

# Final Regulation Order

## Regulation to Establish a Statewide Portable Equipment Registration Program

(Note: Proposed amendments to the regulation are identified below. The originally proposed language is shown in underline is used to indicate proposed additions. ~~Strikeout~~ is used to show proposed deletions from the regulation text.)

### § 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. Registration under this program allows Pportable engines and equipment units ~~registered under the Air Resources Board program may to~~ operate throughout the State of California without authorization (except as specified herein) or permits from air quality management or air pollution control districts (districts). These regulations preempt districts from permitting, registering, or regulating portable engines and equipment units, including equipment necessary for the operation of a portable engine (e.g. fuel tanks), registered with the Executive Officer of the Air Resources Board except in the circumstances specified in the regulations.

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

### § 2451. Applicability.

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

- (c) The following are not eligible for registration under this program:
- (1) any engine used to propel mobile equipment or a motor vehicle of any kind as defined in section 2452 (aa)(1)(A);
  - (2) any engine or equipment unit not meeting the definition of portable as defined in section 2452 (dd) of this regulation;
  - (3) engines, equipment units, and associated engines determined by the Executive Officer to qualify as part of a stationary source 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 the requirements of 40 CFR Part 60 Subpart OOO (Standards of Performance for Nonmetallic Mineral Processing Plants) as they relate to portable plants as defined in 40 CFR section 60.671;
  - (5) any engine or equipment unit operating within the boundaries of the California Outer Continental Shelf (OCS). [Note: This shall not prevent statewide registration of portable engines and equipment units already permitted by a district for operation in the OCS. Such statewide registration shall only be valid for operation onshore and in State Territorial Waters (STW).];
  - (6) any dredging operation in the Santa Barbara Harbor;
  - (7) any dredging unit owned by a single port authority, harbor district, or similar agency in control of a harbor, and operated only within the same harbor;
  - (8) engines and equipment units used exclusively in agricultural operations as defined in title 17 Cal. Code Regs., section 93116.2(a), unless owned by a rental business;
  - ~~(89)~~ 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
  - (910) generators used to provide primary or supplemental power to a building, facility, stationary source, or stationary equipment, except during the following:
    - (A) unforeseen interruptions of electrical power from the serving utility,
    - (B) maintenance and repair operations, and
    - (C) electrical upgrade operations including-startup, shutdown, and testing that do not exceed 180 calendar days; or
    - (D) upon approval from the local district, mechanical breakdown of a stationary backup generator permitted by a district under the following conditions:
      1. the district is notified of the mechanical breakdown within 72 hours;
      2. the temporary replacement engine has the same or lower mass per unit time emission rate;
      3. the temporary replacement engine complies with all applicable requirements on the permit for the existing stationary engine; and
      4. the mechanical breakdown lasts no longer than 180 days.

- (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.

Unless otherwise specified, all definitions in the Airborne Toxic Control Measure For Diesel Particulate Matter From Portable Diesel Engines Rated At 50 Horsepower And Greater listed in title 17 Cal. Code Regs. Section 93116.2(a) are incorporated into this article by reference herein.

The following definitions shall apply for the purposes of this article:

- (a) **“Air Contaminant”** shall have the same meaning as set out in section 39013 of the Health and Safety Code.
- (b) **“ARB”** means the California Air Resources Board.
- (c) **“Certified Compression-Ignition Engine”** means an engine certified pursuant to 40 CFR Part 86, 40 CFR Part 89, 40 CFR Part 1039, 40 CFR Part 94, 40 CFR Part 1042, or as set forth in the equivalent categories in title 13, Cal. Code Regs.
- (d) **“Certified Spark-Ignition Engine”** means an engine meeting the emission standards for spark-ignition engines, as set forth in title 13, Cal. Code Regs., or 40 CFR Part 1048.
- (e) **“Compression-Ignition (CI) Engine”** means an internal combustion engine with operating characteristics significantly similar to the theoretical diesel combustion cycle. Compression-ignition engines usually control fuel supply instead of using a throttle to regulate power.
- (f) **“Corresponding Onshore District”** means the district which has jurisdiction for the onshore area that is geographically closest to the engine or equipment unit.
- (g) **“Crane”** means the same as “Two-Engine Crane” defined in title 13, Cal. Code Regs., section 2449(c).
- (h) **“District”** means an air pollution control district or air quality management district created or continued in existence pursuant to provisions of Part 3 (commencing with section 40000) of the California Health and Safety Code.
- (i) **“Electrical Upgrade”** means replacement or addition of electrical equipment and systems resulting in increased generation, transmission and/or distribution capacity.

- (j) **“Emergency Event”** means any situation arising from sudden and reasonably unforeseen natural disaster such as earthquake, flood, fire, or other unforeseen events beyond the control of the portable engine or equipment unit operator, its officers, employees, and contractors that threatens public health and safety and that requires the immediate temporary operation of portable engines or equipment units to help alleviate the threat to public health and safety.
- (k) **“Engine”** means any piston driven internal combustion engine.
- (l) **“Equipment Unit”** means equipment that emits PM<sub>10</sub> over and above that emitted from an associated engine.
- (m) **“Essential public service”** means a service provided to the general public to protect the public health and safety or the environment.
- (nn) **“Executive Officer”** means the Executive Officer of the California Air Resources Board or his/her designee.
- (oo) **“Hazardous Air Pollutant (HAP)”** means any air contaminant that is listed pursuant to section 112(b) of the federal Clean Air Act.
- (pp) **“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.
- (qq) **“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 meets the emission requirements of title 17 Cal Code Regs. section 93116.3(c)(1); and meets the emission requirements of sections 2455 through 2457 of this article.
- (rr) **“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.
- (ss) **“Location”** means any single site at a building, structure, facility, or installation.
- (st) **“Maximum Achievable Control Technology (MACT)”** means any federal requirement promulgated as part of 40 CFR Parts 61 and 63.

