Appendix B

Proposed Amendments to Existing Diesel Regulations

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PROPOSED REGULATION ORDER

DIESEL PARTICULATE MATTER CONTROL MEASURE FOR ON-ROAD HEAVY-DUTY DIESEL-FUELED VEHICLES OWNED OR OPERATED BY PUBLIC AGENCIES AND UTILITIES

Note: Proposed amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions, compared to the preexisting regulatory language.

Amend section 2020, 2022, and 2022.1, title 13, California code of Regulations to read as follows.

§ 2020. Purpose and Definitions of Diesel Particulate Matter Control Measures.

(a) Purpose. Diesel particulate matter was identified in 1998 as a toxic air contaminant. According to California law, an airborne toxic control measure using the best available control technology shall, therefore, be employed to reduce the public's exposure to diesel particulate matter.

(b) Definitions. For the purposes of the rules specified in article 4, the following definitions apply:

"Alternative fuel" means natural gas, propane, ethanol, methanol, gasoline (when used in hybrid electric buses only), hydrogen, electricity, fuel cells, or advanced technologies that do not rely on diesel fuel. "Alternative fuel" also means any of these fuels used in combination with each other or in combination with other non-diesel fuels.

"Commercially available" means available for purchase and installation at a reasonable cost.

"Heavy-duty pilot ignition engine" means an engine designed to operate using an alternative fuel, except that diesel fuel is used for pilot ignition at an average ratio of no more than one part diesel fuel to ten parts total fuel on an energy equivalent basis. An engine that can operate or idle solely on diesel fuel at any time does not meet this definition.

"Level" means one of three categories of Air Resources Board-verified diesel emission control strategies: Level 1 means the strategy reduces engine diesel particulate matter emissions by between 25 and 49 percent, Level 2 means the strategy reduces engine diesel particulate matter emissions by between 50 and 84 percent, and Level 3 means the strategy reduces engine diesel particulate matter emissions by 85 percent or greater, or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter per brake horsepower-hour.

"Municipality" means a city, county, city and county, special district, or a public agency of ~~the United States of America or~~ the State of California, and any department, division, public corporation, or public agency of this State ~~or of the~~

~~United States~~, or two or more entities acting jointly~~, or the duly constituted body of an Indian reservation or rancheria~~.

"Owner" means the same as in title 13, California Code of Regulations, section 2180.1(a)(2~~1~~5).

"Transit agency" means a public entity responsible for administering and managing transit services. Public transit agencies can directly operate transit service or contract out for all or part of the total transit service provided.

"Terminal" means any place or places where a vehicle is regularly garaged or maintained, or from which it is operated or dispatched, which may include a private business or residence.

"Verified" means that a diesel emission control strategy or system has received approval from the Executive Officer according to the "Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines" in title 13, California Code of Regulations, commencing with section 2700, and incorporated by reference.

"Warranty Period" means the same as in title 13, California Code of Regulations, section 2707.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 39650 - 39675, 43000, 43013, 43018, 43101, 43102, 43104, 43105 and 43700, Health and Safety Code.

§ 2022. Diesel Particulate Matter Control Measure for Municipality or Utility On-Road Heavy-duty Diesel-Fueled Vehicles.

(a) Scope and Applicability. Sections 2022 and 2022.1 apply to any municipality or utility that owns, leases, or operates an on-road diesel-fueled heavy-duty vehicle with either a 1960 to 2006 model-year ~~medium heavy-duty or heavy~~ heavy-duty engine or a 2007 model-year or newer engine certified to greater than 0.01 grams per brake horsepower-hour particulate emission standard and manufacturer's gross vehicle weight rating greater than 14,000 pounds. These sections do not apply to a vehicle subject to the solid waste collection vehicle rule commencing with title 13, California Code of Regulations, section 2021 or to the fleet rule for transit agencies commencing with section 2023, or to a school bus as defined in Vehicle Code section 545, or to a military tactical support vehicle, as described in title 13, California Code of Regulations, section 1905, or to an emergency vehicle as described in California Vehicle Code, section 27156.2, or to an off-road vehicle as described in title 13, California Code of Regulations, sections 2401, 2421, 2411 and 2432.

(b) Definitions. The definitions in section 2020 shall apply to sections 2022, and 2022.1. In addition, the following definitions apply only to sections 2022, and 2022.1.

(1) “Dedicated Snow Removal Vehicle” means a vehicle that has permanently affixed snow removal equipment such as a snow blower or auger and is operated exclusively to perform snow removal operations.

(2) “Dual Engine Street Sweeper” means an on-road heavy-duty vehicle, over 14,000 pounds gross vehicle weight rating, that is used for the express purpose of removing material from road surfaces, by mechanical means through the action of one or more brooms, or by suction through a vacuum or regenerative air system or any combination of the above. A dual engine street sweeper has an engine to propel the vehicle and an auxiliary engine to power the broom or vacuum.

(3) “Lease” means to operate a vehicle that is owned by a rental or leasing company for a period of one year or more.

~~(2)~~(4) “Low-Population County” means a county with a population of less than 125,000, based upon the California Department of Finance estimates as of July 1, 2005, and as listed in Table 2 of title 13, California Code of Regulations section 2022.1.

~~(3)~~(5) “Low Usage Vehicle” means a vehicle that is operated for fewer than 1000 miles or 50 hours per year, based on a 5 year rolling mileage or engine-hour average. A vehicle that does not have a properly functioning odometer, tachograph, or other reliable device to measure usage may not qualify as a low usage vehicle.

~~(4)~~(6) “Low-Population County Low Usage Vehicle” means a vehicle that is owned or operated by a municipality or utility located in a low-population county and is operated, based on a 5 year rolling mileage or engine hour average for fewer than 3000 miles or 150 hours, excluding mileage or engine hours used during snow removal operations. A vehicle that does not have a properly functioning odometer, tachograph, or other reliable device to measure usage may not qualify as a low-population county low usage vehicle.

(7) “Operate” means to use or manage a vehicle by a municipal or utility employee for the purposes of conducting work by or for the municipality or utility. This does not include personal vehicle use for commuting to or from the workplace.

~~(5)~~(8) "Retirement" or "Retire" means the withdrawal of an engine or vehicle subject to this rule from a municipality or utility fleet in California; the engine may be sold outside the State of California, scrapped, converted for use in a low usage vehicle or low-population county low usage vehicle. “Retirement” or “retire” also means the transfer of an engine or vehicle, which is subject to this rule and has been brought into compliance with title 13, California Code of Regulations, section 2022.1(b), from a municipality or utility fleet in California to another person or entity in California. In addition, “retirement” means the sale of a dual engine street sweeper with a model year engine of 2004, 2005, or 2006 in the State of California to a buyer who must comply with title 13, California Code of Regulations, section 2025.

(9) “Sold Outside of the State of California” means a sale of a vehicle for operation outside the State of California to satisfy the definition of “retirement” in section

2022(b)(8). A municipality or utility must submit a completed "VIN stop" application, as defined in title 13, California Code of Regulations, section 2022(b)(10), to the Executive Officer prior to sale of the vehicle. ARB will obtain VIN Stop from Department of Motor Vehicles. A municipality or utility must also follow the record-keeping requirements as defined in title 13, California Code of Regulations, section 2022(f)(1)(K). If a municipality or utility is selling a vehicle through a Third Party Vehicle Seller, it must include Third Party Vehicle Seller contract language as defined in title 13, California Code of Regulations, section 2022(h).

(10) "Third Party Vehicle Seller" means a person that a municipality or utility uses to sell a vehicle outside of the State of California.

~~(6)~~(11) "Total Fleet" means the total of a municipality's or utility's on-road heavy-duty vehicles with a 1960 to 2006 model-year medium heavy-duty or heavy heavy-duty engine and a manufacturer's gross vehicle weight rating greater than 14,000 pounds, excluding low usage vehicles; low-population county, low usage vehicles; dedicated snow-removal vehicles; and gasoline fueled vehicles.[1] As of January 1, 2009, "Total Fleet" means the total of a municipality's or utility's on-road heavy-duty vehicles with a manufacturer's gross vehicle weight rating greater than 14,000 pounds with a 1960 to 2006 model-year heavy-duty engine or with a 2007 model-year or newer heavy-duty engine certified to greater than 0.01 grams per brake horsepower-hour particulate emission standard, excluding low usage vehicles; low-population county, low usage vehicles; dedicated snow-removal vehicles; and gasoline fueled vehicles.

~~(7)~~(12) "Utility" means a privately-owned company that provides the same or similar services for water, natural gas, and electricity as a public utility operated by a municipality.

~~(8)~~(13) "Vehicle Type" means one of the following categories: "Compliant" for those vehicles that meet the requirements of section 2022.1(b); "Future Compliant" for those vehicles for which the municipality or utility has a planned compliance date; "Retired" for those vehicles that will meet the definition of "retirement" at a planned retirement date; "Low Usage or Low-Population County Low Usage" for those vehicles that meet the applicable definitions in this section; and "Experimental" for those vehicles that are part of an experimental program and comply with the provisions of section 2022.1(d)(5).

(14) "VIN stop" means a Department of Motor Vehicle's registration hold based on a vehicle identification number to prevent a vehicle from being re-registered in California after a vehicle is "retired."

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 39655, 39656, 39657, 39658, 39659, 39660, 39661, 39662, 39664, 39665, 39667, 39669, 39674, 39675, 43000, 43013, 43018, 43101, 43102, 43104, 43105, and 43700, Health and Safety Code.

[1] Gasoline vehicles that do not meet the best available control technology (BACT) requirements specified in title 13, California Code of Regulations, section 2022.1(b)(3) are excluded from the total fleet calculation.

§ 2022.1. Determining Compliance for a Municipality or Utility.

(a) Compliance Requirements. Beginning with the applicable effective dates, a municipality or utility is required to comply with this diesel particulate matter control measure for each vehicle in its total fleet. Compliance requires all of the following:

(1) Use of a best available control technology for each vehicle in the total fleet as specified in subsection (b);

(2) Implementation for each vehicle in the total fleet as specified in subsection (c);

(3) If a compliance deadline extension is granted by the Executive Officer per subsection (d), the municipality or utility shall be deemed to be in compliance as specified by the Executive Officer's authorization;

(4) Special circumstances must be followed as specified in subsection (e);

(5) Records must be kept as specified in subsection (f); and

(6) Continuous compliance: municipality or utility is required to keep each vehicle in compliance with this regulation, once it is in compliance, so long as the municipality or utility is operating the vehicle in California.

(b) Best Available Control Technology. Each municipality or utility shall use one of the following best available control technologies on each applicable vehicle in its total fleet as required by the implementation schedule in subsection (c):

(1) An engine or power system certified to the optional 0.01 grams per brake horsepower-hour (g/bhp-hr) particulate emission standard as specified in title 13, California Code of Regulations, section 1956.8(a)(2), or the 0.01 g/bhp-hr particulate emission standard as specified in title 13, California Code of Regulations, section 1956.8(a), as appropriate for the engine's model-year; or

(2) An engine or power system certified to the 0.10 g/bhp-hr particulate emission standard, as specified in title 13, California Code of Regulations, section 1956.8, used in conjunction with the highest level diesel emission control strategy as defined in subsection (b)(4) applied by the implementation schedule in subsection (c); or

(3) An alternative fuel engine, heavy-duty pilot ignition engine, or gasoline engine; model-year 2004-2006 alternative fuel engines must be certified to the optional, reduced emission standards as specified in title 13, California Code of Regulations, section 1956.8 (a)(2)(A); gasoline engines must be certified to the emission standards as specified in title 13, California Code of Regulations, for heavy-duty Otto-cycle engines used in heavy-duty vehicles

over 14,000 pounds gross vehicle weight, sections 1956.8(c)(1)(B) and 1976(b)(1)(F); or

(4) The highest level diesel emission control strategy per title 13, California Code of Regulations, section 2702 (f), Table 1, that is verified for a specific engine to reduce diesel particulate matter and which the diesel-emission-control strategy manufacturer or authorized dealer agrees can be used on a specific engine and fleet-vehicle combination, without jeopardizing the original engine warranty in effect at the time of application.

(c) Implementation Schedule.

(1) A municipality or utility shall comply with the schedule in Table 1 - Implementation Schedule for a Municipal and Utility Total Fleet Vehicle, 1960 ~~to 2006~~ and newer Model-Year Engines for the specified percentage of vehicles by each applicable compliance deadline.

Table 1 - Implementation Schedule for a Municipal and Utility Total Fleet Vehicle, 1960 ~~to~~ ~~2006~~ and newer Model-Year Engines.

Group	*Engine Model-Years*	*Percentage of Group to Use Best Available Control Technology*	*Compliance Deadline, As of December 31*
1[a]	1960 – 1987	20 60 100	2007 2009 2011
2	1988 – 2002	20 60 100	2007 2009 2011
3	2003 – 2006 (Includes dual-fuel and bi-fuel engines)	50 100	2009 2010
4	2007 and newer certified above the 0.01g/bhp-hr std.	100	2012

[a] An owner may not use Level 1 technology, as classified pursuant to title 13, California Code of Regulations section 2700, as best available control technology on a Group 1 engine or vehicle.

(2) Municipality or Utility Located in a Low-Population County. A municipality or utility that is headquartered in a county in Table 2 may elect to follow the option in Table 3 below in lieu of the implementation schedule in Table 1.

Table 2 - Low-Population Counties

COUNTY	*Population as of July 1, 2005*
ALPINE	1,300
AMADOR	37,600
CALAVERAS	47,800
COLUSA	24,200
DEL NORTE	31,500
GLENN	31,800
INYO	18,800
LAKE	69,200
LASSEN	39,800
MARIPOSA	19,600
MENDOCINO	95,500
MODOC	10,100
MONO	14,200
NEVADA	106,300
PLUMAS	21,900
SAN BENITO	63,600
SIERRA	3,700
SISKIYOU	47,200
SUTTER	90,400
TEHAMA	63,400
TRINITY	13,800
TUOLUMNE	62,200
YUBA	66,000

Table 3 - Implementation Schedule for a Municipality or Utility Located in a Low-Population County or Granted Low-Population County Status

Group	*Engine Model-Years*	*Percentage of Group to Use Best Available Control Technology*	*Compliance Deadline, as of December 31*
1	1960 – 1987	20 40 60 80 100	2009 2011 2013 2015 2017
2	1988 – 2002	20 40 60 80 100	2008 2010 2012 2014 2016
3	2003 – 2006 (Includes dual-fuel and bi-fuel engines)	20 40 60 80 100	2011 2012 2013 2014 2015
<u>4</u>	<u>2007 and newer certified above the 0.01g/bhp-hr std.</u>	<u>20</u> <u>40</u> <u>60</u> <u>80</u> <u>100</u>	<u>2012</u> <u>2013</u> <u>2014</u> <u>2015</u> <u>2016</u>

(3) *Accelerated Turnover Option for Municipality or Utility Located in a Low-Population County.* A municipality or utility headquartered in a county listed in Table 2 may elect to follow the option in Table 4 below in lieu of the implementation schedules in Table 1 or 3.

Table 4 - Accelerated Turnover Option for a Municipality or Utility Located in a Low-Population County

Engine Model-Year	*Fleet Percent to Repower with a 1994 or newer engine*	*Compliance Date as of Dec 31*	*Percent of Fleet to use BACT*	*Compliance Date as of Dec 31*
1960 –1993	100%	2020	100%	2025
1994 –~~2006~~ <u>and newer</u>	N/A	N/A	100%	2025

(4) A municipality or utility not specifically listed in Table 2 may apply to the Executive Officer for consideration as a fleet located in a designated "low-population county." The Executive Officer shall issue that designation provided that all of the following criteria are met:

(A) The total fleet is located in a "nonurbanized area," a "rural and small urban area," or any area outside of an urbanized area, as designated by the U.S. Bureau of the Census. An urbanized area consists of a core area and the surrounding densely populated area with a total population of 50,000 or more, with boundaries fixed by the Bureau of the Census or extended by state and local officials; or

(B) The fleet is located in a county that, as of July 1, 2005, has a population of less than 325,000 and meets the definition of a low-population county when the population of one or more cities that have their own municipal vehicle fleet are subtracted from the county population, and the fleet does not operate within those cities' boundaries; and

(C) The fleet revenue is not based on special district assessments or fees.

(5) Calculating Number of Total Fleet Vehicles Required for Implementation.

(A) As of January 1 of each year where a compliance deadline is applicable, a municipality or utility shall calculate, for each engine model-year group, the number of vehicles in its total fleet for which compliance will be required. This fleet size by engine model-year group ($\#MUV_{by\ group}$)[2] must be calculated using the following equation:

$$\#MUV_{by\ group} = \#\ Vehicles_{by\ group} + TotRetire_{by\ group}$$

Where:

$\#Vehicles_{by\ group}$ = the number of vehicles in an engine model-year group subject to the rule, and

$TotRetire_{by\ group}$ = the number of vehicles removed from the model-year group by retirement in prior years, beginning with January 1 of the initial applicable compliance deadline year for each group.

If a vehicle has left the total fleet for reasons other than retirement, it must not be included in the calculation of $\#MUV_{by\ group}$.

(B) The municipality or utility shall use the following equation to determine the total number of vehicles in an engine model-year group that are

[2] "~~b~~By group" means all vehicles in an engine model-year group as described in Table 1 under (c)(1).

required to be in compliance by the deadline in Table 1 ($TotVeh_{by\ group}$):

$$TotVeh_{by\ group} = Group\%BACT_{by\ group} \times \#MUV_{by\ group}$$

Where:

$Group\%BACT_{by\ group}$ = the percentage of vehicles in an engine model-year group that must meet BACT requirements for a given year as specified in subsection (c), and

$\#MUV_{by\ group}$ = the total fleet size by engine model-year group as defined in paragraph (5)(A) above

(C) After the first compliance deadline for each group, the municipality or utility shall determine the number of additional vehicles in each model-year group to be brought into compliance each year that a compliance deadline is applicable ($TotAddComp_{by\ group}$). The following equation must be used to calculate $TotAddComp_{by\ group}$:

$$TotAddComp_{by\ group} = TotVeh_{by\ group} - TotBACT_{by\ group} - TotRetire_{by\ group}$$

Where:

$TotVeh_{by\ group}$ = the total number of vehicles in an engine model-year group required to be in compliance, as defined in paragraph (5)(B) above,

$TotBact_{by\ group}$ = the number of vehicles in an engine model-year group that have been brought into compliance since the earliest compliance deadline using the method listed in subsection (b), and

$TotRetire_{by\ group}$ = the number of vehicles retired in prior years as defined in paragraph (5)(A) above

If a vehicle has left the total fleet for reasons other than retirement, it must not be included in the calculation of $TotAddComp_{by\ group}$.

(D) Notwithstanding subsection (C) above, in the 100 percent compliance deadline year for each engine model-year group, the municipality or utility shall bring the remaining vehicles into compliance.

(E) If the $TotVeh_{by\ group}$ or $TotAddComp_{by\ group}$ is not equal to a whole number, the municipality or utility shall round up a whole number when the fractional part of $TotAddComp_{by\ group}$ is equal to or greater than 0.5, and round down if less than 0.5.

(d) Compliance Extensions. A municipality or utility may be granted an extension to a compliance deadline specified in subsection (c) for one of the following reasons:

(1) Compliance Extension Based on Early Implementation. A municipality or utility may be granted an extension based on compliance with one or more of the following early implementation schedules, provided the Executive Officer has received a letter by the applicable early compliance deadline stating the municipality's or utility's intent to comply with one of the following conditions and meets the requirements set forth in paragraphs (A), (B), (C) or (D).

(A) If a municipality or utility has implemented best available control technology on fifty percent or more of its Group 1 vehicles in its total fleet by December 31, 2007, then the municipality or utility may delay the intermediate and final compliance deadlines for the remaining Group 1 vehicles to July 1, 2012.

(B) If a municipality or utility has implemented best available control technology on fifty percent or more of its Group 2 vehicles in its total fleet by December 31, 2007, then the municipality or utility may delay the intermediate and final compliance deadlines for the remaining Group 2 vehicles to July 1, 2012.

(C) If a municipality or utility has implemented BACT on 100 percent of its Group 1 and Group 2 engines by December 31, 2008, then the municipality or utility may follow the alternate implementation schedule for its Group 3 engines of 20 percent BACT by December 31, 2009, 60 percent BACT by December 31, 2011 and 100 percent BACT by December 31, 2012.

(D) If a municipality or utility employs significant quantities of advanced technology vehicles (for example, hybrid electric vehicles) to meet BACT requirements, then the municipality or utility may apply to the Executive Officer for approval of a longer implementation schedule for its Group 2 and Group 3 vehicles, or approval of credits to be used towards BACT compliance. The longer implementation schedule must be proportionate to the additional emissions benefits from the use of the advanced technology vehicles, and BACT credits cannot exceed the additional emissions benefits. The advanced technology vehicles must meet or exceed MY 2007 and later emissions standards and significantly reduce greenhouse gas emissions and petroleum use.

(2) Compliance Extension Based on No Verified Diesel Emission Control Strategy. If the Executive Officer has not verified a diesel emission control strategy, or one is not commercially available, for a particular engine and vehicle combination, an annual extension in compliance may be granted by the Executive Officer under one of the conditions specified below:

(A) Executive Officer Compliance Extension. The Executive Officer shall grant a blanket one-year compliance extension if a diesel emission

control strategy is not verified for an engine ten months prior to each compliance deadline specified in subsection (c).

1. For a Group 1 engine for which there is no verified diesel emission control strategy, the Executive Officer shall grant a one-year extension, after which the municipality or utility shall comply with subsection (b). If no diesel emission control strategy for the engine is verified during the extension period, the Executive Officer shall grant an additional one year extension. The Executive Officer may grant one-year extensions until December 31, 2012, (or December 31, 2018 for a municipality or utility located in a low-population county, or granted low-population county status), after which the municipality or utility shall comply with subsection (b).

