

State of California  
AIR RESOURCES BOARD

**Third Notice of Public Availability of Modified Text**

**PUBLIC HEARING TO CONSIDER THE PROPOSED AMENDMENTS TO THE  
REGULATION FOR THE STATEWIDE PORTABLE EQUIPMENT REGISTRATION  
PROGRAM**

Public Hearing Date:	February 26, 2004
First Public Availability of Modified Text Date:	May 13, 2004
Deadline for Public Comment:	June 1, 2004
Second Public Availability of Modified Text Date:	December 17, 2004
Deadline for Public Comment:	January 1, 2005
Third Public Availability of Modified Text Date:	May 6, 2005
Deadline for Public Comment:	May 21, 2005

This notice provides an opportunity for public comment on modifications the Air Resources Board (ARB or the "Board") proposes to make to the proposed amendments to the Regulation for the Statewide Portable Equipment Registration Program (Statewide Regulation or Statewide Program).

At a public hearing on February 26, 2004, the Board approved the adoption of proposed amendments to the Statewide Regulation. The Statewide Regulation is contained in title 13 of the California Code of Regulations (CCR) commencing with section 2450. The amendments to the Statewide Regulation as proposed to the Board are described in detail in the Staff Report: Initial Statement of Reasons (ISOR), which was released to the public on January 9, 2004.

At the hearing, staff presented and the Board approved the proposed amendments with modifications to the originally proposed language in response to comments received during the public comment period that began on January 9, 2004. As a result, the first Notice of Public Availability of Modified Text (1<sup>st</sup> 15-Day Change Notice) was issued for public comments beginning on May 13, 2004 and ended June 1, 2004.

The Board also directed staff to work with the California Air Pollution Control Officer's Association (CAPCOA) and affected parties to establish a uniform statewide fee schedule for the recovery of the reasonable cost of enforcement of the Statewide Regulation by the air pollution control and air quality management districts (districts). Based on comments from stakeholders, along with other considerations, ARB staff proposed modifications to the Statewide Regulation that would increase the district fee schedule. Therefore, the Second Notice of Public Availability of Modified Text and Availability of Additional Information (2<sup>nd</sup> 15-Day Change Notice) was issued for public comments beginning on December 17, 2004 and ended January 1, 2005. After considering the public comments and the potential impacts to the affected parties, ARB staff withdrew the proposal that was described in the

2<sup>nd</sup> 15-Day Change Notice and will start a new regulatory effort this year with all affected parties to address the district fee issue.

On January 7, 2005, ARB staff submitted the *Final Statement of Reasons for Rulemaking, Including Summary of Comments and Agency Responses--Public Hearing to Consider the Adoption of Proposed Amendments to the Regulation for the Statewide Portable Equipment Registration Program* to the Office of Administrative Law (OAL) for approval. OAL issued a Decision of Disapproval on February 25, 2005. This Decision requires ARB to take certain actions within 120 days or commence new rulemaking. The changes proposed in this notice by ARB staff respond to OAL's Decision.

**The proposed modifications.** To clarify an obsolete reference, ARB staff proposes to delete the wording in section 2451(a) that refers back to section 2452(d).

ARB staff proposes to modify subsection 2451(c)(9) to allow registered portable engines to be used during electrical upgrades that do not exceed sixty calendar days. In addition, the modifications would allow generators used in operations where only generators can supply the necessary voltage, frequency, or electrical current requirements to be eligible for registration in the Statewide Program.

In section 2452(e), ARB staff added a definition for "Electrical Upgrade" to mean replacement or addition of electrical equipment and systems resulting in increased generation, transmission, and/or distribution capacity.

In section 2458(e), ARB staff proposes to require owners and operators of portable engines used in electrical upgrade operations to maintain daily records including the location of operation, the month, date and year at the location, and hours of operation.

ARB staff proposes to delete proposed subsection 2451(c)(5), which was intended to clarify the existing authority of the Executive Officer to determine what uses of portable engines or equipment units require permits from the districts and therefore would not qualify for registration under the Statewide Program.

Also deleted in subsection 2451(c)(5) are examples of portable equipment uses that would not qualify for registration. In its place, ARB staff proposes to add subsection 2451(c)(6) through (c)(9), which list specific uses of portable engines or equipment units that are ineligible for registration under the Statewide Program

ARB staff proposes to move subsection 2451(c)(5)(E) back to its original place in the existing Statewide Regulation, now renumbered as section 2451(c)(3). This provision makes the registration of equipment units ineligible under the Statewide Program if the Executive Officer determines that the equipment unit is part of a stationary source permitted by a district. In addition, ARB staff proposes to add language in subsection 2451(c)(3) to preclude engines associated with equipment units from being eligible for registration in the Statewide Program if the equipment unit is ineligible.

Under the current Statewide Regulation, applicants are not required to select a home district for their portable engines or equipment units. In the 1<sup>st</sup> 15-Day Change Notice, ARB staff proposed in section 2452(k) to define “Home District” to mean the district designated by the responsible official of the portable engine or equipment unit in which portable equipment operates most of the time. To increase flexibility, ARB staff proposes to revise the definition of “Home District,” now located in section 2452(l), to mean the district designated by the responsible official of the portable engine or equipment unit in which portable equipment resides most of the time, rather than where it operates most of the time.

Five sections of the proposed amended Statewide Regulation contain language that indicates that requirements apply or do not apply to a person who held, or did not hold registration “prior to the effective date of the amendments to this article.” After publication in the CCR, those references may be confusing to the reader. Therefore, ARB staff has indicated in sections 2452(j), 2452(u), 2456(j), 2458(b)(6)(A) and 2458(b)(6)(B) that the effective date of the amendments will be inserted by OAL.

ARB staff proposes to modify section 2456(d) by adding the word “shall” before the phrase “meet the most stringent emissions standard.”

To clarify that daily records are required only on days the portable equipment is operated, ARB staff is proposing to modify section 2458(b) by adding the phrase “each day of operation”. Section 2458(b) now reads “...including engines otherwise preempted under section 209(e), or portable equipment unit shall maintain daily records for each day of operation of each registered portable engine and equipment unit.” The modification would reduce the burden of having to maintain daily records for days the portable equipment is idle and not operated.

Subsection 2457(b)(3)(F) contains a small text discrepancy as compared to the current CCR. ARB staff proposes to add the words in strike out text “~~there are~~” to ensure they are removed from the regulation by the publisher.

In addition, ARB staff is proposing a change in section 2463(d) where the words “hearing officer” are to be replaced with “Executive Officer.” The proposed change is being made to be consistent with the entire section where the Executive Officer for just cause may suspend or revoke a registration for the listed circumstances.

The text of the modified regulatory language is included as Attachment 1 and contains the amendments as approved by the Board at the February 26, 2004, hearing and set forth in the 1<sup>st</sup> 15-Day Change Notice. The additions are shown in underline and deletions are shown in ~~strikeout~~. No changes from the 2<sup>nd</sup> 15-Day Change Notice are proposed to the Statewide Regulation. Public comments to 1<sup>st</sup> and 2<sup>nd</sup> 15-Day Change Notices are not being accepted since those comment periods have closed.

With this notice, the modified regulation as set forth in the 3<sup>rd</sup> 15-Day Change Notice is being made available for public comment prior to the final action by the Board’s Executive Officer. In the 3<sup>rd</sup> 15-Day Change Notice, additions are shown in **bold underline** and

deletions are shown in ~~bold-strikeout~~ format, respectively. Only public comments pertaining to the additions and deletions as described in the 3<sup>rd</sup> 15-Day Change Notice shall be considered by the Executive Officer.