- (~~t~~u) **“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.
- (~~u~~v) **“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.
- (~~v~~w) **“Mechanical Breakdown”** means any failure of an engine’s electrical system or mechanical parts that necessitates the removal of the registered engine from service.
- (~~w~~x) **“Modification”** means any physical change to, change in method of operation of, or an addition to a registered engine or equipment unit, which may cause or result in an increase in the amount of any air contaminant emitted or the issuance of air contaminants not previously emitted. Routine maintenance and/or repair shall not be considered a physical change. Unless previously limited by an enforceable registration condition, a change in the method of operation shall not include:
- (1) an increase in the production rate, unless such increase will cause the maximum design capacity of the registered equipment unit to be exceeded;
  - (2) an increase in the hours of operation;
  - (3) a change of ownership; and
  - (4) the movement of a registered engine or equipment unit from one location to another.
- ~~(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.~~
- (y) **“New Source Performance Standard (NSPS)”** means any federal requirement promulgated as part of 40 CFR Part 60.
- (z) **“Non-field Inspection”** means an inspection that is either conducted at a location that is mutually acceptable to the district and the owner or operator or where the engine or equipment unit is stored and does not require operation of the engine or equipment unit for purposes of the inspection.

(aa) **“Nonroad Engine”** means:

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

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

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

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

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

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

- (dd) **“Portable”** means designed and capable of being carried or moved from one location to another. Indicia of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform. For the purposes of this regulation, dredge engines on a boat or barge are considered portable. The engine or equipment unit is not portable if any of the following are true:
- (1) the engine or equipment unit or its replacement is attached to a foundation, or if not so attached, will reside at the same location for more than 12 consecutive months. The period during which the engine or equipment unit is maintained at a storage facility shall be excluded from the residency time determination. Any engine or equipment unit such as back-up or stand-by engines or equipment units, that replace engine(s) or equipment unit(s) at a location, and is intended to perform the same or similar function as the engine(s) or equipment unit(s) being replaced, will be included in calculating the consecutive time period. In that case, the cumulative time of all engine(s) or equipment unit(s), including the time between the removal of the original engine(s) or equipment unit(s) and installation of the replacement engine(s) or equipment unit(s), will be counted toward the consecutive time period; or
  - (2) the engine or equipment unit remains or will reside at a location for less than 12 consecutive months if the engine or equipment unit is located at a seasonal source and operates during the full annual operating period of the seasonal source, where a seasonal source is a stationary source that remains in a single location on a permanent basis (at least two years) and that operates at that single location at least three months each year; or
  - (3) the engine or equipment unit is moved from one location to another in an attempt to circumvent the portable residence time requirements.
- (ee) **“Prevention of Significant Deterioration (PSD)”** means any federal requirements contained in or promulgated pursuant to Part C of the federal Clean Air Act.
- (ff) **“Process”** means any air-contaminant-emitting activity associated with the operation of a registered engine or equipment unit.
- (gg) **“Project, for the purposes of onshore operation,”** means the use of one or more registered engines or equipment units operated under the same or common ownership or control to perform a single activity.
- (hh) **“Project, for the purposes of State Territorial Waters (STW),”** means the use of one or more registered engines and equipment units operating under the same or common ownership or control to perform any and all activities needed to fulfill specified contract work that is performed in STW. For the purposes of this definition, a contract means verbal or written commitments covering all operations necessary to complete construction, exploration, maintenance, or other work. Multiple or consecutive contracts may be considered one project if they are intended to perform activities in the same general area, the same parties are involved in the contracts, or the time period specified in the contracts is determined by the Executive Officer to be sequential.

(ii) **“Provider of Essential Public Service (PEPS)”** means any privately-owned corporation or public agency whose primary purpose is to own, operate, control, or manage an essential public service as determined by the Executive Officer. ~~An essential public service may be 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.~~ PEPS include:

- (1) electrical corporations as defined by Public Utilities Code, section 218;
- (2) electric service providers as defined by Public Utilities Code, section 218.3;
- (3) fire departments;
- (4) gas corporations as defined by Public Utilities Code, section 222;
- (5) hospitals that provide trauma services;
- (6) irrigation districts formed pursuant to the Irrigation District Law, Water Code division 11, commencing with section 20500;
- (7) public water systems as defined in California Health & Safety Code section 116275(h);
- (8) publicly owned treatment works as defined in 40 CFR Part 403.3(q);
- (9) joint powers authorities that include one or more of the public agencies identified in this definition;
- (10) municipal utility districts formed pursuant to The Municipal Utility District Act, Public Utilities Code, division 6, commencing with section 11501;
- (11) municipalities or municipal corporations operating as a “public utility” as provided in Public Utilities Code, section 10001;
- (12) police departments;
- (13) prisons and detention facilities;
- (14) public utility districts formed pursuant to the Public Utility District Act, Public Utilities Code, division 7, commencing with Section 15501;
- (15) public transportation and transit systems;
- (16) sewer system corporations as defined by Public Utilities Code, section 230.6;
- (17) telegraph corporations, as defined by Public Utilities Code, section 236;
- (18) telephone corporations, as defined by Public Utilities Code, section 234;
- (19) railroads and street railroads, as defined by Public Utilities Code, section 229;

PEPS do not include their contractors.

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

(kk) **“Rental Business”** means a business which rents or leases registered engines or equipment units.