2. For a Group 2 engine for which there is no verified diesel emission control strategy, the Executive Officer shall grant a one-year extension, after which the municipality or utility shall comply with subsection (b). If no diesel emission control strategy for the engine is verified during the extension period, the Executive Officer shall grant an additional one-year extension. The Executive Officer may grant one-year extensions until December 31, 2012, (or December 31, 2017 for a municipality or utility located in a low-population county), after which the municipality or utility shall comply with subsection (b)

(B) Municipality or Utility Application for Compliance Extension. A municipality or utility may apply to the Executive Officer for a compliance extension pursuant to subsection (d) for an engine no later than July 31 prior to each compliance deadline specified in subsection (c). Before requesting this extension, the municipality or utility shall demonstrate compliance or intent to comply with applicable deadlines for the remaining vehicles in the fleet. The municipality or utility shall meet the following application conditions and documentation requirements by providing the following to the Executive Officer:

1. Identification of each engine, by vehicle identification number; engine manufacturer, model-year, family, and series; and type of vehicle for which no diesel emission control strategy has been verified; or

2. Identification of each engine, by vehicle identification number; engine manufacturer, model-year, family, and series; and type of vehicle for which a specific diesel emission control strategy would void the original engine warranty and a statement from the engine manufacturer or authorized dealer stating the original engine warranty would be voided; or

3. Identification of each engine and vehicle combination, by vehicle identification number; engine manufacturer, model-year, family, and series; and type of vehicle for which no diesel emission control strategy is commercially available and a list of manufacturers that have been contacted, with the manufacturers' responses to a request to purchase; and

4. A description of the reason for the request for a compliance extension for each engine or engine and fleet-vehicle combination; and

5. A copy of the statement of compliance as required in subsection (f)(1)(K); and

6. The application for compliance extension to be submitted to the Executive Officer no later than July 31 annually beginning 2007.

   a. A municipality or utility. For a Group 1 engine, the Executive Officer will accept an annual compliance-extension application until July 31, 2011, after which the municipality or utility shall comply with subsection (b) by December 31, 2012. The Executive Officer will only grant one compliance extension for an engine in Group 1. For a Group 2 engine, the Executive Officer will accept an annual compliance extension application until July 31, 2011, after which the municipality or utility shall comply with subsection (b) by December 31, 2012.

   b. A municipality or utility either located in a low-population county, or granted low-population county status. For a Group 1 engine, the Executive Officer will accept an annual compliance extension application until July 31, 2017, after which the municipality or utility shall comply with subsection (b) by December 31, 2018. The Executive Officer will only grant one compliance extension for an engine in Group 1. For a Group 2 engine, the Executive Officer will accept an annual compliance extension application until July 31, 2016, after which the municipality or utility shall comply with subsection (b) by December 31, 2017.

(3) Compliance Extension for a Municipality or Utility that Operates a Dual-Fuel or Bi-Fuel Engine. A municipality or utility may delay implementation of a Group 1 or 2 dual-fuel or bi-fuel engine to the Group 3 compliance deadlines.

(4) Compliance Extension for an Engine Near Retirement. If a municipality or utility has applied best available control technology to all engines as required, and the next engine subject to implementation under subsection (c) is scheduled to be retired from the total fleet within one year

of the applicable compliance deadline, then the municipality or utility shall be exempted from applying the best available control technology as defined in subsection (b) to that engine for a maximum of one year, provided documentation of the expected retirement date is kept in records as specified in subsection (f) and the engine is retired by the stated anticipated date.

(5) Use of Experimental Diesel Emission Control Strategy. A municipality or utility may use an experimental diesel emission control strategy provided by, or operated by, the manufacturer in no more than 20 vehicles, or ten percent of its total fleet, whichever is less, for testing and evaluation purposes. The municipality or utility shall keep documentation of this use in records as specified in subsection (f). Each vehicle will be considered to be in compliance for the duration of the experiment to a maximum of two years. The municipality or utility must bring the vehicle into compliance within six months of the end of the testing and evaluation period. No experimental diesel emission control strategy may be used on a vehicle after December 31, 2012.

(6) Accelerated Turnover Option. A municipality or utility either located in a low-population county or granted low-population county status may follow the accelerated turnover option provided in subsection (c)(3), provided the Executive Officer has received a letter by July 31, 2008, stating the municipality's or utility's intent to comply with this option.

(7) Light Heavy-Duty Engine Extension. A municipality or utility may apply for a one year extension from the 2009 compliance deadline for light heavy-duty engines if after counting light heavy-duty engines as a part of the total fleet prevents the fleet from complying with the 2009 intermediate BACT compliance requirements in section 2022.1(c)(1). A municipality or utility must:

(A) Submit a letter to the Executive Officer by August 1, 2009 requesting the light heavy-duty engine extension;

(B) Submit documentation to demonstrate it cannot comply with the 2009 intermediate BACT compliance requirements in section 2022(c)(1) after adding light heavy-duty engines as a part of the total fleet size. Documentation shall include, but is not limited to, proof of financial hardship, budgeting schedules, etc. Documentation of financial hardship shall include an analysis of cost of compliance, sources of available funds and shortfall between funds available and cost of compliance; and

(C) Meet the record-keeping requirements under section 2022.1(f).

(8) Privately-Owned Utility Extension. A utility may be granted an extension for Group 2 and Group 3 intermediate and final compliance deadlines as required in section 2022.1(c)(1) by two years, provided that thirty (30) percent of its fleet vehicles meet the 2010 engine emission standards, and twenty (20) percent of its fleet vehicles meet the 2007 or newer engine emission standards by December 31, 2013. A privately-owned utility must:

(A) submit a letter to the Executive Officer by December 31, 2009 stating the utility's intent to comply with this section,

(B) submit records by December 31, 2009 required by section 2022.1 (f)(1),

(C) label each vehicle in its fleet according section 2022.1(f)(3)(G),

(D) submit by December 31, 2011 records required by section 2022.1(f)(1), and

(E) submit by December 31, 2013 records required by section 2022.1(f)(1) and documentation, such as but not limited to percent of fleet calculations and purchase records, demonstrating the utility's compliance with the above conditions.

(e) Diesel Emission Control Strategy Special Circumstances. A municipality or utility shall maintain the original level of best available control technology on each engine once that engine is in compliance, and will not be required to upgrade to a higher level of best available control technology, except under specified special circumstances, as follows:

(1) Fuel Strategy Diesel Emission Control Strategy.

(A) If a municipality or utility determines that the highest level diesel emission control strategy for a small percentage of its fleet would be a level 2 fuel-based strategy, and implementation of this diesel emission control strategy would require installation of a dedicated storage tank, then the municipality or utility shall request prior approval from the Executive Officer to allow use of a lower level diesel emission control strategy; or

(B) If a municipality or utility elects to use a fuel-based diesel emission control strategy across its fleet, and some vehicles can use a level 3 hardware diesel emission control strategy, then the municipality or utility shall request prior approval from the Executive Officer to allow use of a lower level diesel emission control strategy. This provision is only available if a minimum level 2 diesel emission control strategy is used.

(2) *Diesel Emission Control Strategy Failure or Damage.* In the event of a failure or damage of a diesel emission control strategy, the following conditions apply:

(A) *Failure or Damage During the Warranty Period.* If a diesel emission control strategy fails or is damaged within its warranty period and the diesel emission control strategy manufacturer or authorized dealer determines it cannot be repaired, the municipality or utility shall replace the diesel emission control strategy with either the same level diesel emission control strategy or another best available control technology as defined in subsection (b).

(B) *Failure or Damage Outside of Warranty Period.* If a diesel emission control strategy fails or is damaged outside of its warranty period, and it cannot be repaired, the municipality or utility shall apply the best available control technology at the time of replacement, as defined in subsection (b).

(3) Discontinuation of Fuel Verified as a Diesel Emission Control Strategy. If a municipality or utility discontinues use of a fuel verified as a diesel emission control strategy, the municipality or utility shall apply best available control technology within 30 days of the date of discontinuation or submit a compliance plan to the Executive Officer no later than 30 days after discontinuation that demonstrates how the municipality or utility will bring the vehicles into compliance within six months of the date of discontinuation.

(4) Limited Use of Level 1 Diesel Emission Control Strategy. If a Level 1 diesel emission control strategy is identified as the best available control technology pursuant to subsection (b), a municipality or utility is subject to the following limitations:

(A) Group 1

1. A municipality or utility may not use a Level 1 diesel emission control strategy on any Group 1 engine.

2. *Exception for low-population counties.* The limitation in (A)1. does not apply to a vehicle owned or operated by a municipality or utility located in a low-population county (Table 2), or to a vehicle owned or operated by a municipality or utility that has been granted low-population county status.

(B) Group 2

1. Ten year limit. A municipality or utility may use a Level 1 diesel emission control strategy in a Group 2 engine for up to ten years. The municipality or utility shall then replace the Level 1 diesel emission control strategy with the best available control

technology from subsection (b). The replacement cannot be a Level 1 diesel emission control strategy.

2. Exception for low-population counties. The limitation in (B)1. does not apply to a vehicle owned or operated by a municipality or utility located in a low-population county (Table 2) or to a vehicle owned or operated by a municipality or utility that has been granted low-population county status.

(C) Group 3 and 4

1. Five year limit. A municipality or utility may use a Level 1 diesel emission control strategy in a Group 3 and 4 engine for up to five years. The municipality or utility shall then replace the Level 1 diesel emission control strategy with the best available control technology from subsection (b). The replacement cannot be a Level 1 diesel emission control strategy.

2. Exception for low-population counties. The limitation in (C)1. does not apply to a vehicle owned or operated by a municipality or utility located in a low-population county (Table 2) or to a vehicle owned or operated by a municipality or utility that has been granted low-population county status.

(f) Record-Keeping Requirement. A municipality or utility shall maintain the following records. The municipality or utility shall provide the following records upon request to an agent or employee of the Air Resources Board for all vehicles in its total fleet subject to compliance with this regulation.

(1) Records to be Kept For Inspection. Beginning December 31, 2007, the municipality or utility shall keep the following records either in hard-copy format or as computer records:

(A) A list by vehicle identification number of vehicles, identifying each vehicle type; engine manufacturer, model-year, family, and series; and status as a total fleet or low usage vehicle; and

(B) Correlated to each vehicle, the installed diesel emission control strategy family name, its serial number, manufacturer, installation date, and if using a Level 1 or Level 2 verified diesel emission control strategy, the reason for the choice; and

(C) Records of maintenance for each installed diesel emission control strategy; and

(D) For fuel or fuel additives used as a diesel emission control strategy, the most recent two years' worth of records of purchase that demonstrate usage; and

(E) For each low usage vehicle, or low-population county low usage vehicle, its mileage or engine hours as of December 31 of each year beginning 2007, and records to document its five-year mileage or engine hours, as of December 31 of each year beginning 2007, correlated to the vehicle identification information in paragraph (1)(A) above; and

(F) If a municipality or utility is located in a low-population county or has been granted low-population county status, documentation affirming that the vehicle is not operated at any time in a metropolitan statistical area as defined by the U.S. Census Bureau; and

(G) For each engine for which a municipality or utility is claiming an extension pursuant to paragraph (d)(4), the retirement date correlated to the vehicle identification information in paragraph (1)(A) above; and

(H) For each engine for which a municipality or utility is claiming an extension pursuant to paragraph (d)(5), the records of the test plan, including start and end dates of the experiment; diesel emission control strategy manufacturer name and contact information (representative, address, and phone number); name and type of experimental diesel particulate matter emission control strategy; and targeted data to be generated by experiment and correlated to the vehicle identification information in paragraph (1)(A) above; and

(I) For each engine for which a municipality or utility located in a low-population county is following the accelerated turnover path in Table 3, the date of each engine repower correlated to the vehicle identification information in paragraph (1)(A) above; and

(J) Records to document the retirement of a vehicle. For each vehicle or engine to be retired, list the vehicle identification number, engine manufacturer, model-year, family, and series. For each vehicle that will be transferred to another fleet in California, include also the information required by sections 2022.1(f)(1)(B) and a statement of compliance that the vehicle meets the provisions of section 2022.1(b). For each vehicle or engine to be retired, provide the date of retirement, and written confirmation from the recipient of the retired vehicle or engine that the destination of the vehicle or its engine meets the requirements of the definition of “retirement” or “retire” in section 2022(b).

(K) Vehicles sold outside of the State of California. For a vehicle to qualify for retirement, a municipality or utility must:

1. Submit to the Executive Officer a completed VIN Stop application, which includes: vehicle license plate number, vehicle identification number, vehicle model-year, vehicle

make, vehicle model, engine manufacturer, engine serial number, and engine model year;

2. Receive and maintain VIN Stop submittal to Department of Motor Vehicles in municipality's or utility's records; and

3. Obtain and maintain out-of-state buyer's contact information, such as name, address and phone number for the vehicle sold outside of the State of California and acknowledgement of the vehicle's operational status.

~~(K)~~(L) A statement of compliance, prepared beginning December 31, 2007, and renewed each December 31, thereafter until December 31, 2012, with low-population counties continuing until December 31, 2018, certifying that the municipality's or utility's engines are in compliance as required, including the following:

1. "The [insert name of municipality or utility] vehicles at terminal [insert terminal identification number or address] are in compliance with title 13, California Code of Regulations, section 2022.1"; and

2. The municipality's or utility's name, address, and business telephone; and the signature of the municipality's or utility's agent and the date signed.

(2) Inspection of Records at the Terminal. Beginning December 31, 2007, the municipality or utility shall provide to any ARB representative any records required to be maintained by the municipality or utility pursuant to subsection (f)(1), by appointment, at the terminal where a vehicle normally resides.

(3) Records Kept in the Vehicle. For each vehicle, beginning December 31, 2007, the municipality or utility shall keep the following information in the form of a legible and durable label affixed to the driver's side door jamb, or another readily accessible location known to the driver of each vehicle:

(A) For each installed diesel emission control strategy, the diesel emission control strategy family name as specified in title 13, California Code of Regulations, section 2706(g)(2), and the installation date; or

(B) Engine model-year and planned compliance date, and a statement that the vehicle is following the accelerated turnover option, if applicable; or

(C) Designation as a low usage vehicle or low-population county low usage vehicle (as applicable) and the vehicle's mileage or hours as of December 31 of each year beginning December 31, 2007; or

(D) Engine model-year and terminal where the vehicle is permanently housed if the municipality or utility is located in a low-population county or has been granted low-population county status; or

(E) Engine model-year and retirement date for an engine for which a municipality or utility is claiming an extension pursuant to paragraph (d)(4); or

(F) Engine model-year and the beginning and the ending dates for the test plan of an engine for which a municipality or utility is claiming an extension pursuant to paragraph (d)(5)~~.~~; or

(G) Engine model-year and planned compliance date, and a statement that the vehicle is following the private utility extension, if applicable.

(4) Each municipality or utility shall maintain these records for each vehicle until it is sold outside of the State of California or is no longer owned or operated by the municipality or utility. If ownership is transferred, the seller shall convey these records to the buyer, or a third-party sales representative.

(g) Contractor Compliance Requirement. In any contract for services that a municipality or utility enters that has an effective date of December 31, 2007, or later, the municipality or utility shall include language requiring the contractor to be in compliance with all federal, state, and local air pollution control laws and regulations applicable to the contractor.

(h) Third Party Vehicle Seller Contract Requirement. In any contract with a third party vehicle seller for the sale of a vehicle outside of the State of California to satisfy retirement, a municipality or utility must:

(1) Include in the contract that it is the third party vehicle seller's responsibility to:

(A) Ensure that the vehicle is sold outside of the State of California, or if sold to an intermediate buyer in state, inform the intermediate buyer in writing that the vehicle cannot be sold or operated within California unless the vehicle is in compliance with section 2022.1(b);

(B) Inform the buyer in writing that the vehicle cannot be registered in California unless the vehicle is in compliance with section 2022.1(b); and

(C) Notify the buyer in writing to inform future buyers that the vehicle cannot be registered/operated in California unless the vehicle is in compliance with section 2022.1(b).

(2) Obtain a written statement from the third party vehicle seller with the buyer's contact information, such as name, address, and phone number; obtain acknowledgment of the requirements in subparagraph 2022.1(h)(1); and provide original copy to public agency or utility.

~~(h)~~*(i)* Non-Compliance. Any violations of this section may carry civil penalties as specified in state law and regulations, including, but not limited to, Health and Safety Code Section 39674.

(1) A municipality or utility that fails to maintain the required records in paragraph (f)(1) may be subject to civil penalties of not less than $100 per day for every day past the required record-keeping date.

(2) A municipality or utility that fails to maintain the required records in the vehicle as specified in paragraph (f)(3) may be subject to civil penalties of not less than $100 per day per vehicle for every day past the required record-keeping date.

NOTE: Authority cited: Sections 39600, 39601, and 39658, Health and Safety Code. Reference: Sections 39002, 39003, 39655, 39656, 39657, 39658, 39659, 39660, 39661, 39662, 39664, 39665, 39667, 39669, 39674, 39675, 43000, 43013, 43018, 43101, 43102, 43104, 43105 and 43700, Health and Safety Code.

PROPOSED REGULATION ORDER

REGULATION TO CONTROL EMISSIONS FROM IN-USE ON-ROAD DIESEL-FUELED HEAVY-DUTY DRAYAGE TRUCKS

Note: Proposed amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions, compared to the preexisting regulatory language.

Amend section 2027, title 13, California Code of Regulations to read as follows.

Section 2027. **In-Use On-Road Diesel-Fueled Heavy-Duty Drayage Trucks.**

(a) ***Purpose***. The purpose of this regulation is to reduce emissions and public exposure to diesel particulate matter (diesel PM), oxides of nitrogen (NOx), and other air contaminants by setting emission standards for in-use, heavy-duty diesel-fueled vehicles that transport cargo to and from California's ports and intermodal rail facilities.

(b) ***Applicability***

(1) This regulation applies to owners and operators of on-road diesel-fueled, alternative diesel-fueled and dual-fueled heavy-duty drayage trucks operated at California ports and intermodal rail yard facilities. This regulation also applies to "motor carriers," "marine or port terminals," "intermodal rail yards," and "rail yard and port authorities."

(2) This regulation does not apply to:

(A) dedicated use vehicles;

(B) vehicles operating under an ARB authorized emergency decree;

(C) authorized emergency vehicles;

(D) military tactical support vehicles;

(E) vehicles that operate at port or intermodal rail yard properties in which the ARB Executive Officer has granted an annual exemption under the provisions of subsection (f) to local port or rail yard authorities; and

(F) yard trucks.

(c) ***Definitions***. For purposes of this section, the definitions of Health and Safety Code section 39010 through 39060 apply except to the extent that such

definitions may be modified by the following definitions that apply specifically to this regulation.

(1) "Alternative Diesel Fuel" means any fuel used in diesel engines that is not a reformulated diesel fuel as defined in sections 2281 and 2282 of title 13, of the California Code of Regulations, and does not require engine or fuel system modifications for the engine to operate, other than minor modifications (e.g., recalibration of the engine fuel control) that may enhance performance. Examples of alternative diesel fuels include, but are not limited to, biodiesel, Fischer-Tropsch fuels, and emulsions of water in diesel fuel. Natural gas is not an alternative diesel fuel. An emission control strategy using a fuel additive will be treated as an alternative diesel fuel based strategy unless:

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

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

(C) the additive and base fuel are not mixed until engine fueling commences, and no more additive plus base fuel combination is mixed than required for a single fueling of a single engine or vehicle.

(21) "ARB" means the California Air Resources Board.

(32) "ARB Designees" are defined as those entities that ARB designates or contracts with to perform certain functions or provide specific services on its behalf under this regulation.

(43) "Authorized Emergency Vehicle" is as defined in Vehicle Code section 165.

(54) "Average Daily Drayage Truck Visits" is determined by dividing the total number of truck visits within a calendar month by the total number of intermodal rail yard open days for that same calendar month as represented by the following equation:

$$\left(\frac{\text{Total number of truck visits}}{\text{Total number of intermodal rail yard open days}} = \text{Average daily truck count} \right)$$

Where:

(A) a 'truck visit' is defined as each occurrence of a drayage truck transgressing from outside intermodal rail yard property onto intermodal rail yard property; and,

(B) an ‘open day’ is defined as a calendar day in which an intermodal rail yard has drayage truck traffic.

(6~~5~~) “Beneficial Cargo Owner” is a cargo owner, the person for whose account the ocean or rail transportation is provided, the person to whom delivery is to be made, a shippers' association, or an ocean or rail transportation intermediary that accepts responsibility for payment of all applicable charges.

(7~~6~~) “Bill of Lading” is a document that states the terms of the contract between a shipper and a transportation company. It serves as a document of title of the goods shipped, a contract of carriage, and a receipt for goods.

(8~~7~~) “CARB Diesel Fuel” is diesel fuel certified by ARB as meeting the fuel specification standards set forth at title 13, California Code of Regulations (CCR) section 2280 et seq.

(9~~8~~) “Class I Railroad” is a freight railway based on large revenues ($250 million or more) in comparison to the revenues of Class II (which ranges from greater than $20 million but less than $250 million) and Class III (less than $20 million) railways, as defined by the Surface Transportation Board (STB).

(10) “Compression Ignition Engine” means an internal combustion engine with operating characteristics significantly similar to the theoretical diesel combustion cycle. The regulation of power by controlling fuel supply in lieu of a throttle is indicative of a compression ignition engine.

(11~~9~~) “Dedicated Use Vehicles” are uni-body vehicles that do not have separate tractor and trailers and include but are not limited to:

(A) Dedicated auto transports;
(B) Dedicated fuel delivery vehicles;
(C) Concrete mixers;
(D) On-road mobile cranes

(12~~10~~) “Diesel Fuel” means any fuel that is commonly or commercially known, sold, or represented by the supplier as diesel fuel, including any mixture or primarily liquid hydrocarbons (HC) – organic compounds consisting exclusively of the elements carbon and hydrogen – that is sold or represented by the supplier as suitable for use in an internal combustion, compression – ignition (CI) engine.

(13~~11~~) "Diesel-Fueled" means a CI engine fueled by diesel fuel, CARB diesel fuel, ~~or jet fuel,~~ or alternative diesel fuel in whole or part~~, including liquid natural gas (LNG) engines using diesel-fuel for pilot injection are subject to the requirements of this regulation~~.

(14~~12~~) "Diesel particulate matter (diesel PM)" means the particles found in the exhaust of diesel-fueled compression ignition engines. Diesel PM may agglomerate and adsorb other species to form structures of complex physical and chemical properties. ARB has identified diesel PM as a toxic air contaminant.

(15~~13~~) "Drayage Truck" means any in-use on-road vehicle with a gross vehicle weight rating (GVWR) of 33,000 pounds or greater operating on or transgressing through port or intermodal rail yard property for the purpose of loading, unloading or transporting cargo, such as containerized, bulk or break-bulk goods.

(16~~14~~) "Drayage Truck Owner" means:

(A) the person registered as the owner of a drayage truck as shown by the Department of Motor Vehicles, or its equivalent in another state, province, or country; or the International Registration Plan.

or

(B) the lessee of the truck, as indicated on the drayage truck's registration pursuant to Vehicle Code section 4453.5.

(17~~15~~) "Drayage Truck Operator" means the driver of the vehicle or any person, party or entity that controls operation of a drayage truck at a port or intermodal rail yard facility.

(18~~16~~) "Drayage Truck Registry (DTR)" is an ARB database that contains information on all trucks that conduct business at California ports and intermodal rail yards.

(19~~17~~) "Drayage Truck Registry Number" is a unique identifier issued to the owner of a drayage truck upon registering in the DTR and corresponds to the truck registered.

