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HEALTH AND SAFETY CODE - HSC

DIVISION 26. AIR RESOURCES [39000 - 44475.3] (*Division 26 repealed and added by Stats. 1975, Ch. 957.*)

PART 4. NONVEHICULAR AIR POLLUTION CONTROL [41500 - 42710] (*Part 4 added by Stats. 1975, Ch. 957.*)

CHAPTER 3. Emission Limitations [41700 - 41999] (*Chapter 3 added by Stats. 1975, Ch. 957.*)

ARTICLE 1.5. Portable Equipment [41750 - 41755] (*Heading of Article 1.5 amended by Stats. 1996, Ch. 429, Sec. 1.*)

41750. The Legislature hereby finds and declares all of the following:

- (a) Existing law authorizes each district to impose separate and sometimes inconsistent emission control requirements for, and to require separate permits to operate, portable equipment that are used at various sites throughout the state.
- (b) That multiplicity of permits and regulatory requirements imposes a complex and costly burden on California businesses that use, hire, provide, and manufacture that equipment.
- (c) A uniform, voluntary system of statewide registration and regulation of portable equipment, consistent with current state and federal air quality law, is necessary to ensure consistent and reasonable regulation of that equipment without undue burden on their owners, operators, and manufacturers.
- (d) Portable equipment has attributes of both mobile sources and stationary sources of air pollution. A separate registration and emission control program is needed to reflect the unique operating characteristics of that equipment while providing authority for a statewide program of emission reduction measures to be applied to existing in-state, out-of-state, and newly manufactured portable equipment.

(Amended by Stats. 1996, Ch. 429, Sec. 2. Effective January 1, 1997.)

41751. (a) (1) As used in this article, "portable equipment" includes any portable internal combustion engine and equipment that is associated with, and driven by, any portable internal combustion engine.

(2) (A) As used in this article, and except as provided in subdivision (b), a "portable internal combustion engine" is any internal combustion engine that, by itself, or contained within or attached to a piece of equipment, is portable or transportable.

(B) As used in this paragraph, "portable or transportable" means designed to be, and capable of being, carried or moved from one location to another. Indicia of portability or transportability include, but are not limited to, wheels, skids, carrying handles, or a dolly, trailer, or platform.

(b) Any engine otherwise included in this section is not a portable internal combustion engine if either of the following applies:

(1) The engine remains, or will remain, at a fixed location for more than 12 consecutive months. For purposes of this paragraph, a "fixed location" is any single site at a building, structure, facility, or installation.

(2) The engine is used to propel nonroad equipment or a motor vehicle of any kind, including, but not limited to, a heavy-duty vehicle.

(c) Portable equipment includes, but is not limited to, any of the following:

(1) Confined and unconfined abrasive blasting equipment.

(2) Portland concrete batch plants.

(3) Sand and gravel screening, rock crushing, unheated pavement crushing, and recycling operations equipment.

(4) Consistent with federal law, portable internal combustion engines used in conjunction with, but not limited to, the following types of operations or equipment:

- (A) Well drilling, including service equipment and work over rigs.
- (B) Power generation, excluding cogeneration.
- (C) Pumps.
- (D) Compressors.
- (E) Pile drivers.
- (F) Welding.
- (G) Cranes.
- (H) Wood chippers.

(5) Equipment necessary for the operation of portable equipment.

(Amended by Stats. 1997, Ch. 17, Sec. 81. Effective January 1, 1998.)

41752. (a) At the earliest feasible date, but not later than July 1, 1997, the state board shall do all of the following:

(1) Evaluate the emissions from the operation of portable equipment and identify emission reduction technologies that may be applied to portable equipment.

(2) After holding at least one public hearing, establish, by regulation, emission limits and emission control requirements, consistent with Section 41754, and an optional registration program for portable equipment that is, or may be, used in more than a single district.

(b) The registration program shall take effect on the date specified by the state board in the regulation, but not later than 180 days from the date that the state board adopts the regulation.

(c) The program shall provide for the voluntary registration of portable equipment, and may provide for the renewal of a registration not more than once every three years.

(d) (1) The state board may establish a schedule of fees for purposes of this article to be assessed on persons seeking to register, or to renew the registration of, portable equipment. The state board may establish separate fees for the initial registration and for the renewal of a registration. The fees charged, in the aggregate, shall not exceed the reasonable cost to the state board of administering the registration program, and adopting the regulations specified in Section 41754.

(2) The state board shall, in adopting the regulations specified in Section 41754, include a uniform statewide district fee schedule for the recovery of the reasonable costs of enforcement pursuant to Section 41755.

(e) Notwithstanding Section 41754, the state board may periodically revise and update the regulations adopted pursuant to this section, including, but not limited to, revising and updating a determination of best available control technology (BACT) for portable internal combustion engines.

(Amended by Stats. 1996, Ch. 429, Sec. 4. Effective January 1, 1997.)