In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adopt amendments to sections 2459-2466, title 13, CCR, after making them available to the public for comment for a period of at least 15 days, provided the Executive Officer consider such written comments as may be submitted during this period, make such modifications as may be appropriate in light of the comments received, and present the modified regulation to the Board for further consideration if warranted.

The regulatory documents for this rulemaking are available online at the following ARB internet site: <http://www.arb.ca.gov/regact/portreg/portreg.htm>.

Written comments on the proposed modifications may be submitted by postal mail, electronic mail, or facsimile as follows:

Postal mail is to be sent to:

Clerk of the Board  
Air Resources Board  
P.O. Box 2815  
Sacramento, California 95812

Electronic mail is to be sent to: [portreg@listserv.arb.ca.gov](mailto:portreg@listserv.arb.ca.gov).

Facsimile submissions are to be transmitted to: (916) 322-3928.

In order to be considered by the Executive Officer, comments must be directed to the ARB in one of the three forms described above and received no later than 5:00 p.m. on May 21, 2005, in order to be considered by the Executive Officer prior to final action. Only comments relating to the modifications as described in this 3<sup>rd</sup> 15-Day Change Notice shall be considered by the Executive Officer.

Attachments

## Attachment 1

### Regulation to Establish a Statewide Portable Equipment Registration Program

Amend Article 5, sections 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2460, 2461, 2462, 2463, 2464, 2465, and  
Repeal section 2466, Title 13, California Code of Regulations to read as follows:

Note: The amendments to the regulation as adopted in Executive Order G-04-076 on January 7, 2005, are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions from the regulation text. These additions and deletions reflect the amendments approved by the Air Resources Board (ARB or Board) at its February 26, 2004 hearing and modified as part of the 1<sup>st</sup> 15-Day Change Notice which have been made available for public comments previously and additional comments are not being accepted. These amendments were disapproved February 9, 2005 by the Office of Administrative Law (OAL), which issued its Decision of Disapproval on February 25, 2005.

In response to OAL's disapproval, newly proposed additions and deletions to the regulation text is shown in this Attachment 1 to the 3<sup>rd</sup> 15-Day Change Notice. The proposed new additions are shown in **bold underline** and the proposed deletions are shown in **~~bold strikeout~~** format, respectively. Only comments related to the changes in the 3<sup>rd</sup> 15-Day Change Notice are being accepted by ARB staff.

## Article 5. Portable Engine and Equipment Registration

### § 2450. Purpose.

These regulations establish a statewide program for the registration and regulation of portable engines and engine-associated equipment (portable engines and equipment units) as defined herein. Portable engines and equipment units registered under the Air Resources Board program may operate throughout the State of California without authorization (except as specified herein) or permits from air quality management or air pollution control districts (districts). These regulations preempt districts from permitting, registering, or regulating portable engines and equipment units, including equipment necessary for the operation of a portable engine (e.g. fuel tanks), registered with the Executive Officer of the Air Resources Board except in the circumstances specified in the regulations.

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

### § 2451. Applicability.

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

~~[Note: Under section 209 (e)(1) of the federal Clean Air Act [42 U.S.C. 7543 (e)(1)], California is preempted from establishing emission standards or other requirements related to the control of emissions (other than in-use operational~~

controls) for new engines under 175 horsepower used in 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 brake horsepower used in construction operations because California law exempts agricultural operations from permit and registration programs as stated in section (c)(2) below. Accordingly, references to the federal preemptions as they apply to this regulation will refer to requirements for construction equipment using engines less than 175 brake horsepower. See *Engine Manufacturers Association v. EPA* (88 F.3d 1075 [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 Manufacturers Association, (supra)*. To date, ARB has received authorization for regulations covered in Title 13, California Code of Regulations 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);~~
- ~~(32) any engine or equipment unit not meeting the definition of portable as defined in section 2452 (xyz) of this regulation;~~
- ~~(4) any equipment unit determined by the Executive Officer to qualify as part of a stationary source permitted by a district;~~
- (3) any equipment unit and its associated engine determined by the Executive Officer to qualify as part of a stationary source permitted by a district;**
- ~~(534) any portable engine or equipment unit subject to an applicable federal Maximum Achievable Control Technology standard, or National Emissions Standard for Hazardous Air Pollutants, or federal New Source Performance Standard, except for equipment units subject to 40 CFR Part 60 Subpart OOO (Standards of Performance for Nonmetallic Mineral Processing Plants);~~
- ~~(645) any portable engine or equipment unit operating within the boundaries of the California Outer Continental Shelf (OCS). [Note: This shall not prevent statewide registration of engines and equipment units already permitted by a district for operation in the OCS. Such statewide registration shall only be valid for operation onshore and in State Territorial Waters (STW).];~~

~~(5) operation of an engine or equipment unit at any location determined by the Executive Officer to require permits from a district. Examples include but are not limited to:~~

~~(76) (A) any dredging operation in the Santa Barbara Harbor; and~~

~~(87) (B) any dredging unit owned by a single port authority, harbor district, or similar agency in control of a harbor, and operated only within the same harbor;~~

~~(8) (C) generators used for power production into the grid, except to maintain grid stability during an emergency event or other unforeseen event that affects grid stability; and~~

~~(9) (D) generators used to provide primary or supplemental power to a building, facility, stationary source, or stationary equipment, except during unforeseen interruptions of electrical power from the serving utility, maintenance and repair operations, **electrical upgrade operations that do not exceed 60 calendar days, operations where the voltage, frequency, or electrical current requirements can only be supplied by a portable generator, and** remote operations where grid power is unavailable. For interruptions of electrical power, the operation of a registered generator shall not exceed the time of the actual interruption of power; and.~~

~~(E) any equipment unit determined by the Executive Officer to qualify as part of a stationary source permitted by a district, and its associated engine.~~

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

~~(de) 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 brake horsepower or greater that are located in a district having a permit or registration program that establishes emission standards or emission limits applicable to portable engines, and the Executive Officer has determined that the district program has been preempted by federal law.~~

~~(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. An owner or operator of portable engines that are required to register pursuant to this section may elect to use current daily and annual emission limit permit conditions of the district in which the portable engine is to be operated, in place of the daily and annual requirements of this regulation. Any daily and hourly emission limits of a district that are used in lieu of this regulation's limits are only valid during operation in that district. If the engine is operated in a district that previously did not have a permit program, the daily and annual requirements of this regulation will apply. All other requirements of this regulation are applicable to the portable engine.~~

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

§ 2452. Definitions.

- (a) **Air Contaminant** means any discharge, release, or other propagation into the atmosphere which 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.~~
- (dc) **Corresponding Onshore District** means the district which has jurisdiction for the onshore area that is geographically closest to the engine or equipment unit.
- (ed) **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) **Electrical Upgrade means replacement or addition of electrical equipment and systems resulting in increased generation, transmission and/or distribution capacity.**

- (~~fef~~) **Emergency Event** means any situation arising from sudden and reasonably unforeseen natural disaster such as earthquake, flood, fire, or other acts of God, or other unforeseen events beyond the control of the portable engine or equipment unit operator, its officers, employees, and contractors that threatens public health and safety and that requires the immediate temporary operation of portable engines or equipment units to help alleviate the threat to public health and safety.
- (~~gfg~~) **Engine** means any piston driven internal combustion engine.
- (~~hgh~~) **Equipment Unit** means equipment that emits ~~air contaminants~~ PM<sub>10</sub> over and above ~~those that~~ emitted from ~~the~~ an associated 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).
- (i) ~~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 sections 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.~~
- (~~hhi~~) **Executive Officer** means the Executive Officer of the California Air Resources Board or his/her designee.
- (~~ij~~) **Existing Program Participant** means a company, public agency, or municipality with a unique name and mailing address that held registration prior to the effective date of the amendments to this article [date to be inserted by OAL].