(20~~18~~) "DTR Compliant" means that a drayage truck is currently compliant with the requirements of the regulation, including the requirements for the DTR and emission standards.

(21) "Dual-Fuel Engine" means any compression ignition engine that is engineered and designed to operate on a combination of alternative fuels, such as compressed natural gas (CNG) or liquefied petroleum gas (LPG)

and diesel fuel or an alternative diesel fuel. These engines have two separate fuel systems, which inject both fuels simultaneously into the engine combustion chamber. A dual-fuel engine is not an alternative-fuel engine.

(22~~19~~) "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 drayage truck owners and operators that threatens public health and safety or the reasonable flow of goods movement.

(23~~20~~) "Emergency Decree" means a determination by the Executive Officer that an emergency event has occurred that requires the immediate temporary operation of drayage trucks at ports and intermodal rail yard facilities.

(24~~21~~) "Executive Officer" is the Executive Officer of ARB or his/her authorized representative.

(25~~22~~) "Gross Vehicle Weight Rating (GVWR)" is as defined in Vehicle Code Section 350.

(26~~23~~) "Heavy-Duty" is a manufacturer's gross vehicle weight rating of greater than 33,000 pounds.

(27~~24~~) "Intermodal Rail Yard" is any rail facility owned or operated by a Class I railroad where cargo is transferred from drayage truck to train or vice-versa that:

(A) is within 80 miles of a port;

or,

(B) is located more than 80 miles from the nearest port and having, on or after January 2008, 100 or more average daily drayage truck visits in any one calendar month.

Once a rail yard, identified in (B) above, has 100 or more average daily drayage truck visits in any one month, the rail yard will be considered an intermodal rail yard and will be subject to all provisions of this regulation regardless of the size of future average daily drayage truck visits. Intermodal rail yards include, but are not limited to, the following facilities: Union Pacific (UP) Oakland, Burlington Northern Santa Fe (BNSF) Hobart, LATC Union Pacific, Commerce UP, Richmond BNSF, Commerce Eastern BNSF, ICTF UP, San Bernardino, Stockton Intermodal BNSF, Lathrop Intermodal UP, and BNSF Oakland.

(28~~25~~) "International Registration Plan" is a registration reciprocity agreement among states of the United States and provinces of Canada providing for payment of license fees on the basis of total distance operated in all jurisdictions.

(29~~26~~) "Lessee" has the same meaning as in Vehicle Code section 371.

(30~~27~~) "Liquid Natural Gas (LNG) Fueled Trucks" are drayage trucks that utilize a heavy-duty pilot ignition engine that is designed to operate using an alternative fuel, except that diesel fuel is used for pilot ignition at an average ratio of no more than one part diesel fuel to ten parts total fuel on any energy equivalent basis. An engine that can operate or idle solely on diesel fuel at any time does not meet this definition.

(31~~28~~) "Marine or Port Terminals" means wharves, bulkheads, quays, piers, docks and other berthing locations and adjacent storage or adjacent areas and structures associated with the primary movement of cargo or materials from vessel to shore or shore to vessel including structures which are devoted to receiving, handling, holding, consolidating and loading or delivery of waterborne shipments or passengers, including areas devoted to the maintenance of the terminal or equipment. For the purposes of this regulation, the term includes but is not limited to production or manufacturing areas, warehouses, storage facilities, and private or public businesses or entities located on or surrounded by port property.

(32~~29~~) "Military Tactical Support Vehicles" is as defined in title 13, CCR, section 1905.

(33~~30~~) "Motor Carrier" is a business intermediary that contracts with beneficial cargo owners, ship companies, port terminals or Class I railroads for pick-up and delivery of goods and with drayage truck owners, who it dispatches to ports and/or intermodal rail yards to pick up and deliver such goods.

(34~~31~~) "On-road" means a vehicle that is designed to be driven on public highways and roadways and that is registered or is capable of being registered by the California Department of Motor Vehicles (DMV) under Vehicle Code sections 4000 et seq. – or DMV's equivalent in another state, province, or country; or the International Registration Plan. A vehicle covered under ARB's In-Use Off-Road Regulation, title 13, CCR, section 2449 is not an on-road vehicle.

(35~~32~~) "Oxides of nitrogen (NOx)" means compounds of nitric oxide, nitrogen dioxide, and other oxides of nitrogen. Nitrogen oxides are typically created

during combustion processes and are major contributors to smog formation and acid deposition.

(36~~33~~) "Port" is the port property where marine and port terminals are typically located for the loading and unloading of water-borne commerce onto and from ocean-going vessels. For purposes of this regulation, port does not include port property that is not related to or primarily used to engage in water-borne commerce. Ports covered by this regulation include, but are not limited to, the Port of Long Beach, Port of Los Angeles, Port of Humboldt Bay, Port of San Diego, Port of Hueneme, Port of Oakland, Port of San Francisco, Port of Sacramento, Port of Stockton, Port of Redwood City, Port of Crockett, Port of Richmond, Port of Pittsburg, and the Port of Benicia.

(37~~34~~) "Port Authority" means those entities, either public or private, that are responsible for the operation of the ports.

(38~~35~~) "Port Property" means publicly or privately owned property where a port is located. It is the property that includes the physical boundaries, either contiguous or non-contiguous, of the port and may include other properties owned by the port. For the purposes of this regulation, port property includes privately owned property located within a publicly or privately owned port property's boundaries.

(39~~36~~) "Rail Yard Authority" means those entities, either public or private, that are responsible for the operation of Class I rail yards.

(40~~37~~) "Rail Yard Property" means the property constituting the physical boundaries of intermodal rail yards. For the purposes of this regulation, rail yard property also includes privately owned property located within intermodal rail yard boundaries.

(41~~38~~) "Uni-Body Vehicles" are vehicles that do not have a separate tractor and trailer and include but are not limited to:

(A) concrete mixers;

(B) on-road mobile cranes;

(C) on-road construction equipment.

(42~~39~~) "Vehicle" is as defined in Vehicle Code Section 670.

(43~~40~~) "Verified Diesel Emission Control Strategy (VDECS)" is an emission control strategy that has been verified pursuant to the "Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use

Strategies to Control Emissions from Diesel Engines" in Title 13, California Code of Regulations, commencing with section 2700, and incorporated by reference.

(44~~41~~) "Yard Truck" means an off-road mobile utility vehicle used to carry cargo containers with or without chassis; also known as a utility tractor rig (UTR), yard tractor, yard goat, yard hustler, or prime mover.

(d) ***Requirements and Compliance Deadlines*.** Drayage trucks subject to this regulation must meet the following requirements by the compliance deadlines detailed in both Phase 1 AND Phase 2.

(1) ***Phase 1***: ~~By December 31, 2009, all drayage trucks must be equipped with:~~

(A) By December 31, 2009, all drayage trucks must be equipped with:

1.~~(A)~~ 1994 – 2003 model year engine certified to California or federal emission standards and a level 3 VDECS for PM emissions;

or,

2.~~(B)~~ 2004 or newer model year engine certified to California or federal emission standards;

or,

3.~~(C)~~ a 1994 or newer model year engine that meets or exceeds 2007 model year California or federal emission standards.

(B) After December 31, 2011, all drayage trucks with 2004 model year engines must be equipped with the highest level VDECS for PM emissions.

(C) After December 31, 2012, all drayage trucks with 2005 - 2006 model year engines must be equipped with the highest level VDECS for PM emissions.

(2) ***Phase 2***: After December 31, 2013, all drayage trucks must be equipped with a 1994 or newer model year engine that meets or exceeds 2007 model year California or federal emission standards.

(3) *Drayage Truck Owner Requirements*

(A) Drayage truck owners shall:

1. meet all applicable requirements and deadlines set forth in Phases 1 and 2 above;

2. if an aftermarket level 3 VDECS is installed, be able to demonstrate that:

   a. the VDECS has been verified by ARB for use with the engine and vehicle, as described in the Executive Order for the VDECS;

   b. use of the vehicle must be consistent with the conditions of the Executive Order for the VDECS;

   c. the VDECS is installed in a verified configuration;

   d. the engine met the engine manufacturer's operational specifications prior to the VDECS installation;

   e. the VDECS label is visible;

   f. the level 3 VDECS is mounted in a safe and secure manner on the vehicle consistent with provisions in (3)(A)(2)(c) above, and the fixed position of the level 3 VDECS does not obscure vehicle rear view or side mirror visibility in any way.

   g. all emission control devices are functioning properly and maintained per manufacturer's specifications;

   h. in the event of a failure or damage of an aftermarket level 3 VDECS or an OEM equivalent diesel emissions control system while the device is still under warranty, it has taken prompt action to repair or replace the device by the manufacturer or authorized dealer with the same level of VDECS or OEM equivalent diesel emissions control system within 45 days of first noticing or being notified of the failure or damage to the device.

   i. it has adhered to the terms and conditions in the aftermarket manufacturer or OEM warranty governing the use of the device.

   j. if the failure or damage to the level 3 VDECS or OEM equivalent diesel emissions control system occurs after

expiration of the warranty period, it has taken prompt action to personally repair or replace the failed or damaged device with the same level VDECS or OEM equivalent diesel emissions control system available for the engine within 90 days of first noticing or being notified of the failure or damage to the device.

k. it has not misused, dismantled, or tampered with any components of the level 3 VDECS or OEM equivalent diesel emissions control system, except for purposes of recommended periodical maintenance by an authorized agent, or when it is necessary to detach the device to service the vehicle.

3. register with the DTR, according to subsection (e);

4. be able to demonstrate that the drayage truck operator has been informed about the information required under subsection (d)(5)(A)(4) for the dispatching motor carrier and instructed to provide such information to any enforcement personnel listed in subsection (i), upon request.

(B) Phase 1 compliance deadline extension:

1. Drayage truck owners may apply for a one-time, one-year, per-truck Phase 1 compliance deadline extension. The compliance deadline application must be either electronically filed or postmarked by June 1, 2009. To receive the Phase 1 compliance deadline extension, a drayage truck owner must demonstrate all of the following:

a. the engine installed on his/her current truck is a California or federally certified 1994 – 2003 model year engine;

b. the truck was registered with the DTR prior to June 1, 2009;

c. no Level 3 diesel emission control technology verified by ARB for use on that combination of truck and engine was available at the time the extension was filed.

2. Compliance extension applications shall be submitted to ARB at:

California Air Resources Board
Drayage Truck Phase1 Extension, SSD
P.O. Box 2815
Sacramento, CA, 95812

or electronically through ARB's drayage truck website;
http://www.arb.ca.gov/drayagetruck

3. If after the one-year extension ARB verified technology is still unavailable, the truck owner must comply with the regulation within 90 days of the expiration of the extension by replacing the existing heavy duty truck and / or engine with a truck or engine that meets or exceeds the Phase 1 requirements.

(4) *Drayage Truck Operator Requirements*

Drayage truck operators shall, upon request, provide the dispatching motor carrier's contact information as detailed in subsection (d)(5)(A)(4) to authorized enforcement personnel as set forth in subsection (i).

(5) *Motor Carrier Requirements*

(A) Each motor carrier shall:

1. provide a copy of this regulation or an ARB approved summarized version to each drayage truck owner that it contracts with for deliveries to ports and intermodal rail yards;

2. only dispatch drayage trucks to a port or intermodal rail yard that meet emission standards and compliance deadlines set forth in Phases 1 and 2 in subsection (d);

3. only dispatch drayage trucks to ports and intermodal rail yards that are registered and in good standing with the Drayage Truck Registry (DTR) and are DTR compliant;

4. demonstrate that it has only dispatched drayage trucks whose operators have been informed to provide the motor carrier information listed below, upon request, to enforcement personnel, as listed in subsection (i).

a. the motor carrier's business name;
b. contact person's name;
c. motors carrier's street address, state, and zip code;
d. contact person's business phone number.

5. keep a record of all dispatched drayage trucks containing the information set forth in (a) through (d) below for a minimum of five years from the dispatch date. Dispatch records are to be made available to enforcement personnel within 72 hours of an official written or oral request.

    a. truck dispatch date and time;
    b. bill of lading or tracking number;
    c. truck license plate number and issuing state;
    d. Drayage Truck Registry number.

(6) *Marine or Port Terminals and Intermodal Rail Yard Requirements*

(A) Starting September 30, 2009, marine or port terminals and intermodal rail yards shall collect the following information for each drayage truck subject to this regulation that enters the facility that is not DTR compliant as determined by information contained within the Drayage Truck Registry.

1. Dispatching motor carrier:

    a. business name of dispatching motor carrier;
    b. contact person's name;
    c. street address, state, zip code of the dispatching motor carrier;
    d. phone number of the dispatching motor carrier;
    e. bill of lading or tracking number.

2. Drayage truck:

    a. entry date and time;
    b. registered owner's name;
    c. operator's name;
    d. operator's license number;
    e. drayage truck's license plate number and state of issuance;
    f. drayage truck's vehicle identification number (VIN).

All information collected in subsection (d)(6) shall be kept for a period of not less than five years from the truck entry date and is to be made available to enforcement personnel within 72 hours of an official written or oral request.

(B) Marine or port terminals and intermodal rail yards shall report the information collected in subsection (A) above to their respective

authorities according to schedule (A) below and in a format acceptable to their respective authority.

Schedule A: Terminal and Intermodal Rail Yard Reporting Schedule

Date Truck Enters Terminal or Intermodal Rail Yard	Date by which Information is to be Reported to Port or Rail Authority
January 1 – March 31	April 15
April 1 – June 30	July 15
July 1 – September 30	October 15
October 1 – December 31	January 15

(7) *Port Authorities and Rail Yard Authorities Requirements*

(A) Port and rail yard authorities shall respectively report the information collected by the port terminals and intermodal rail yards, as detailed in subsection (d)(6), to, and in a manor and format prescribed by, ARB according to Schedule B below. ARB reporting parameters are detailed on ARBs website

http://www.arb.ca.gov/drayagetruck.

Schedule B: Port and Rail Yard Authority Reporting Schedule

Date by which Information is to be Reported to the California Air Resources Board
May 15
August 15
November 15
February 15

(B) Port and rail yard authorities shall ensure their respective terminals and/or intermodal rail yards abide by all Schedule A reporting deadlines.

(C) Rail yard authorities operating rail yards located greater than 80 miles from the nearest port with less than 100 average daily drayage truck visits for each calendar month starting January 2008, must complete and submit quarterly verification reports according to Schedule B and in a format approved by ARB.

The first quarterly verification report shall include average daily drayage truck visits for each calendar month starting with the

effective date of the regulation and submitted to ARB according to schedules A and B above. Subsequent quarterly verification reports shall include average daily drayage truck visits for the three calendar months prior to each reporting date. Quarterly verification reports shall include, but are not limited to, the following information;

a. reporting rail yard authority contact information;
b. rail yard name and address;
c. average daily drayage truck visits by calendar month.

Quarterly verification applications and additional guidelines can be obtained by contacting ARB at:

California Air Resources Board
Rail Yard Daily Truck Verification, SSD
P.O. Box 2815
Sacramento, CA, 95812

or electronically through ARB's drayage truck website;

http://www.arb.ca.gov/drayagetruck

(e) ***Drayage Truck Registry Requirements***

(1) *Truck Owner Requirements*

(A) Owners of all drayage trucks doing business at a port or intermodal rail yard prior to September 30, 2009 and intending to continue operations after that date must register with the DTR database by September 30, 2009.

(B) Drayage trucks intending to begin operations at a port or intermodal rail yard after September 30, 2009 must be registered with the DTR database prior to commencing operations.

(C) Owners of all drayage trucks covered by the regulation must provide the following information to ARB or its designee by mail to the address in subsection (e)(2) or electronically through ARB's DTR website http://www.arb.ca.gov/drayagetruck. The information shall include but may not be limited to:

1. truck owner name, address, and contact information (e.g. phone number, email address, fax number);

2. engine make, model, and model year;

3. vehicle identification number (VIN);

4. vehicle license number and state of issuance;

5. compliance status, which shall include:

a. identifying whether the drayage truck has complied with the requirements of Phases 1 and 2, set forth in subsection (d) above;

b. if so, how was compliance achieved (e.g. new compliant truck or description of the level 3 VDECS that was used), who did the installation work, and when was it completed;

c. if not, identifying when the drayage truck is scheduled to come into compliance under Phases 1 or 2.

(D) After filing the initial application, the drayage truck owner shall within 30 days of bringing a truck into compliance with Phase 1 or Phase 2, update the DTR with the vehicle's compliance status information and any other changes to the vehicle's ownership, DMV registration status, or participation status in IRP.

(2) *Mailing Address for Filing Initial Applications and Updates.* Drayage truck owners shall submit DTR applications and any updated information to ARB at:

California Air Resources Board
c/o Drayage Truck Registry, SSD
P.O. Box 2815
Sacramento, CA, 95812

(3) Failure to register with the DTR or submittal of false information is a violation of state law and subject to civil or criminal penalty.

(f) ***Annual Port or Rail Yard Exemption***

(1) *Annual Exemption.* An annual exemption may be granted, under limited circumstances, by the ARB Executive Officer to ports or rail yards. An exemption may cover a clearly defined portion or the entirety of a port or rail yard. The Executive Officer will exempt a port or rail yard that is able to demonstrate one or more of the following:

(A) port or rail yard land is not typically used for truck traffic and its primary function or location does not include or attract drayage trucks covered under this regulation (e.g. a shoreline animal sanctuary);

(B) the overwhelming majority of trucks accessing the port or rail yard are exempted under this regulation (e.g. a port where only dedicated auto transports are in service).

(2) *The Exemption Request*

(A) a port or rail yard requesting an exemption shall mail the request to:

California Air Resources Board
Port / Rail Yard Exemption, SSD
P.O. Box 2815
Sacramento, CA, 95812

or may send it electronically to ARBs' website http://www.arb.ca.gov/drayagetruck using the request form available on the site.

(B) the request must be completed and submitted annually (via the same website or address listed above) no later than January 1 of the year prior to the exemption year (e.g. a 2010 year exemption application must be completed and submitted by January 1, 2009);

(C) the request will be approved or disapproved by the Executive Officer no later than July 1, of the year prior to the exemption year. The Executive Officer will then issue an exemption to be valid for the specified port or rail yard for the specified exemption year.

(g) ***Penalties.*** Any person who fails to comply with the performance requirements of this regulation, who fails to submit any information, report, or statement required by this regulation, or who knowingly submits any false statement or representation in any application, report, statement, or other document filed, maintained, or used for the purposes of compliance with this regulation may be subject to civil or criminal penalties under sections 39674, 39675, 42400, 42400.1, 42400.2, 42402,.2, and 43016 of the Health and Safety Code. In assessing penalties, the Executive Officer will consider factors, including but not limited to the willfulness of the violation, the length of time of noncompliance, whether compliance was attempted, and the magnitude of noncompliance.

(h) ***Right of Entry.*** For the purpose of inspecting on-road vehicles covered in this regulation, and their records to determine compliance with these regulations, an agent or employee of ARB, upon presentation of proper credentials, has the right

to enter any facility (with any necessary safety clearances) where on-road vehicles are located or on-road vehicle records are kept.

(i) ***Enforcement***. Enforcement of this section may be carried out by authorized representatives of ARB, port and rail yard authorities; peace officers as defined in California Penal Code, Title 3, chapter 4.5, sections 830 et seq. and their respective law enforcement agencies; and authorized representatives of air pollution control or air quality management districts.

(j) ***Relationship to Other Law.*** Nothing in this section allows drayage trucks to operate in violation of other applicable law, including, but not limited to:

(1) California Vehicle Code;

(2) California Health and Safety Code;

(3) division 3, title 13, California Code of Regulations;

(4) any applicable ordinance, rule, or requirement as stringent as, or more stringent than, than the requirements of subsection (d) of this regulation.

(k) ***Severability*****.** If any subsection, paragraph, subparagraph, sentence, clause, phrase, or portion of this regulation is, for any reason, held invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of the regulation.

Note: Authority Cited: Sections 39600, 39601, 39650, 39658, 39659, 39666, 39667, 39674, 39675, 42400, 42400.1, 42400.2, 42402.2., 42410, 43013, 43016, 43018, 43023, 43600, California Health and Safety Code. Reference: Sections 39650, 39658, 39659, 39666, 39667, 39674, 39675, 42400, 42400.1, 42400.2, 42402.2, 42410, 40717.9, 43013, 43016, and 43018, 43023, 43600, California Health and Safety Code.

Note: Proposed amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions, compared to the preexisting regulatory language. The symbol "***" indicates that regulatory text not being amended is not shown.**

Amend section 2449, title 13, California Code of Regulations to read as follows.

§ 2449. General Requirements for In-Use Off-Road Diesel-Fueled Fleets.

(a) Purpose

*****

(b) Applicability

Except as provided in the paragraphs below, the regulation applies to any person, business, or government agency who owns or operates within California any diesel-fueled or alternative diesel fueled off-road compression ignition vehicle engine with maximum power of 25 horsepower (hp) or greater that is used in a two-engine crane or to provide motive power in a workover rig or to provide motive power in any other motor vehicle that (1) cannot be registered and driven safely on-road or was not designed to be driven on-road, and (2) is not an implement of husbandry or recreational off-highway vehicle. Unless they are workover rigs or two-engine cranes, v~~V~~ehicles that were designed to be driven on-road, have on-road engines, and still meet the original manufacturer's on-road engine emission certification standard are considered on-road and are specifically excluded from this regulation, even if they have been modified so that they cannot be registered and driven safely on-road. Off-road vehicles that were designed for off-road use and have off-road engines are considered off-road and are subject to this regulation, even if they have been modified so that they can be driven safely on-road.

(c) Definitions

(56) "Two-Engine Crane" means a mobile diesel-powered machine with a hoisting mechanism mounted on a specially constructed truck chassis or carrier; one engine provides motive power, and a secondary engine is used to lift and move materials and objects.

(5~~6~~7) "Verified Diesel Emission Control Strategy" (VDECS) means an emissions control strategy, designed primarily for the reduction of diesel PM emissions, which has been verified pursuant to the *Verification Procedures*. VDECS can be verified to achieve Level 1 diesel PM reductions (25 percent), Level 2 diesel PM reductions (50 percent), or Level 3 diesel PM reductions (85 percent). VDECS

may also be verified to achieve NOx reductions. See also definition of Highest Level VDECS.

(5~~7~~8) "VDECS Failure" means the condition of not achieving the emissions reductions to which the VDECS is verified. Such condition could be due to inappropriate installation, damage, or deterioration during use. If a Level 3 VDECS is emitting visible smoke, it should be assumed to have failed.

(5~~8~~9) "Workover rig" means a mobile self-propelled rig used to perform one or more remedial operations, such as deepening, plugging back, pulling and resetting liners, on a producing oil or gas well to try to restore or increase the well's production.

