

REGULATION 3.9

AIRBORNE TOXIC CONTROL MEASURE FOR STATIONARY DIESEL ENGINES

RULE 3.9-100 - AUTHORITY

These Rules and Regulations are adopted pursuant to the provisions of Division 26 of the Health and Safety Code of the State of California and Title 17, California Code of Regulations, Section 93115 et. seq.

RULE 3.9-105 – JURISDICTION

- (a) The boundaries of the Mendocino County Air Quality Management District are coterminous with the existing boundaries of Mendocino County and adjoining State territorial waters.
- (b) The Mendocino County Air Quality Management District lies within the North Coast Air Basin.

The North Coast Air Basin is comprised of the Counties of Del Norte, Trinity, Humboldt, Mendocino, and that region of Sonoma County designated as the Northern Sonoma County Air Pollution Control District and State territorial waters adjoining these Counties.

RULE 3.9-110 - PURPOSE

The purpose of this regulation is to reduce public exposure to air toxics from stationary and portable diesel engines operating in the District.

RULE 3.9-120 – APPLICABILITY

- (a) This regulation shall apply to any person who owns, operates, maintains, repairs or tests, or is in possession of any stationary and portable diesel engines with a brake horsepower of 50 or greater in Mendocino County.
- (b) Except as provided in (a) above, nothing in this regulation shall affect the applicability of the provisions of Article 2 and Article 3, respectively, of Chapter 3, Part 4, Division 26, of the California Health and Safety Code.

RULE 3.9-125 - EXEMPTIONS

- (a) Any stationary diesel agricultural engine specifically exempted in Title 17, California Code of Regulations, Section 93115 as adopted at the time of the application shall be exempt from this Regulation.
- (b) All self-powered mobile equipment shall be exempt from this Regulation.
- (c) Agricultural wind machines shall be exempt from this Regulation

RULE 3.9-130 – SEVERABILITY

The provisions of this Regulation are severable. Should any section of this Regulation be held invalid, the remainder of this Regulation shall not be affected thereby.

RULE 3.9-140 – DEFINITIONS

Terms used shall have the same definitions as in Title 17, California Code of Regulations, Section 93115.4, unless otherwise indicated. For purposes of this regulation, the following additional definitions shall apply:

(a1) Agricultural Engine:

Any stationary or portable engine used in an agricultural operation.

(a2) Agricultural Engine Registration Program:

The registration program established by the District for agricultural engines.

(a3) Agricultural Operation:

For the purposes of this regulation, and to be consistent with the intent of Title 17, California Code of Regulations, Section 93115 et. seq., Agricultural Operation shall be defined as:

The growing and harvesting of crops, or the raising of fowl, animals, or bees as a gainful occupation.

(a4) Agricultural Pump:

Any diesel powered water pump used in an agricultural operation. Engines owned by government agencies shall not be considered agricultural engines.

(a5) Air Quality Management District:

The Mendocino County Air Quality Management District.

(a6) Air Pollution Control Officer (APCO):

The Air Pollution Control Officer of the Mendocino County Air Quality Management District.

(e1) Extreme Frost Season:

Any frost season declared by the County Agricultural Commissioner as an “extreme frost season”.

(f1) Frost Protection Season:

October 1st through May 15th of each year. The APCO may adjust these dates slightly to conform with other applicable regulations.

(i1) Irrigation Season:

May 15th through October 31st of each year. The APCO may adjust these dates slightly to conform with other applicable regulations.

(g1) Gainful Occupation:

The engagement in a legal (taxpaying) business either as an individual, a partnership or a corporation.

(p1) Portable Diesel Engine:

Any diesel engine that is designed to be moved from place to place for emergency and non-emergency use and does not move under its own power. Examples include, but are not limited to; trailer or skid mounted generators, air compressors, welders and truck-mounted auxiliary engines. For the purposes of this regulation, and to be consistent with the intent of Title 17, Section 93115 et. seq., a diesel engine defined as portable but used in agricultural operations on the same property or within the same ownership shall not be considered a portable engine.

(p2) Possession:

Possession is defined as owning, operating or controlling a diesel engine or having ownership of the property on which the diesel engine is operated or located.

(r1) Registered Agricultural Equipment:

Diesel engines, including pumps, registered with the District under the Agricultural Engine Registration Program.

(r2) Registered Portable Equipment:

Portable engines registered with the State of California Air Resources Board (ARB) voluntary Portable Equipment Registration Program (PERP).

(r3) Remotely Located Agricultural Engine:

Diesel engines used exclusively for agricultural purposes that are located more than 800 meters (1/2 mile) from residential areas, schools, and hospitals.

(r4) Residential Area:

Residential Area means three or more permanent residences (i.e., homes) located outside the property lines of the agricultural facility.

