shall be applicable to all~~ for specific identical engines of the same make, model, model-year, and configuration.

10.

§ 2456 (I).

Registered portable engines shall not exceed the following emission limits:

- (1) 550 pounds per day per engine of carbon monoxide (CO);
- (2) 150 pounds per day per engine of particulate matter less than 10 microns (PM<sub>10</sub>);
- (3) 10 tons for each pollutant per district per year per engine;
- (4) 100 pounds nitrogen oxides (NOx) per project per day in SCAQMD only [An owner may substitute SCAQMD permit or registration limits in effect on or before [the effective date of this regulation] (optional)]; and
- (5) for non resident engines, 100 pounds NOx per engine per day in all districts except SCAQMD; and [An owner may substitute SCAQMD permit or registration limits in effect on or before [the effective date of this regulation] (optional)].
- (6) In lieu of (4) and (5) above, operation of a new nonroad engine rated at 750 bhp or greater for which a federal or California standard pursuant to CFR 40 Part 89 or Title 13 of the California Code of Regulations has not yet become effective, shall not exceed 12 hours per day.

[A portable engine meeting an applicable emissions standard, as set forth in Title 13 of the California Code of Regulations, CFR 40 Part 89, is exempt from the daily and annual emission limits specified above.]

11.

§ 2456 (Table 2 Spark-ignition Engine Requirements\*)

Engine Status	Pollutant Emission Limits or Control Technology		
	NO <sub>x</sub>	VOC	CO
Resident	213 ppm <sub>dv</sub> NO <sub>x</sub> (4.0 g/bhp-hr)**  or catalyst***	800 ppm <sub>dv</sub> VOC (5.0 g/bhp-hr)  or catalyst***	25,344 ppm <sub>dv</sub> CO (288 g/bhp-hr)*  or catalyst***
Non-Resident	80 ppm <sub>dv</sub> NO <sub>x</sub> (1.5 g/bhp-hr)**	240 ppm <sub>dv</sub> VOC (1.5 g/bhp-hr)	176 ppm <sub>dv</sub> 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, ppm<sub>dv</sub> is parts per million NO<sub>x</sub> as NO<sub>2</sub> @ 15 percent oxygen averaged over 15 consecutive minutes. Limits of ppm<sub>dv</sub> are the approximate equivalent to the stated grams per brake horsepower hour limit based on assuming the engine is 35 percent efficient.

\*\*\* The catalyst must provide a minimum of 80 percent control.

‡ CO modeling may be required at the request of the Executive Officer to demonstrate compliance with ambient air quality standards.

12.

§ 2457 (b)(3)(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 of 4 percent by weight;

13.

§ 2458 (a).

Any registered portable engine that meets an applicable emissions standard as set forth in Title 13 of the California Code of Regulations or CFR 40 Part 89, including registered portable engines having obtained a temporary exemption, not to exceed 18 months in duration, from daily and annual emission limits by submitting a compliance plan to replace the existing portable engine with a newly manufactured engine or modify the existing portable engine to satisfy the requirements that have been set for new engines under CFR 40 part 89 or Title 13 of the California Code of Regulations, is exempt from the requirements of this section.

## Attachment C

### Modifications to the Proposed and Approved Regulation to Establish a Statewide Portable Equipment Registration Program, proposed by the Board on March 27, 1997.

The entire text of sections 2450 - 2465, Title 13, is new language proposed to be added to the California Code of Regulations, therefore the Proposed Regulation to Establish a Statewide Portable Equipment Registration Program (Regulation) text will be shown in normal type. Proposed amendments to the proposed Regulation are identified below. Underline is used to indicate the proposed additions. ~~Strikeout~~ is used to indicate proposed deletions from proposed Regulation text.)

#### § 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 (w) of this regulation and meet all applicable requirements established in this regulation.
- (b) An owner or operator of a registered portable engine or equipment unit is not required to complete a new application for an identical replacement 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 portable engine or equipment unit with an identical replacement. Notification shall include company name, contact, phone number, registration certificate number of the portable engine or equipment unit to be replaced; and make, model, rated brake horsepower, serial number of the identical replacement; and applicable fees as required in section 2461. Misrepresentation of portable engine or equipment unit information and failure to meet the requirements of this article shall subject the owner or operator to section 2465.
- (c) Except for TSE, the owner or operator of a registered portable engine or equipment unit shall file a new application for registration, including the surrender of the registration certificate for the portable engine or equipment unit being replaced, and appropriate fees as required in section 2461, with the Executive Officer prior to operating the equivalent replacement. Failure to meet the requirements of this article prior to operating equivalent replacement may subject the owner or operator to section 2465 of this article.
- (d) For the purposes of registration under this article, an owner or operator of a portable engine or equipment unit shall file a complete application, pursuant to this regulation, with the Executive Officer in accordance with the following schedule:
  - (1) portable engines or equipment units with current, valid district permits

issued prior to [the effective date of this regulation], shall apply before January 1, 2001;

- (2) resident engines or equipment units that do not have current, valid district permits issued prior to [the effective date of this regulation] no later than one year from [the effective date of regulation];
  - (3) TSE residing within the state as of [the effective date of this regulation], no later than six months from [the effective date of this regulation]; and
  - (4) all others may apply at any time.
- (e) The Executive Officer shall inform the applicant, in writing, if the application is complete or deficient. If deemed deficient, the Executive Officer shall identify the specific information required to make the application complete, according to the following schedule:
- (1) within 45 days of receipt of an application, for applications received within one year after [the effective date of this regulation]; and
  - (2) within 30 days of receipt of an application, for applications received after [one year following the effective date of this regulation].
- (f) The Executive Officer shall issue or deny registration according to the following schedule:
- (1) within 180 days of receipt of an application, for applications received within one year after [the effective date of this regulation]; and
  - (2) within 90 days of receipt of an application, for applications received after [one year following the effective date of this regulation].
- (g) Upon finding that a portable engine or equipment unit meets the requirements of this article, the Executive Officer shall issue a registration for the portable engine or equipment unit. The Executive Officer shall notify the applicant in writing that the portable engine or equipment unit has been registered. The notification shall include a registration certificate(s), any conditions to ensure compliance with state and federal requirements, and a registration identification for each registered portable engine or equipment unit. Except for TSE, the registration identification label shall be ~~maintained~~ affixed on the registered portable engine or equipment unit at all times and the registration certificate shall be kept on the immediate premises with the portable engine or equipment at all times and made accessible to the Executive Officer or districts upon request. Failure to properly maintain registration identification shall be deemed a violation of this article.