(d) Performance Requirements -

*****

(e) Special Provisions/Compliance Extensions

*****

(7) Exemption for Low-Use Vehicles - Low-use vehicles are exempt from the performance requirements in sections 2449(d)(4) through 2449(d)(6) and 2449(d)(8) through 2449(d)(10), 2449.1(a), 2449.2(a) and 2449.3(d), but still must meet the idling limits in section 2449(d)(3) and adding vehicles requirements in section 2449(d)(7) and be labeled and reported in accordance with sections 2449(f) and (g). Low-use vehicles need not be included when calculating fleet average indices or target rates, when determining fleet size, or when calculating the required horsepower for the BACT turnover and retrofit requirements in sections 2449.1(a)(2) and 2449.2(a)(2).

Vehicles that formerly met the low-use vehicle definition, but whose use increases to 100 hours per year or greater must meet the adding vehicles requirements in section 2449(d)(7) and meet the BACT requirements or be included in the fleet average calculation by the next compliance date. For example, a formerly low-use engine that exceeds 100 hours per year between March 1, 2013 and February 28, 2014 must be included in the fleet average indices and target rates reported in 2014.

*****

(14) Two-Engine Cranes – Both engines in a two-engine crane are subject to this regulation. For purposes of the rounding provisions in section 2449.1(a)(2)(a)7., neither engine in the two-engine crane is required to be turned over until the horsepower required to be turned over under section 2449.1(a)(2)(A) is at least

half the sum of the maximum power of the primary and secondary engine in the two-engine crane.

(15) On-road Registered Vehicles with Off-road Engines – If a workover rig or other on-road registered vehicle subject to this regulation with an off-road engine is repowered and will be registered and driven on-road, it must be repowered with an on-road certified engine of the same model year or newer as the engine being replaced.

(f) Labeling

*****

(g) Reporting-

Reporting is required for each and every fleet. Large and medium fleets may report separately for different divisions or subsidiaries of a given company or agency. Fleet owners may submit reporting information using forms (paper or electronic) approved by the Executive Officer.

*****

(1) Initial Reporting -

*****

(A) Fleet Owner –

*****

(B) Vehicle List – A list of each vehicle subject to this regulation along with the following information for each vehicle:

1. Vehicle type;
2. Vehicle manufacturer;
3. Vehicle model;
4. Vehicle model year;
5. Vehicle serial number (i.e., for workover rigs and two-engine cranes, vehicle identification number);
6. Whether the vehicle is a low-use vehicle;
7. If the vehicle is a low-use vehicle, whether the vehicle was operated outside of California during the previous compliance year;
8. Whether the vehicle is a specialty vehicle;
9. Whether the vehicle is a vehicle used solely for emergency operations;
10. Whether the vehicle is a dedicated snow removal vehicle;
11. Whether the vehicle is used for agricultural operations for over half of its annual operating hours;
12. Whether the vehicle is an electric vehicle that replaced a diesel vehicle;

13. Whether the vehicle has been retrofit, repowered, or replaced with Surplus Off-road Opt-in for NOx program funding and, if so, the start and end dates of the contract period;
14. Whether the vehicle has been retrofit, repowered, or replaced with Carl Moyer program funding;
15. Whether the vehicle has been retrofit through a demonstration program, and - if so - which program;
16. EIN if it has already been assigned;
17. License plate number, if vehicle has a license plate.

*****

Note: Authority cited: Sections 39002, 39515, 39516, 39600, 39601, 39602, 39650, 39656, 39658, 39659, 39665, 39667, 39674, 39675, 40000, 41511, 42400, 42400.1, 42400.2, 42400.3.5, 42402, 42402.1, 42402.2, 42402.4, 42403, 43000, 43000.5, 43013, 43016 and 43018, Health and Safety Code. Reference: Sections 39002, 39515, 39516, 39600, 39601, 39602, 39650, 39656, 39657, 39658, 39659, 39665, 39667, 39674, 39675, 40000, 41511, 42400, 42400.1, 42400.2, 42402.2, 43000, 43000.5, 43013, 43016 and 43018, Health and Safety Code.

§ 2449.3. Surplus Off-Road Opt-In for NOx (SOON) Program

(a) Purpose

*****

(b) Applicability

*****

(1) District Applicability –

*****

(2) Fleet Applicability – Section 2449.3 applies to a fleet that:

(A) Operates individual vehicles within the air district;

(B) As of January 1, 2008, on a statewide level, consisted of more than 40 percent Tier 0 and Tier 1 vehicles, and;

(C) Has a statewide fleet with maximum power greater than 20,000 horsepower (hp), excluding the hp from engines in two-engine cranes and the hp from single engine cranes formerly subject to the Cargo Handling Equipment Regulation.

*****

Note: Authority cited: Sections 39002, 39515, 39516, 39600, 39601, 39602, 43000, 43000.5, 43013, 43016 and 43018, Health and Safety Code. Reference: Sections 39002, 39515, 39516, 39600, 39601, 39602, 39650, 39656, 39657, 39658, 39659, 39665, 39667, 43000, 43000.5, 43013, 43016 and 43018, Health and Safety Code.

Proposed Regulation Order

REGULATION FOR MOBILE CARGO HANDLING EQUIPMENT AT PORTS AND INTERMODAL RAIL YARDS

Note: Proposed amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions, compared to the preexisting regulatory language. The symbol "***" indicates that regulatory text not being amended is not shown.**

Amend section 2479, title 13, California Code of Regulations to read as follows.

§ 2479. Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards.

(a) Purpose

*****

(b) Applicability

*****

(c) Exemptions

(1) The requirements of this section do not apply to mobile cargo handling equipment that do not operate at a port or intermodal rail yard;

(2) The requirements of this section do not apply to portable CI engines;

(3) The requirements of subsections (e), (f), (g), (h), and (i) do not apply to mobile cargo handling equipment that are not used to handle cargo at any time but are used for transporting personnel or fuel delivery. Examples include, but are not limited to, fuel delivery trucks operating solely at the terminal to deliver fuel to terminal equipment and vans and buses used to transport personnel; ~~and~~

(4) The requirements of this section do not apply to military tactical support cargo handling equipment~~.~~;

(5) The requirements of this section do not apply to mobile cranes as defined in subsection (d)(33); and

(6) The requirements of this section do not apply to sweepers as defined in subsection (d)(54).

(d) Definitions

For purposes of this section, the definitions of Health and Safety Code section 39010 through 39060 shall apply except to extent that such definitions may be modified by the following definitions that apply specifically to this regulation:

(1) "Alternative Diesel Fuel" means any fuel used in a CI engine that is not commonly or commercially known, sold, or represented by the supplier as diesel fuel No. 1-D or No. 2-D, pursuant to the specifications in ASTM D975-81, "Standard Specification for Diesel Fuel Oils," as modified in May 1982, which is incorporated herein by reference, or an alternative fuel, and does not require engine or fuel system modifications for the engine to operate, although minor modifications (e.g., recalibration of the engine fuel control) may enhance performance. Examples of alternative diesel fuels include, but are not limited to, biodiesel that does not meet the definition of CARB diesel fuel; Fischer-Tropsch fuels; emulsions of water in diesel fuel; and fuels with a fuel additive, unless:

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

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

(C) the additive and base fuel are not mixed until engine fueling commences, and no more additive plus base fuel combination is mixed than required for a single fueling of a single engine.

(2) "Alternative Fuel" means natural gas, propane, ethanol, methanol, gasoline (when used in hybrid electric mobile cargo handling equipment only), hydrogen, electricity, fuel cells, or advanced technologies that do not rely on diesel fuel. "Alternative fuel" also means any of these fuels used in combination with each other or in combination with other non-diesel fuel.

(3) "Basic Container Handling Equipment" means mobile cargo handling equipment, other than yard trucks, bulk cargo handling equipment, and RTG cranes, used to handle cargo containers. Basic Container Handling Equipment includes but is not limited to top handlers, side handlers, reach stackers, straddle carriers, and forklifts.

(4) "Bulk Cargo Handling Equipment" means mobile cargo handling equipment, other than yard trucks, basic container handling equipment, and RTG cranes, generally used to move non-containerized cargo, including but not limited to dozers, excavators, loaders, tractors, ~~mobile cranes (excluding rubber-tired gantry cranes),~~ and aerial lifts~~, and sweepers~~.

(5) "California Air Resources Board (CARB) Diesel Fuel" means any diesel fuel that meets the specifications of vehicular diesel fuel, as defined in title 13 CCR, sections 2281, 2282, and 2284.

(6) “Carbon Monoxide (CO)” is a colorless, odorless gas resulting from the incomplete combustion of hydrocarbon fuels.

(7) “Cargo Handling Equipment” means any off-road, self-propelled vehicle or equipment used at a port or intermodal rail yard to lift or move container, bulk, or liquid cargo carried by ship, train, or another vehicle, or used to perform maintenance and repair activities that are routinely scheduled or that are due to predictable process upsets. Equipment includes, but is not limited to, ~~mobile cranes,~~ rubber-tired gantry cranes, yard trucks, top handlers, side handlers, reach stackers, forklifts, loaders, ~~sweepers,~~ aerial lifts, excavators, and dozers.

(8) “Certified Off-road Diesel Engine” means an engine certified to California off-road engine emission standards under title 13 CCR, section 2423.

(9) “Certified On-road Diesel Engine” means an engine certified to California on-road diesel engine emission standards under title 13 CCR, section 1956.8.

(10) “Compression Ignition (CI) Engine” means an internal combustion engine with operating characteristics significantly similar to the theoretical diesel combustion cycle. The regulation of power by controlling fuel supply in lieu of a throttle is indicative of a compression ignition engine.

(11) “Contiguous Properties” means two or more parcels of land with a common boundary or separated solely by a public roadway or other public right-of-way.

(12) “Diesel Fuel” means any fuel that is commonly or commercially known, sold, or represented by the supplier as diesel fuel, including any mixture of primarily liquid hydrocarbons (HC) - organic compounds consisting exclusively of the elements carbon and hydrogen - that is sold or represented by the supplier as suitable for use in an internal combustion, compression-ignition engine.

(13) “Diesel-Fueled” means a CI engine fueled by diesel fuel, CARB diesel fuel, or jet fuel, in whole or part.

(14) “Diesel Oxidation Catalyst (DOC)” means a catalyst promoting oxidation processes in diesel exhaust, and usually designed to reduce emissions of the organic fraction of diesel particulates, gas-phase HC, and CO.

(15) “Diesel Particulate Filter (DPF)” means an emission control technology that reduces PM emissions by trapping the particles in a flow filter substrate and periodically removes the collected particles by either physical action or by oxidizing (burning off) the particles in a process called regeneration.

(16) “Diesel Particulate Matter (Diesel PM)” means the particles found in the exhaust of diesel-fueled CI engines. Diesel PM may agglomerate and adsorb other species to form structures of complex physical and chemical properties.

(17) “Dozer” means an off-road tractor, either tracked or wheeled, equipped with a blade.

(18) “Emission Control Strategy” means any device, system, or strategy employed with a diesel engine that is intended to reduce emissions, including, but not limited to, diesel oxidation catalysts, selective catalytic reduction systems, fuel additives, diesel particulate filters, alternative diesel fuels, water emulsified fuels, and any combination of the above.

(19) “Excavator” means an off-road vehicle consisting of a backhoe and cab mounted on a pivot atop an undercarriage with tracks or wheels.

(20) “Executive Officer” means the Executive Officer of the California Air Resources Board or his/her designee.

(21) “Fleet” means the total number of mobile cargo handling equipment vehicles owned, rented, or leased by an owner or operator at a specific terminal or intermodal yard location.

(22) “Forklift” means an off-road industrial truck used to hoist and transport materials by means of steel fork(s) under the load.

(23) “Fuel Additive” means any substance designed to be added to fuel or fuel systems or other engine-related engine systems such that it is present in-cylinder during combustion and has any of the following effects: decreased emissions, improved fuel economy, increased performance of the engine; or assists diesel emission control strategies in decreasing emissions, or improving fuel economy or increasing performance of the engine.

(24) “Heavy-duty Pilot Ignition Engine” means an engine designed to operate using an alternative fuel, except that diesel fuel is used for pilot ignition at an average ratio of no more than one part diesel fuel to ten parts total fuel on any energy equivalent basis. An engine that can operate or idle solely on diesel fuel at any time does not meet this definition.

(25) “Hydrocarbon (HC)” means the sum of all hydrocarbon air pollutants.

(26) “In-Use” means a CI engine that is not a “new” CI engine.

(27) “Intermodal Rail Yard” means any transportation facility primarily dedicated to the business of rail and/or intermodal rail operations where cargo is transferred to or from a train and any other form of conveyance, such as train to ship, ship to train, train to truck, or truck to train.

(28) “Lease” means a contract by which one conveys cargo handling equipment for a specified term and for a specified rent.

(29) “Level” means one of three categories of Air Resources Board-verified diesel emission control strategies as set forth in title 13, CCR, section 2701 et seq: Level 1 means the strategy reduces engine diesel particulate matter emissions by between 25 and 49 percent, Level 2 means the strategy reduces engine diesel particulate matter emissions by between 50 and 84 percent, and Level 3 means the strategy reduces engine diesel particulate matter emissions by 85 percent or greater, or reduces engine emissions to less than or equal to 0.01 grams diesel PM per brake horsepower-hour.

(30) “Loader” means any type of off-road tractor with either tracks or rubber tires that uses a bucket on the end of movable arms to lift and move material; can be also referred to as a front-end loader, front loader, skid steer loader, backhoe, rubber-tired loader, or wheeled loader.

(31) “Military Tactical Support Cargo Handling Equipment” means cargo handling equipment that meets military specifications, owned by the U.S. Department of Defense and/or the U.S. military services, and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.

(32) “Minimum Use Requirement” means an agreement, as part of state or local incentive funding programs or written agreement between mobile cargo handling equipment owners or operators and the Ports of Long Beach, Los Angeles, or Oakland, to use an emission control device on mobile cargo handling equipment for a specified minimum number of years and/or hours.

(33) “Mobile Crane” means ~~the propulsion engine of~~ a mobile machine,~~crane~~ other than a rubber-tired gantry crane, with a hoisting mechanism mounted on a specially constructed truck chassis or carrier; a mobile crane can either be a single-engine crane or a two-engine crane.

(34) “Model Year” means the CI engine manufacturer’s annual production period, which includes January 1st of a calendar year, or if the manufacturer has no annual production period, the calendar year.

(35) “Newly Purchased, Leased, or Rented Cargo Handling Equipment” means mobile cargo handling equipment, or a diesel-fueled CI engine installed in mobile cargo handling equipment, that is newly purchased, rented, or leased by an owner or operator on or after January 1, 2007, and is operated at a port or intermodal rail yard in the state of California after January 1, 2007.

(36) “Nitrogen Oxides (NOx)” means compounds of nitric oxide (NO), nitrogen dioxide (NO_2), and other oxides of nitrogen, which are typically created during

combustion processes and are major contributors to smog formation and acid deposition.

(37) “Non-Methane Hydrocarbons (NMHC)” means the sum of all HC air pollutants except methane.

(38) “Non-Yard Truck Mobile Cargo Handling Equipment” means all mobile cargo handling equipment other than yard trucks.

(39) “Ocean-going Vessel” means a commercial, government, or military vessel meeting any one of the following criteria:

(A) a vessel with a “registry” (foreign trade) endorsement on its United States Coast Guard certificate of documentation, or a vessel that is registered under the flag of a country other than the United States;
(B) a vessel greater than or equal to 400 feet in length overall (LOA) as defined in 50 CFR § 679.2, as adopted June 19, 1996;
(C) a vessel greater than or equal to 10,000 gross tons (GT ITC) per the convention measurement (international system) as defined in 46 CFR 69.51-.61, as adopted September 12, 1989; or
(D) a vessel propelled by a marine compression ignition engine with a per-cylinder displacement of greater than or equal to 30 liters.

(40) “Off-Road Engine” means an engine used in an off-road vehicle, or piece of equipment, including a certified on-road diesel engine.

(41) “Off-Road Vehicle or Equipment” means any non-stationary device, including registered motor vehicles, powered by an internal combustion engine or motor, used primarily off the highways to propel, move, or transport persons or property.

(42) “Owner or Operator” means any person subject to the requirements of this section, including but not limited to:

(A) an individual, trust, firm, joint stock company, business concern, partnership, limited liability company, association, or corporation including but not limited to, a government corporation; and

(B) any city, county, district, commission, the state or any department, agency, or political subdivision thereof, any interstate body, and the federal government or any department or agency thereof to the extent permitted by law.

(43) “Particulate Matter (PM)” means the particles found in the exhaust of CI engines, which may agglomerate and adsorb other species to form structures of complex physical and chemical properties.

(44) “Port” means a place, which typically consists of different terminals, where cargo is loaded onto and unloaded from ocean-going vessels primarily. A port includes military terminals that operate cargo handling equipment when located as part of, or on contiguous properties with, non-military terminals.

(45) “Portable CI Engine” means a compression ignition (CI) engine designed and capable of being carried or moved from one location to another. Indicators of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform. Portable engines are not self-propelled.

(46) “Purchased” means the date shown on the front of the cashed check, the date of the financial transaction, or the date on the engine purchasing agreement, whichever is earliest.

(47) “Railcar Mover” means an off-road vehicle fitted with rail couplers and capable of traveling on both roads and rail tracks.

(48) “Reach Stacker” means an off-road truck-like cargo container handler that uses an overhead telescopic boom that can reach across two or more stacks of cargo containers and lift the containers from the top.

(49) “Registered Motor Vehicle” means a yard truck or other cargo handling vehicle that is registered as a motor vehicle under Vehicle Code section 4000, et seq.

(50) “Rent” means payment for the use of mobile cargo handling equipment for a specified term.

(51) “Retirement” or “Retire” means an engine or vehicle that will be taken out of service by an owner or operator and will not be operated at a port or intermodal rail yard in the State of California. The engine may be sold outside of California or scrapped.

(52) “Rubber-tired Gantry Crane or RTG Crane” means an off-road overhead cargo container crane with the lifting mechanism mounted on a cross-beam supported on vertical legs which run on rubber tires.

(53) “Side Handler or Side Pick” means an off-road truck-like cargo container handler that uses an overhead telescopic boom to lift empty or loaded cargo containers by grabbing either two top corners on the longest side of a container, both arms of one side of a container, or both top and bottom sides of a container.

(54) “Sweeper” means a~~n off-road~~ vehicle with attached brushes underneath that sweep the ground and pick up dirt and debris.

(55) “Terminal” means a facility, including one owned or operated by the Department of Defense or the U.S. military services, that operates cargo handling equipment at a port or intermodal rail yard.

(56) “Tier 4 Off-road Emission Standards” means the emission standards promulgated by the United States Environmental Protection Agency in "Control of Emissions of Air Pollution from Nonroad Diesel Engines and Fuel; Final Rule" (Vol. 69, No. 124 Fed. Reg. pp. 38957-39273, June 29, 2004) which harmonize with the final amended emission standards for newly manufactured off-road engines approved by the Air Resources Board on December 12, 2004.

(57) “Top Handler or Top Pick” means an off-road truck-like cargo container handler that uses an overhead telescopic boom to lift empty or loaded cargo containers by grabbing the top of the containers.

(58) “Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines (Verification Procedure)” means the Air Resources Board (ARB) regulatory procedure codified in title 13, CCR, sections 2700-2710, which is incorporated herein by reference, that engine manufacturers, sellers, owners, or operators may use to verify the reductions of diesel PM and/or NOx from in-use diesel engines using a particular emission control strategy.

(59) “Verified Diesel Emission Control Strategy (VDECS)” means an emission control strategy, designed primarily for the reduction of diesel PM emissions, which has been verified pursuant to the “Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines” in title 13, California Code of Regulations, commencing with section 2700.

(60) “Yard truck” means an off-road mobile utility vehicle used to carry cargo containers with or without chassis; also known as utility tractor rig (UTR), yard tractor, yard goat, yard hostler, yard hustler, or prime mover.

(e) Requirements

*****

(3) Fuel Requirements

*****

(f) Compliance Extensions

*****

(g) Diesel Emission Control Strategy Special Circumstances

*****

(h) Alternative Compliance Plan for Non-Yard Truck Cargo Handling Equipment

*****

(i) Recordkeeping Requirements

*****

(j) Reporting Requirements

*****

(k) Right of Entry

*****

(l) Prohibitions

*****

(m) Severability

*****

(n) Submittal of Documents

*****

Proposed Amendments to the
REGULATION TO ESTABLISH A STATEWIDE PORTABLE EQUIPMENT REGISTRATION PROGRAM

Note: Proposed amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions, compared to the preexisting regulatory language.

Amend section 2450, title 13, California Code of Regulations.

§ 2450. Purpose.

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

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

§ 2451. Applicability.

(a) Registration under this regulation is voluntary for owners of portable engines or equipment units.

(b) This regulation applies to portable engines and equipment units as defined in section 2452. Except as provided in paragraph (c) of this section, any portable engine or equipment unit may register under this regulation. Examples include, but are not limited to:

(1) portable equipment units driven solely by portable engines including confined and unconfined abrasive blasting, Portland concrete batch plants, sand and gravel screening, rock crushing, and unheated pavement recycling and crushing operations;
(2) consistent with section 209 (e) of the federal Clean Air Act, engines and associated equipment used in conjunction with the following types of portable operations: well drilling, service or work-over rigs; power generation, excluding cogeneration; pumps; compressors; diesel pile-driving hammers; welding; cranes; woodchippers;

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

(c) The following are not eligible for registration under this program:

(1) any engine used to propel mobile equipment or a motor vehicle of any kind as defined in section 2452 (~~z~~aa)(1)(A);
(2) any engine or equipment unit not meeting the definition of portable as defined in section 2452 (~~cc~~dd) of this regulation;
(3) engines, equipment units, and associated engines determined by the Executive Officer to qualify as part of a stationary source permitted by a district;
(4) any engine or equipment unit subject to an applicable federal Maximum Achievable Control Technology standard, or National Emissions Standard for Hazardous Air Pollutants, or federal New Source Performance Standard, except for equipment units subject to 40 CFR Part 60 Subpart OOO (Standards of Performance for Nonmetallic Mineral Processing Plants);
(5) any engine or equipment unit operating within the boundaries of the California Outer Continental Shelf (OCS). [Note: This shall not prevent statewide registration of portable engines and equipment units already permitted by a district for operation in the OCS. Such statewide registration shall only be valid for operation onshore and in State Territorial Waters (STW).];
(6) any dredging operation in the Santa Barbara Harbor;
(7) any dredging unit owned by a single port authority, harbor district, or similar agency in control of a harbor, and operated only within the same harbor;
(8) generators used for power production into the grid, except to maintain grid stability during an emergency event or other unforeseen event that affects grid stability; and
(9) generators used to provide primary or supplemental power to a building, facility, stationary source, or stationary equipment, except during unforeseen interruptions of electrical power from the serving utility, maintenance and repair operations, electrical upgrade operations including startup, shutdown, and testing that do not exceed 60 calendar days, operations where the voltage, frequency, or electrical current requirements can only be supplied by a portable generator, or remote operations where grid power is unavailable.