- (ll) **“Renter”** means a person who rents and/or operates registered engines or equipment units not owned by that person.
- (mm) **“Resident Engine”** means either of the following:
- (1) a certified compression-ignition engine or certified spark-ignition engine that at the time of applying for registration, has a current, valid district permit or district registration, ~~except those certified compression-ignition engines that were permitted or registered by a district per title 17, Cal. Code Regs., section 93116.3(b)(2)(E) that was issued before July 1, 2019;~~ or
  - (2) a certified compression-ignition engine or certified spark-ignition engine that lost a permit to operate exemption through a formal district action. Moving an engine from a district that provides a permit to operate exemption to a district that requires a permit to operate or registration does not qualify for consideration as a resident engine.
- (nn) **“Responsible Official”** refers to an individual employed by the company or public agency with the authority to certify that the registered engines or equipment units ~~under his/her jurisdiction in the fleet~~ comply with applicable requirements of this regulation. ~~A company or public agency may have more than one Responsible Official.~~
- (oo) **“Spark-Ignition (SI) Engine”** means an internal combustion engine with a spark plug (or other sparking device) with operating characteristics significantly similar to the theoretical Otto combustion cycle. Spark-ignition engines usually use a throttle instead of using fuel supply to control intake air flow to regulate power.
- (pp) **“State Territorial Waters (STW)”** includes all of the following: an expanse of water that extends from the California coastline to 3 miles off-shore; a 3 mile wide belt around islands; and estuaries, rivers, and other inland waterways.
- (qq) **“Statewide Registration Program”** means the program for registration of portable engines and equipment units set out in this article.
- (rr) **“Stationary Source”** means any building, structure, facility or installation which emits any air contaminant directly or as a fugitive emission. “Building,” “structure,” “facility,” or “installation” includes all pollutant emitting activities which:
- (1) are under the same ownership or operation, or which are owned or operated by entities which are under common control;
  - (2) belong to the same industrial grouping either by virtue of falling within the same two-digit standard industrial classification code or by virtue of being part of a common industrial process, manufacturing process, or connected process involving a common raw material; and
  - (3) are located on one or more contiguous or adjacent properties.

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

- (ss) **“Storage”** means a warehouse, enclosed yard, or other area established for the primary purpose of maintaining registered engines or equipment units when not in operation.
- (tt) **“Street Sweeper”** means the same as “Dual-engine Street Sweeper” defined in title 13, Cal. Code Regs., section 2022(b)(2).
- (uu) **“Tactical Support Equipment (TSE)”** means equipment using a portable engine, including turbines, that meets military specifications, owned by the U.S. Department of Defense, the U.S. military services, or its allies, and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations. Examples include, but are not limited to, internal combustion engines associated with portable generators, aircraft start carts, heaters and lighting carts.
- (vv) **“Temporary Registration”** means issuance of a temporary certificate by the Executive Officer acknowledging expected compliance with the applicable requirements of this article. The temporary certificate shall be issued according to the provisions of title 13 Cal. Code Regs. Section 2453(g).
- ~~(www)~~ **“Third-party Rental”** means a non-rental business renting or leasing registered engines and/or equipment units to another party by written agreement.
- ~~(ww)~~ **“Transportable”** means the same as portable.
- (xx) **“Two-engine Vehicle”** means the same as “Two-engine Vehicle” defined in title 13 Cal. Code Regs., section 2449(c) and the vehicle meets the criteria listed in title 13 Cal. Code Regs., section 2449(b)(2)(C)
- ~~(xyy)~~ **“U.S. EPA”** means the United States Environmental Protection Agency.
- (yyzz) **“Volatile Organic Compound (VOC)”** means any compound containing at least one atom of carbon except for the following exempt compounds: acetone, methyl acetate, perchloroethylene (tetrachloroethylene), ethane, parachlorobenzotrifluoride (1-chloro-4-trifluoromethyl benzene), methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonates, methylene chloride (dichloromethane), methyl chloroform (1,1,1-trichloroethane), CFC-113 (trichlorotrifluoroethane), CFC-11 (trichlorofluoromethane), CFC-12 (dichlorodifluoromethane), CFC-22 (chlorodifluoromethane), CFC-23 (trifluoromethane), CFC-114 (dichlorotetrafluoroethane), CFC-115 (chloropentafluoroethane), HCFC-22 (chlorodifluoromethane), HCFC-123 (dichlorotrifluoroethane), HFC-134a (tetrafluoroethane), HCFC-141b (dichlorofluoroethane), HCFC-142b (chlorodifluoroethane), HCFC-124 (chlorotetrafluoroethane), HFC-23 (trifluoromethane), HFC-134 (tetrafluoroethane), HFC-125 (pentafluoroethane), HFC-143a (trifluoroethane), HFC-152a (difluoroethane), HFE-7200 (ethoxy-nonafluorobutane), cyclic, branched, or linear completely methylated siloxanes, the following classes of perfluorocarbons:

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

(zzaaa) **“Water Well Drilling Rig”** means the same as “Two-Engine Water Well Drilling Rig” defined in title 13, Cal. Code Regs., section 2449(c).

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

### § 2453. Application Process.

- (a) In order for an engine or equipment unit to be considered for registration by the Executive Officer, the engine or equipment unit must be portable as defined in section 2452 (dd) and meet all applicable requirements established in this article.
- (b) For purposes of registration under this article, an engine and the equipment unit it serves are considered to be separate emissions units and require separate applications.
- (c) For an identical replacement, an owner or operator of a registered portable engine or equipment unit is not required to complete a new application and may immediately operate the identical replacement. Except for TSE, the owner or operator shall notify the Executive Officer in writing within ~~five~~30 calendar days of replacing the registered engine or equipment unit with an identical replacement. Notification shall include company name, responsible official, phone number, registration certificate number of the engine or equipment unit to be replaced; and make, model, rated brake horsepower, serial number of the identical replacement, and description of the mechanical breakdown; ~~and a~~Applicable fees shall be submitted as required in section 2461. Misrepresentation of engine or equipment unit information or the failure to meet the requirements of this regulation shall be deemed a violation of this article.
- (d) The Executive Officer shall inform the applicant, in writing, if the application is complete or deficient, within 30 days of receipt of an application. If the application is deemed deficient, the Executive Officer shall identify the specific information required to make the application complete. If the applicant fails to provide the requested information or fees, the application for registration shall be denied no later than 90 days of receipt.