- (k) ~~**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.~~
- (~~h~~**jk**) **Hazardous Air Pollutant (HAP)** means any air contaminant that is listed pursuant to section 112(b) of the federal Clean Air Act.
- (~~h~~**kl**) **Home District** means the district designated by the responsible official of the portable engine or equipment unit in which the portable engine or equipment unit operates resides most of the time.
- (~~m~~**lm**) **Identical Replacement** means a substitution due to mechanical breakdown of a registered portable engine or equipment unit with another portable engine or equipment unit that has the same manufacturer, type, model number, manufacturer's maximum rated capacity, and rated brake horsepower; and is intended to perform the same or similar function as the original portable engine or equipment unit; and has equal or lower emissions expressed as mass per unit time; and meets the emission control technology requirements of sections 2455 through 2457 of this article.
- (~~n~~**mn**) **Location** means any single site at a building, structure, facility, or installation.
- (~~o~~**no**) **Maximum Achievable Control Technology (MACT)** means any federal requirements promulgated as part of 40 CFR Parts 61 and 63.
- (~~p~~**op**) **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.
- (~~q~~**pp**) **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~~**qr**) **Mechanical Breakdown** means any failure of an engine's electrical system or mechanical parts that necessitates the removal of the engine from service.
- (~~r~~**rs**) **Modification** means any physical change ~~in portable engine or equipment unit to,~~ change in method of operation of, or an addition to an existing portable engine or equipment unit, which may cause or result in an increase in the amount of any air contaminant emitted or the issuance of air contaminants not previously emitted. Routine maintenance and/or repair shall not be considered a physical change. Unless previously limited by an enforceable registration condition, a change in the method of operation shall not include:

- (1) an increase in the production rate, unless such increase will cause the maximum design capacity of the 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.

(~~st~~) **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. If the equitable or legal title to an engine is not transferred to an ultimate purchaser until after the engine is placed into service, then the engine will no longer be new after it is placed into service. A nonroad engine is placed into service when it is used for its functional purposes. The term “ultimate purchaser” means, with respect to a new nonroad engine, the first person who in good faith purchases a new nonroad vehicle or a new nonroad engine for purposes other than resale.

(~~tu~~) **New Program Participant** means a company, public agency, or municipality with a unique name and mailing address that did not hold registration prior to the effective date of the amendments to this article [date to be inserted by OAL].

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

(~~uw~~) **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 California but not operating. A portable engine or equipment unit determined to be non-operational may not operate under the registration program.

(~~wx~~) **Nonroad Engine** means:

- (1) Except as discussed in paragraph (2) of this definition, a nonroad engine is any engine:
  - (A) in or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers); or
  - (B) in or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or
  - (C) that, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.
- (2) An engine is not a nonroad engine if:

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

**(wxy) Outer Continental Shelf (OCS)** shall have the meaning provided by section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. Section 1331 et seq.).

**(xyz) Portable** means designed and capable of being carried or moved from one location to another. Indicia of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform. For the purposes of this regulation, dredge engines on a boat or barge are considered portable. The engine or equipment unit is not portable if any of the following are true:

- (1) the engine or equipment unit or its replacement is attached to a foundation, or if not so attached, will reside at the same location for more than 12 consecutive months. The period during which the engine or equipment unit is maintained at a storage facility shall be excluded from the residency time determination. Any engine or equipment unit such as back-up or stand-by engines or equipment units, that replace engine(s) or equipment unit(s) at a location, and is intended to perform the same or similar function as the engine(s) or equipment unit(s) being replaced, will be included in calculating the consecutive time period. In that case, the cumulative time of all engine(s) or equipment unit(s), including the time between the removal of the original engine(s) or equipment unit(s) and installation of the replacement engine(s) or equipment unit(s), will be counted toward the consecutive time period; or
- (2) the engine or equipment unit remains or will reside at a location for less than 12 consecutive months if the engine or equipment unit is located at a seasonal source and operates during the full annual operating period of the seasonal source, where a seasonal source is a stationary source that remains in a

- single location on a permanent basis (at least two years) and that operates at that single location at least three months each year; or
- (3) the engine or equipment unit is moved from one location to another in an attempt to circumvent the portable residence time requirements.

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

~~(y~~z~~aa)~~ **Prevention of Significant Deterioration (PSD)** means any federal requirements promulgated as part of 40 CFR Part 52.

~~(z)~~ ~~**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 rating, is used in the farm and construction industries.~~

(**aa**bb) **Process** means any air-contaminant-emitting activity associated with the operation of a portable engine.

(**bb**cc) **Project, for the purposes of onshore operation**, means the use of one or more registered portable engines or equipment units operated at ~~one location~~ under the same or common ownership or control to perform a single activity.

(**cc**dd) **Project, for the purposes of State Territorial Waters (STW)**, means the use of one or more registered portable engines and equipment units operating under the same or common ownership or control to perform any and all activities needed to fulfill specified contract work that is performed in STW. For the purposes of this definition, a contract means verbal or written commitments covering all operations necessary to complete construction, exploration, maintenance, or other work. Multiple or consecutive contracts may be considered one project if they are intended to perform activities in the same general area, the same parties are involved in the contracts, or the time period specified in the contracts is determined by the Executive Officer to be sequential.

(**dd**ee) **Registration** means issuance of a certificate by the Executive Officer acknowledging expected compliance with the applicable requirements of this article, and the intent by the owner or operator to operate said portable engine or equipment unit within the requirements established by this article as it pertains to portable engines and equipment units.

(**ee**ff) **Rental Business** means a business in which 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.

(**ff**gg) **Renter** means a person who rents a portable engine or equipment unit from a rental business.

**(gghh) Resident Engine** means:

- (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, and an application for registration is submitted to the Executive Officer ~~on or before July 1, 2004~~December 31, 2005; or
- (2) a portable engine that resided in the State of California at any time ~~during calendar year 1995 from July 1, 2003 to July 1, 2004~~ and an application for registration is submitted to the Executive Officer no later than ~~July 1, 2000~~December 31, 2005; ~~or~~ The responsible official shall provide sufficient documentation to prove the portable engine's residency to the satisfaction of the Executive Officer. Examples of adequate documentation include but are not limited to: valid permits issued by a district, tax records, and usage or maintenance records.
- (3) ~~a portable engine where registration becomes mandatory pursuant to section 2451 (d) of this article.~~

~~[Note: 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 valid 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.]~~

**(hhii) Responsible Official** is the individual employed or otherwise retained by a company, public agency, or municipality that has the authority to certify that the portable equipment complies with all applicable requirements of this article.

**(hhijj) State Territorial Waters (STW)** includes all of the following: an expanse of water that extends from the California coastline to 3 miles off-shore; a 3 mile wide belt around islands; and estuaries, rivers, and other inland waterways.

**(hijkk) Stationary Source** means any building, structure, facility or installation which emits any air contaminant ~~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.

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

**(jjkkll) Stick Test** means the process whereby a ruler or similar device is inserted perpendicular to the bottom of the fuel tank. From the wetted length of the ruler, the amount of fuel remaining in a tank of known dimensions can be calculated.