(s1) School or School Grounds:

Any public or private school used for the purpose of the education of more than twelve (12) children up through grade twelve (12). School or school grounds includes; any building or structure, playground, athletic field, or other areas of school property but does not include unimproved or closed school properties.

(s2) Significant Repair:

Any repair to a stationary or portable diesel engine exceeding \$1,500 excluding labor and consumable costs. Multiple repairs on one engine within three months shall be considered a single repair.

(s3) Stationary Diesel Engine:

Any diesel powered engine that is permanently attached to a structure or dwelling or is attached to equipment that is designed to remain stationary to be used or any portable diesel powered engine that remains in one location for 12 consecutive months shall be considered stationary.

RULE 3.9-200 – PROHIBITIONS

- (a)** No person shall own, operate or possess a stationary diesel engine over 50 horsepower without a valid Permit from the District.
- (b)** No person shall own, operate or possess a portable diesel engine over 50 horsepower without a valid Permit or Registration from the District or the California Air Resources Board.
- (c)** No person shall own, operate or possess an agricultural diesel engine over 50 horsepower without a valid Permit or Registration from the District.

Rule 3.9-210 – CURCUMVENTION

- (a) No person shall build, erect, install or use any article, machine, equipment, device or other contrivance the use of which conceals an emission which would otherwise be subject to this Regulation.
- (b) Emissions from any single process, device or operation shall be considered a single emissions point.

RULE 3.9-300 – AGRICULTURAL DIESEL ENGINE REGISTRATION PROGRAM

- (a) All Agricultural diesel engines over 50 Hp shall be registered with the District.
- (b) All applications for registration of agricultural diesel engines must include any and all information requested by the District.
- (c) All agricultural diesel engines over 50 horsepower shall be registered with the District under the name of the owner of the property on which the engine operates.
 - 1. The District may request business or tax records as proof that the business is an agricultural operation.
- (d) The annual of hours of operation of each registered engine shall be reported to the District.
- (e) Agricultural engine registrations shall be valid for three-year periods. The first three-year period shall begin January 1, 2011 and end December 31, 2014. Registrations issued for less than three years shall be pro-rated to expire at the end of the designated three-year period.

RULE 3.9-310 - AGRICULTURAL ENGINE REGISTRATION FEE SCHEDULE

Engine Size	Initial Application Registration Fee	Three Year Renewal Fee
Diesel less than 50 Hp	\$0.00	\$0.00
Non-Diesel Agricultural Engines, all Hp	\$0.00	\$0.00
Diesel Agricultural Engines 50 Hp or greater	\$175.00	\$120.00

- (a) Beginning California State Fiscal Year 2014-15 and every three years thereafter the Agricultural Engine Registration fees shall be increased from the base fee set by the cumulative California CPI factor since the implementation.
- (b) The base year for this fee shall be District fiscal year 2010/2011.

RULE 3.9-400 – REMOTE LOCATION STATUS

- (a) Any diesel engines used exclusively for agricultural purposes that are located more than 800 meters (1/2 mile) from residential areas, schools, and hospitals may be granted a Remote Location Status upon request. In-use agricultural diesel engines approved for a Remote Location Status may be exempt from the emission limits in Title 17, California Code of Regulations, Section 93115 et. seq.
- (1) Any engines within 800 meters of a school which does not house students overnight may be granted remote location status if the registration contains a legally binding and enforceable condition limiting operation during the hours of 9:00am - 9:00pm to maintenance activities only.
 - (2) Any Remote Area Exemptions granted for engines located within 800 meters of a reopened or new school shall expire four years from the date the school begins operation.
 - (3) All requests for a Remote Location Status must be submitted to the District in writing and must include a map showing the location of the engine as well as any nearby residential areas, schools, and hospitals.
 - (4) Any existing agricultural diesel engine must be registered with the District prior to January 1, 2011 to be eligible for Remote Location Status.
 - (5) Any person who installs a new diesel engine or replaces an existing diesel engine must register the new engine with the District prior to the date of installation to be eligible for Remote Location Status.

RULE 3.9-500 - COMPLIANCE SCHEDULE

- (a) All agricultural diesel engines not approved for an alternative compliance schedule shall comply with all applicable requirements of Title 17, California Code of Regulations, Section 93115 et. seq. “Airborne Toxic Control Measure for Stationary Compression Ignition Engines.”

RULE 3.9-510 - ALTERNATIVE COMPLIANCE SCHEDULE

- (a) An Alternative Compliance Schedule for operators of agricultural diesel engines may be granted if the engine meets the following requirements:
- (1) The engine must be equipped with a non-resettable hour meter.
 - (2) The engine must be used exclusively for agricultural purposes.
 - (3) The engine must be registered with the District prior to January 1, 2011.
 - (4) The engine does not exceed 150 hours of use during the Frost Protection Season except during an “extreme frost season” as allowed by this Regulation.