- (e) The Executive Officer shall issue ~~or deny~~ registration within 90 days of the date receipt of a complete an application is deemed complete.
- (f) Upon finding that an engine or equipment unit meets the requirements of this article and all applicable fees have been submitted, the Executive Officer shall issue a registration for the engine or equipment unit. The Executive Officer shall notify the applicant in writing or electronic notification that the engine or equipment unit has been registered. The written or electronic notification shall include a registration certificate and any conditions to ensure compliance with State and federal requirements. For electronic notification, the applicant shall submit an agreement with the application to accept electronic notification in lieu of written notification. In addition, a registration identification device shall be mailed by the Executive Officer for each engine or equipment unit registered pursuant to this regulation. Except for TSE, the registration identification device shall be affixed on the engine or equipment unit at all times, and the registration certificate including operating conditions shall be kept on the immediate premises with the engine or equipment at all times and made accessible to the Executive Officer or districts upon request. Failure to properly maintain the registration identification device shall be deemed a violation of this article.
- ~~(g)~~ Upon receiving an application for a Tier 4 final engine, the Executive Officer shall issue a temporary registration for the engine at the request of the applicant. The Executive Officer shall notify the applicant in writing or electronic notification within 5 business days that the engine has been given temporary registration. The written or electronic notification shall include a temporary registration certificate which will expire no later than 3 months from the date of issuance.
- ~~(gh)~~ 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, email address, and telephone number;
  - (3) a brief description of typical engine or equipment unit use;
  - (4) detailed description, including engine or equipment unit make, model, manufacture year (for portable engines only), rated brake horsepower, throughput, capacity, emission control equipment, and serial number;
  - (5) necessary engineering data, emissions test data, or manufacturer's emissions data to demonstrate compliance with the requirements as specified in sections 2455, 2456, and 2457;
  - (6) for owners of water well drilling rigs, a copy of a current, valid C-57 water well drilling contractors license;
  - (7) for resident engines, a copy of either a current permit to operate that was granted by a district, or documentation as described in section 2452 (mm); and
  - (8) the printed name and written or electronic signature of the responsible official and date of the signature.

- (~~h~~i) For TSE, application for registration ~~and the appropriate fee(s) as specified in section 2461~~, shall be submitted in a format approved by the Executive Officer and include, at a minimum, the following information:
- (1) the name of applicant, including mailing address, email address, and telephone number;
  - (2) a brief description of typical engine use;
  - (3) engine or equipment unit description, including type and rated brake horsepower; and
  - (4) the printed name and written or electronic signature of the responsible official and date of the signature.
- (~~i~~j) All registered engines and equipment units shall have a designated home district as defined in section 2452 (o) according to the following:
- (1) a home district shall be designated on each application for initial registration of an engine or equipment unit; and
  - (2) except for registered engines or equipment units owned by a PEPS, rental business or involved in a third party rental, if the engine or equipment unit, based on operational and/or location records as required by 2458(a), operated the largest percentage of the time in a district other than the designated home district, the owner shall change the home district designation at the time of renewal. The change is not required if the difference between the home district operation percentage and the district with the largest operating percentage is 5 percent or less.
- (~~j~~k) Engines or equipment units owned and operated for the primary purpose of rental by a rental business shall be identified as rental at the time of application for registration and shall be issued a registration specific to the rental business requirements of this article. Misrepresentation of portable engine or equipment unit use in an attempt to qualify under the rental business definition shall be deemed a violation of this article.
- (~~k~~l) New applications for non-operational engines or equipment units will not be accepted by the Executive Officer.
- (~~l~~m) Once registration or temporary registration is issued by the Executive Officer, district permits or district registrations for engines or equipment units registered in the Statewide Registration Program are preempted by the statewide registration and are, therefore, considered null and void, except for the following circumstances where a district permit shall be 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.
- (o) Change of ownership applications for registered engines will not be approved after the dates listed in the schedule below. The schedule applies to flexibility engines according to the tier level to which the engine was built.

<u>Engine Certification</u>	<u>Engines rated 50 to 750 bhp</u>	<u>Engines rated &gt;750 bhp</u>
<u>Tier 1</u>	<u>7/1/2019</u>	<u>7/1/2021</u>
<u>Tier 2</u>	<u>7/1/2024</u>	<u>7/1/2026</u>
<u>Tier 3 built prior to 1/1/2009</u>	<u>7/1/2027</u>	<u>NA</u>
<u>Tier 3 built on or after 1/1/2009</u>	<u>7/1/2029</u>	<u>NA</u>

- (p) Applications for modification to designate Tier 3 engines as low-use or emergency-use must be submitted in the month of January and include hour meter readings that were taken at the beginning of that month.

- (q) Except for TSE, a placard shall be required for every engine or equipment unit registered in the Statewide Registration Program. The placard shall be affixed on the registered engine or equipment unit at all times so that it may be easily

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

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

**§ 2454. Registration Process.**

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

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

**§ 2455. General Requirements.**

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

- (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 (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, Cal. Code Regs., section 2449 and are otherwise exempt from further requirements of this section, except for ~~subsection~~division (f)(~~54~~).
- (d) Registered diesel engines used on a street sweeper that are not subject to the requirements of title 13, Cal. Code Regs., section 2022 shall comply with the applicable requirements in title 13, Cal. Code Regs., section 2025 and are otherwise exempt from further requirements of this section, except for ~~subsection~~division (f)(~~54~~).
- (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 (f)(6) of this article. No other requirements of this section are applicable to portable engines rated less than 50 brake horsepower.
- (f) Engines rated equal to, or greater than 50 bhp registered under this article shall:
- (1) be certified compression-ignition engines or certified spark-ignition engines that meet the most stringent emissions standard in effect for the applicable horsepower range at the time the application for initial registration is submitted by the responsible official. Spark-ignition engines that are not certified spark-ignition engines may be registered if they meet the emission standards in Table 1. ~~Subsection~~division (f)(1) does not apply to the following:
- (A) For flexibility engines rated at 50 bhp to 750 bhp, Tier 3 or Tier 4 interim certified compression-ignition engines;
- (B) for flexibility engines rated over 750 bhp, Tier 2 or Tier 4 interim engines;
- (C) engines that are resident engines, owned by a large fleet that has elected to comply with the requirements of title 17 Cal. Code Regs., section 93116.3(c)(2);
- (D) engines on dedicated snow removal vehicles as defined in title 13, Cal. Code Regs., section 2449(c);
- (E) changes of ownership; or
- (F) engines that meet the requirements of title 17, Cal. Code Regs., sections ~~93116.3(b)(2)(B) or 93116.3.1.~~