**(kkllmm) 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.

**(llmmnn) Tactical Support Equipment (TSE)** means equipment using a portable engine, including turbines, that meets military specifications, owned by the U.S. Department of Defense and/or, the U.S. military services, or its allies, and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations. Examples include, but are not limited to, internal combustion engines associated with portable generators, aircraft start carts, heaters and lighting carts.

**(mmnnoo) Transportable** means the same as portable.

**(nnooqq) 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).

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



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

§ 2453. Application Process.

- (a) In order for an engine or equipment unit to be considered for registration by the Executive Officer, the engine or equipment unit must be portable as defined in section 2452 (~~xyz~~) and meet all applicable requirements established in this article.
- (b) For purposes of registration under this article, a portable engine and the equipment unit it serves are considered to be separate emissions units and require separate applications.
- (c) For an identical replacement, an owner or operator of a registered portable engine or equipment unit is not required to complete a new application and may immediately operate the identical replacement. Except for TSE, the owner or operator shall notify the Executive Officer in writing within five calendar days of replacing the registered portable engine or equipment unit with an identical replacement. Notification shall include company name, ~~contact~~responsible official, 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, description of the mechanical breakdown; and applicable fees as required in section 2461. Misrepresentation of portable engine or equipment unit information and failure to meet the requirements of this regulation shall subject the owner or operator to section 2465.
- ~~(d) For an equivalent replacement, except for TSE, the owner or operator of a registered portable engine or equipment unit shall file a new application for registration with the Executive Officer prior to operating the equivalent replacement. The application shall include surrender of the registration identification label for the portable engine or equipment unit being replaced and appropriate fees as required in section 2461. Failure to meet the requirements of this article prior to operating the equivalent replacement may subject the owner or operator to section 2465 of this article.~~
- ~~(ed)~~ The Executive Officer shall inform the applicant, in writing, if the application is complete or deficient, within 30 days of receipt of an application. If deemed deficient, the Executive Officer shall identify the specific information required to make the application complete, ~~according to the following schedule:~~
  - ~~(1) within 45 days of receipt of an application, for applications received on or before June 1, 2000; and~~
  - ~~(2) within 30 days of receipt of an application, for applications received after June 1, 2000.~~

- (fe) 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 on or before June 1, 2000; and~~ within 90 days of receipt of an application, for applications received on or before December 31, 2005, except for applications containing only resident engines or only resident engines and equipment units which shall be 180 days from the date of receipt; and
  - (2) ~~within 90 days of receipt of an application, for applications received after June 1, 2000~~ December 31, 2005.
- (gf) 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 device for each registered portable engine or equipment unit. Except for TSE, the registration identification ~~label~~ device shall be 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 the registration identification device shall be deemed a violation of this article.
- (hg) 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~~) and general nature of business (e.g., 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-, 2456, and~~ 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 July 1, 2001,~~ or other proof of California residency as described in section 2452 (gg); and

- (8) ~~the printed name and signature of the responsible official person authorized to act on behalf of the applicant and date of the signature.~~
- (#h) For TSE, application for registration and the appropriate fee(s) as specified in section 2461, shall be submitted in a format approved by the Executive Officer and include, at a minimum, the following information:
- (1) the name of applicant, ~~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 printed name and signature of the responsible official person authorized to act on behalf of the applicant and date of the signature.~~
- (ji) 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 a 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.
- (kj) ~~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. Applications must be filed with the Executive Officer to change all registered non-operational engines and equipment units to operational status by July 1, 2005, or the registrations will be cancelled.~~
- (k) New applications for non-operational engines or equipment units will not be accepted by the Executive Officer.
- (l) Once registration is issued by the Executive Officer, ~~any current~~ district permits or registrations for registered portable engines or equipment units are preempted by the statewide registration and are, therefore, considered null and void, except for the following circumstances where a district permit shall be required:

- (1) ~~for current district permits or registrations issued for portable engines or equipment units used in a project(s) operating in the OCS. The requirements of the district permit or registration apply to the registered portable engine or equipment unit while operating at the project(s) in the OCS; or~~
- (2) ~~for current district permits or registrations issued for portable engines or equipment units used in a project(s) operating in both the OCS and STW. The requirements of the district permit or registration apply to the registered portable engine or equipment unit while operating at the project(s) in the OCS and STW; or~~
- (3) at STW project(s) that trigger district emission offset thresholds; or
- (4) at any specific location where statewide registration is not valid. The portable engine or equipment unit ~~may~~ shall obtain a district permit or registration for the location(s) where the statewide registration is not valid; or
- (5) any engine or equipment unit that has been determined to cause a public nuisance as defined in Health and Safety Code Section 41700.

The portable engine or equipment unit shall not be operated under both statewide registration and a district permit at any specific location.

- (m) When a registered engine or equipment unit has been purchased, the new owner shall submit a change of ownership application. The existing registration is not valid for the new owner until the application has been filed and all applicable fees have been paid. Registration will be reissued to the new owner after a complete application has been approved by the Executive Officer.

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

#### § 2454. Registration Process.

- (a) The Executive Officer shall make registration data available to the districts (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 the 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).

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

#### § 2455. General Requirements.

- (a) The emissions from portable engines or equipment units registered under this article shall not, in the aggregate, interfere with the attainment or maintenance of California or federal ambient air quality standards. 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 article.
- (b) Portable engines or equipment units registered under this article shall comply with article 1, chapter 3, part 4, division 26 of the California Health and Safety Code, commencing with section 41700.
- (c) Except for portable engines or equipment units permitted or registered by a district in which an emergency event occurs, a portable engine or equipment unit operated during an emergency event as defined in section 2452 (~~fe~~) of this article, is considered registered under the requirements of this article for the duration of the emergency event and is exempt from sections 2455, ~~through 2456, 2457, 2458, and 2459~~ of this article for the duration of the emergency event provided the owner or operator notifies the Executive Officer within 24 hours of commencing operation. The Executive Officer may for good cause refute that an emergency event under this provision exists. If the Executive Officer deems that an emergency event does not exist, all operation of portable engines and equipment units covered by this provision shall cease operation immediately upon notification by the Executive Officer. Misrepresentation of an emergency event and failure to cease operation under notice of the Executive Officer 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 a registered portable equipment unit must notify the U.S. EPA and comply with 40 CFR 52.21 if:

- (1) the portable equipment unit operates at 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, operates at the stationary source and its operation would be defined as a major modification to the stationary source under 40 CFR 51.166 or 52.21; or
- (2) the 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.

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

#### § 2456. Engine Requirements

- (a) For TSE, no air contaminant shall be discharged into the atmosphere, other than uncombined water vapor, for a period or periods aggregating more than three minutes in any one hour which is as dark or darker in shade as that designated as No. 2 on the Ringelmann Chart, as published by the United States Bureau of Mines, or of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke designated as No. 2 on the Ringelmann Chart. No other requirements of this section are applicable to TSE.
- ~~(b) A new nonroad engine rated less than 175 brake horsepower 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 (j) of this article; and is exempt from further requirements of this section.~~
- (~~e~~b) 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~~c) To be registered in the Statewide Registration Program, a registered portable engine rated less than 50 brake horsepower shall comply with the most stringent requirements, if any, for its horsepower rating and year of manufacture set forth in 40 CFR Part 89 or Title 13, California Code of Regulations. If no emission standards exist for that brake 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 (jg) of this article. No other requirements of this section are applicable to portable engines rated less than 50 brake horsepower.

