AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN DIEGO

RULE 12.1 - PORTABLE EQUIPMENT REGISTRATION

WORKSHOP REPORT

A workshop notice was mailed to each portable equipment permit holder in San Diego County. Notices were also mailed to all Chambers of Commerce and all Economic Development Corporations, the U.S. Environmental Protection Agency (EPA), the California Air Resources Board (ARB), and other interested parties.

Proposed Rule 12.1 will implement a statewide portable equipment permitting program developed by the California Air Pollution Control Officers Association (CAPCOA).

The workshop was held on January 16, 1996 and was attended by 45 people. Written comments were also received. The workshop comments and District responses are as follows:

1. WORKSHOP COMMENT

What is required to move a piece of registered equipment from one air district to another? How much advance notice is required to move equipment?

DISTRICT RESPONSE

It will be necessary to notify the district within two working days after the equipment is first located within the District. A form will be developed for this report. Rule 12.1 (e)(1) specifies for this reporting:

> "If an emission unit will remain operational within a district for more than 24 hours, the operator shall notify the district within two calendar days from when the unit is first relocated. The notification shall include the following information:
>
> (i) The general nature of the operations.
>
> (ii) The estimated duration of operations within the district.
>
> (iii) The name and phone number of a contact person with information concerning the locations where the emission unit will be operated within the district."

2. WORKSHOP COMMENT

How similar are each districts' rules?

DISTRICT RESPONSE

Air districts have attempted to follow the CAPCOA model rule with few substantive changes. Proposed Rule 12.1 does incorporate some recent changes to the portable equipment definition to be consistent with ARB's most recent AB531 statewide registration program proposal, and changes to the list of exempt compounds to be consistent with other District rules.

3. WORKSHOP COMMENT

What happens if a source's emissions exceed the limitations in "(d) Standards" ?

DISTRICT RESPONSE

If the equipment is incapable of meeting the applicable emission standards, it would not qualify for registration and would be subject to permitting. If after registration the equipment exceeds an emission standard, the owner or operator of the equipment may be subject to enforcement action. Continued violations may lead to a revocation of the registration for that equipment.

4. WORKSHOP COMMENT

Could offsets be used to mitigate exceedance of the limits in Section (d)?

DISTRICT RESPONSE

No. The emission standards in Section (d) are generally performance or emission control standards that will be applied to each portable emission unit. The emission limits of Subsections (d)(1)(i) and (ii) are also emission limits applicable to each registered unit. Offsetting emission reductions cannot be considered in the compliance determination for a registered unit. Moreover, such offsetting would significantly complicate the intent of the registration program - to improve emission controls and streamline permitting of portable emission units that move among different air districts. If offsets were allowed to be used, questions would immediately arise regarding whether offsets must be provided in each air district in which the equipment might operate.

5. WORKSHOP COMMENT

What happens if an operation under registration exceeds the six month operating limit at a single project?

DISTRICT RESPONSE

The owner or operator of the registered equipment would be in violation of the conditions of registration and Rule 12.1 and would be subject to enforcement action. Continued violations may result in revocation of the registration. It should be noted that the definition of portable emission unit has been changed to allow up to 12 consecutive months of operation in order for Rule 12.1 to be consistent with the proposed ARB statewide registration program.

6. WORKSHOP COMMENT

What effect would EPA or ARB certification of an engine have on registration?

DISTRICT RESPONSE

ARB certification would serve as evidence of the emission characteristics of the equipment for application of the emission limits of the registration rule. ARB certification and registration of a portable engine pursuant to the AB531 program under development at the state level would obviate the need for registration of that engine under Rule 12.1 or permitting under District Rule 10. However, the owner/operator of an emission unit may still elect to register an eligible portable emission unit under a local air district registration program such as prescribed in Rule 12.1.

7. WORKSHOP COMMENT

In some cases it is not possible to retard an engine's injector timing. How would this be considered under Rule 12.1?