- (2) meet all applicable requirements in title 17, Cal. Code Regs., sections 93116 through 93116.5, except that engines used on vessels as defined in title 17, Cal. Code Regs., section 93118.5(d) shall meet the applicable requirements of title 17, Cal. Code Regs., section 93118.5;
- (3) use only CARB diesel fuel as defined in title 17, Cal. Code Regs., section 93116.2~~fuels meeting the standards for California motor vehicle fuels as set forth in chapter 5, division 3, title 13, Cal. Code Regs., commencing with section 2250, or other fuels and/or additives that have been verified through the Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines;~~
- ~~(4) not exceed particulate matter emissions concentration of 0.1 grain per standard dry cubic foot corrected to 12 percent CO<sub>2</sub>. This provision does not apply to certified compression-ignition engines, certified spark-ignition engines, or any spark-ignition engine meeting Table 1 requirements;~~
- (54) 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
- (65) 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<sub>10</sub>);~~
  - ~~(C) for registered engines operating onshore, 10 tons for each pollutant per district per year per engine for NO<sub>x</sub>, SO<sub>x</sub>, VOC, PM<sub>10</sub>, and CO in nonattainment areas; and~~
  - ~~(D) for registered engines operating within STW:~~
    - (4A) 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

- (2B) 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, Cal. Code Regs. 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.~~
- ~~(406) Effective January 1, 2010, all registered spark-ignition engines rated at 50 brake horsepower or greater shallmust be certified spark-ignition engines or shallmust meet Table 1 requirements.~~
- ~~(11) Notwithstanding the requirements of 2456(f)(10), any company, public agency, or military base may choose to select specific registered spark-ignition engines to operate until December 31, 2010. The selections shall be submitted to the Executive Officer no later than 30 days after the effective date of these amendments, and are subject to the requirements below:~~
- ~~(A) One spark-ignition engine shall be selected with no restriction for maximum rated horsepower; or~~
- ~~(B) No more than five spark-ignition engines shall be selected not to exceed 500 cumulative brake horsepower for the selected engines.~~

- ~~(C) If an owner has selected one uncertified compression-ignition engines per title 17 Cal. Code Regs. section 93116.3(b)(1)(C)(2), then subsection division 2456(f)(11)(A) shall not be used.~~
- ~~(D) If an owner has selected less than five uncertified compression-ignition engines per title 17 Cal. Code Regs. section 93116.3(b)(1)(C)(3), then the combined total of selected spark-ignition engines and compression-ignition engines shall not exceed five engines with a cumulative size of 500 brake horsepower.~~

- (g) All registered engines shall must be equipped with a functioning non-resettable hour meter, fuel meter or other operation tracking device approved by the Executive Officer.
- (h) Registered TSE is exempt from district New Source Review and Title V programs, including any offset requirements. Further, emissions from registered TSE shall not be included in Title V or New Source Review applicability determinations.
- (i) Registered diesel engines used on a water well drilling rig shall comply with the applicable requirements in title 13, Cal. Code Regs., section 2449 and are otherwise exempt from further requirements of this section, except for subsection ~~division~~ (f)(54).
- (j) Registered diesel engines used on two-engine vehicles shall comply with the applicable requirements of title 13 Cal. Code Regs., sections 2449 and 2449.1, and are otherwise exempt from further requirements of this section, except for subdivision (f)(4).

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

Table 1. Spark-ignition Engine Requirements\*

<i>Pollutant Emission Limits</i>		
<b><i>NO<sub>x</sub>**</i></b>	<b><i>VOC**</i></b>	<b><i>CO**</i></b>
80 ppm <sub>dv</sub> NO <sub>x</sub> (1.5 g/bhp-hr) **	240 ppm <sub>dv</sub> VOC (1.5 g/bhp-hr)	176 ppm <sub>dv</sub> CO (2.0 g/bhp-hr)

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

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

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

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

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

- (I) open areas and all roads subject to vehicular traffic shall be paved, watered, or chemical palliatives applied to prevent fugitive emissions in excess of 20 percent opacity or Ringelmann 1; and
  - (J) if applicable, the operation shall comply with the requirements of 40 CFR Part 60 Subpart OOO.
- (4) Unconfined abrasive blasting operations:
- (A) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringelmann 2 or equivalent 40 percent opacity;
  - (B) only California Air Resources Board-certified abrasive blasting material shall be used [Note: see title 17, Cal. Code Regs., section 92530 for certified abrasives.];
  - (C) the abrasive material shall not be reused;
  - (D) no air contaminant shall be released into the atmosphere which causes a public nuisance;
  - (E) all applicable requirements of title 17, Cal. Code Regs. shall also apply; and
  - (F) there shall be no visible emissions beyond the property line on which the equipment is being operated.
- (5) Tub grinders and trommel screens:
- (A) there shall be no visible emissions beyond the property line on which the equipment is being operated;
  - (B) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark or darker than Ringelmann 1 or equivalent 20 percent opacity; and
  - (C) water suppression or chemical palliatives shall be used to control fugitive particulate emissions from the tub grinder whenever the tub grinder is in operation, unless there are no visible emissions.
- (c) Registered equipment units not described in section 2457(b) above, shall be subject to the most stringent district Best Available Control Technology (BACT) requirements in effect for that category of source at the time of application for registration.
- (d) No change in equipment unit configuration, operating scenario, or number of transfer points from that set out in the registration for the equipment unit shall be made unless a complete application for modification has been filed and approved by the Executive Officer prior to operation.
- (e) Registration is not valid for any equipment unit operating at a location if by virtue of the activity to be performed hazardous air pollutants will be emitted (e.g., rock crushing plant operating in a serpentine quarry). [Note: The equipment unit would be subject to the requirements of the district in which the equipment unit is operated.]