(ed) Portable engines registered under this article shall:

- (1) comply with the applicable daily and annual emission limits contained in section 2456 (jg) 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, or other fuels and/or additives that have been verified through the Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines;
- (3) not exceed particulate matter emissions concentration of 0.1 grain per standard dry cubic feet corrected to 12 percent 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 Ringelmann 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, regardless of engine manufacture date, if registering on or after July 1, 2000, meet the most stringent emissions standards for the applicable brake horsepower range specified for California or federally-certified newly-manufactured engines; if no emissions standards exist, then the applicable requirements contained in Table 1 or Table 2 must be met;~~
- ~~(85) except for an engine that qualifies as a resident engine, and applications for change of ownership, applications filed on or before December 31, 2005, meet the most stringent emissions standard. on or aAfter July 1, 2004 December 31, 2005, except for change of ownership, applications filed for new registration or identical or equivalent replacement of a registered portable engine, **shall** meet the most stringent emissions standard. This provision in subsection (d)(5) does not apply to engines built under the flexibility provisions for equipment and vehicle manufacturers and post manufacture marinizers pursuant to 40 CFR part 89 or Title 13 of the California Code of Regulations;~~
- (96) after January 1, 2010, if rated 50 brake horsepower or above and not previously meeting a federal or California standard pursuant to 40 CFR Part 86, 40 CFR Part 89 or Title 13 of the California Code of Regulations, meet the most stringent emissions standard ~~(resident the registration for portable engines that previously did not meet the most stringent standards listed above shall expire on December 31, 2009, and the responsible official must reapply at this time and demonstrate compliance with the most stringent emissions standard); and. The~~

requirements of this sub-section do not apply if the requirements of Title 13 of the California Code of Regulations Section 93116.3 are satisfied;

~~(97)~~ meet all applicable requirements in Title 13 of the California Code of Regulations Section 93116; and

~~(408)~~ for the purpose of sub-sections (ed), (g), and (h), the most stringent emissions standard shall be the applicable current emissions standard in effect at the time an application is deemed complete received 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 current emissions standard set forth in 40 CFR Part 86 or 40 CFR Part 89 shall apply. If no standard exists under the California Code of Regulations 40 CFR Part 86, or 40 CFR Part 89, then the applicable current requirements of 40 CFR part 1048 or 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 (ed).

~~(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, except as provided in section 2456 (g), 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 with the Executive Officer) to replace the existing portable engine with a newly-manufactured engine or to modify the existing portable engine to satisfy the requirements that have been set for new engines under 40 CFR Part 89 or Title 13 of the California Code of Regulations or for spark-ignition engines that satisfy the more stringent of either an applicable emissions standard in effect at the time of application or the applicable emissions standard set forth in Table 2 of this regulation for nonresident engines. 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 person authorized to act on behalf of the applicant and date of the signature.~~

~~[Note: 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 the applicable time frame allowed. 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) — At the discretion of the Executive Officer, the temporary exemption of section 2456 (f) may be increased to 24 months for applications to replace or modify 50 or more engines and 36 months for applications to replace or modify 100 or more engines. In order to keep the 24 month or 36 month temporary exemption, the owner or operator must demonstrate measurable progress toward replacement or modification. Measurable progress shall be defined as 40 percent of the total number of engines replaced or modified each year reaching full replacement or modification by the end of the exemption period. As proof of measurable progress, the owner or operator shall provide the Executive Officer an annual report, within 60 days after the end of each calendar year, to include the reporting year, the number of engines replaced along with their registration numbers, and the number of engines modified along with their registration numbers.~~

- ~~(he) 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 timehour meters or fuel flow meters for purposes of complying with the requirements of section 2458.~~

- ~~(f) Any registered portable engine that is subject to an hours of operation limitation shall be equipped with a non-resettable hour meter.~~

- ~~(i) — Subject to Executive Officer approval, 4-degree injection timing retard is not required for compression-ignition engines if it can be demonstrated that such modification is technologically infeasible, may cause potential engine damage, or cause an exceedance of a pollutant standard (e.g., opacity limit). The Executive Officer shall consider appropriate documentation, including, but not limited to: cost effectiveness studies or engineering analyses. The Executive Officer may grant exemptions or require reduced injection timing (e.g., 3-, 2- or 1-degree) as determined appropriate on a case-by-case basis, for specific identical engines of the same make, model, model-year, and configuration.~~

- (jg) 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) for registered portable engines operating onshore, 10 tons for each-pollutant per district per year per engine for NO<sub>x</sub>, SO<sub>x</sub>, VOC, PM<sub>10</sub>, and CO in nonattainment areas;
  - (4) for registered portable engines operating within STW:
    - (A) the offset requirements of the corresponding onshore district apply. Authorization from the corresponding onshore district is required prior to operating within STW. If authorization is in the form of a current district permit, the terms and conditions of the district permit supercede the requirements for the project, except that the most stringent of the technology and emission concentration limits required by the district permit or statewide registration are applicable. If the portable engine does not have a current district permit, the terms and conditions of the statewide registration apply, and the corresponding onshore district may require offsets pursuant to district rules and regulations. The requirement for district offsets shall not apply to the owner/operator of a state registered engine(s) when the engine(s) is operated at a stationary source permitted by the district; and
    - (B) the corresponding onshore district may perform an ambient air quality impact analysis (AQIA) for the proposed project prior to granting authorization. The owner/operator of state registered engine(s) shall be required, at the request of the district, to submit any information deemed by the district to be necessary for performing the AQIA. Statewide registration shall not be valid at any location where the AQIA demonstrates a potential violation of an ambient air quality standard.
  - (5) for ~~resident~~ engines operating in the South Coast Air Quality Management District (SCAQMD), 100 pounds nitrogen oxides (NO<sub>x</sub>) per project per day [An owner may substitute SCAQMD permit or registration limits in effect on or before September 17, 1997 (optional)];
  - (6) ~~for nonresident engines,~~ 100 pounds NO<sub>x</sub> per engine per day, except in SCAQMD where the limit is 100 pounds NO<sub>x</sub> per project per day; and
  - (7) in lieu of (5) and (6) above, operation of a new nonroad engine rated at 750 brake horsepower or greater for which a federal or California standard pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulations has not yet become effective, shall not exceed 12 hours per day;
  - (8) for engines that operate in both STW and onshore, the 10 tons per district per year per engine limit in (3) above shall only apply onshore; and

- (9) A portable engine meeting an applicable emissions standard, as set forth in Title 13 of the California Code of Regulations, ~~40 CFR Part 86, 40 CFR Part 89, or for spark-ignition engines that meet the more stringent of either the standards set forth in 40 CFR part 1048 an applicable emissions standard in effect at the time of application or the applicable emissions standard set forth in Table 21 of this regulation for nonresident engines,~~ is exempt from the daily and annual emission limits specified above.
- (kh) Portable engines operated on a dredge shall ~~be subject to the emission controls and limits as follows:~~
- (1) ~~for resident dredge engines, meet section 2456 (de) requirements;~~
  - (2) ~~for non-resident dredge engines, meet the most stringent emissions standards for the applicable brake horsepower range specified for California- or federally-certified newly-manufactured engines pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulations; and~~
  - (3) ~~for all engines operated on a dredge, meet the most stringent emission standard pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulations by January 1, 2005.~~
- (li) Registered TSE is exempt from district New Source Review and Title V programs, including any offset requirements. Further, emissions from registered TSE shall not be included in Title V or New Source Review applicability determinations.
- (i) ~~Engines initially registering after **the effective date of the amendments to this article [date to be inserted by OAL]** that provide power to or that are mounted on the same trailer or skid with equipment that is ineligible for registration and subject to district permits, including but not limited to boilers, heaters, hot mix asphalt plants, and soil remediation units, shall meet a federal or California standard for newly manufactured nonroad engines pursuant to 40 CFR part 89 or Title 13 of the California Code of Regulations.~~

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

Table 1— 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 sections 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 if)

Table 21 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 three-way catalyst*** or 15 lbs/day (except in the SCAQMD)	800 ppmdv VOC (5.0 g/bhp-hr) or three-way catalyst*** or 25 lbs/day (except in the SCAQMD)	17,600 ppmdv CO (200 g/bhp-hr) <sup>2</sup> or three-way catalyst*** or 550 lbs/day (except in the SCAQMD)
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 @ 15 percent oxygen averaged over 15 consecutive minutes. Limits of ppmdv are the approximate

equivalent to the stated grams per brake horsepower hour limit based on assuming the engine is 24.2 percent efficient.