DISTRICT RESPONSE

Rule 12.1 provides for emission limits as an option to injector retardation. In the absence of the required retardation, the equipment would be required to comply with the optional emission limits.

8. WORKSHOP COMMENT

How does the federal Non-Road Engine rule affect applicability of Rule 12.1. The District is pre-empted from registering engines by AB 531.

DISTRICT RESPONSE

District legal counsel has concluded that the current provisions of the Non-Road Engine Rule may pre-empt a district from imposing engine specific standards but does not pre-empt the requirement to obtain a permit (or register) or the ability to establish operational limits. It should also be noted that registration under proposed Rule 12.1 is voluntary, and the emission standards of Rule 12.1 apply to both existing and new portable emission units while the federal rule applies primarily to newly manufactured non-road engines.

The statewide portable engine registration program being developed pursuant to AB 531 will also be a voluntary registration program. If a source operating a non-road engine elects not to participate in the Statewide program, the District is not pre-empted from either permitting or registering such equipment. However, ARB certification and registration of a portable engine pursuant to the AB 531 program would obviate the need for registration of that engine under Rule 12.1 or permitting under District Rule 10.

9. WORKSHOP COMMENT

Will registered equipment emissions be attributed to the stationary source? Would other sources have to make up for the emissions not offset under registration pursuant to the California Clean Air Act no net increase provisions? Would registered equipment be able to operate at major stationary sources without providing offsets?

DISTRICT RESPONSE

Under proposed Rule 12.1, registered equipment will be specifically excluded from New Source Review (NSR) rule provisions that are typically imposed as a result of permitting. Thus, portable equipment can be registered without complying with NSR requirements such as BACT and LAER. Moreover, registered portable equipment can be located at a stationary source without the portable equipment triggering offsets. Although not currently required under the District's NSR rules, the emissions from portable equipment may need to be included in the total stationary source's emissions in the future as a result of concerns EPA has expressed regarding federal major sources.

The District would need to amend its NSR rules to explicitly require that emissions from portable equipment be included in a stationary source's aggregate emissions.. These changes would be discussed in a public workshop after notice to affected parties, and prior to formal rule changes. If

that happens, emissions from portable equipment will need to be considered when applying NSR requirements to a stationary source - not for the portable equipment itself but with regard to the status of the stationary source for federal major source requirements.

10. WORKSHOP COMMENT

How would registered equipment emissions be handled under Title V?

DISTRICT RESPONSE

In the past EPA has said that portable equipment that comes to a Title V source incidentally does not need to be included in the Title V Permit. However, if as a matter of normal practice the Title V source has portable equipment come on site, then the Title V permit should include the operation of such equipment, likely in generic terms. The emissions of registered portable equipment (with the exception of qualifying non-road engines) will likely need to be taken into consideration toward applicability of Title V.

11. WORKSHOP COMMENT

Do emission increases from portable equipment have to be offset?

DISTRICT RESPONSE

No. Equipment that qualifies for registration under Rule 12.1 is exempt from permit. An application for permit is a prerequisite for applying NSR, including offset requirements. ARB and EPA have participated in the development of the Portable Equipment Registration Rule and have raised no objections to this feature of the provisions. Registered portable equipment can therefore move to any site and not trigger offset requirements. Daily and annual emission limits have been included to reduce concern over the potential for registered portable equipment emissions to impact ambient air quality.

12. WORKSHOP COMMENT

Why isn't an annual emission limit sufficient to limit the impact of emissions? Why is there a daily limit?

DISTRICT RESPONSE

Ambient air quality standards are based on short averaging periods because air quality, and potential health effects, are a concern over short time frames such as hourly and daily. Emissions must be limited on a daily basis in order to ensure protection of public health and the ambient air quality standards. An annual emissions limit would not adequately constrain peak daily emissions and ensure that air quality would be protected. It should be noted that Rule 12.1 sets daily emission limits that apply on an emission unit basis, rather than on a project basis as previously proposed.