(d) In the event that the owner of an engine or equipment unit elects not to register under this program, the engine or equipment unit shall be subject to district permitting requirements pursuant to district regulations.

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

§ 2452. Definitions.

(a) "**Air Contaminant**" shall have the same meaning as setout in section 39013 of the Health and Safety Code.

(b) "**ARB**" means the California Air Resources Board.

(c) "**Certified Compression-Ignition Engine**" means an engine meeting the nonroad engine emission standards for compression-ignition engines, as set forth in title 13 of the California Code of Regulations (CCR) or 40 CFR Part 89 in effect at the time of application.

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

(e) "**Compression-Ignition (CI) Engine**" means an internal combustion engine with operating characteristics significantly similar to the theoretical diesel combustion cycle. Compression-ignition engines usually control fuel supply instead of using a throttle to regulate power.

(f) "**Corresponding Onshore District**" means the district which has jurisdiction for the onshore area that is geographically closest to the engine or equipment unit.

(g) "**Crane**" means the same as "Two-Engine Crane" defined in title 13, CCR, section 2449(c)(56).

(~~g~~h) "**District**" means an air pollution control district or air quality management district created or continued in existence pursuant to provisions of Part 3 (commencing with section 40000) of the California Health and Safety Code.

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

(~~i~~j) "**Emergency Event**" means any situation arising from sudden and reasonably unforeseen natural disaster such as earthquake, flood, fire, or other acts of God, or other unforeseen events beyond the control of the portable engine or equipment unit operator, its officers, employees, and contractors that threatens public health and safety and that requires the immediate temporary operation of portable engines or equipment units to help alleviate the threat to public health and safety.

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

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

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

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

(~~n~~o) "**Home District**" means the district designated by the responsible official as the district in which the registered engine or equipment unit resides most of the time. For registered engines or equipment units based out of California, the responsible official shall designate the home district based on where the registered engine or equipment unit is likely to be operated a majority of the time the registered engine or equipment unit is in California.

(~~o~~p) "**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 requirements of sections 2455 through 2457 of this article.

(~~p~~q) "**In-field Inspection**" means an inspection that is conducted at the location that the portable engine or equipment unit is operated under normal load and conditions.

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

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

(~~s~~t) "**Maximum Rated Capacity**" is the maximum throughput rating or volume capacity listed on the nameplate of the registered equipment unit as specified by the manufacturer.

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

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

(~~v~~w) "**Modification**" means any physical change to, change in method of operation of, or an addition to a registered engine or equipment unit, which may cause or result in an increase in the amount of any air contaminant emitted or the issuance of air contaminants not previously emitted. Routine maintenance

and/or repair shall not be considered a physical change. Unless previously limited by an enforceable registration condition, a change in the method of operation shall not include:

(1) an increase in the production rate, unless such increase will cause the maximum design capacity of the registered equipment unit to be exceeded;
(2) an increase in the hours of operation;
(3) a change of ownership; and
(4) the movement of a registered engine or equipment unit from one location to another.

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

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

(~~y~~z) "**Non-field Inspection**" means an inspection that is either conducted at a location that is mutually acceptable to the district and the owner or operator or where the engine or equipment unit is stored and does not require operation of the engine or equipment unit for purposes of the inspection.

(~~z~~aa) "**Nonroad Engine**" means:

(1) Except as discussed in paragraph (2) of this definition, a nonroad engine is any engine:

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

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

(A) the engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under section 202 of the federal Clean Air Act; or

(B) the engine is regulated by a federal New Source Performance Standard promulgated under section 111 of the federal Clean Air Act; or

(C) the engine otherwise included in paragraph (1)(C) of this definition remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (at least two years) and that operates at that single location approximately three (or more) months each year.

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

(~~bb~~cc) "**Placard**" means a visible indicator supplied by the Air Resources Board to indicate that an engine or equipment has been registered in the Portable Equipment Registration Program and is in addition to the registration identification device.

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

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

(2) the engine or equipment unit remains or will reside at a location for less than 12 consecutive months if the engine or equipment unit is located at a seasonal source and operates during the full annual operating period of the seasonal source, where a seasonal source is a stationary source that remains in a single location on a permanent basis (at least two years) and that operates at that single location at least three months each year; or

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

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

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

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

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

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

(~~ii~~jj) "**Registration**" means issuance of a certificate by the Executive Officer acknowledging expected compliance with the applicable requirements of this article, and the intent by the owner or operator to operate the engine or equipment unit within the requirements established by this article.

(~~jj~~kk) "**Rental Business**" means a business which rents or leases registered engines or equipment units.

(~~kk~~ll) "**Renter**" means a person who rents and/or operates registered engines or equipment units not owned by that person.

(~~ll~~mm) "**Resident Engine**" means either of the following:

(1) a portable engine that at the time of applying for registration, has a current, valid district permit or registration that was issued prior to January 1, 2006, or an engine that lost a permit to operate exemption through a formal district action. Moving an engine from a district that provides a permit to operate exemption to a district that requires a permit to operate or registration does not qualify for consideration as a resident engine; or

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

An engine permitted or registered by a district pursuant to title 17, CCR,section 93116.3(b)(6) is not a resident engine.

(~~mm~~nn) "**Responsible Official**" refers to an individual employed by the company or public agency with the authority to certify that the registered engines or equipment units under his/her jurisdiction comply with applicable requirements of this regulation. A company or public agency may have more than one Responsible Official.

(~~nn~~oo) "**Spark-Ignition (SI) Engine**" means an internal combustion engine with a spark plug (or other sparking device) with operating characteristics significantly similar to the theoretical Otto combustion cycle. Spark-ignition engines usually use a throttle instead of using fuel supply to control intake air flow to regulate power.

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

(~~pp~~qq) "**Statewide Registration Program**" means the program for registration of portable engines and equipment units set out in this article.

(~~qq~~rr) "**Stationary Source**" means any building, structure, facility or installation which emits any air contaminant directly or as a fugitive emission. "Building," "structure," "facility," or "installation" includes all pollutant emitting activities which:

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

(2) belong to the same industrial grouping either by virtue of falling within the same two-digit standard industrial classification code or by virtue of being

part of a common industrial process, manufacturing process, or connected process involving a common raw material; and

(3) are located on one or more contiguous or adjacent properties.

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

(~~rr~~ss) "**Storage**" means a warehouse, enclosed yard, or other area established for the primary purpose of maintaining registered engines or equipment units when not in operation.

(tt) "**Street Sweeper**" means the same as "Dual-engine Street Sweeper" defined in title 13, CCR, section 2022(b)(2).

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

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

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

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

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

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

(~~ww~~yy) "**Transportable**" means the same as portable.

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

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

(~~zz~~bbb) "**Volatile Organic Compound (VOC)**" means any compound containing at least one atom of carbon except for the following exempt compounds: acetone, ethane, parachlorobenzotrifluoride (1-chloro-4-trifluoromethyl benzene), methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonates, methylene chloride (dichloromethane), methyl chloroform (1,1,1-trichloroethane), CFC-113 (trichlorotrifluoroethane), CFC-11 (trichlorofluoromethane), CFC-12 (dichlorodifluoromethane), CFC-22 (chlorodifluoromethane), CFC-23 (trifluoromethane), CFC-114 (dichlorotetrafluoroethane), CFC-115 (chloropentafluoroethane), HCFC-123 (dichlorotrifluoroethane), HFC-134a (tetrafluoroethane), HCFC-141b (dichlorofluoroethane), HCFC-142b (chlorodifluoroethane), HCFC-124 (chlorotetrafluoroethane), HFC-23 (trifluoromethane), HFC-134 (tetrafluoroethane), HFC-125 (pentafluoroethane), HFC-143a (trifluoroethane), HFC-152a (difluoroethane), cyclic, branched, or linear completely methylated siloxanes, the following classes of perfluorocarbons:

(1) cyclic, branched, or linear, completely fluorinated alkanes;
(2) cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
(3) cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
(4) sulfur-containing perfluorocarbons with no unsaturations and with the sulfur bonds to carbon and fluorine, acetone, ethane, and parachlorobenzotrifluoride (1-chloro-4-trifluoromethyl benzene).

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

§ 2453. Application Process.

(a) In order for an engine or equipment unit to be considered for registration by the Executive Officer, the engine or equipment unit must be portable as defined in section 2452 (~~cc~~dd) and meet all applicable requirements established in this article.

(b) For purposes of registration under this article, an engine and the equipment unit it serves are considered to be separate emissions units and require separate applications.

(c) For an identical replacement, an owner or operator of a registered portable engine or equipment unit is not required to complete a new application and may immediately operate the identical replacement. Except for TSE, the owner or operator shall notify the Executive Officer in writing within five calendar days of replacing the registered engine or equipment unit with an identical replacement. Notification shall include company name, responsible official, phone number,

registration certificate number of the engine or equipment unit to be replaced; and make, model, rated brake horsepower, serial number of the identical replacement, description of the mechanical breakdown; and applicable fees as required in section 2461. Misrepresentation of engine or equipment unit information or the failure to meet the requirements of this regulation shall be deemed a violation of this article.

(d) The Executive Officer shall inform the applicant, in writing, if the application is complete or deficient, within 30 days of receipt of an application. If deemed deficient, the Executive Officer shall identify the specific information required to make the application complete.

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

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

(g) Except for TSE, each application for registration and the appropriate fee(s) as specified in section 2461, shall be submitted in a format approved by the Executive Officer and include, at a minimum, the following information:

(1) indication of general nature of business (e.g., rental business, etc.);
(2) the name of applicant, including mailing address and telephone number;
(3) a brief description of typical engine or equipment-unit use;
(4) detailed description, including engine or equipment-unit make, model, manufacture year (for portable engines only), rated brake horsepower, throughput, capacity, emission control equipment, and serial number;
(5) necessary engineering data, emissions test data, or manufacturer's emissions data to demonstrate compliance with the requirements as specified in sections 2455, 2456, and 2457;
(6) for resident engines, a copy of either a current permit to operate that was granted by a district, or documentation as described in section 2452 (~~ll~~mm); and
(7) the printed name and signature of the responsible official and date of the signature.

(h) For TSE, application for registration and the appropriate fee(s) as specified in section 2461, shall be submitted in a format approved by the Executive Officer and include, at a minimum, the following information:

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

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

(1) Owners holding valid registration(s) prior to the effective date shall designate in writing to the Executive Officer a home district within 90 days of the effective date of this regulation. The Executive Officer shall designate the home district for any and all registered engines and equipment units for existing registration program participants that fail to designate a home district;
(2) a home district shall be designated on each application for initial registration of an engine or equipment unit; and
(3) except for registered engines or equipment units owned by a rental business or involved in a third part rental, if the engine or equipment unit, based on averaging of annual operation in each district from the three annual reports submitted during the 3 year registration cycle, operated the largest percentage of the time in a district other than the designated home district, the owner shall change the home district designation at the time of renewal. The change is not required if the difference between the home district operation percentage and the district with the largest operating percentage is 5 percent or less.

(j) Engines or equipment units owned and operated for the primary purpose of rental by a rental business shall be identified as rental at the time of application for registration and shall be issued a registration specific to the rental business requirements of this article. Misrepresentation of portable engine or equipment unit use in an attempt to qualify under the rental business definition shall be deemed a violation of this article.

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

(l) Once registration is issued by the Executive Officer, district permits or registrations for engines or equipment units registered in the Statewide Registration Program are preempted by the statewide registration and are, therefore, considered null and void, except for the following circumstances where a district permit shall be required:

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

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

(m) When ownership of a registered engine or equipment unit changes, the new owner shall submit a change of ownership application. This application shall be filed within 30 days of the change of ownership. During the 30 day period the new owner is authorized to operate the registered engine or equipment unit. If an application is not received within 30 days, the engine or equipment unit may not operate and the existing registration is not valid for the new owner until the application has been filed and all applicable fees have been paid. Registration will be reissued to the new owner after a complete application has been approved by the Executive Officer.

(n) Except for TSE, a placard shall be required for every engine or equipment unit registered in the Statewide Registration Program. The placard shall be affixed on the registered engine or equipment unit at all times so that it may be easily viewed from a distance. Placards shall be purchased at the time of the first renewal or at the time of initial registration, which ever occurs first. Failure to properly maintain the placard shall be deemed a violation of this article.

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

§ 2454. Registration Process.

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

(b) The Executive Officer may conduct an inspection of an engine or equipment unit and/or require a source test in order to verify compliance with the requirements of this article prior to issuance of registration.

(c) After obtaining registration in accordance with this article, an owner or operator of the registered engines or equipment units:

(1) shall comply with all conditions set forth in the issued registration. Failure to comply with such conditions shall be deemed a violation of this article; and

(2) may operate within the boundaries of the State of California so long as such registered engines or equipment units comply with all applicable requirements of this article and any other applicable federal or State law.

(d) Districts shall provide the Executive Officer with written reports or electronic submittals via the Internet, describing any inspections and the nature and outcome of any violation of local, State or federal laws by the owner or operator of registered engines or equipment units. The Executive Officer shall make available to all districts such information via the Internet.

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

§ 2455. General Requirements.

(a) The emissions from engines or equipment units registered under this article shall not, in the aggregate, interfere with the attainment or maintenance of any California or federal ambient air quality standard. The emissions from one or more registered engines or equipment units, exclusive of background concentration, shall not cause an exceedance of any ambient air quality standard. This paragraph shall not be construed as requiring operators of registered engines or equipment units to provide emission offsets for engines or equipment units registered under this article.

(b) Engines or equipment units registered under this article shall comply with article 1, chapter 3, part 4, division 26 of the California Health and Safety Code, commencing with section 41700.

(c) Except for engines or equipment units permitted or registered by a district in which an emergency event occurs, an engine or equipment unit operated during an emergency event as defined in section 2452 (~~i~~j) of this article, is considered registered under the requirements of this article for the duration of the emergency event and is exempt from sections 2455, 2456, 2457, 2458, and 2459 of this article for the duration of the emergency event provided the owner or operator notifies the Executive Officer within 24 hours of commencing operation. The Executive Officer may for good cause refute that an emergency event under this provision exists. If the Executive Officer deems that an emergency event does not exist, all operation of engines and equipment units covered by this provision

shall cease operation immediately upon notification by the Executive Officer. Misrepresentation of an emergency event and failure to cease operation under notice of the Executive Officer shall be deemed a violation of this article.

(d) For the purposes of registration under this article, the owner or operator of a registered equipment unit must notify the U.S. EPA and comply with 40 CFR 52.21 if:

(1) the registered equipment unit operates at a major stationary source under 40 CFR 51.166 or 52.21, and

(A) the major stationary source is located within 10 kilometers of a Class I area; or

(B) the registered equipment unit, operating in conjunction with other registered equipment units, operates at the major stationary source and its operation would be defined as a major modification to the stationary source under 40 CFR 51.166 or 52.21; or

(2) the registered equipment unit, operating in conjunction with other registered equipment units, would be defined as a major stationary source, as defined under 40 CFR 51.166 or 52.21.

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

§ 2456. Engine Requirements.

(a) For TSE, no air contaminant shall be discharged into the atmosphere, other than uncombined water vapor, for a period or periods aggregating more than three minutes in any one hour which is as dark or darker in shade as that designated as No. 2 on the Ringelmann Chart, as published by the United States Bureau of Mines, or of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke designated as No. 2 on the Ringelmann Chart. No other requirements of this section are applicable to TSE.

(b) Registered diesel pile-driving hammers shall comply with the applicable provisions of section 41701.5 of the California Health and Safety Code and are otherwise exempt from further requirements of this section.

(c) Registered diesel engines used on a crane shall comply with the applicable requirements in title 13, CCR,section 2449 and are otherwise exempt from further requirements of this section, except for subsection (f)(5).

(d) Registered diesel engines used on a street sweeper that are not subject to the requirements of title 13, CCR, section 2022 shall comply with the applicable requirements in title 13, CCR, section 2025 and are otherwise exempt from further requirements of this section, except for subsection (f)(5).

(~~c~~e) To be registered in the Statewide Registration Program, a registered engine rated less than 50 brake horsepower shall be a certified compression-ignition engine or a certified spark-ignition engine, unless no emission standards exist for that brake horsepower and year of manufacture. In that event, the engine shall comply with the applicable daily and annual emission limits contained in section 2456 (~~d~~f)(6) of this article. No other requirements of this section are applicable to portable engines rated less than 50 brake horsepower.

(~~d~~f) After January 1, 2006, engines rated equal to, or greater than 50 bhp registered under this article shall:

(1) be certified compression-ignition engines or certified spark-ignition engines that meet the most stringent emissions standard in effect for the applicable horsepower range at the time the application is submitted by the responsible official. Spark-ignition engines that are not certified spark-ignition engines may be registered if they meet the emission standards in Table 1. Subsection (~~d~~f)(1) does not apply to certified compression-ignition engines built under the flexibility provisions listed in 40 CFR part 89.102, engines that are resident engines, changes of ownership, or engines that meet the requirements of title 17, CCR, sections 93116.3(b)(7) or 93116.3.1.

(2) meet all applicable requirements in title 17, CCR, sections 93116 through 93116.5;

(3) use only fuels meeting the standards for California motor vehicle fuels as set forth in chapter 5, division 3, title 13, CCR, commencing with section 2250, or other fuels and/or dditives that have been verified through the Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines;

(4) not exceed particulate matter emissions concentration of 0.1 grain per standard dry cubic feet corrected to 12 percent CO_2. This provision does not apply to certified compression-ignition engines, certified spark-ignition engines, or any spark-ignition engine meeting Table 1 requirements;

(5) not discharge air contaminants into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringelmann 1 or equivalent 20 percent opacity; and

(6) not exceed the following emission limits:

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

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

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

(D) for registered engines operating within STW:

(1) the offset requirements of the corresponding onshore district apply. Authorization from the corresponding onshore district is required prior to operating within STW. If authorization is in the form of a current district permit, the terms and conditions of the district permit supersede the requirements of the statewide registration for the project, except that the most stringent of the technology and emission concentration limits required by the district permit or statewide registration are applicable. If the registered engine does not have a current district permit, the terms and conditions of the statewide registration apply, and the corresponding onshore district may require offsets pursuant to district rules and regulations. The requirement for district offsets shall not apply to the owner or operator of an engine(s) registered in the statewide registration program when the engine(s) is operated at a stationary source permitted by the district; and

(2) the corresponding onshore district may perform an ambient air quality impact analysis (AQIA) for the proposed project prior to granting authorization. The owner or operator of engine(s) registered in the statewide registration program shall be required, at the request of the district, to submit any information deemed by the district to be necessary for performing the AQIA. Statewide registration shall not be valid at any location where the AQIA demonstrates a potential violation of an ambient air quality standard.

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

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

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

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

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

(10) Effective January 1, 2010, all registered spark-ignition engines rated at 50 brake horsepower or greater shall be certified spark-ignition engines or

shall meet Table 1 requirements. For those spark ignition engines that are not certified spark-ignition engines or do not meet Table 1 requirements, the registration shall expire on December 31, 2009 and the engine will not be allowed to operate under the authority of this regulation.

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

(~~f~~h) Registered TSE is exempt from district New Source Review and Title V programs, including any offset requirements. Further, emissions from registered TSE shall not be included in Title V or New Source Review applicability determinations.

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

Table 1 Spark-ignition Engine Requirements*

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

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

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

§ 2457. Requirements for Registered Equipment Units.

(a) Emissions from a registered equipment unit, exclusive of emissions emitted directly from the associated portable engine, shall not exceed:

(1) 10 tons per year per district of PM_{10}; and
(2) 82 pounds per project per day of PM_{10}.
(3) For registered equipment units that operate within STW and onshore, emissions released while operating both in STW and onshore shall be included toward the 10 tons per year limit.

(b) Registered equipment units shall also meet the following applicable requirements:

(1) Confined abrasive blasting operations:

(A) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringelmann 1 or equivalent 20 percent opacity;
(B) the particulate matter emissions shall be controlled using a fabric or cartridge filter dust collector;
(C) as a part of application for registration, the applicant shall provide manufacturer's specifications or engineering data to demonstrate a minimum particulate matter control of 99 percent for the dust collection equipment;
(D) except for vent filters, each fabric dust collector shall be equipped with an operational pressure differential gauge to measure the pressure drop across the filters; and
(E) there shall be no visible emissions beyond the property line on which the equipment is being operated.

(2) Concrete batch plants:

(A) all dry material transfer points shall be ducted through a fabric or cartridge type filter dust collector, unless there are no visible emissions from the transfer point;
(B) all cement storage silos shall be equipped with fabric or cartridge type vent filters;
(C) the silo vent filters shall be maintained in proper operating condition;
(D) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringelmann 1 or equivalent 20 percent opacity;
(E) open areas and all roads subject to vehicular traffic shall be paved, watered, or chemical palliatives applied to prevent fugitive emissions in excess of 20 percent opacity or Ringelmann 1;

(F) silo service hatches shall be dust-tight;
(G) as a part of application for registration, the applicant shall provide manufacturer's specifications or engineering data to demonstrate a minimum particulate matter control of 99 percent for the fabric dust collection equipment;
(H) except for vent filters, each fabric dust collector shall be equipped with an operational pressure differential gauge to measure the pressure drop across the filters;
(I) all aggregate transfer points shall be equipped with a wet suppression system to control fugitive particulate emissions unless there are no visible emissions;
(J) all conveyors shall be covered, unless the material being transferred results in no visible emissions;
(K) wet suppression shall be used on all stockpiled material to control fugitive particulate emissions, unless the stockpiled material results in no visible emissions; and
(L) there shall be no visible emissions beyond the property line on which the equipment is being operated.

(3) Sand and gravel screening, rock crushing, and pavement crushing and recycling operations:

(A) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringelmann 1 or equivalent 20 percent opacity;
(B) there shall be no visible emissions beyond the property line on which the equipment is being operated;
(C) all transfer points shall be ducted through a fabric or cartridge type filter dust collector, or shall be equipped with a wet suppression system maintaining a minimum moisture content unless there are no visible emissions;
(D) particulate matter emissions from each crusher shall be ducted through a fabric dust collector, or shall be equipped with a wet suppression system which maintains a minimum moisture content to ensure there are no visible emissions;
(E) all conveyors shall be covered, unless the material being transferred results in no visible emissions;
(F) all stockpiled material shall be maintained at a minimum moisture content unless the stockpiled material results in no visible emissions;
(G) as a part of application for registration, the applicant shall provide manufacturer's specifications or engineering data to demonstrate a minimum particulate matter control of 99 percent for the fabric dust collection equipment;
(H) except for vent filters, each fabric dust collector shall be equipped with an operational pressure differential gauge to measure the pressure drop across the filters;

(I) open areas and all roads subject to vehicular traffic shall be paved, watered, or chemical palliatives applied to prevent fugitive emissions in excess of 20 percent opacity or Ringelmann 1; and
(J) if applicable, the operation shall comply with the requirements of 40 CFR Part 60 Subpart OOO.