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

**§ 2458. Recordkeeping and Reporting.**

(a) The recordkeeping requirements for registered engines and equipment units are as follows:

(1) The requirements in ~~subsection~~division (a)(2) are not applicable to the following:

- (A) Engines and equipment units owned by a rental business;
- (B) Engines and equipment units used in a third-party rental;
- (C) Certified compression-ignition engines and certified spark-ignition engines owned by a PEPS;
- (D) Engines used on a crane;
- (E) Engines used on a street sweeper;
- (F) Engines on a two-engine vehicle;
- ~~(FG)~~ Engines used on a water well drilling rig; and
- ~~(GH)~~ Tactical Support Equipment.

(2) The operator of registered engines or equipment units, including engines otherwise preempted under section 209 (e) of the federal Clean Air Act, shall maintain records of operation of each registered engine and equipment unit. The records shall be maintained at a central place of business for five years, and made accessible to the Executive Officer or districts upon request. Records shall include, at a minimum, all of the following:

- (A) Engine or equipment unit registration number;
- (B) For registered engines and equipment units subject to a daily and/or annual operational limitation, daily and/or annual records as appropriate of either hours of operation, fuel usage, or process throughput as applicable.
- (C) For equipment units subject to the requirements of section 2457(b)(3), daily throughput shall be the sum of measurements of material introduced into the equipment unit by weight. These measurements shall be taken at the initial loading point.
- (D) For equipment units, the specific location where the registered equipment unit is located (i.e. street address and city; or county and UTM coordinates; or other location indicator) shall be recorded each time the equipment unit is brought to a new location including relocation for the purposes of storage. The date the equipment unit was placed at the new location shall also be recorded.
- (E) For engines, the specific location where the registered engine is located (i.e. street address and city; or county and UTM coordinates; or other location indicator) shall be recorded no less than once a month.



- (b) The recordkeeping requirements for registered engines and equipment units owned by a rental business or involved in a third-party rental are as follows:
- (1) A rental business or the owner of a registered engine or equipment unit involved in a third party rental shall:
    - (A) provide each person who rents a registered engine or equipment unit with a written copy of the registration for each engine or equipment unit as a part of the rental agreement; and
    - (B) maintain written evidence of receipt of the registration(s) by the person who rents the registered engine or equipment unit.
  - (2) A rental business or the owner of a registered engine or equipment unit involved in a third party rental shall provide a written log to be kept with the registered engine or equipment unit for the purpose of documenting compliance with the requirements specified in section 2458(b)(5). ~~This log shall be maintained on a calendar year basis. Separate logs may be kept for each rental transaction, but the rental business must maintain the records contained in each log on a calendar year basis for each registered engine or equipment unit.~~ All previous annual logs shall be kept at a central place of business for five years, and made accessible to the Executive Officer or districts upon request.
  - (3) The written rental or lease agreement, or other equivalent document as approved by the Executive Officer, ~~shall~~ must be kept onsite by the renter with the registered engine or equipment unit made available to the Executive Officer or districts upon request;
  - (4) A rental business or the owner of a registered engine or equipment unit involved in a third party rental shall maintain records for each rental or lease transaction. The records shall be maintained at a central place of business for five years, and made accessible to the Executive Officer or districts upon request. Records shall include, at a minimum, all of the following:
    - (A) engine or equipment unit registration number; and
    - (B) dates for the start and end of the rental transaction. ~~For transactions that exceed 9 months, the owner of the rental engine or equipment unit shall comply with section 2459(h).~~
  - (5) The renter of a registered engine or equipment unit shall maintain records in the written log specified in section 2458(b)(2) for each rental or lease transaction that include the following:
    - (A) For equipment units subject to a daily and/or annual operational limitation, daily and/or annual records as appropriate of process throughput. If the equipment unit is subject to the requirements of section 2457(b)(3), daily throughput shall be the sum of measurements of material introduced into the equipment unit by weight. These measurements shall be taken at the initial loading point;

- (B) For equipment units, the specific location (i.e. street address and city; or county and UTM coordinates; or other location indicator) where the registered equipment unit is located while out on rent and the date shall be recorded each time the equipment unit is brought to a different location; and
  - (C) For engines, the specific location (i.e. street address and city; or county and UTM coordinates; or other location indicator) and date where the registered engine is located while out on rent shall be recorded no less than once a month;
- (c) For TSE, each military installation shall provide the Executive Officer an annual report, in a format approved by the Executive Officer, within 60 days after the end of each calendar year. The report shall include the number, type, and rating of registered TSE at each installation as of December 31 of that calendar year, ~~and be accompanied by~~ the applicable fees shall be submitted pursuant to section 2461. Any variation of registered TSE to actual TSE shall be accounted for in this annual report, and the Executive Officer shall issue an updated TSE list accordingly. A renewal registration will be issued with the updated TSE list every three years according to expiration date.
- (d) For each registered engine subject to the requirements of title 17, Cal. Code Regs., section 93116, the owner shall keep records and submit reports in accordance with title 17, Cal. Code Regs., section 93116.4.
- (e) The owner of a registered equipment unit shall provide the Executive Officer an annual report signed by the responsible official, in a format approved by the Executive Officer, by March 1 of each calendar year containing all of the following information:
  - (1) the reporting year;
  - (2) the registration number of each registered equipment unit; and
  - (3) annual summaries of the total process weight or throughput for each district in which the registered equipment unit was operated.
- (f) Records requests made by a district or Executive Officer shall be made to the responsible official. The responsible official shall provide the requested records within 30 days from receipt of the request. Failure to provide the records by the specified date shall be deemed a violation of this article.
- (g) Each district shall provide the Executive Officer with an annual report by March 31 following the year in which the information was collected containing all of the following information:
  - ~~(1) the 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;~~
  - (31) the registration number of each registered engines and equipment units inspected; and
  - (42) summary of results of for each inspections.