13. WORKSHOP COMMENT

Will registered equipment be exempted from emission inventory reporting requirements?

DISTRICT RESPONSE

The rule requires reporting of emissions on a quarterly basis. This should provide the needed emission inventory information. Stationary sources that are currently required to report emissions from permitted portable equipment in their emissions inventories will have to report emissions of registered portable equipment.

14. WORKSHOP COMMENT

Rule 11 provides exemption of emergency generators that are registered. Does this exclude such equipment from emission inventory reporting requirements?

DISTRICT RESPONSE

No. Rule 11 only exempts equipment from permit requirements. The Rule 11 exemption being referred to is for a separate registration program proposed under new Rule 12. The Rule 12 registration program will apply to specific types of stationary and portable equipment not eligible for registration under Rule 12.1. This equipment is already included in emission inventory reporting and will likely continue to be included.

15. WORKSHOP COMMENT

In cases where portable equipment will exceed the daily limits of the portable equipment rule how will offsets be available to conduct the project?

DISTRICT RESPONSE

Equipment will not be eligible for registration if it will exceed the emission limits in Rule 12.1. Instead a permit will be required for the equipment. The permit review will determine if any emission offsets will be required.

Emission offsets cannot be used to mitigate an emissions exceedance by a registered emission unit. If portable equipment is already registered and subsequently exceeds the emission limits of Rule 12.1, it will be in violation of Rule 12.1 and will be subject to enforcement action. Continued violations may result in revocation of the registration. (See also the response to Workshop Comment No. 4.)

16. WORKSHOP COMMENT

How is the pre-registration program working?

DISTRICT RESPONSE

In anticipation of the registration program that will be established by Rule 12.1, the District established a pre-registration program. The purpose was to avoid the need to go through permitting or the variance process when a registration rule was near adoption. The program involves completion of application forms and applicant self-certification of compliance with proposed Rule 12.1. Pre-registration is granted with the understanding that a permit will not be required and the applicant will file for registration when Rule 12.1 has been adopted. So far, pre-registration appears to be working well.

17. WORKSHOP COMMENT

The registration forms include fugitive particulate emission information. Other air districts are not considering fugitive emissions from sand and gravel operations. The District should consider the same approach.

DISTRICT RESPONSE

To ensure consistency in implementing this registration program, the District has decided not to include area fugitive emissions in determining eligibility for registration under Rule 12.1. A definition for area fugitive emissions has been added to the rule.

18. WORKSHOP COMMENT

The requirement of four percent moisture for rock operations should be modified to apply to only rock smaller than 1/4 inch in size because it is not practical to get such a high moisture from larger rocks.

DISTRICT RESPONSE

The District recognizes the limitation of moisture content on large rocks and agrees. Proposed Rule 12.1 has been revised accordingly.

19. WORKSHOP COMMENT

Under the statewide (AB531) registration program, if a portable engine is based in San Diego, what reporting will be required to go to other air districts?

DISTRICT RESPONSE

ARB has recently proposed a rule for implementing the AB531 statewide portable equipment registration program. Section 2459 of ARB's proposal contains proposed notification requirements. This reporting generally consists of notification within two days after first starting operation in an air district, and information on the extent and location of operations in the air district.

20. WORKSHOP COMMENT

The owner of the equipment is required to maintain records that someone other than themselves as a renter or operator must reasonably keep. Where is the liability if this third party fails to keep the records? Owners of rental equipment are having limited success getting renters of equipment to keep the necessary operating records on the equipment.

DISTRICT RESPONSE

Under proposed Rule 12.1, the owner of a rental emission unit is required to provided the operator renting the equipment with a written copy of the applicable requirements of the rule as part of the rental agreement and to obtain a written acknowledgment from the renter that the renter has received that information. The operator (renter) is required to meet the notification and record keeping requirements of the rule, and provide required records to the owner. The owner must compile and forward those records to the appropriate air district(s). If the owner provides the necessary instructions, maintains a record that the information was provided to the renter, and

compiles and forwards the records provided by the renter to the owner, the owner will not be held responsible for the failure of an operator to provide the required notifications or maintain the required records.