(4) Unconfined abrasive blasting operations:

(A) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringelmann 2 or equivalent 40 percent opacity;
(B) only California Air Resources Board-certified abrasive blasting material shall be used [Note: see title 17, CCR, 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, CCR shall also apply; and
(F) there shall be no visible emissions beyond the property line on which the equipment is being operated.

(5) Tub grinders and trommel screens:

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

(c) Registered equipment units not described in section 2457(b) above, shall be subject to the most stringent district Best Available Control Technology (BACT) requirements in effect for that category of source at the time of application for registration.

(d) No change in equipment unit configuration, operating scenario, or number of transfer points from that set out in the registration for the equipment unit shall be made unless a complete application for modification has been filed and approved by the Executive Officer prior to operation.

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

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

§ 2458. Recordkeeping and Reporting.

(a) Except for registered engines owned by a rental business, used in a third-party rental, operated by a PEPS, used on a crane, used on a street sweeper, or TSE, the owner of registered engines, including engines otherwise preempted under section 209 (e) of the federal Clean Air Act, or registered equipment units shall maintain records of operation of each registered engine and equipment unit. Recordkeeping for engines not previously required to maintain records shall begin upon the effective date of the regulation or January 1, 2007, which ever is later. For engines not previously required to have an hour meter, fuel meter or other device approved by the Executive Officer, the owner or operator shall record hours of operation until the hour meter, fuel meter or other device approved by the Executive Officer has been installed. The records shall be maintained at a central place of business for five years, and made accessible to the Executive Officer or districts upon request. Records shall be maintained in a format approved by the Executive Officer and include, at a minimum, all of the following:

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

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

(3) For registered engines and equipment units subject to a daily operational limitation, daily records of either hours of operation, fuel usage, or process throughput as applicable.
(4) For equipment units subject to the requirements of section 2457(b)(3), daily throughput shall be the sum of measurements of material introduced into the equipment unit. These measurements shall be taken at the initial loading point(s) of the equipment unit.
(5) recordings from an hour meter, fuel meter, or other device approved by the Executive Officer and the corresponding dates of the recordings any time an engine or equipment unit is undergoing service, repair, or maintenance; and
(6) for each start and stop reading specified in (2) and (3) above, the location identified by district, county, or other indicator (i.e., street address, UTM coordinates, etc.)

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

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

(c) For TSE, each military installation shall provide the Executive Officer an annual report, in a format approved by the Executive Officer, within 60 days after the end of each calendar year. The report shall include the number, type, and rating of registered TSE at each installation as of December 31 of that calendar year, and be accompanied by the applicable fees pursuant to section 2461. Any variation of registered TSE to actual TSE shall be accounted for in this annual report, and the Executive Officer shall issue an updated TSE list accordingly. A renewal registration will be issued with the updated TSE list every three years according to expiration date.

(d) For each registered engine subject to the requirements of title 17, CCR, section 93116, the owner shall keep records and submit reports in accordance with title 17, CCR, section 93116.4.

(e) Except for registered engines or equipment units owned by a rental business, used in a third-party rental, operated by a PEPS, used on a crane, used on a street sweeper, or TSE, the owner of a registered engine or equipment unit shall provide the Executive Officer an annual report signed by the responsible official, in a format approved by the Executive Officer, by March 1 of each calendar year containing all of the following information:

(1) the reporting year;
(2) the registration number of each registered engine and/or equipment unit;
(3) for registered engines, quarterly summaries for each district or county the total fuel usage in gallons per quarter, or total hours of operation per quarter, for each registered engine; and
(4) for registered equipment units, quarterly summaries for each district or county in which the registered equipment unit was operated and the total process weight or throughput.

(f) The owner of a registered engine or equipment unit owned by a rental business or used in a third-party rental transaction shall provide the Executive Officer an annual report signed by the responsible official, in a format approved by the Executive Officer, by March 1 of each calendar year containing all of the following information:

(1) the reporting year;
(2) the registration number of each registered engine and/or equipment unit;
(3) total hours of operation for the reporting year for each registered engine based on, and including, beginning and ending annual hour meter readings and dates upon which the total hours of annual operation calculation is based;
(4) list of all counties in which the registered engine operated in during the reporting year as reported by the entity(ies) that operated the registered engine;
(5) estimate of the percentage of total hours for each engine operated in each of the counties identified in (4) above; and
(6) for registered equipment units, quarterly and annual summaries for each district or county in which the registered equipment unit was operated and the total process weight or throughput.

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

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

(h) Records requests made by a district or Executive Officer shall be made to the responsible official. The responsible official shall provide the requested records within 30 days from receipt of the request. Failure to provide the records by the specified date shall be deemed a violation of this article.

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

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

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

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

(k) Registered diesel engines used on a crane shall comply with the applicable requirements in title 13, CCR, section 2449 and are otherwise exempt from the requirements of this section.

(l) Registered diesel engines used on a street sweeper sweeper that are not subject to the requirements of title 13, CCR, section 2022 shall comply with the applicable requirements in title 13, CCR, section 2025 and are otherwise exempt from the requirements of this section.

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

§ 2459. Notification.

(a) Except as listed in subsection (d) of this section, if a registered equipment unit will be at a location for more than five days, the owner or operator of that registered equipment unit, shall notify the district in writing in a format approved by the Executive Officer, within two working days of commencing operations in that district. If the registered equipment unit is to be moved to different locations within the same district, the owner or operator shall be subject to the notification requirements above, unless the owner or operator and the district, by mutual

agreement, arrange alternative notification requirements on a case-by-case basis. The notification shall include all of the following:

(1) the registration number of the registered equipment unit;
(2) the name and phone number of the responsible official or renter with information concerning the locations where the registered equipment unit will be operated within the district; and
(3) estimated time the registered equipment unit will be located in the district.

(b) If the district has not been notified as required in section 2459(a) above, because the owner or operator did not reasonably expect the duration of operation to trigger the notification requirement in section 2459(a) above, the owner or operator shall notify the district, in a format approved by the Executive Officer, within 12 hours of determining the registered equipment unit will be operating at a location more than five days.

(c) Owners and operators of TSE are not subject to the notification requirements of this section 2459.

(d) For STW projects, the owner or operator of a registered engine or registered equipment unit shall notify the corresponding onshore district in writing, in a format approved by the Executive Officer at least 14 days in advance of commencing operations in that district. The notification shall include all of the following:

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

(e) Except as listed in section 2459(d) above, owners and operators of registered engines are not subject to notification requirements.

(f) The Executive Officer shall make available via the Internet a list of approved notification methods for each district.

(g) Failure to provide the required notifications within the timelines specified in this section shall be deemed a violation of this regulation.

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

§ 2460. Inspections and Testing.

(a) In determining if a portable engine or equipment unit is eligible for registration, the Executive Officer may inspect the portable engine or equipment unit and/or require a source test, at the owner's expense.

(b) Each district shall inspect all registered engines and equipment units for which the district has been designated as the home district pursuant to section 2453(i) above, as specified below:

(1) Within 45 days after the date of initial issuance or renewal of a registration, the owner or operator shall contact the home district to arrange for inspection of the registered engine or equipment unit to be completed within one year of the initial registration or renewal date. If the registered engine or equipment unit shall be operating in a district, other than the home district, the owner or operator may request the home district to arrange for an inspection by that other district.

(2) For portable engines, each home district should conduct no more than 20 percent of the arranged inspections for that district as in-field inspections. All arranged inspections not conducted as in-field inspections shall be conducted as non-field inspections. If a portable engine is found in violation during an in-field inspection, the next arranged inspection for that engine shall be an in-field inspection. This section does not limit the authority of a district to conduct any number of non-arranged in-field or non-field inspections for which no fee is charged.

(3) For registered equipment units operating with registered engines, the owner or operator may not request that the registered engine be inspected at the hourly rate specified in Table 3 for equipment unit inspections. Inspection fees for registered engines are to be paid as listed in item 14 in Table 3.

(4) Arranged inspections for PEPS engines and registered equipment units shall be non-field inspections unless an in-field inspection is requested by the holder of the registration and a reasonable in-field inspection location is arranged with the appropriate district.

(5) The time for an arranged inspection shall be agreed upon in advance with the district and company preferences regarding time of day shall be accommodated within reason. To the extent that an arranged inspection does not fall within the district's normal workday, the district may charge for the off-hour time based on a fee as specified in Table 3.

(6) If an arranged inspection of a registered engine or registered equipment unit does not occur due to unforeseen circumstances, the owner or operator and the home district shall reschedule the arranged inspection no later than 90 days of the initially scheduled inspection. Any unreasonable actions on the part of the owner or operator that prevents the inspection to

occur within the specified time frame shall be deemed a violation of this article. Actions taken by the owner or operator that could be deemed "unreasonable" include, but are not limited to:

(A) failing to respond to the district correspondences or other contracts made to schedule the inspection;
(B) failing to ensure that the registered engine or equipment unit is in operation for arranged "in-field inspections" or where the district has provided advance notification to the owner or operator that the registered engine or equipment unit is required to be observed in operation.

(7) The owner or operator may request the scheduling of one or more arranged inspections for multiple engines in order to qualify for an inspection fee discount as specified in section 2461 (d). Within 45 days of date of initial issuance of registration or by January 30 of each year for renewals, the owner or operator shall submit a letter of intent including an equipment list and registration numbers to the district to arrange for inspection of multiple engines. The inspections shall be completed within one year after the registration renewal date for each engine inspected.

(8) If a registered engine or equipment unit is out of California for one year or more following initial registration or renewal, the engine or equipment unit shall be excused from having the arranged inspection within that period if:

(A) within 45 days after the date of initial issuance or renewal of the registration, the owner or operator submitted a letter to the district noting the registration number of the registered engine or equipment unit and that the engine or unit is out of California for the one-year period; and
(B) upon the return of the registered engine or equipment unit to the State, the owner or operator shall arrange to have the registered engine or equipment unit inspected within 30 days.

(c) After issuance of registration, the Executive Officer or district may at any time conduct an inspection of any registered engine or equipment unit in order to verify compliance with the requirements of this article. The district shall not charge the owner or operator an additional inspection fee for that inspection. Source testing of engines for compliance purposes shall not be required more frequently than once every three years (including testing at the time of registration), except as provided in section 2460 (e), unless evidence of engine tampering, lack of proper engine maintenance, or other problems or operating conditions that could affect engine emissions are identified. In no event shall the Executive Officer or district require source testing of a registered engine for which there is no applicable emission standard, emission limit or other emission related requirement contained in this regulation.

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

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

(e) Initial or follow-up source testing of engines to verify compliance with the requirements of this regulation shall not be required for certified compression-ignition engines and spark-ignition engines.

(f) The exemption provided in section 2460 (e) shall not apply to source testing of engines for compliance purposes where evidence of engine tampering, lack of proper engine maintenance, or other problems or operating conditions that could affect engine emissions are identified.

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

§ 2461. Fees.

(a) Except as otherwise set out herein, the Executive Officer shall assess and collect reasonable fees for registration, renewal, and associated administrative tasks, to recover the estimated costs to the Executive Officer for evaluating registration applications, and issuing registration documentation.

(b) Fees shall be due and payable to the Executive Officer at the time an application is filed or as part of any request requiring a fee. Fees are nonrefundable except in circumstances as determined by the Executive Officer.

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

(d) The Executive Officer shall collect an inspection fee as listed in Table 3 one time per every three calendar years for each registered engine to be paid upon initial application and renewal. Except for TSE, when multiple registered engines are inspected at a given source or location, the owner shall receive a discount if the owner or operator intends to arrange multiple engines inspections with the district and complies with the requirements specified in section 2460(b)(7). The discounts shall be applied as follows:

(1) no discount for 1 to 3 engines
(2) 25 percent discount for 4 to 9 engines
(3) 35 percent discount for 10 or more engines

(e) Failure to pay renewal fees when due may result in penalties. If a fee payment is not received or postmarked by the specified due date, fee penalties may be assessed per unit in accordance with Table 3. Failure to pay renewal fees prior to expiration may result in cancellation of the registration. If a registration has expired for an engine or equipment unit that is eligible for reactivation, a canceled registration may be reactivated after payment of all renewal and penalty fees. Registration may be reissued under the original registration number and expiration date. A portable engine or equipment unit without valid registration is subject to the rules and regulations of the district in which it operates.

(f) Fees shall be periodically revised by the Executive Officer in accordance with the consumer price index, as published by the United States Bureau of Labor Statistics.

(g) A district may collect a fee for the inspection of a registered equipment unit pursuant to section 2460(b)(3). The district shall bill the owner of the equipment unit at a rate as specified in Table 3 of the regulation for actual staff time taken to perform the inspection, not to exceed the amount specified in Table 3. Upon receipt of the invoice for the inspection fee, the owner shall have the right to appeal the district's fee determination to the district Air Pollution Control Officer pursuant to the provisions of the district's rules and regulations that govern appeals of fee determinations.

(h) The Executive Officer shall annually distribute district inspection fees collected for that year. General inspection fees will be distributed equally among the districts. Home district inspection fees will be distributed to the corresponding home district.

(i) TSE fees are due at the time of the report pursuant to section 2458(c). Failure to submit the annual report and applicable fees within six calendar months after the end of the year will result in cancellation of the registration. For TSE, if registration is cancelled or allowed to expire, the applicant shall reapply and pay initial registration fees.

(j) The district may collect an inspection fee as listed in Table 3 one time per calendar year for each registered TSE inspected. When multiple registered TSE units are inspected at a given source or location, the inspection fee shall be equal to the lesser of the actual cost, including staff time, for conducting the inspection or the fee as listed in Table 3 per registered portable engine or equipment unit inspected. If the district performs an inspection leading to determination of non-compliance with this article, or any applicable state or federal requirements, the district may charge a fee as listed in Table 3 per portable engine or equipment unit for each inspection necessary for the determination and ultimate resolution of the violation. In no event shall the total fees exceed the actual costs, including staff time, to the district of conducting the investigations and resolving any violations.

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

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

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

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

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

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

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

*As determined in section 2461(k)

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

1	Initial Registration	$270.00
2	TSE, initial registration	
A	Registration of first 25 units (or portion thereof)	$750.00
B	Registration of every additional 50 units (or portion thereof)	$750.00
3	Change of status from non-operational to operational	
A	Where initial evaluation has not been previously completed	$180.00
B	Where initial evaluation has been previously completed	$90.00
4	Identical replacement	$75.00
5	Renewal, non-TSE	$225.00
6	Penalty fee for late renewal payments, non-TSE	
A	Postmarked within 2 calendar months prior to registration expiration date	$45.00
B	Postmarked within the calendar month prior to registration expiration date	$90.00
C	Postmarked after the registration expiration date	$250.00
7	Annual TSE inventory fee	
A	first 25 units (or portion thereof)	$375.00
B	every additional 50 units (or portion thereof)	$375.00
8	Modification to registered portable engine or equipment unit	$75.00
9	Change of ownership	$75.00
10	Replacement of registration identification device or placard	$30.00
11	Correction to an engine or equipment unit description	$45.00
12	Update company information, copy of registration documents	$45.00
13	Copy of registration documents	$45.00
14	Total district inspection fee per registered portable engine, paid once every 3 years	$345.00
A	General district inspection fee	$30.00
B	Home district inspection fee	$315.00
15	District off-hour service fee per hour	$50.00
16	District inspection fees for equipment units:	
A	General district inspection fee, paid once every 3 years	$75.00
B	District inspection fee per equipment unit, per hour	$98.00 (not to exceed $500.00)
17	TSE inspection fees:	
A	General district inspection fee per TSE unit, paid annually	$10.00
B	District inspection fee per TSE unit per inspection	$75.00
18	Placard	$5.00

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

§ 2462. Duration of registration.

(a) Except for registrations that will expire on December 31, 2009 pursuant to sections 2456(~~d~~f)(10) and 17 CCR 93116.3(b)(1)(A), registrations and renewals will be valid for three years from date of issuance. For change of ownership, the registration shall retain the original expiration date, except where the registration has expired.

(b) The Executive Officer shall mail to the owner of a registered engine or equipment unit a renewal invoice at least 60 days prior to the registration expiration. Failure to send or receive a renewal invoice does not relieve the responsible official from paying all applicable fees when due.

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

§ 2463. Suspension or Revocation of Registration.

(a) The Executive Officer for just cause may suspend or revoke registration in any of the following circumstances:

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

(6) the registered engine or equipment unit has failed in-use to comply with the findings set forth in the registration. For the purposes of this section, noncompliance with the registration may include, but is not limited to:

(A) a repeated failure to perform to the standards set forth in this article; or
(B) modification of the engine or equipment unit that results in an increase in emissions or changes the efficiency or operating conditions of such engine or equipment unit, without prior notice to and approval by the Executive Officer; or

(7) the holder of registration has failed to take requested corrective action as set forth in a Notice of Violation or Notice to Comply within the time period set forth in such notice or as otherwise specified in writing by the issuing district.
(8) the holder of the registration has failed to pay fees assessed by either the Executive Officer or district within 120 after the specified due date and there is no pending appeal.

(b) A holder of registration may be subject to a suspension or revocation action pursuant to this section based upon the actions of an agent, employee, licensee, or other authorized representative.

(c) The Executive Officer shall notify each holder of registration by certified mail of any action taken by the Executive Officer to suspend or revoke any registration granted under this article. The notice shall set forth the reasons for and evidence supporting the action(s) taken. A suspension or revocation is effective upon receipt of the notification.

(d) A holder of registration having received a notice to revoke or suspend registration may request that the action be stayed pending a hearing under section 2464. In determining whether to grant the stay, the Executive Officer shall consider the reasonable likelihood that the registration holder will prevail on the merits of the appeal and the harm the holder of registration will likely suffer if the stay is not granted. The Executive Officer shall deny the stay if the adverse effects of the stay on the public health, safety, and welfare outweigh the harm to the holder of registration if the stay is not granted.

(e) Once a registration has been suspended pursuant to (a) above, the holder of registration shall satisfy and correct all noted reasons for the suspension and submit a written report to the Executive Officer advising him or her of all such steps taken by the holder before the Executive Officer will consider reinstating the registration.

(f) After the Executive Officer suspends or revokes a registration pursuant to this section and prior to commencement of a hearing under section 2464, if the holder of registration demonstrates to the Executive Officer's satisfaction that the decision to suspend or revoke the registration was based on erroneous information, the Executive Officer will reinstate the registration.

(g) Nothing in this section shall prohibit the Executive Officer from taking any other action provided for by law for violations of the Health and Safety Code.

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

§ 2464. Appeals.

(a) Hearing Procedures.

(1) Any applicant for registration whose application has been denied or a holder of registration whose registration has been**,** suspended**,** or revoked may request a hearing to review the action taken by sending a request in writing to the Executive Officer. A request for hearing shall include, at a minimum, the following:

(A) name of applicant or holder of registration;
(B) registration number;
(C) copy of the Executive Order revoking or suspending registration or the written notification of denial;
(D) a concise statement of the issues to be raised, with supporting facts, setting forth the basis for challenging the denial, suspension, or revocation (mere conclusory allegations will not suffice);
(E) a brief summary of evidence in support of the statement of facts required in (D) above; and
(F) the signature of an authorized person requesting the hearing.

(2) A request for a hearing shall be filed within 20 days from the date of issuance of the notice of the denial, suspension, or revocation.

(3) A hearing requested pursuant to this section shall be heard by a qualified and impartial hearing officer appointed by the Executive Officer. The hearing officer may be an employee of the ARB, but may not be any employee who was involved with the registration at issue. In a request for a hearing of a denial of registration, after reviewing the request for a hearing and supporting documentation provided under subsection (1) above, the hearing officer shall grant the request for a hearing if he or she finds that the request raises a genuine and substantial question of law or fact.

(4) Except as provided in (3) above, the hearing officer shall schedule and hold, as soon as practicable, a hearing at a time and place determined by the hearing officer.

(5) Upon appointment, the hearing officer shall establish a hearing file. The file shall consist of the following:

(A) the determination issued by the Executive Officer which is the subject of the request for hearing;
(B) the request for hearing and the supporting documents that are submitted with it;
(C) all documents relating to and relied upon in making the determination to deny registration or to suspend or revoke registration; and
(D) correspondence and other documents material to the hearing.

(6) The hearing file shall be available for inspection by the applicant at the office of the hearing officer.
(7) An applicant may appear in person or may be represented by counsel or by any other duly-authorized representative.
(8) The ARB may be represented by staff or counsel familiar with the registration program and may present rebuttal evidence.
(9) Technical rules of evidence shall not apply to the hearing, except that relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to relying in the conduct of serious affairs. No action shall be overturned based solely on hearsay evidence, unless the hearsay evidence would be admissible in a court of law under a legally recognized exception to the hearsay rule.
(10) The hearing shall be recorded either electronically or by a certified shorthand reporter.
(11) The hearing officer shall consider the totality of the circumstances of the denial, suspension, or revocation, including but not limited to,credibility of witnesses, authenticity and reliability of documents,
and qualifications of experts. The hearing officer may also consider relevant past conduct of the applicant including any prior incidents involving other ARB programs.
(12) The hearing officer's written decision shall set forth findings of fact and conclusions of law as necessary.
(13) Within 30 days of the conclusion of a hearing, the hearing officer shall submit a written proposed decision, including proposed finding as well as a copy of any material submitted by the hearing participants as part of that hearing and relied on by the hearing officer, to the Executive Officer. The hearing officer may recommend to the Executive Officer any of the following:

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

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

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

(b) Hearing conducted by written submission.

(1) In lieu of the hearing procedure set forth in (a) above, an applicant may request that the hearing be conducted solely by written submission.
(2) In such case the requestor must submit a written explanation of the basis for the appeal and provide supporting documents within 20 days of making the request. Subsequent to such a submission the following shall transpire:

(A) ARB staff shall submit a written response to the requestor's submission and documents in support of the Executive Officer's action no later than 10 days after receipt of requestor's submission;
(B) The registration holder may submit one rebuttal statement which may include supporting information, as attachment(s), but limited to the issues previously raised;
(C) If the registration holder submits a rebuttal, ARB staff may submit one rebuttal statement which may include supporting information, as attachment(s), but limited to the issues previously raised; and
(D) the hearing officer shall be designated in the same manner as set forth in (a)(3) above. The hearing officer shall receive all statements and documents and submit a proposed written decision and such other documents as described in (a) 13 above to the Executive Officer no later than 30 working days after the final deadline for submission of papers. The Executive Officer's final decision shall be mailed to the holder of registration no later than 60 days after the final deadline for submission of papers.
(E) The Executive Officer shall render a final written decision within 60 working days of the last day of hearing. The Executive Officer may do any of the following:

(1) adopt the hearing officer's proposed decision;
(2) modify the hearing officer's proposed decision; or
(3) render a decision without regard to the hearing officer's proposed decision.