- (h) Registered diesel engines used on a crane shall comply with the applicable requirements in title 13, Cal. Code Regs., section 2449 and are otherwise exempt from the requirements of this section.
- (i) Registered diesel engines used on a street sweeper that are not subject to the requirements of title 13, Cal. Code Regs., section 2022 shall comply with the applicable requirements in title 13, Cal. Code Regs., section 2025 and are otherwise exempt from the requirements of this section.
- (j) Registered diesel engines used on a water well drilling rig shall comply with the applicable requirements in title 13, Cal. Code Regs., section 2449 and are otherwise exempt from the requirements of this section.
- (k) Registered diesel engines shall submit an hour meter reading with the renewal payment for each engine being renewed per section 2461 of this regulation. The fleet owner must specify the date which the reading was taken, and the reading must be taken within 3 months prior to the expiration date of the registration.

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

#### **§ 2459. Notification.**

- (a) Except as listed in subsection division (d) of this section, if a registered equipment unit will be at a location for more than five days, the operator of that registered equipment unit, shall notify the district in writing in a format approved by the Executive Officer, within two working days of commencing operations in that district. If the registered equipment unit is to be moved to different locations within the same district, the operator shall be subject to the notification requirements above, unless the operator and the district, by mutual agreement, arrange alternative notification requirements on a case-by-case basis. The notification shall include all of the following:
  - (1) the registration number of the registered equipment unit;
  - (2) the name and phone number of the responsible official or renter with information concerning the locations where the registered equipment unit will be operated within the district; and
  - (3) estimated time the registered equipment unit will be located in the district.
- (b) If the district has not been notified as required in section 2459(a) above, because the owner or operator did not reasonably expect the duration of operation to trigger the notification requirement in section 2459(a) above, the owner or operator shall notify the district, in a format approved by the Executive Officer, within 12 hours of determining the registered equipment unit will be operating at a location more than five days.

- (c) Owners and operators of TSE are not subject to the notification requirements of this section 2459.
- (d) For STW projects, the owner or operator of a registered engine or registered equipment unit shall notify the corresponding onshore district in writing, in a format approved by the Executive Officer at least 14 days in advance of commencing operations in that district. The notification shall include all of the following:
  - (1) the registration number of the registered engine or equipment unit;
  - (2) the name and phone number of the responsible official with information concerning the locations where the registered engine or equipment unit will be operated within the district;
  - (3) estimated time the registered engine(s) or equipment unit(s) will be located in the district; and
  - (4) calculations showing the estimation of actual emissions expected for the project.
- (e) Except as listed in section 2459(d) above, owners and operators of registered engines are not subject to notification requirements.
- (f) The Executive Officer shall make available via the Internet a list of approved notification methods for each district.
- (g) Failure to provide the required notifications within the timelines specified in this section shall be deemed a violation of this regulation.
- ~~(h) Within 5 days of a rental transaction exceeding 9 months in duration, a rental business or the owner of a registered engine or equipment unit involved in a third party rental shall submit written notification of the rental transaction to the district in which the rental business is located that includes the following:
  - ~~(1) the engine or equipment unit registration number;~~
  - ~~(2) rental customer telephone number and mailing address; and~~
  - ~~(3) estimated location of the registered engine or equipment unit.~~~~

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. An arranged inspection shall not be required for engines selected for registration extension per 2456(f)(11) or title 17 Cal. Code Regs., section 93116.3(b)(1)(C). If the registered engine or equipment unit shall be operating in a district, other than the home district, the owner or operator may request the home district to arrange for an inspection by the other district.
  - (2) For portable engines, each home district should conduct no more than 20 percent of the arranged inspections for that district as in-field inspections. All arranged inspections not conducted as in-field inspections shall be conducted as non-field inspections. If a portable engine is found in violation during an in-field inspection, the next arranged inspection for that engine shall be an in-field inspection. This section does not limit the authority of a district to conduct any number of non-arranged in-field or non-field inspections for which no fee is charged.
  - (3) For registered equipment units operating with registered engines, the owner or operator may not request that the registered engine be inspected at the hourly rate specified in Table 2 for equipment unit inspections. Inspection fees for registered engines are to be paid as listed in item 14 in Table 2.
  - (4) Arranged inspections for PEPS engines and registered equipment units shall be non-field inspections unless an in-field inspection is requested by the holder of the registration and a reasonable in-field inspection location is arranged with the appropriate district.
  - (5) The time for an arranged inspection shall be agreed upon in advance with the district and company preferences regarding time of day shall be accommodated within reason. To the extent that an arranged inspection does not fall within the district's normal workday, the district may charge for the off-hour time based on a fee as specified in Table 2.
  - (6) If an arranged inspection of a registered engine or registered equipment unit does not occur due to unforeseen circumstances, the owner or operator and the home district shall reschedule the arranged inspection no later than 90 days of the initially scheduled inspection. Any unreasonable actions on the part of the owner or operator that prevents the inspection to occur within the specified time frame shall be deemed a violation of this article. Actions taken by the owner or operator that could be deemed "unreasonable" include, but are not limited to:

- (A) failing to respond to the district correspondences or other contracts made to schedule the inspection;
  - (B) failing to ensure that the registered engine or equipment unit is in operation for arranged “in-field inspections” or where the district has provided advance notification to the owner or operator that the registered engine or equipment unit is required to be observed in operation.
- (7) The owner or operator may request the scheduling of one or more arranged inspections for multiple engines in order to qualify for an inspection fee discount as specified in section 2461(d). Within 45 days of date of initial issuance of registration or by January 30 of each year for renewals, the owner or operator shall submit a letter of intent including an equipment list and registration numbers to the district to arrange for inspection of multiple engines. The inspections shall be completed within one year after the registration renewal date for each engine inspected. If the fleet owner pays the discounted inspection fee and then fails to qualify for the discount during the actual arranged inspection, then the district may bill the fleet owner for the difference between the discounted inspection fee and the full inspection fee. Upon the request of the district, the fleet shall not be eligible to use the discount in 2461(d) for any subsequent arranged inspections if the fleet failed to comply with the inspection fee discount requirements.
- (8) If a registered engine or equipment unit is out of California for one year or more following initial registration or renewal, the engine or equipment unit shall be excused from having the arranged inspection within that period if:
- (A) within 45 days after the date of initial issuance or renewal of the registration, the owner or operator submitted a letter to the district noting the registration number of the registered engine or equipment unit and that the engine or unit is out of California for the one-year period; and
  - (B) upon the return of the registered engine or equipment unit to the State, the owner or operator shall arrange to have the registered engine or equipment unit inspected within 30 days.
- (c) After issuance of registration, the Executive Officer or district may at any time conduct an inspection of any registered engine or equipment unit in order to verify compliance with the requirements of this article. The district shall not charge the owner or operator an additional inspection fee for that inspection. Source testing of engines for compliance purposes shall not be required more frequently than once every three years (including testing at the time of registration), except as provided in section 2460 (e), unless evidence of engine tampering, lack of proper engine maintenance, or other problems or operating conditions that could affect engine emissions are identified. In no event shall the Executive Officer or district require source testing of a registered engine for which there is no applicable emission standard, emission limit or other emission related requirement contained in this regulation.

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

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

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

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

#### § 2461. Fees.

- (a) Except as otherwise set out herein, the Executive Officer shall assess and collect reasonable fees for registration, renewal, and associated administrative tasks, to recover the estimated costs to the Executive Officer for evaluating registration applications, and issuing registration documentation.
- (b) Fees shall be due and payable to the Executive Officer ~~at the time an application is filed or~~ as part of any request requiring a fee. Fees are nonrefundable except in circumstances as determined by the Executive Officer.
- (c) The owner ~~or operator~~ of an registered engine or equipment unit shall submit fees to the Executive Officer and to districts in accordance with Table 2.
- (d) The Executive Officer shall collect an inspection fee as listed in Table 2 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, then fee penalties may be assessed per unit in accordance with Table 2. 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 2 of the regulation for actual staff time taken to perform the inspection, not to exceed the amount specified in Table 2. 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 will be applicable.
- (j) The district may collect an inspection fee as listed in Table 2 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 2 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 2 per portable engine or equipment unit for each inspection necessary for the determination and ultimate resolution of the violation. In no event shall the total fees exceed the actual costs, including staff time, to the district of conducting the investigations and resolving any violations.



**Table 2 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
<del>3</del>	<del>Change of status from non-operational to operational</del>	
A	<del>Where initial evaluation has not been previously completed</del>	<del>\$180.00</del>
B	<del>Where initial evaluation has been previously completed</del>	<del>\$90.00</del>
<del>43</del>	<del>Identical replacement</del>	<del>\$75.00</del>
<del>54</del>	<del>Renewal, non-TSE</del>	<del>\$225.00</del>
<del>65</del>	<del>Penalty fee for late renewal payments, non-TSE</del>	
A	<del>Postmarked within 2 calendar months prior to registration expiration date</del>	<del>\$45.00</del>
B	<del>Postmarked within the calendar month prior to registration expiration date</del>	<del>\$90.00</del>
C	<del>Postmarked after the registration expiration date</del>	<del>\$250.00</del>
<del>76</del>	<del>Annual TSE inventory fee</del>	
A	<del>first 25 units (or portion thereof)</del>	<del>\$375.00</del>
B	<del>every additional 50 units (or portion thereof)</del>	<del>\$375.00</del>
<del>87</del>	<del>Modification to registered portable engine or equipment unit</del>	<del>\$75.00</del>
<del>98</del>	<del>Change of ownership</del>	<del>\$75.00</del>
<del>409</del>	<del>Replacement of registration identification device or placard</del>	<del>\$30.00</del>
<del>140</del>	<del>Correction to an engine or equipment unit description</del>	<del>\$45.00</del>
<del>121</del>	<del>Update company information, copy of registration documents</del>	<del>\$45.00</del>
<del>132</del>	<del>Copy of registration documents</del>	<del>\$45.00</del>
<del>143</del>	<del>Total district inspection fee per registered portable engine, paid once every 3 years</del>	<del>\$345.00</del>
A	<del>General district inspection fee</del>	<del>\$30.00</del>
B	<del>Home district inspection fee</del>	<del>\$315.00</del>
<del>154</del>	<del>District off-hour service fee per hour</del>	<del>\$50.00</del>
<del>165</del>	<del>District inspection fees for equipment units:</del>	
A	<del>General district inspection fee, paid once every 3 years</del>	<del>\$75.00</del>
B	<del>District inspection fee per equipment unit, per hour</del>	<del>\$98.00 (not to exceed \$500.00)</del>
<del>176</del>	<del>TSE inspection fees:</del>	
A	<del>General district inspection fee per TSE unit, paid annually</del>	<del>\$10.00</del>
B	<del>District inspection fee per TSE unit per inspection</del>	<del>\$75.00</del>
<del>187</del>	<del>Placard</del>	<del>\$5.00</del>

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(f)(10) and title 17, Cal. Code Regs., section 93116.3(b)(1)(A), and except for registrations that expire on December 31, 2010 pursuant to sections 2456(f)(11) and title 17, Cal. Code Regs., section 93116.3(b)(1)(C),~~ 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 division (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.

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