21. WORKSHOP COMMENT

Some districts have granted a grandfather protection to existing portable IC engines. This excluded such engines from the grams per brake horsepower-hour limits. Does the District plan to do this?

DISTRICT RESPONSE

Proposed Rule 12.1 exempts specified existing diesel-fired engines from NOx emission limits if they are equipped with engine injector timing retard. In addition, under proposed Rule 12.1, emissions from existing registered emission units are not included in determining compliance with the daily NOx limits.

22. WORKSHOP COMMENT

Are most other districts participating in this program?

DISTRICT RESPONSE

The following air districts have adopted similar registration programs: South Coast, San Luis Obispo, San Joaquin, Yolo-Solano, and Northern Sierra. In addition, Bay Area has adopted a policy allowing use of registered units.

23. WORKSHOP COMMENT

Section (c)(11)(iii) should be changed to include the following language to clarify what is considered circumvention.

> "...An emission unit is not portable if ... the emission unit is removed from one location for a period and then returned to the same location ... in an attempt to circumvent the portable emission unit residency time requirement.

DISTRICT RESPONSE

The suggested language is already contained in the cited section of the most recent proposed rule.

24. WORKSHOP COMMENT

The definition of "Project" should be clarified to provide that each job performed under a separate contract would be considered "a discrete function" and therefore a separate project.

DISTRICT RESPONSE

The term "project" and its definition have been deleted from proposed Rule 12.1. The daily NOx, VOC and PM_{10} emission limits will apply to individual emission units rather than a project.

25. WORKSHOP COMMENT

Proposed Rule 12.1 does not serve the needs of military tactical support equipment and the military is awaiting adoption of the AB531 portable equipment rule which will exempt military tactical support equipment from emission controls and limitations.

DISTRICT RESPONSE

The District has amended District Rule 11 to exempt from permit requirements portable engines and turbines used exclusively in conjunction with military tactical support equipment. Therefore, these emission units would not need to be registered under proposed Rule 12.1. However, they may be required to be registered under the statewide portable engine registration program being developed by ARB and CAPCOA pursuant to AB531.

26. WORKSHOP COMMENT

Why was applicability limited to the listed source categories?

DISTRICT RESPONSE

The listed source categories are those which the participating air districts and industry agreed are the most likely to move within various air districts, for which general emission standards could be established, and which appeared to have the least potential to cause local air quality concerns.

27. WRITTEN COMMENT

This proposal defines existing equipment as equipment in operation during the calendar year 1993. This should be changed to any time before the adoption date of the proposed rule.

DISTRICT RESPONSE

This date was picked by participating air districts and industry representatives so there would be consistency throughout the state. This is the earliest date any district adopted a portable equipment registration rule. If this date were different for each district it would be impossible to conduct this program consistently from district to district since there are differences in rule emission standards for existing and new emission units.

28. WRITTEN COMMENT

It is requested that the District consider including condition wording to allow for the maximum allowable usage based on the emissions for each piece of equipment.

DISTRICT RESPONSE

This option is available under the proposed rule and the District intends to implement registration in this manner where appropriate.

29. WRITTEN COMMENT

There is more recordkeeping under Rule 12.1 than many permit conditions currently require, and many of the requirements are the same. The financial advantage gained by registration can be quickly equaled by the increased costs of recordkeeping. Is the District staffed to handle all the required reports, and to notify other air districts of notices of violation and Hearing Board actions.

DISTRICT RESPONSE

Recordkeeping and reporting requirements represent a compromise among participating air districts and industry. It is difficult to alter the rule's provisions without jeopardizing the inter-district consistency needed for this registration program to work. The District will meet with applicants for registration to simplify recordkeeping requirements as much as possible consistent with the rule. The District will be prepared to handle submitted reports and to notify other air districts of Notices of Violation and Hearing Board actions.

