

## FINAL REGULATION ORDER – PART 2

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

Note: The amendments are shown in underline to indicate additions to the preexisting regulatory text, and in ~~strikeout~~ to indicate deletions.

Amend sections 93116.2 and 93116.3, title 17, California Code of Regulations, and adopt section 93116.3.1, to read as follows:

#### **Airborne Toxic Control Measure For Diesel Particulate Matter From Portable Engines Rated At 50 Horsepower and Greater**

#### **§ 93116 Purpose (No Change)**

#### **§ 93116.1 Applicability (No Change)**

#### **§ 93116.2 Definitions**

##### **(a) - (mm) (No Change)**

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

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

#### **§ 93116.3 Requirements**

(a) Diesel-fueled portable engines shall only use one of the following fuels:  
**(No Change)**

(b) Diesel PM Standards

(1) Requirements for in-use portable diesel-fueled engines **(No Change)**

- (2) Portable diesel-fueled engines that have not been permitted or registered prior to January 1, 2006, are subject to the following requirements:
- (A) except as provided in 93116.3(b)(5), 93116.3(b)(6), 93116.3(b)(7) and 93116.3(b)(8) and except as allowed under flexibility provisions for equipment and vehicle manufacturers and post-manufacture marinizers pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulations, the portable diesel-fueled engine shall meet the most stringent of the federal or California emission standard for nonroad engines; and
  - (B) a diesel-fueled portable engine used exclusively in emergency applications or qualifying as a low-use engine designation is subject to the requirements of section 93116.3(b)(3).
- (3) Except as provided in section 93116.3(b)(1)(B), portable diesel-fueled engines used exclusively in emergency applications or qualifying as low-use engines shall satisfy one of the following requirements by January 1, 2020: **(No Change)**
- (4) Lattice boom cranes **(No Change)**
- (5) Engines operated in California between March 4, 2004 and October 1, 2006 may be permitted or registered by a district or registered in the Statewide Portable Equipment Registration Program until 12/31/09 if they meet a tier standard pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulations.
- (6) Upon approval by the air pollution control officer, a district may permit or register an engine that is not certified to a tier standard pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulations. Any engine permitted or registered by a district pursuant to this section 93116.3(b)(6) shall not be considered to be a resident engine for purposes of the Statewide Portable Equipment Registration Regulation (Title 13 section 2450 et sec.)
- (7) An engine dealer or distributor may sell or register a new engine not meeting the most stringent emission standard providing the following are met:
- (A) At the time of taking possession, the engine met the most stringent emission standard in effect prior to the change for that horsepower range, and;

(B) The owner or operator provides verifiable information to the satisfaction of the Executive Officer or District and;

(C) The engine is sold or registered within six months of the effective date of the change in emission standards.

(8) If the Executive Officer or District finds, based on verifiable information, that an owner, within six months prior to the date an emissions standard changes for that horsepower range has ordered or purchased, but has not taken possession of, an engine meeting the most stringent emissions standard in effect at the time the engine was ordered or purchased, the owner or operator will have up to six months after the date the most stringent emissions standard for that engine became effective to permit or register the engine.

(c) Fleet Requirements **(No Change)**

(d) Fleet Average Calculations **(No Change)**

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

### **§ 93116.3.1 Compliance flexibility for diesel PM standards**

If the Executive Officer or District finds, based on verifiable information from the engine manufacturer, distributor, or dealer, that current model year engines meeting the current emission standards are not available or not available in sufficient numbers or in a sufficient range of makes, models, and horsepower ratings, then the Executive Officer or the District may allow the sale, purchase, or installation of a new stock engine meeting the emission standards from the previous model year to meet the emission standards in sections 93116.3(b).

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

**§ 93116.4 Fleet recordkeeping and reporting requirements (No Change)**

**§ 93116.5 Enforcement of fleet requirements (No Change)**