~~\*\*\* The three-way catalyst must provide a minimum of 80 percent control of NOx and CO, and a minimum of 50 percent control of VOC.~~

~~<sup>2</sup> At the request of the Executive Officer, CO modeling may be required to demonstrate compliance with ambient air quality standards.~~

## § 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 per district of ~~any single criteria pollutant~~ PM<sub>10</sub>; and
  - (2) 82 pounds per project per day of PM<sub>10</sub>.
  - (3) For registered equipment units that operate within STW and onshore, emissions released while operating both in STW and onshore shall be included toward the 10 tons per year limit.
  
- (b) 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 Ringelmann 1 or equivalent 20 percent opacity;
    - (B) the particulate matter emissions shall be controlled using a fabric or cartridge filter dust collector;
    - (C) as a part of application for registration, the applicant shall provide manufacturer's specifications or engineering data to demonstrate a minimum particulate matter control of 99 percent for the dust collection equipment;
    - (D) except for vent filters, each fabric dust collector shall be equipped with an operational pressure differential gauge to measure the pressure drop across the filters; and
    - (E) there shall be no visible emissions beyond the property line on which the equipment is being operated.
  
  - (2) Concrete batch plants:
    - (A) all dry material transfer points shall be ducted through a fabric or cartridge type filter dust collector, unless there are no visible emissions from the transfer point;
    - (B) all cement storage silos shall be equipped with fabric or cartridge type vent filters;

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

- suppression system which maintains a minimum moisture content to ensure there are no visible emissions;
  - (E) all conveyors shall be covered, unless the material being transferred results in no visible emissions;
  - (F) all stockpiled material shall be maintained at a minimum moisture content ~~to ensure there are~~ unless the stockpiled material results in no visible emissions;
  - (G) as a part of application for registration, the applicant shall provide manufacturer's specifications or engineering data to demonstrate a minimum particulate matter control of 99 percent for the fabric dust collection equipment;
  - (H) except for vent filters, each fabric dust collector shall be equipped with an operational pressure differential gauge to measure the pressure drop across the filters;
  - (I) open areas and all roads subject to vehicular traffic shall be paved, watered, or chemical palliatives applied to prevent fugitive emissions in excess of 20 percent opacity or Ringelmann 1; and
  - (J) if applicable, the operation shall comply with the requirements of 40 CFR Part 60 Subpart OOO.
  
- (4) Unconfined abrasive blasting operations:
  - (A) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringelmann 2 or equivalent 40 percent opacity;
  - (B) only California Air Resources Board-certified abrasive blasting material shall be used [Note: see Title 17, California Code of Regulations, section 92530 for certified abrasives.];
  - (C) the abrasive material shall not be reused;
  - (D) no air contaminant shall be released into the atmosphere which causes a public nuisance;
  - (E) all applicable requirements of Title 17 of California Code of Regulations shall also apply; and
  - (F) there shall be no visible emissions beyond the property line on which the equipment is being operated.
  
- (5) Tub grinders and trommel screens:
  - (A) there shall be no visible emissions beyond the property line on which the equipment is being operated;
  - (B) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark or darker than Ringelmann 1 or equivalent 20 percent opacity; and

- (C) water suppression or chemical palliatives shall be used to control fugitive particulate emissions from the tub grinder whenever the tub grinder is in operation, unless there are no visible emissions.
- (c) Portable equipment units not described in section 2457(b) above, shall be subject to the most stringent district Best Available Control Technology (BACT) requirements in effect for that category of source at the time of application for registration.
- (d) Registration is not valid for any equipment unit operating at a location if by virtue of the activity to be performed hazardous air pollutants will be emitted (e.g., rock crushing plant operating in a serpentine quarry. [Note: The equipment unit would be subject to the requirements of the district in which the equipment is located.]

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

§ 2458. Recordkeeping and Reporting.

- (a) Any registered portable engine, except for engines operating in STW, that meets one of the following criteria is exempt from the requirements of this section, except for sub-sections (e), and (f):
  - (1) an applicable emissions standard as set forth in Title 13 of the California Code of Regulations, 40 CFR part 86, or 40 CFR Part 89; or
  - ~~(2) the requirements for a temporary exemption pursuant to sections 2456 (f) or (g) of this article; or~~
  - ~~(3) for spark-ignition engines, the more stringent of an applicable emissions standard set forth in effect at the time of application 40 CFR part 1048 or set forth in Table 21 of section 2456 for nonresident engines.~~
- (b) Except for ~~a rental business~~ engines owned by a rental business and TSE, the owner of a registered portable engine subject to operational limitations, including engines otherwise preempted under section 209 (e), or portable equipment unit shall maintain daily records for **each day of operation of** each registered portable engine and equipment unit. The daily records shall be maintained at a central place of business for ~~two~~ five 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 equipment units, the total process weight or throughput; and
- (5) for engines that are subject to hours of operation limitations, ~~either total fuel used in gallons per hour or day and an estimate of hours of operation, or actual hours of operation;~~ and
  - (A) ~~If recordkeeping of actual hours of operation is kept instead of fuel use records, then the engine shall be equipped with an operational and properly maintained non-resettable hour meter.~~
- (6) for engines that are subject to fuel use limitations, total fuel used in gallons:
  - (A) for engines initially registering on or after ~~the effective date of the amendments to this article~~ [date to be inserted by OAL], daily fuel consumption shall be measured by fuel flow meter;
    - and
  - (B) for engines initially registering prior to ~~the effective date of the amendments to this article~~ [date to be inserted by OAL], ~~D~~daily fuel consumption ~~must~~shall be measured either by fuel flow meter, fuel tank stick test, or by fuel purchase records. If fuel purchase records or a stick test is used, the operator ~~must~~shall record the average operating load of the engine or use the approved operating load default factors, and the calculation approved by the Executive Officer to determine the daily fuel use for the engine. The stick test ~~must~~shall be performed prior to the start of and after the shutdown of operations on any given day to determine the amount of fuel used on that day. For an engine that operates on a 24-hour basis, the stick test ~~must~~shall be performed once at the same time each day of uninterrupted operation, and then compared to the previous day's test to calculate daily fuel use.
- (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 article, 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~~five years, and made accessible to the Executive Officer or districts upon request. Records shall be maintained in a format approved by the Executive Officer and include, at a minimum, for each registered 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; and
  - ~~(3) location of operation, identified by district, county, or specific location(s); and~~
  - ~~(43) 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 an annual report, 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.~~
- ~~(ed) For TSE, each military installation shall provide the Executive Officer an annual report, in a format approved by the Executive Officer, within 60 days after the end of each calendar year. The report shall include the number, type, and rating of registered TSE at each installation as of December 31 of that calendar year, and be accompanied by the applicable fees pursuant to section 2461. Any variation of registered TSE to actual TSE shall be accounted for in this annual report, and the Executive Officer shall issue an updated TSE list accordingly. A renewal registration will be issued with the updated TSE list every three years according to expiration date. Any increase in the number 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.~~
- ~~(e) For generators used to provide power to a building, facility, stationary source, or stationary equipment during unforeseen interruptions of electrical power from the serving utility or during electrical upgrades, the owner or operator shall maintain a daily record that shall include the following:~~
- ~~(1) location;~~
  - ~~(2) month, day, and year of operation; and~~
  - ~~(3) hours of operation.~~

- (f) For each engine subject to the requirements of Title 13 California Code of Regulations section 93116, the owner shall keep records and submit reports in accordance with Title 13 California Code of Regulations section 93116.4.