41753. (a) (1) It is the intent of the Legislature that the registration of, and the regulation of emissions from, portable equipment that is operated in more than one district and that is subject to the registration program be done on a uniform, statewide basis by the state board and that the permitting, registration, and regulation of portable equipment by the districts be preempted.

(2) Notwithstanding paragraph (1), if the owner or operator of portable equipment elects not to register under the statewide registration program, the unregistered portable equipment shall be subject to district permitting requirements pursuant to district regulations.

(b) On and after the effective date of the statewide registration program established by the state board pursuant to subdivision (a) of Section 41752 and upon the registration of portable equipment by the portable equipment owner or operator, a district shall not, with respect to the affected portable equipment, do any of the following:

- (1) Require a permit for the construction or operation of the portable equipment.

(2) Assess any fee related to the construction or operation of the portable equipment, other than that specified in paragraph (2) of subdivision (d) of Section 41752.

(3) Adopt any emission limit or emission control requirement applicable to the portable equipment.

(4) Except as provided in Section 41755, enforce any emission limit or emission control requirement applicable to the portable equipment.

(c) The state board, in consultation with affected districts, shall amend the state implementation plan as necessary to include the statewide registration program and conform the state implementation plan to its requirements.

(Amended by Stats. 1996, Ch. 429, Sec. 5. Effective January 1, 1997.)

41754. (a) The regulations adopted by the state board, on or before July 1, 1997, shall include, but need not be limited to, provisions that ensure all of the following:

(1) That emissions from portable equipment subject to the statewide registration program will not, in the aggregate, interfere with the attainment or maintenance of state or federal ambient air quality standards and the emissions from any one portable equipment engine, exclusive of background concentration, shall not cause an exceedance of any ambient air quality standard. This paragraph shall not be construed as requiring portable equipment operators to provide emission offsets for portable equipment registered under the program.

(2) (A) That, to the extent not in conflict with federal law, the registration program preserves the most stringent requirements adopted by a district which require the use of best available control technology (BACT) for each class or category of portable equipment determined appropriate by the state board, and which requirements were in effect on January 1, 1995. In determining the appropriate emission limits or emission control technology requirements for classes and categories of portable equipment, the state board may set different requirements for portable equipment that is defined by the state board as California resident portable equipment.

(B) Notwithstanding subparagraph (A) and, to the extent not in conflict with federal law, the state board may consider technical and economic feasibility in establishing emission limits or control equipment requirements for any category or class of existing California resident portable equipment, if all portable equipment in that category or class is required to be modified or replaced to meet BACT or the more stringent of a state or federal emission standard, at a date determined by the state board.

(3) That any registered portable equipment, including any turbine, used by the Department of Defense or the National Guard exclusively for military technical support or other federal emergency purposes, as specified in the regulations adopted by the state board, is not subject to any statewide or district emission control or emission limit.

(b) No emission limit or emission control requirement shall be established for any portable equipment defined by the state board as California resident portable equipment unless the state board determines that the emission limit or emission control requirement is technologically and economically feasible and is necessary to carry out the express terms of this division, including, but not limited to, Section 43013, or to attain or maintain state or federal ambient air quality standards.

(c) Prior to adopting any emission limit or emission control requirement, the state board shall consider the magnitude of the resultant air quality benefits and the potential effects of the regulation on the costs to businesses that use the portable equipment.

(d) The emission limits established for any portable equipment or class of portable equipment shall reflect the effectiveness of all control equipment installed and operated on the portable equipment or particular class of portable equipment.

(e) No emission limits other than those established by the state board for any portable equipment or class of portable equipment shall be used by a district for purposes of calculating and reporting emissions from portable equipment subject to this article.

(f) Any recordkeeping and reporting requirements prescribed by the state board for the purpose of tracking portable equipment utilization and movement shall be the minimum that is necessary to provide sufficient emission inventory data and allow adequate enforcement of the registration program.

(g) Source testing of portable equipment emissions for registration purposes shall not be required if there is no emission standard applicable to portable equipment, or if acceptable emissions data is available. For purposes of this subdivision, "acceptable emissions data" means emissions data representative of current portable equipment operations that is either reliable emissions data from the portable equipment manufacturer or a source test performed within three years prior to the date that the emissions data is requested.

(Amended by Stats. 1996, Ch. 429, Sec. 6. Effective January 1, 1997.)

41755. (a) Districts shall enforce the statewide registration program, emission limitations, and emission control requirements established by the state board pursuant to this article in the same manner as a district rule or regulation.

(b) (1) Source testing of engines for compliance purposes shall not be required more frequently than once every three years, except where evidence of engine tampering, lack of proper engine maintenance, or other problems or operating conditions that could affect emissions from the engine are identified.

(2) A district may conduct source testing to determine compliance with mass emission limits where there is an indication of noncompliance.

(3) Except as required for purposes of paragraph (2), source testing of engine emissions for compliance purposes shall not be required of engines for which there is no applicable emission limit.

(Amended by Stats. 1996, Ch. 429, Sec. 7. Effective January 1, 1997.)