- (5) The engine does not exceed 150 hours of use during the irrigation season.
- (6) The engine is not located within 200 meters (220 yards) of a School or Hospital.
 - (A) Agricultural diesel engines within 200 meters (220 yards) of a school or hospital that have a Health Risk Assessment documenting a health risk under 1 in a million that has been approved by the District are eligible for the Alternative Compliance Schedule.
 - (B) Requests for an Alternative Compliance Schedule must be submitted to the District in writing.
 - (C) Use of the diesel engine for frost protection purposes must be reported to the District annually.
 - (D) Use of the diesel engine for irrigation purposes must be reported to the District annually.
 - (E) Tier 3 and Tier 4 diesel engines shall not be eligible for an Alternative Compliance Schedule.

RULE 3.9-520 - ALTERNATIVE COMPLIANCE SCHEDULE REQUIREMENTS

- (a) Agricultural diesel engines approved for an Alternative Compliance Schedule shall be subject to the following requirements:
 - (1) Tier 0 and Tier 1 diesel engines shall be removed from service prior to January 1, 2021.
 - (2) Tier 0 and Tier 1 diesel engines shall be replaced with the highest tier engine available for purchase at the time of the replacement.
 - (3) Tier 2 engines shall be removed from service prior to January 1, 2026.
 - (4) Tier 2 engines shall be replaced with the highest tier engine available for purchase at the time of the replacement.
- (b) If at any time the Air Resources Board extends the compliance dates set in Title 17 California Code of Regulations Section 93115 et. seq. the Alternative Compliance Schedule shall be similarly extended.

RULE 3.9-600 - TEMPORARY USE EXEMPTION

- (a) A Temporary Use Exemption from the requirements of this Regulation may be granted for the temporary use of an agricultural diesel engine.
- (b) A Temporary Use Exemption shall be granted only in the event of a verified emergency, an unforeseen delay in the installation of new equipment or line power, or imminent economic loss. A statement of imminent economic loss shall be accompanied by a letter from the Mendocino County Agricultural Commissioner or his/her representative.
- (c) All requests for a Temporary Use Exemption must be submitted to the District in writing.
- (d) A Temporary Use Exemption shall be granted for no more than a six (6) month period.
- (e) A Temporary Use Exemption shall not be granted more than one time for the same location except in the event of a verified emergency.
- (f) A Temporary Use Exemption does not exempt the agricultural diesel engine from any other requirements of law.

RULE 3.9-700 – DECLARATION OF EXTREME FROST SEASON

- (a) The Mendocino County Agricultural Commissioner may declare an extreme frost season when the hours necessary for frost protection exceed 150 hours in any given frost season.
 - (1) The declaration must be submitted to the District in writing no later than June 30th following the end of the frost season.
 - (2) The declaration must contain appropriate metrological documentation to support the declaration.
 - (3) The declaration can only be issued twice in any 10 year period.

RULE 3.9-800 – NOTIFICATION OF SALES AND SIGNIFICANT REPAIRS

- (a) Any business that sells new or used diesel engines in Mendocino County shall provide a copy to the District upon request of annual sales reported to the California Air Resources Board as required by the California Code of Regulations, Section 93115.10.
- (b) Any business that conducts repairs on stationary or portable diesel engines over 50 horsepower shall provide to the District upon request records of Significant Repairs as defined in Rule 3.9-140 – Definitions.

(c) Records of Significant Repairs shall include:

- (1) A copy of the repair invoice(s)
- (2) The name, address, and contact phone number of the business or individual who requested the repair.
- (3) The location where the engine resides, if available.
- (4) The date of the repairs.

RULE 3.9-800 – TRUCK IDLING SIGNAGE

- (a) The California Air Resources Board has adopted a regulation (California Code of Regulations, Section 2485) that limits heavy duty truck idling in California to less than 5 minutes.
- (b) The District may require the posting of permanent signs by the property owner informing drivers that excessive idling may result in fines at any location that is regularly used by more than three (3) heavy duty trucks as a parking or loading/unloading area.
- (c) The signs must be posted in a location visible to drivers entering the property.
- (d) Signs must be no smaller than 12” x 18”.
- (e) Signs must be legible from a distance of 20 feet.
- (f) At a minimum signs must contain the following text:

“STATE LAW
No Truck idling over 5 Minutes
Minimum \$300 fine
CCR sec. 2485”

- (g) The District may request modifications of signage to address local conditions or to comply with changes in state regulations.
- (h) Nothing in this rule limits the District’s authority to restrict idling in any are identified by the District as an area of concern.