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

§ 2459. Notification.

- (a) Except as listed in sub-section (f) of this section, if a registered portable engine or equipment unit will be in a district for more than five days, the owner or operator or renter (except as noted in (c) below), shall notify the district in writing, via facsimile, electronic mail, or by telephone, within two working days of commencing operations in that 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~~ the responsible official 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 renter (except as noted in (c) below), 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) Except as listed in sub-section (f) of this section, owners and operators of registered portable engines rated less than 200 brake horsepower 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) Except as listed in sub-section (f) of this section, owners and operators of registered portable engines or equipment units moving ~~into 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.
- (f) For STW projects, the owner and/or operator of such equipment ~~must~~ shall notify the corresponding onshore district in writing, via facsimile, or by

telephone, at least 14 days in advance of commencing operations in that district. The notification shall include all of the following:

- (1) the registration number of the portable engine(s) or equipment unit(s);
- (2) the name and phone number of ~~a contact person~~ the responsible official with information concerning the locations where the portable engine(s) or equipment unit(s) will be operated within the district;
- (3) estimated time the portable engine(s) or equipment unit(s) will be located in the district; and
- (4) estimation of actual emissions expected for the project.

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

§ 2460. 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 owner's expense, in order to verify information submitted in the application except as provided in section 2460 (d).
- (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 as provided in section 2460 (d), unless evidence of engine tampering, lack of proper engine maintenance, or other problems or operating conditions that could affect engine emissions are identified. In no event shall the Executive Officer or district require source testing of a 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 <u>with probe catch and filter catch only</u>
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

- (d) Initial or follow-up source testing of engines to verify compliance with the requirements of this regulation shall not be required for the following:
- (1) engines certified to satisfy the most stringent emissions standards for the applicable horsepower range specified for State or federal newly-manufactured engines pursuant to Title 13 of the California Code of Regulations, 40 CFR Part 86, or 40 CFR Part 89; or
  - (2) engines certified to meet the most stringent emissions standards for the applicable horsepower range specified for State or federal on-highway engines pursuant to Title 13 of the California Code of Regulations; or
  - (3) engines that are retrofitted to meet the most stringent emissions standards for the applicable horsepower range specified for State or federal newly-manufactured engines pursuant to Title 13 of the California Code of Regulations or 40 CFR Part 89, where the retrofit kit has undergone testing consistent with the applicable certification procedures.
- (e) The exemption provided in section 2460 (d) shall not apply to source testing of engines for compliance purposes where evidence of engine tampering, lack of proper engine maintenance, or other problems or operating conditions that could affect engine emissions are identified.

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

#### § 2461. Fees.

- (a) The Executive Officer shall assess and collect reasonable fees for registration, renewal, and associated administrative tasks, to recover the estimated costs to the Executive Officer for evaluating registration applications, and issuing registration documentation.
- (b) Fees shall be due and payable to the Executive Officer at the time an application is filed or as part of any request requiring a fee. Fees are nonrefundable except in circumstances as determined by the Executive Officer.
- (c) The owner or operator of a portable engine or equipment unit shall submit fees to the Executive Officer in accordance with Table 32. Until December 31, 2005, new program participants shall pay an increased registration fee in accordance with Table 2. This increased fee shall not apply to agricultural sources or new program participants who have lost permit exemption due to

the lowering of the maximum rated horsepower (bhp) permit requirement threshold.

- (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.~~
- (ed) 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 the applicable fee of \$30 as listed in Table 2. 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.
- (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.~~
- (ge) A district may collect an enforcement inspection fee of \$75.00 as listed in Table 2 one time per calendar year for each registered portable engine or equipment unit inspected. When multiple registered portable engines or equipment units are inspected at a given source or location, the district inspection fee shall be equal to the lesser of the actual cost, including staff time, for conducting the inspection or the fee as listed in Table 2 per registered portable engine or equipment unit inspected unless for reasonable cause. If the district performs an inspection leading to determination of non-compliance with this article, or any applicable state or federal requirements. In this instance, the district may charge \$75.00 a fee as listed in Table 2 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.~~

- (if) Failure to pay renewal fees when due may shall result in penalties. If no a fee payment is not received within 30 days of written notice or postmarked by the specified due date, fee penalties ranging from \$15.00 to \$45.00 shall be assessed per unit in accordance with Table 2. Failure to pay renewal fees prior to expiration within 90 days of written notice may shall result in cancellation of the registration. If a registration has expired for an engine or equipment unit that is eligible for reinstatement, a Canceled registration may be reinstated by reapplying for registration and after payment of all renewal and penalty fees within 90 days of written notice of cancellation. Registration shall be reissued under the original registration number and expiration date. A portable engine or equipment unit without valid registration is subject to the rules and regulations of the district in which it operates.
- ~~(j) The Executive Officer may consolidate renewal fees by prorating the renewal fees of multiple registered portable engines and equipment units.~~
- (kg) 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.
- (lh) In lieu of section 2461 (~~ge~~) above, a district may collect a fee, in an amount to be assessed by the district, for costs associated with implementing and enforcing the requirements of 40 CFR Part 60 Subpart OOO for each registered equipment unit subject to Subpart OOO. In no event shall the fee assessed exceed the actual costs, including staff time, to the district for implementing and enforcing Subpart OOO. If for reasonable cause, the district performs an inspection leading to determination of non-compliance with this article, or any applicable state or federal requirements, the district may charge a fee per portable 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.
- ~~(i) TSE fees are due at the time of the report pursuant to section 2458 (d). Failure to submit the annual report and applicable fees within six calendar months after the end of the year will result in cancellation of the registration. For TSE, if registration is cancelled or allowed to expire, the applicant shall reapply and pay initial registration fees.~~

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

Table 32 ~~Registration and Renewal Fees for Statewide Registration Program~~

(Fees are per registered unit except where noted otherwise)