30. WRITTEN COMMENT

Is it necessary to re-inspect a permitted piece of equipment for which an application for registration is pending?

DISTRICT RESPONSE

It is unlikely that permitted equipment, or other equipment previously inspected, will need to be reinspected for initial registration. An exception might be when the proposed Rule 12.1 imposes a more stringent emission standard or emission control requirement than the permit and a reinspection or possibly emissions testing is needed to verify compliance.

31. WRITTEN COMMENT

The District should form a work group to look into any rule changes.

DISTRICT RESPONSE

There are existing work groups at the State level that can address the concerns that have been raised. Significant rule changes will require agreement among the participating air districts and industry to ensure the consistency needed for this multi-district registration program to work. The CAPCOA Engineering Managers Committee can address statewide consistency and any needed rule changes.

Many of the emission units that would be registered under this rule are portable engines which may soon be eligible for registration under the statewide AB531 program in development. A statewide work group was formed of interested industry representatives, air districts and other agencies. Local industry is welcome to join that group to address issues relative to a portable engine registration program.

32. WRITTEN COMMENT

Please clarify the specific elements of the definition of "Project". This would include the APCD's intent or interpretation for "discrete function". How should a facility (e.g., major stationary source

and non-major stationary source who contracts out or rents, owner of the portable equipment) define its project to demonstrate compliance with the intent of this rule?

It is recommended that the APCD review those portions of the rule that contains the terminology "emissions unit" and "project" to ensure consistency and correctness of the terminology. These terms also appear in related permitting requirements (i.e. NSR, Title V).

DISTRICT RESPONSE

Please see the District Response to Workshop Comment #24.

33. WRITTEN COMMENT

We are concerned that adoption of this rule will preclude District site-specific review of potential health hazards coming from equipment covered by the rule. How far in advance will the District be advised of where the equipment is to be located? Will the District conduct any review to determine whether sensitive receptors at a proposed location could be impacted by the emissions, and modify operating conditions, if necessary? How can the public gain information as to where these units will be located?

DISTRICT RESPONSE

The types of portable equipment for which this rule allows registration is limited. Subsection (d)(1)(iii) prohibits any registered emission unit from emitting air contaminants which cause a public nuisance. Portable engines are not likely to cause a public health concern. The quality of the fuel allowed is prescribed by a very low allowable fuel sulfur content, and emissions of NOx, VOC, CO and PM10 are limited. The emission control standards for eligible portable concrete batch plants and for sand, gravel, rock and pavement crushing/recycling operations are relatively stringent. Confined abrasive blasting operations must be controlled with 99 percent effective dust control equipment. Unconfined abrasive blasting must use ARB certified abrasive, cannot reuse abrasive, and must continue to meet current visible emission standards and other requirements of state law. Overall PM10 emissions from an emission unit are limited to 150 pounds per day.

The owner or operator of a portable emission unit registered under Rule 12.1 must notify the District within two days of when that equipment is first operated in the District. That notice must also identify the name and phone number of a person with information concerning likely locations for the unit within the district. Thereafter, the owner or operator must report quarterly on the level and location of operations, if any, within the District. This notification and reporting is public information and is available for review by the public upon request.

Subsection (d)(iv) prohibits the operation of a registered portable emission unit within 1000 feet of any school (kindergarten through grade 12), except for emergency operations, unless the public and student notification requirements of state Health and Safety Code Section 42301.6 have been met.

The air districts participating in this program will review applications for registration of eligible portable equipment, and impose necessary registration conditions, to ensure compliance with the above requirements. However, the air districts will not be reviewing each potential or planned location of registered portable equipment. Such a review would undermine the intent of this multi-district registration program to improve the emissions control, portability, flexibility and cost-effectiveness of the registration of these emission units.

34. WRITTEN COMMENT

We suggest that the District be notified well in advance of the proposed location of a portable unit. This notification of the District should include a list of nearby sensitive receptors (schools, residential areas, hospitals, etc.), unless that information is already readily available to the District. Proposed locations should also be listed in a public place, much in the same manner as permit applications are posted at District offices.