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

§ 2465. Penalties.

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

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

PROPOSED REGULATION ORDER

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

Note: Proposed amendments are shown in <u>underline</u> to indicate additions and ~~strikeout~~ to indicate deletions, compared to the preexisting regulatory language.

Amend section 93116, title 13, California Code of Regulations to read as follows.

§ 93116 Purpose.

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§ 93116.1 Applicability.

(a) Except as provided below, all portable engines having a maximum rated horsepower of 50 bhp and greater and fueled with diesel are subject to this regulation.

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

(1) Any engine used to propel mobile equipment or a motor vehicle of any kind;

(2) Any portable engine using an alternative fuel;

(3) Dual-fuel diesel pilot engines that use an alternative fuel or an alternative diesel fuel;

(4) Tactical support equipment;

(5) Portable diesel-fueled engines operated on either San Clemente or San Nicolas Island;

(6) Engines preempted from State regulation under 42 USC §7543(e)(1); ~~and~~

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

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

(B) the participating airlines have demonstrated to the satisfaction of the Executive Officer that the diesel PM reductions achieved by

satisfying the requirements of the MOU are equivalent to the reductions achieved by this control measure.

(8) Engines used exclusively on cranes shall meet all applicable requirements in Title 13 of the California Code of Regulations commencing with section 2449;

(9) Engines used exclusively on street sweepers that are not subject to Title 13 CCR section 2022 shall meet all applicable requirements in Title 13 of the California Code of Regulations commencing with section 2025.

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

§ 93116.2 Definitions.

(a) For the purposes of these regulations, the following definitions apply:

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

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

(3) "*Alternative Diesel Fuel*" means any fuel used in a compression ignition (CI) engine that is not, commonly or commercially known, sold or represented by the supplier as diesel fuel No. 1-D or No. 2-D, pursuant to the specifications in ASTM Standard Specification for Diesel Fuel Oils D975-81, or an alternative fuel, and does not require engine or fuel system modifications for the engine to operate, although minor modifications (e.g., recalibration of the engine fuel control) may enhance performance. An emission control strategy using a fuel additive will be treated as an alternative diesel fuel based strategy unless:

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

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

(C) the additive and base fuel are not mixed until engine fueling commences, and no more additive plus base fuel combination is mixed than required for a single fueling of a single engine.

(4) "*CARB Diesel Fuel*" means any diesel fuel that is commonly or commercially known, sold, or represented by the supplier as diesel fuel No. 1-D or No. 2-D,

pursuant to the specification for Diesel Fuel Oils D975-81, and that meets the specifications defined in Title 13 CCR, sections 2281, 2282, and 2284.

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

(6) "*Crane*" means the same as "Two-Engine Crane" defined in Title 13, CCR, section 2449(c)(56)

(~~6~~7) "*Diesel Fuel*" means any fuel that is commonly or commercially known, sold, or represented by the supplier as diesel fuel, including any mixture of primarily liquid hydrocarbons—organic compounds consisting exclusively of the elements carbon and hydrogen—that is sold or represented as suitable for use in an engine.

(~~7~~8) "*Diesel-Fueled*" means fueled by diesel fuel, or CARB diesel fuel, in whole or part.

(~~8~~9) "*Diesel Particulate Matter (PM)*" means the particles found in the exhaust of diesel-fueled engines which may agglomerate and adsorb other species to form structures of complex physical and chemical properties.

(~~9~~10) "*District*" means a District as defined in Health and Safety Code section 39025.

(~~10~~11) "*Dual-fuel Diesel Pilot Engine*" means a dual-fueled engine that uses diesel fuel as a pilot ignition source at an annual average ratio of less than 5 parts diesel fuel to 100 parts total fuel on an energy equivalent basis.

(~~11~~12) "*Emergency*" means providing electrical power or mechanical work during any of the following events and subject to the following conditions:

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

1. which is caused by any reason other than the enforcement of a contractual obligation the owner or operator has with a third party or any other party; and

2. which is demonstrated by the owner or operator to the district APCO's satisfaction to have been beyond the reasonable control of the owner or operator;

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

1. which is caused by any reason other than the enforcement of a contractual obligation the owner or operator has with a third party or any other party; and

2. which is demonstrated by the owner or operator to the district APCO's satisfaction to have been beyond the reasonable control of the owner or operator;

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

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

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

1. pipe break; or

2. high demand on water supply system due to high use of water for fire suppression;

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

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

(~~12~~13) "*Emergency Event*" refers to a situation arising from a sudden and reasonably unforeseen natural disaster such as an earthquake, flood, fire, or other acts of God, or other unforeseen event that requires the use of portable engines to help alleviate the threat to public health and safety.

(~~13~~14) "*Engine*" means any piston-driven internal combustion engine.

(~~14~~15) "*Engines Used Exclusively in Emergency Applications*" refer to engines that are used only during an emergency or emergency event, and includes appropriate maintenance and testing.

(~~15~~16) "*Executive Officer*" means the Executive Officer of the California Air Resources Board (CARB) or his/her designee.

(~~16~~17) "*Fleet*" refers to a portable engine or group of portable engines that are owned and managed by an individual operational entity, such as a business, business unit within a corporation, or individual city or state department under the control of a Responsible Official. Engines that are owned by different business entities that are under the common control of only one Responsible Official shall be treated as a single fleet.

(~~17~~18) "*Fuel Additive*" means any substance designed to be added to fuel or fuel systems or other engine-related systems such that it is present in-cylinder during combustion and has any of the following effects: decreased emissions, improved fuel economy, increased performance of the engine; or assists diesel emission control strategies in decreasing emissions, or improving fuel economy or increasing performance of the engine. Fuel additives used in conjunction with diesel fuel may be treated as an alternative diesel fuel.

(~~18~~19) "*In-Use Engines*" refers to portable diesel-fueled engines operating under valid permits or registrations as of December 31, 2005.

(~~19~~20) "*Level-3 Verified Technology*" means a technology that has satisfied the requirements of the "Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines" in Title 13, California Code of Regulations, commencing with section 2700, and has demonstrated an reduction in diesel particulate matter of 85% or greater.

(~~20~~21) "*Location*" means any single site at a building, structure, facility, or installation.

(~~21~~22) "*Low-Use Engines*" refers to portable diesel-fueled engines that operate 80 hours or less in a calendar year.

(~~22~~23) "*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.

(~~23~~24) "*Nonroad Engine*" means:

(A) Except as discussed in paragraph (2) of this definition, a nonroad engine is any engine:

1. in or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers); or

2. in or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or

3. that, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

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

1. the engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under section 202 of the federal Clean Air Act; or

2. the engine is regulated by a federal New Source Performance Standard promulgated under section 111 of the federal Clean Air Act; or

3. the engine otherwise included in paragraph (1)(C) of this definition remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source. Any engine(s) that replace(s) an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (at least two years) and that operates at that single location approximately three (or more) months each year.

(~~24~~25) "*Off-Road Engine*" means the same as nonroad engine.

(~~25~~26) "*Outer Continental Shelf (OCS*)" shall have the meaning provided by section 2 of the Outer Continental Shelf Lands Act (43 USC Section 1331 et seq.).

(~~26~~27) "*Participating Airlines*" means the collective group of Individual Participating Airlines under the MOU, which currently is as follows: ABX Air, Inc. (formerly Airborne Express), Alaska Airlines, America West Airlines, American Airlines, ATA Airlines (formerly American Trans Air), Continental Airlines, Delta Air Lines, Astar Air Cargo (formerly DHL Airways), Federal Express, Hawaiian Airlines, Jet Blue Airways Corp., Midwest Airlines (formerly Midwest Express Airlines), Northwest Airlines, Southwest Airlines, United Airlines, United Parcel Service, and US Airways. Participating Airlines does not mean the Air Transportation Association of America, Inc.

(~~27~~28) "*Permit*" refers to a certificate issued by the Air Pollution Control Officer acknowledging expected compliance with the applicable requirements of the district's rules and regulations.

(~~28~~29) "*Portable*" means designed and capable of being carried or moved from one location to another. Indicia of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform. For the purposes of this regulation, dredge engines on a boat or barge are considered portable. The engine is not portable if:

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

(B) the engine remains or will reside at a location for less than 12 consecutive months if the engine is located at a seasonal source and operates during the full annual operating period of the seasonal source, where a seasonal source is a stationary source that remains in a single location on a permanent basis (at least two years) and that operates at that single location at least three months each year; or

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

(~~29~~30) "*Project*" means the use of one or more registered or permitted portable engines or equipment units operated under the same or common ownership or control to perform a single activity.

(~~30~~31) "*Registration*" refers to either:

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

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

(~~31~~32) "*Responsible Official*" refers to an individual employed by the company or public agency with the authority to certify that the portable engines under his/her jurisdiction comply with applicable requirements of this regulation. A company or public agency may have more than one Responsible Official.

(~~32~~33) "*Selective Catalytic Reduction (SCR) System*" refers to an air pollution emissions control system that reduces oxides of nitrogen (NOx) emissions through the catalytic reduction of NOx by injecting nitrogen-containing compounds into the exhaust stream, such as ammonia or urea.

(~~33~~34) "*Stationary Source*" means any building, structure, facility or installation that emits any air contaminant directly or as a fugitive emission. Building, structure, facility, or installation includes all pollutant emitting activities which:

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

(B) belong to the same industrial grouping either by virtue of falling within the same two-digit standard industrial classification code or by virtue of being part of a common industrial process, manufacturing process, or connected process involving a common raw material; and

(C) are located on one or more contiguous or adjacent properties.

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

(~~34~~35) "*Stock Engine*" means a certified diesel-fueled engine that has never been placed in service and is part of a supply of engines offered for sale, rent, or lease by a person or company who offers for sale, rent, or lease engines and related equipment for profit.

(~~35~~36) "*Storage*" means a warehouse, enclosed yard, or other area established for the primary purpose of maintaining portable engines when not in operation.

(37) "*Street Sweeper*" means the same as "Dual-engine Street Sweeper" defined in Title 13, CCR, section 2022(b)(2).

(~~36~~38) "*Tactical Support Equipment (TSE)*" means equipment using a portable engine, including turbines, that meets military specifications, owned by the U.S. Department of Defense and/or the U.S. military services or its allies, and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations. Examples include, but are not limited to, engines associated with portable generators, aircraft start carts, heaters and lighting carts.

(~~37~~39) "*Tier 4 Emission Standards*" refers to the final emission standards adopted by the U.S. EPA for newly manufactured nonroad engines.

(~~38~~40) "*Transportable*" means the same as portable.

(~~39~~41) "*Verified Emission Control Strategy*" refers to an emission control strategy, designed primarily for the reduction of diesel PM emissions which has been verified pursuant to the "Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines" in Title 13, California Code of Regulations, commencing with section 2700, and incorporated by reference.

(~~40~~42) "*U.S. EPA*" refers to the United States Environmental Protection Agency.

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

§ 93116.3 Requirements.

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

(1) CARB diesel fuel; or

(2) alternative diesel fuel that has been verified through the Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines; or

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

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

(b) Diesel PM Standards

(1) Requirements for in-use portable diesel-fueled engines

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

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

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

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

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

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

(A) except as specified in 93116.3(b)(4~~5~~), 93116.3(b)(5~~6~~), and 93116.3(b)(6~~7~~), and except as allowed under flexibility provisions for equipment and vehicle manufacturers and post-manufacture marinizers pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulations, the portable diesel-fueled engine shall meet the most stringent of the federal or California emission standard for nonroad engines; or

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

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

(A) the portable diesel-fueled engine is certified to Tier 4 emission standards for newly manufactured nonroad engines; or
(B) the portable diesel-fueled engine is equipped with a properly functioning level-3 verified technology; or
(C) the portable diesel-fueled engine is equipped with a combination of verified emission control strategies that have been verified together to achieve at least 85% reduction in diesel PM emissions.

~~(4) Lattice boom cranes~~

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

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

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

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

~~3. the portable diesel-fueled engine is equipped with a combination of verified emission control strategies that have been verified together to achieve at least 85% reduction in diesel PM emissions.~~

(4~~5~~) Engines operated in California between March 1, 2004 and October 1, 2006 may be permitted or registered by a district or registered in the Statewide Portable Equipment Registration Program until 12/31/09 if they meet an emission standard pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulations.

(5~~6~~) Upon approval by the air pollution control officer, a district may permit or register engines operated in California between March 1, 2004 and October 1, 2006 that are not certified to an emission standard pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulations.

(6~~7~~) An engine owner, operator, dealer, or distributor may permit or register an engine not meeting the most stringent emission standard providing the following are met:

(A) The engine met the most stringent emission standard in effect prior to the change for that horsepower range; and

(B) The application for permit or registration of the engine is submitted within six months of the effective date of the change in emission standards.

(c) Fleet Requirements

(1) Each fleet is subject to and shall comply with the following weighted PM emission fleet averages expressed as grams per brake horsepower-hour (g/bhp-hr) by the listed compliance dates:

Fleet Standard Compliance Date	*Engines <175 hp (g/bhp-hr)*	*Engines >175 to 749 hp (g/bhp-hr)*	*Engines >750 hp (g/bhp-hr)*
1/1/13	0.3	0.15	0.25
1/1/17	0.18	0.08	0.08
1/1/20	0.04	0.02	0.02

(2) For the purposes of this regulation, the portable diesel-fueled engines affected by the fleet provisions of this regulation include all portable diesel-fueled engines operated in California, including portable diesel-fueled engines registered with the Statewide Portable Equipment Registration Program or permitted by or registered with a district.

(3) The following portable diesel-fueled engines shall be excluded from the fleet requirements:

(A) portable diesel-fueled engines operated exclusively outside of California or operated only within the OCS.

(B) portable diesel-fueled engines used exclusively in emergency applications.

(C) portable diesel-fueled engines that qualify as low-use engines.

~~(D) portable diesel-fueled engines used in a lattice boom crane.~~

(4) Portable diesel-fueled engines that qualify as low-use engines and subsequently exceed the allowed hours of operation in a calendar year, or portable diesel-fueled engines that are identified to be used exclusively in emergency applications but subsequently are used in non-emergency applications, become immediately subject to the requirements of section 93116.3(c) in the year such exceedence or use occurs. For low-use engines, the hours of operation used for an emergency event shall not be counted toward the allowed hours of operation.

(5) Portable alternative-fueled engines may be included in a fleet if the engine satisfies the requirements in section 93116.3(d)(2)(B).

(6) Portable diesel-fueled portable engines equipped with SCR systems.

(A) The diesel PM fleet emission standards in section 93116.3(c)(1) do not apply to:

1. portable diesel-fueled engines equipped with properly operating SCR systems as of January 1, 2004; and

2. with the approval of the Executive Officer, portable diesel-fueled engines equipped with properly operating SCR systems after January 1, 2004.

(B) At the request of the Responsible Official, portable diesel-fueled engine(s) equipped with a SCR system(s) may be included in the company's fleet for the purpose of complying with an applicable fleet emission standard. Once the engine(s) is included in a fleet, compliance with applicable fleet emission standards shall always include these diesel-fueled portable engine(s).

(C) For all diesel-fueled portable engines equipped with SCR systems, the following information shall be submitted to the Executive Officer to demonstrate that the SCR system is operating properly:

1. Tests results for NOx, PM, and ammonia slip

a. the following tests methods shall be used to demonstrate compliance:

i. NOX shall be measured with CARB test method 100 dated July 1997, or equivalent district-approved test method; and

ii. diesel PM shall be measured with CARB test method 5 dated July 1997 or equivalent district-approved test method. For the purposes of this requirement, only the probe catch and filter catch ("front half") is used to determine the emission rate, g/bhp-hr, and shall not include PM captured in the impinger catch or solvent extract; and

iii. ammonia slip shall be measured with Bay Area Air Quality Management District Source Test Procedure ST-1B, Ammonia Integrated Sampling, dated January 1982, or other equivalent district approved test method.

b. the duration of the emission test shall be sufficient to document the typical operation of the portable diesel-fueled engine(s); and

c. testing shall be performed at the frequency required by the permit or registration. In no event shall the time between emission tests exceed three years.

(7) Beginning on January 1, 2013, the weighted average PM emission rate for the fleet cannot exceed the fleet standard that is in effect. Changes in the fleet, including portable engine additions and deletions, shall not result in noncompliance with this standard.

(d) Fleet Average Calculations

(1) General Provisions

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

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

where:

bhp = maximum rated horsepower.

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

(B) The following diesel PM emission rates shall be used with the above formula to determine the weighted average fleet emission rate:

1. for portable diesel-fueled engines certified to a nonroad engine standard, the results of emission measurements submitted to either the U.S. EPA or CARB for the purposes of satisfying the appropriate emission standard; or

2. results from emission measurements from a verified emission control strategy may be used in conjunction with engine emission information; or

3. for portable diesel-fueled engine(s) equipped with SCR system(s), results from valid emission tests.

(2) The following incentives may be used to revise the fleet average, as outlined below:

(A) Where equipment uses grid power for more than 200 hours in lieu of operating a portable diesel-fueled engine for a given project, the time period grid power is used may be used to reduce each affected engine's emission factor. The emission factor for each affected portable engine will be reduced proportionally by the percentage of time the equipment uses grid power. To receive credit for grid power in the fleet calculation, the recordkeeping and reporting requirements in section 93116.4(c)(3) shall be satisfied.

(B) Alternative-fueled portable engines

1. Alternative-fueled portable engines operating 100 or more hours may be included toward determining compliance with the applicable fleet emission standards. A diesel PM emission rate of zero shall be used in the fleet calculations for these engines.

2. Alternative-fueled portable engines operating 100 or more hours per calendar year and added to a fleet prior to January 1, 2009, may be counted twice in the company's fleet average determination toward compliance with the 2013 and 2017 fleet emission standards. The alternative-fueled engine shall be certified to meet a federal or California standard for newly manufactured nonroad engines pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulations.

(B) Portable diesel-fueled engines certified to Tier 4 nonroad engine standards that are added to a fleet prior to January 1, 2015, may be counted twice in the company's fleet average determination toward compliance with the 2013 and 2017 fleet emission standards.

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

§ 93116.3.1 Compliance Flexibility for Diesel PM Standards.

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§ 93116.4 Fleet Recordkeeping and Reporting Requirements.

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§ 93116.5 Enforcement o~~O~~f Fleet Requirements.

(a) Both the Executive Officer and the APCO have the authority to review or seek enforcement action for violation of the fleet emission standard.

(b) The CARB will make available to the districts the information the Responsible Official has provided to CARB to demonstrate compliance with the fleet standard.

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

PROPOSED REGULATION ORDER

AIRBORNE TOXIC CONTROL MEASURE TO LIMIT DIESEL-FUELED COMMERCIAL MOTOR VEHICLE IDLING

Note: Proposed amendments are shown in <u>underline</u> to indicate additions and ~~strikeout~~ to indicate deletions, compared to the preexisting regulatory language.

Amend section 2485, title 13, California Code of Regulations to read as follows.

§ 2485. Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling.

(a) *Purpose.* The purpose of this airborne toxic control measure is to reduce public exposure to diesel particulate matter and other air contaminants by limiting the idling of diesel-fueled commercial motor vehicles.

(b) *Applicability.* This section applies to diesel-fueled commercial motor vehicles that operate in the State of California with gross vehicular weight ratings of greater than 10,000 pounds that are or must be licensed for operation on highways. This specifically includes:

(1) California-based vehicles; and

(2) Non-California-based vehicles.

(c) Requirements.

(1) *Idling Restriction.*

On or after February 1, 2005, the driver of any vehicle subject to this section shall comply with the following requirements, except as noted in subsection (d) below:

(A) the driver shall not idle the vehicle's primary diesel engine for greater than 5.0 minutes at any location.

(B) the driver shall not operate a diesel-fueled auxiliary power system (APS) to power a heater, air conditioner, or any ancillary equipment on that vehicle during sleeping or resting in a sleeper berth for greater than 5.0 minutes at any location when within 100 feet of a restricted area.

(2) *Use of Alternative Technologies*.

(A) On or after January 1, 2008, the driver shall not operate an internal combustion APS on any vehicle equipped with a 2007 and subsequent model year primary diesel engine unless the vehicle is:

1. equipped with an APS meeting the emissions performance requirements found in subsection (c)(3)(A), below; and

2. the vehicle is equipped with a label meeting the requirements pursuant to section 35.B.4 of the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," as incorporated by reference in title 13, CCR, section 1956.8(b).

(B) On or after January 1, 2008, the driver shall not operate a fuel-fired heater on any vehicle equipped with a 2007 and subsequent model year primary diesel engine unless the fuel-fired heater meets the emissions performance requirements found in subsection (c)(3)(B), below;

(C) On or after January 1, 2008, the driver of a vehicle equipped with a 2006 or older model year primary diesel engine may use and operate in California any certified internal combustion APS with or without the additional PM control specified in subsection (c)(3)(A)1. or any other certified alternative idling reduction technology.

(3) *Compliance Requirements.* As an alternative to idling the primary engine, diesel engines/vehicles may, as an option, be equipped with alternative technologies, as listed and defined below in (A), (B), and (C) of this subsection. If so equipped, these technologies are subject to the following requirements:

(A) *Internal Combustion APS.*

1. In order to operate in California, an APS utilizing an internal combustion engine must comply with applicable California off-road and/or federal non-road emission standards and test procedures for its fuel type and power category. In addition, diesel-fueled APSs installed on vehicles equipped with primary engines certified to the 2007 and subsequent model year heavy-duty diesel engine standards, pursuant to section 1956.8(a)(2)(A) of title 13, CCR, shall either,

a. be equipped with a verified Level 3 in-use strategy for particulate matter control (see title 13, CCR, sections 2700 to 2710), or

b. have its exhaust routed directly into the vehicle's exhaust pipe, upstream of the diesel particulate matter aftertreatment device.

2. With advance Executive Officer approval, a certifying/verifying APS manufacturer may petition for an alternate compliance strategy other than described in (A)1.a. or b. in this subsection above. However, this provision is limited to manufacturers that can demonstrate, to the satisfaction of the Executive Officer, that their alternative strategy is equivalent (or "cleaner"), from an emissions standpoint, compared to the requirement described in (A)1.a. or b. in this subsection above. As an example, strategies that can use the available electric power infrastructure, instead of solely operating a diesel-fueled APS for engine and/or cab heating and cooling, may be able to use such a strategy to demonstrate compliance with these requirements.