1	<u>Initial</u> Registration	\$90.00
a	<u>existing program participants until 12/31/05; all applicants thereafter (3 year cycle)</u>	\$270.00
b	<u>existing program participants until 12/31/05; all applicants thereafter (5 year cycle)</u>	\$450.00
c	<u>new program participants until 12/31/05, except applicants that lost permit exemption (3 year cycle)</u>	\$370.00
d	<u>new program participants until 12/31/05, except applicants that lost permit exemption (5 year cycle)</u>	\$550.00
2	Tactical support equipment, <u>initial registration</u>	
a	Registration of first 25 units (or portion thereof)	\$1,500.00 <u>750.00</u>
b	Registration of every additional 50 units (or portion thereof)	\$1,500.00 <u>750.00</u>
3	<del>Non-operational portable engines or equipment units</del>	
a	<del>Without initial evaluation</del>	<del>\$30.00</del>
b	<del>With initial evaluation</del>	<del>\$60.00</del>
4	<del>Change of status from non-operational to operational</del>	
a	<del>Where initial evaluation has not been previously completed</del>	<del>\$60.00 <u>180.00</u></del>
b	<del>Where initial evaluation has been previously completed</del>	<del>\$30.00 <u>90.00</u></del>
5	<del>Identical replacement</del>	<del>\$15.00 <u>75.00</u></del>
6	<del>Equivalent replacement (treated as a new registration, fees are the same as above for new registration)</del>	
7	<del>Renewal</del>	
a	<del>Renewal Every 3 years, non-TSE per registered portable engine or equipment unit</del>	<del>\$90.00</del>
a	<u>Every 3 years</u>	<u>\$225.00</u>
b	<u>Every 5 years</u>	<u>\$375.00</u>
b	<del>Pro-rated yearly per registered portable engine or equipment unit</del>	<del>\$30.00</del>
c	<del>Non-operational 3 years (prorated @ \$10/year) per registered portable engine or equipment unit</del>	<del>\$30.00</del>
d	<del>Change of status from operational to non-operational plus non-operational renewal</del>	<del>\$45.00</del>
8	<del>Renewal for tactical support equipment</del>	
a	<del>first 25 units (or portion thereof)</del>	<del>\$750.00</del>
b	<del>every additional 50 units (or portion thereof)</del>	<del>\$750.00</del>
9	<del>Penalty fee for late renewal payments, non-TSE per registered portable engine or equipment unit</del>	
a	<del>30-60 days after receiving renewal notice Postmarked within 2 calendar months prior to registration expiration date</del>	<del>\$15.00 <u>45.00</u></del>
b	<del>60-90 days after receiving renewal notice Postmarked within the calendar month prior to</del>	<del>\$30.00 <u>90.00</u></del>



	<u>registration expiration date</u>	
c	<del>90 days after receiving renewal notice</del> <u>Postmarked after the registration expiration date</u>	<del>\$45.00</del> <u>250.00</u>
7	<u>Annual TSE inventory fee</u>	
a	<u>first 25 units (or portion thereof)</u>	<u>\$375.00</u>
b	<u>every additional 50 units (or portion thereof)</u>	<u>\$375.00</u>
<del>408</del>	<u>Modification to registered portable engine or equipment unit</u>	<del>\$15.00</del> <u>75.00</u>
<del>449</del>	<u>Change of ownership per registered portable engine or equipment unit</u>	<del>\$15.00</del> <u>75.00</u>
<del>4210</del>	<u>Replacement of registration identification device</u>	<del>\$10.00</del> <u>30.00</u>
<del>11</del>	<u>Correction to an engine or equipment unit description</u>	<u>\$45.00</u>
<del>12</del>	<u>Update company information, copy of registration documents</u>	<u>\$45.00</u>
<del>13</del>	<u>Copy of registration documents</u>	<u>\$45.00</u>
<del>134</del>	<u>District inspection fee per registered portable engine or equipment unit inspected</u>	<u>\$75.00</u>

\* ~~When 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 by September 17, 1998, the Executive Officer may issue registration valid for more than three years in order to evenly distribute future renewals.~~
- (ba) Except as provided for in section 2456(d)(6), for registrations issued the first year, registrations and renewals will be valid for either three or five consecutive years from date of issuance. A new program participant must choose either the three year or five year duration period for all current and future registrations at the time of initial application submittal. An existing program participant may choose to convert to the five year duration period for all registrations which shall be reissued upon renewal only. The existing program participant shall submit a written request for this conversion. For change of ownership, the registration shall retain the original expiration date and upon renewal shall be converted to the duration period chosen by the new owner, if different than the duration period of the previous owner. Once a registration duration period is chosen by a program participant, it shall not be changed.
- (cb) The Executive Officer shall mail to the owner or operator of a registered portable engine or equipment unit a renewal invoice at least 60 days prior to the registration expiration. Failure to send or receive a renewal invoice does not relieve the responsible official from paying all applicable fees when due.

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

§ 2463. Suspension or revocation of registration.

- (a) The Executive Officer for just cause may suspend or revoke registration in any of the following circumstances:
- (1) the holder of registration has violated one or more terms and conditions of registration or has refused to comply with any of the requirements of this article;
  - (2) the holder of registration has materially misrepresented the meaning, findings, effect or any other material aspect of the registration application, including submitting false or incomplete information in its application for registration regardless of the holder's personal knowledge of the falsity or incompleteness of the information;
  - (3) the test data submitted by the holder of registration to show compliance with this regulation have been found to be inaccurate or invalid;
  - (4) enforcement officers of the ARB or the Districts, after presentation of proper credentials, have been denied access, during normal business hours or hours of operation, to any facility or location where registered 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~~ **Executive 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~~shall satisfy and correct all noted reasons for the suspension and submit a written report to the Executive Officer advising him or her of all such steps taken by the holder before the Executive Officer will consider reinstating the registration.
- (f) After the Executive Officer suspends or revokes a registration pursuant to this section and prior to commencement of a hearing under section 2464, if the holder of registration demonstrates to the Executive Officer's satisfaction that the decision to suspend or revoke the registration was based on erroneous information, the Executive Officer will reinstate the registration.
- (g) Nothing in this section shall prohibit the Executive Officer from taking any other action provided for by law for violations of the Health and Safety Code.

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

§ 2464. Appeals.

(a) Hearing Procedures

- (1) Any applicant for, 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 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 a hearing of a denial of registration, after reviewing the request for a hearing and supporting documentation provided under subsection (1) above, the hearing officer shall grant the request for a hearing if he or she finds that the request raises a genuine and substantial question of law or fact.
- (4) Except as provided in (3) above, the hearing officer shall schedule and hold, as soon as practicable, a hearing at a time and place determined by the hearing officer.
- (5) Upon appointment, the hearing officer shall establish a hearing file. The file shall consist of the following:
  - (A) the determination issued by the Executive Officer which is the subject of the request for hearing;
  - (B) the request for hearing and the supporting documents that are submitted with it;

- (C) all documents relating to and relied upon in making the determination to deny registration or to suspend or revoke registration; and
  - (D) correspondence and other documents material to the hearing.
- (6) The hearing file shall be available for inspection by the applicant at the office of the hearing officer.
  - (7) An applicant may appear in person or may be represented by counsel or by any other duly-authorized representative.
  - (8) The ARB may be represented by staff or counsel familiar with the registration program and may present rebuttal evidence.
  - (9) Technical rules of evidence shall not apply to the hearing, except that relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to relying in the conduct of serious affairs. No action shall be overturned based solely on hearsay evidence, unless the hearsay evidence would be admissible in a court of law under a legally recognized exception to the hearsay rule.
  - (10) The hearing shall be recorded either electronically or by a certified shorthand reporter.
  - (11) 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 requestor's submission and documents in support of the Executive Officer's action no later than 10 days after receipt of requestor's submission;
  - (B) The registration holder may submit one rebuttal statement which may include supporting information, as attachment(s), but limited to the issues previously raised;
  - (C) If the registration holder submits a rebuttal, ARB staff may submit one rebuttal statement which may include supporting information, as attachment(s), but limited to the issues previously raised; and
  - (D) the hearing officer shall be designated in the same manner as set forth in (a)(3) above. The hearing officer shall receive all statements and documents and 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.

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

#### § 2465. Penalties.

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

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

~~§ 2466. Sunset Review.~~

~~Within five years from the effective date of adoption or date of implementation, which ever comes later, the Air Resources Board, in consultation with the Secretary for Environmental Protection, shall review the provisions of this article to determine whether it should be retained, revised, or repealed.~~

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