DISTRICT RESPONSE

The suggested notification to the District well in advance of the proposed location of a portable unit is likely impractical for many portable units, especially rentals. Moreover, the nature of the controlled emissions from the units eligible for registration under this rule is such that significant public health impacts are unlikely if the units are operated in compliance and so as to not create a public nuisance.

Nevertheless, the District agrees that opportunities for public review should be provided and that prior notification be given of scheduled operations known in advance by the equipment owner or operator. The latter requirement may only be practical for portable concrete batch plants and for sand, gravel, rock and pavement crushing/recycling operations. The District is proposing to modify Subsection (e)(1) of proposed Rule 12.1 as follows:

(1) Notification

If an emission unit is being relocated into the District and will remain operational within a the district for more than 24 hours, the operator shall notify the District within two calendar days from when the unit is first relocated into the District. The notification shall include the following information:

(i) The general nature of the operations.

(ii) The estimated duration of operations within the District.

(iii) The name and phone number of a contact person with information concerning the locations where the emission unit will be operated within the District.

(iv) The locations, if known, where the emission unit will be operated within the District during the remainder of the current calendar quarter.

A list of new notifications received by the District will be posted in the District office on a weekly basis. This list will contain any identified equipment locations and will be available for public review during normal business hours. A copy of the list will be provided to any person or interested group who has requested a copy in writing.

In addition, Subsection (e)(2) of the proposed rule will be modified to add the following:

(iv) The locations, if known, where the emission unit will be operated within the District during the current calendar quarter.

A list of quarterly reports received by the District will be posted in the District office on a weekly basis. This list will contain any identified equipment locations and will be available for public review during normal business hours. A copy of the list will be provided to any person or interested group who has requested a copy in writing.

35. WRITTEN COMMENT

How was the six-month cap on the length of stay at any given location arrived at? What evidence has industry provided that exposure to PM10 and silica for up to six months in a year is not a health hazard? Could this time limit be shortened if the District determines a health risk to nearby receptors could result? We question whether extremely dusty operations such as sand and gravel operations or unconfined abrasive blasting should be allowed to fall under this rule at all?

DISTRICT RESPONSE

The six-month time limit has been extended to 12 months to be consistent with the ARB's proposed AB531 registration program. The 12-month period is only used to determine whether an emission unit is portable and therefore eligible for registration in lieu of permitting. Industry was not requested to provide data on health effects from twelve-month or shorter exposures to PM10 or silica. However, the rule does require that emissions from sand and gravel operations be controlled.

Portable sand and gravel operations and unconfined abrasive blasting operations are already permitted by the District as portable operations. The proposed Rule 12.1 allows the registration of such operations for multi-district operations in lieu of permitting by each district. In some cases, the controls required by the proposed rule are more stringent than current permit requirements. In the case of abrasive blasting operations, the requirements are consistent with statewide requirements for abrasive blasting. The District is pre-empted by the Health and Safety Code from establishing more stringent emission standards for abrasive blasting.

36. WRITTEN COMMENT

What is the public's recourse in the event one of these sources poses a public nuisance? Because the sources are in one location for a short time, expedited nuisance response procedures should be followed by the District so that public concerns are addressed in a timely manner. The District should not delay investigation and/or pursuance of a nuisance violation while waiting for a large number of nuisance complaints, as it does with normal sources.

DISTRICT RESPONSE

If a registered emission unit creates a nuisance the public can file a complaint with the District. The District will investigate the complaint as quickly as possible, will review the complaint with the equipment owner or operator to ensure that appropriate corrective action is taken, and will record the complaint in the registration file for the equipment. If the equipment was registered in another air district, or with the ARB, the complaint information will be forwarded to that agency. If the same equipment continues to cause complaints at the same or other locations, the District will consider pursuit of any available enforcement actions to ensure compliance, including revocation of the registration.