(B) *Fuel-Fired Heaters.* Fuel-fired heaters must comply with the applicable California emission standards and test procedures as specified in the Low Emission Vehicle program requirements found in title 13, CCR, subsections 1961(a)(15) and (d), or in Part I.E.1.13 of the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," as incorporated by reference in title 13, CCR, section 1961(d). However, the specified requirement that limits fuel-fired heaters from being operated above 40°F does not apply.

(C) *Other Idle Reduction Technologies.* Other technologies that will reduce idling emissions may also be used, including the use of batteries, fuel cells, power inverter/chargers for on-shore electrical power, on-shore electric power infrastructure also known as truck stop electrification, and other technologies that produce minimal or no emissions. With the exception of battery and fuel cell powered APSs, power inverter/chargers, and electric power infrastructure, the use of other technologies are subject to advance Executive Officer approval and must be at least as effective in reducing idling emissions as the technologies described in subsections (c)(3)(A), above, or the NOx idling emission standard specified in title 13, CCR, section 1956.8(a)(6)(C). The Executive Officer shall use good engineering judgment and test data to determine if an idle reduction technology provides idling emission controls equivalent to the standards specified in subsection (c)(3)(A) above, or in title 13, CCR, section 1956.8(a)(6)(C).

(D) *Labeling Requirements.* 2007 and subsequent model year commercial diesel vehicles equipped with an internal combustion APS meeting the requirements specified in subsection (c)(3)(A) shall have a label affixed

to the hood of the vehicle to allow operation of the APS in California. The labels shall meet the requirements specified in section 35.B.4 of the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," as incorporated by reference in title 13, CCR, section 1956.8(b).

(d) *Exceptions.*

(1) Except when a vehicle is located within 100 feet of a restricted area, subsection (c)(1)(A) does not apply, if the vehicle is equipped with

(A) a primary diesel engine meeting the optional NOx idling emission standard pursuant to title 13, CCR, section 1956.8(a)(6)(C); and

(B) a label meeting the requirements pursuant to section 35.B.4 of the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," as incorporated by reference in title 13, CCR, section 1956.8(b).

(2) Subsection (c)(1) does not apply for the period or periods during which

(A) a bus is idling for
1. up to 10.0 minutes prior to passenger boarding, or
2. when passengers are onboard;

(B) prior to January 1, 2008, idling of the primary diesel engine is necessary to power a heater, air conditioner, or any ancillary equipment during sleeping or resting in a sleeper berth. This provision does not apply when operating within 100 feet of a restricted area;

(C) idling when the vehicle must remain motionless due to traffic conditions, an official traffic control device, or an official traffic control signal over which the driver has no control, or at the direction of a peace officer, or operating a diesel-fueled APS or other device at the direction of a peace officer;

(D) idling when the vehicle is queuing that at all times is beyond 100 feet from any restricted area;

(E) idling of the primary diesel engine, operating a diesel-fueled APS, or operating other devices when forced to remain motionless due to immediate adverse weather conditions affecting the safe operation of the vehicle or due to mechanical difficulties over which the driver has no control;

(F) idling to verify that the vehicle is in safe operating condition as required by law and that all equipment is in good working order, either as part of a daily vehicle inspection or as otherwise needed, provided that such engine idling is mandatory for such verification;

(G) idling of the primary diesel engine, operating a diesel-fueled APS, or operating other devices is mandatory for testing, servicing, repairing, or diagnostic purposes, including regeneration or maintenance of the exhaust emission control device during engine idling when the dashboard indicator light, if so equipped, is illuminated indicating that regeneration or maintenance is in progress;

(H) idling when positioning or providing a power source for equipment or operations, other than transporting passengers or propulsion, which involve a power take off or equivalent mechanism and is powered by the primary engine for:

1. controlling cargo temperature, operating a lift, crane, pump, drill, hoist, mixer (such as a ready mix concrete truck), or other auxiliary equipment;
2. providing mechanical extension to perform work functions for which the vehicle was designed and where substitute alternate means to idling are not reasonably available; or
3. collection of solid waste or recyclable material by an entity authorized by contract, license, or permit by a school or local government;

(I) idling of the primary diesel engine, operating a diesel-fueled APS, or operating other devices when operating defrosters, heaters, air conditioners, or other equipment solely to prevent a safety or health emergency;

(J) idling of the primary diesel engine, operating a diesel-fueled APS, or operating other devices by authorized emergency vehicles while in the course of providing services for which the vehicle is designed;

(K) idling of military tactical vehicles during periods of training, testing, and deployment; ~~and~~

(L) idling when operating equipment such as a wheelchair or people assist lift as prescribed by the Americans with Disabilities Act;

(M) idling of armored cars in the course of providing services for which the vehicle is designed; and

(N) idling of workover rigs while performing work for which the vehicle is designed.

(e) *Relationship to Other Law*.

Nothing in this section allows idling in violation of other applicable law, including, but not limited to:

(1) California Vehicle Code Section 22515;

(2) Title 13, Section 2480, California Code of Regulations;

(3) California Health and Safety Code Section 40720; or

(4) any applicable ordinance, rule, or requirement as stringent as, or more stringent than, this section.

(f) *Enforcement.* This section may be enforced by the Air Resources Board; peace officers as defined in California Penal Code, title 3, chapter 4.5, Sections 830 et seq. and their respective law enforcement agencies' authorized representatives; and air pollution control or air quality management districts.

(g) *Penalties.* For violations of subsection (c)(1), (c)(2) or (c)(3), the driver of a subject vehicle is subject to a minimum civil penalty of 100 dollars and to criminal penalties as specified in the Health and Safety Code and the Vehicle Code.

(h) *Definitions.*

The following definitions apply to this section:

(1) "Armored car" is as defined in Vehicle Code Section 115

~~(1)~~(2)"Authorized emergency vehicle" is as defined in Vehicle Code Section 165.

~~(2)~~(3) "Auxiliary power system" or "APS" means any device that is permanently dedicated to the vehicle on which it is installed and provides electrical, mechanical, or thermal energy to the primary diesel engine, truck cab~~,~~ and/or sleeper berth, bus's passenger compartment or any other commercial vehicle's cab, as an alternative to idling the primary diesel engine.

~~(3)~~(4)"Bus" means any vehicle defined in Title 13, California Code of Regulations, Section 2480, subsections (h) (13)-(16), inclusive or as defined in the Vehicle Code Section 233.

~~(4)~~(5)“Commercial Motor Vehicle” means any vehicle or combination of vehicles defined in Vehicle Code Section 15210(b) and any other motor truck or bus with a gross vehicle weight rating of 10,001 pounds or more, except the following:

(A) a zero emission vehicle; or

(B) a pickup truck as defined in Vehicle Code Section 471.

~~(5)~~(6)“Driver” is as defined in Vehicle Code Section 305.

~~(6)~~(7)“Fuel-fired heater” means a fuel burning device that creates heat for the purpose of (1) warming the cab or sleeper berth compartment of a vehicle or (2) warming the engine oil and/or coolant for easy start-up of the vehicle’s engine but does not contribute to the propulsion of the vehicle.

~~(7)~~(8)"Gross vehicle weight rating" is as defined in Vehicle Code Section 350.

~~(8)~~(9) “Highway” is as defined in Vehicle Code Section 360.

~~(9)~~(10) “Idling" means the vehicle engine is running at any location while the vehicle is stationary.

~~(10)~~(11)"Motor truck" or "motortruck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

~~(11)~~(12)"Official traffic control device" is as defined in Vehicle Code Section 440.

~~(12)~~(13) “Official traffic control signal" is as defined in Vehicle Code Section 445.

~~(13)~~(14) “Owner” is as defined in Vehicle Code Section 460.

~~(14)~~(15) “Primary diesel engine” means the diesel-fueled engine used for vehicle propulsion.

~~(15)~~(16) “Queuing” means (A) through (C)

(A) the intermittent starting and stopping of a vehicle;

(B) while the driver, in the normal course of doing business, is waiting to perform work or a service; and

(C) when shutting the vehicle engine off would impede the progress of the queue and is not practicable.

(D) Queuing does not include the time a driver may wait motionless in line in anticipation of the start of a workday or opening of a location where work or a service will be performed.

~~(16)~~(17) “Restricted area” means any real property zoned for individual or multifamily housing units that has one or more of such units on it.

~~(17)~~(18)"Safety or health emergency" means:

(A) a sudden, urgent, or usually unforeseen, occurrence; or
(B) a foreseeable occurrence relative to a medical or physiological condition.

~~(18)~~(19) “Sleeper berth” is as defined in Title 13, California Code of Regulations, Section 1265.

~~(19)~~(20) “Vehicle” is as defined in the Vehicle Code Section 670.

(21) “Workover rig” is as defined in Section 2449 of Title 13, California Code of Regulations.

Authority: Sections 39600, 39601, 39614(b)(6)(A), 39658, 39667, 43000.5(d), 43013(b), 43013(h), 43018(b), and 43018(c), Health and Safety Code; and *Western Oil & Gas Assn. v. Orange County Air Pollution Control Dist.* (1975) 14 Cal.3d.411. Reference: Sections 39002, 39003, 39027, 39500, 39600, 39650, 39655, 39656, 39657, 39658, 39659, 39662, 39665, 39674, 39675, 42400, 42400.1, 42400.2, 42400.3, 42402, 42402.1, 42402.2, 42402.3, 42403.5, 42410, 43013, 43018, Health and Safety Code; Sections 305, 336, 350, 440, 445, 545, 546, 642, 680, 21400, 22452, 22515, 27153, 40001, 40001(b)(5), Vehicle Code; and Sections 1201,1900, 1962, 2480, Title13, California Code of Regulations.

PROPOSED REGULATION ORDER

EXHAUST EMISSIONS STANDARDS AND TEST PROCEDURES – 1985 AND SUBSEQUENT MODEL HEAVY-DUTY ENGINES AND VEHICLES

Note: Proposed amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions, compared to the preexisting regulatory language.

Amend section 1956.8, title 13, California Code of Regulations to read as follows:

§ 1956.8. Exhaust Emissions Standards and Test Procedures – 1985 and Subsequent Model Heavy-Duty Engines and Vehicles.

(a)(1) [No Change]

(a)(2)(A) The exhaust emissions from new 2004 and subsequent model heavy-duty diesel engines, heavy-duty natural gas-fueled and liquefied-petroleum-gas-fueled engines derived from diesel-cycle engines, and heavy-duty methanol-fueled diesel engines, and the optional, reduced-emission standards for 2002 and subsequent model engines produced beginning October 1, 2002, except in all cases engines used in medium-duty vehicles, shall not exceed:

Exhaust Emission Standards for 2004 and Subsequent Model Heavy-Duty Engines, and Optional, Reduced Emission Standards for 2002 and Subsequent Model Heavy-Duty Engines Produced Beginning October 1, 2002, Other than Urban Bus Model-Year Engines Produced From October 1, 2002 Through 2006[L] (grams per brake horsepower-hour [g/bhp-hr])

Model Year	*Oxides of Nitrogen Plus Non-methane Hydrocarbons*	*Optional Oxides of Nitrogen Plus Non-methane Hydrocarbons*	*Oxides of Nitrogen*	*Non-methane Hydrocarbons*	*Carbon Monoxide*	*Particulates*
2004-2006[H]	2.4 [A,C,E,J]	2.5 [B,C,E,J]	n/a	n/a	15.5	0.10[C]
October 1, 2002-2006	n/a	1.8 to 0.3 [A,D,F]	n/a	n/a	15.5	0.03 to 0.01[G]
2007 and subsequent[M]	n/a	n/a	0.20 [I]	0.14	15.5	0.01[K]

[A] This is the standard for the arithmetic sum of the oxides of nitrogen exhaust component certification value and the non-methane hydrocarbon exhaust component certification value, without individual restriction on the individual component values.

[B] This is the standard for the arithmetic sum of the oxides of nitrogen exhaust component certification value and the non-methane hydrocarbon exhaust component certification value, with the non-methane hydrocarbon individual component value not to exceed 0.5 g/bhp-hr.

[C] For 2004 through 2006 model years, emissions averaging may be used to meet this standard. Averaging must be based on the requirements of the averaging, banking and trading programs described in "California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent

Model Heavy-Duty Diesel Engines and Vehicles" incorporated by reference in section 1956.8(b), below.

D A manufacturer may elect to certify to an optional reduced-emission NOx+NMHC standard between the values, inclusive, by 0.3 grams per brake horsepower-hour increments. Engines certified to any of these optional reduced-emission NOx standards are not eligible for participation in any averaging, banking or trading programs described in "California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles" incorporated by reference in section 1956.8 (b), below.

E May be used as the certification standard for the higher emitting fueling mode of an engine certified under the dual fueling mode certification process of section 1956.8(a)(4), below.

F May be used as the certification standard for the lower emitting fueling mode of an engine certified under the dual fueling mode certification process of section 1956.8(a)(4), below.

G A manufacturer may elect to certify to an optional reduced-emission PM standard between the specified values, inclusive, by 0.01 grams per brake horsepower-hour increments. Engines certified to any of these optional reduced-emission PM standards are not eligible for participation in any averaging, banking or trading programs described in "California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles" incorporated by reference in section 1956.8(b), below.

H Engine manufacturers subject to the Heavy-Duty Diesel Engine Settlement Agreements (Settlement Agreements)[1] must produce engines in compliance with the requirements contained in their respective Settlement Agreement. Most engine manufacturers subject to the Settlement Agreements are required to manufacture engines meeting the exhaust emission standards for 2004 and subsequent model years engines beginning October 1, 2002.

I A manufacturer may elect to include any or all of its heavy-duty diesel engine families in any or all of the NOx emissions averaging, banking, or trading programs for heavy-duty diesel engines, within the restrictions described in "California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles" incorporated in section 1956.8 (b), below. If the manufacturer elects to include engine families in any of these programs, the NOx family emission limit (FEL) may not exceed the following FEL caps: 2.00 grams per brake horsepower-hour (0.75 grams per megajoule) for model years before 2010; 0.50 grams per brake horsepower-hour (0.19 grams per megajoule) for model years 2010 and later. The FEL cap applies whether credits for the engine family are derived from averaging, banking, or trading programs.

J For 2007 through 2009 model years, a manufacturer may use these emission standards in accordance with section 1956.8 (a)(2)(B). A manufacturer may elect to include any or all of its heavy-duty diesel engine families in any or all of the NOx plus NMHC emissions averaging, banking, or trading programs for heavy-duty diesel engines, within the restrictions described in "California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles" incorporated in section 1956.8 (b), below. If the manufacturer elects to include engine families in any of these programs, the NOx family emission limit (FEL) may not exceed the following FEL caps: 2.00 grams per brake horsepower-hour (0.75 grams per megajoule) for model years. The FEL cap applies whether credits for the engine family are derived from averaging, banking, or trading programs.

K A manufacturer may elect to include any or all of its heavy-duty diesel engine families in any or all of the particulate averaging, banking, or trading programs for heavy-duty diesel engines, within the restrictions described in "California Exhaust Emission Standards and Test Procedures for 1985 and

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[1] Seven of the largest heavy-duty diesel engine manufacturers will be implementing measures to reduce emissions beginning October 1, 2002, to meet the requirements of the Heavy-Duty Diesel Engine Settlement Agreements reached with the ARB. The Heavy-Duty Diesel Engine Settlements were agreements reached in response to lawsuits brought by the United States Environmental Protection Agency and violations alleged by the ARB pertaining to excess in-use emissions caused by the use of defeat devices and unacceptable algorithms. Navistar signed its Settlement Agreement on October 22, 1998. Cummins, Detroit Diesel Corporation, Caterpillar, Volvo, Mack and Renault signed their Settlement Agreements on December 15, 1998.

Subsequent Model Heavy-Duty Diesel Engines and Vehicles" incorporated by reference in section 1956.8 (b), below. The particulate FEL for each engine family a manufacturer elects to include in any of these programs may not exceed an FEL cap of 0.02 grams per brake horsepower-hour (0.0075 grams per megajoule). The FEL cap applies whether credits for the engine family are derived from averaging, banking, or trading programs.

L For 2007 and subsequent model year urban bus engines, this section applies. For urban bus model-year engines produced from October 1, 2002 through 2006, refer to section 1956.1.

M For model years between 2007 and 2009, transit agencies purchasing urban buses and/or urban bus engines shall meet the requirements set forth in section 2023.1.

(a)(6) Heavy-Duty Diesel Engine Idling Requirements.

(A) ~~Engine Shutdown System~~ *Engine Shutdown System*. The requirements in this subsection apply to engine manufacturers and original equipment manufacturers, as applicable, that are responsible for the design and control of engine and/or vehicle idle controls.

1. Requirements: Except as provided in subsections (a)(6)(B) and (a)(6)(C), all new 2008 and subsequent model-year heavy-duty diesel engines shall be equipped with an engine shutdown system that automatically shuts down the engine after 300 seconds of continuous idling operation once the vehicle is stopped, the transmission is set to "neutral" or "park", and the parking brake is engaged. If the parking brake is not engaged, then the engine shutdown system shall shut down the engine after 900 seconds of continuous idling operation once the vehicle is stopped and the transmission is set to "neutral" or "park." The engine shutdown system must be tamper-resistant and non-programmable. A warning signal, such as a light or sound indicator inside the vehicle cabin, may be used to alert the driver 30 seconds prior to engine shutdown. The engine shutdown system must be capable of allowing the driver to reset the engine shutdown system timer by momentarily changing the position of the accelerator, brake, or clutch pedal, or other mechanism within 30 seconds prior to engine shutdown. Once reset, the engine shutdown system shall restart the engine shutdown sequence described in this paragraph above, and shall continue to do so until the engine shuts down or the vehicle is driven.

2. ~~Engine Shutdown System Override~~ *Engine Shutdown System Override*: The engine shutdown system may be overridden, to allow the engine to run continuously at idle, only under the following conditions:

a. ~~if the engine is operating in power take-off (PTO) mode~~ *If the engine is operating in power take-off (PTO) mode*.

The PTO system shall have a switch or a setting that can be switched "on" to override the engine shutdown system and will reset to the "off" position when the vehicle's engine is turned off or when the PTO equipment is turned off. Subject to advance Executive Officer approval, other methods for detecting or activating PTO operation may be allowed; or,

b. ~~if the vehicle's engine coolant temperature is below 60°F.~~*If the vehicle's engine coolant temperature is below 60F* .
The engine shutdown system shall automatically be activated once the coolant temperature reaches 60F or above. The engine coola nt temperature shall be measured with the engine's existing engine coolant temperature sensor used for engine protection, if so equipped. Other methods of measuring engine coolant temperature may be allowed, subject to advance Executive Officer approval.

c. ~~i~~If an exhaust emission control device is regenerating, and keeping the engine running is necessary to prevent aftertreatment or engine damage, the engine shutdown system may be overridden for the duration necessary to complete the regeneration process up to a maximum of 30 minutes. Determination of what constitutes the need for regeneration will be based on data provided by the manufacturer at time of certification. Regeneration events that may require longer than 30 minutes of engine idling to complete shall require advance Executive Officer approval. At the end of the regeneration process, the engine shutdown system shall automatically be enabled to restart the engine shutdown sequence described in subparagraph (a)(6)(A)1. above. A vehicle that uses a regeneration strategy under engine idling operating conditions shall be equipped with a dashboard indicator light that, when illuminated, indicates that the exhaust emission control device is regenerating. Other methods of indicating that the exhaust emission control device is regenerating may be used with advance Executive Officer approval.

d. If servicing or maintenance of the engine requires extended idling operation. The engine's electronic control module may be set to temporarily deactivate the engine shutdown system for up to a maximum of 60 minutes. The deactivation of the engine shutdown system shall only be performed with the use of a diagnostic scan tool. At the end of the set deactivation period, the engine's electronic control module shall reset to restart the engine shutdown system sequence described in subparagraph (a)(6)(A) above.

(B) ~~Exempt Vehicles~~ *Exempt Vehicles*. Heavy-duty diesel engines to be used in buses as defined in California Vehicle Code sections 233, 612 and 642, school buses as defined in California Vehicle Code section 545, recreational vehicles as defined in Health and Safety Code 18010, medium duty vehicles as defined in section 1900(b)(13) of title 13, California Code of Regulations, military tactical vehicles as defined in section 1905 of title 13, California Code of Regulations, ~~and~~ authorized emergency vehicles as defined in California Vehicle Code section 165, armored cars, as defined in California Vehicle Code sections 115, and workover rigs, as defined in section 2449 of title 13, California Code of Regulations are exempted from these requirements.

(C) ~~Optional NOx idling emission standard~~ *Optional NOx idling emission standard*. In lieu of the engine shutdown system requirements specified in subsection (a)(6)(A) above, an engine manufacturer may elect to certify its new 2008 and subsequent model-year heavy-duty diesel engines to an optional NOx idling emission standard of 30 grams per hour. Compliance with this optional standard will be determined based on testing conducted pursuant to the supplemental

NOx idling test cycle and procedures specified in section 86.1360-2007.B.4 of the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," as incorporated by reference in subsection (b). The manufacturer may request an alternative test procedure if the technology used cannot be demonstrated using the procedures in section 86.1360-2007.B.4, subject to advance approval of the Executive Officer. A manufacturer certifying to the optional NOx idling standard must not increase emissions of CO, PM, or NMHC, determined by comparing results from the supplemental NOx idling test cycle and procedures specified in section 86.1360-2007.B.4 of the referenced "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles" to emission results from the idle mode of the supplemental steady state test cycle or emission results from idle portions of the transient test cycle for heavy duty diesel engines, respectively specified in sections 86-1360-2007 and 86.1327-98 of the referenced "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles." With advance Executive Officer approval, a manufacturer may use other methods of ensuring that emissions of CO, PM, and NMHC are not adversely affected in meeting the optional NOx requirement. Also, manufacturers shall state in their application for certification that meeting the optional NOx idling requirement will not adversely affect the associated emissions of CO, PM and NMHC.

An engine manufacturer certifying its engine to the optional NOx idling emission standard must also produce a vehicle label, as defined in subsection 35.B.4 of the “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles” as incorporated by reference in subsection (b).

(D) ~~Optional Alternatives to Main Engine Idling~~ *Optional Alternatives to Main Engine Idling*. All new 2008 and subsequent model year heavy duty diesel engines may also be equipped with idling emission reduction devices that comply with the compliance requirements specified in title 13, CCR section 2485(c)(3).

(b) through (h) [No Change.]

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107, and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213, and 43806, Health and Safety Code; and Section 28114, Vehicle Code.