

Adopt Article 2, Large Sparks Ignition (LSI) Engine Fleet Requirements, within Chapter 15, Division 3, Title 13, California Code of Regulations, and new sections 2775, 2775.1, and 2775.2 to read:

Article 2. Large Spark-Ignition (LSI) Engine Fleet Requirements

Section 2775. Definitions

(a) "Large Spark-Ignition (LSI) Engine" means an internal combustion engine with a rated power of 25 horsepower or greater, used in a motor vehicle, and which is not a diesel engine, as defined in Section 2775.1.

(b) "Motor Vehicle" means a vehicle that is designed to be driven on a public highway, and which is not a bicycle, as defined in Section 2775.1.

(c) "Owner" means the person who owns the motor vehicle.

(d) "Registration" means the process of registering a motor vehicle with the Department of Motor Vehicles.

(e) "Test Station" means a station where a motor vehicle is tested.

(f) "Vehicle Identification Number (VIN)" means the unique number assigned to each motor vehicle, as defined in Section 2775.1.

(g) "Weighted Average Fuel Consumption (WAF)" means the average fuel consumption of a motor vehicle, as defined in Section 2775.1.

(h) "Zero Emissions Vehicle (ZEV)" means a motor vehicle that is designed to be driven on a public highway, and which is not a diesel engine, as defined in Section 2775.1.

(i) "ZEV Credit" means the credit assigned to a ZEV, as defined in Section 2775.1.

"Regulatory Authority" means the authority responsible for enforcing the provisions of this article, as defined in Section 2775.1.

Section 2775.1. Standards.

- (a) Operators of forklift and/or non-forklift fleets shall first determine the size of their fleets, using the equipment definitions in Section 2775. Then, except as provided in subdivisions (c), (d), (e), and (f), operators of medium and large forklift fleets and operators of non-forklift fleets with more than three pieces of equipment shall comply with the fleet average emission level standards in Table 2 by the specified compliance dates.

**Table 2: Fleet Average Emission Level Standards
in grams per kilowatt-hour (brake-horsepower-hour)
of hydrocarbons plus oxides of nitrogen**

Fleet Type	Initial Compliance Date		
	1/1/2009	1/1/2011	1/1/2013
Large Forklift Fleet	3.2 (2.4)	2.3 (1.7)	1.5 (1.1)
Medium Forklift Fleet	3.5 (2.6)	2.7 (2.0)	1.9 (1.4)
Non-forklift Fleet	4.0 (3.0)	3.6 (2.7)	3.4 (2.5)

- (1) Fleet operators subject to the fleet average provisions shall include in their fleet average calculations any piece of equipment that the operator has rented or leased or reasonably expects to rent or lease for a period of one year or more.
- (2) Fleet operators may exclude from the fleet average calculation uncontrolled 2003 and 2004 model year rental equipment (if the equipment is rented for a period of less than one year) until January 1, 2010.
- (3) In addition to the provisions of (a)(2) above, fleet operators may exclude from the fleet average calculation rental or leased equipment if:
 - (A) the rental or lease is for a period of less than one year, and
 - (B) the rental or lease component comprises no more than 20 percent of the operator's equipment at any time, and
 - (C) the equipment rented or leased during the period from January 1, 2009 through December 31, 2010 is controlled to a 4.0 g/kW-hr (3.0 g/bhp-hr) standard or better and equipment rented or leased on or after January 1, 2011 is controlled to a 2.7 g/kW-hr (2.0 g/bhp-hr) standard or better.
- (4) Fleet operators shall comply with the applicable fleet average standard in Table 2 with the following exceptions:
 - (A) if through business expansion, a fleet meets the definition of a larger size category, the fleet may continue to comply with the applicable fleet

standard for the initial size category until the subsequent compliance date, at which time the fleet must meet the applicable fleet standard for the new fleet size category, or

- (B) if through retirement or other fleet size reduction mechanism the fleet would otherwise be required to comply with a less stringent fleet standard, then the less stringent fleet standard becomes effective immediately.
- (b) Operators of mixed fleets comprised of forklifts and non-forklift equipment shall determine fleet size individually for forklift fleets and non-forklift fleets; a mixed fleet with three or fewer forklifts and three or fewer non-forklift pieces of equipment shall be considered to be a small fleet.
- (c) Except as provided in subdivisions (d), (e), and (f), each operator of a forklift fleet used in agricultural crop preparation services shall address emissions from their uncontrolled forklifts engines as follows:
 - (1) by January 1, 2009, identify that portion of the owned 1990 and newer LSI forklift fleet for which retrofit emission control systems have been verified and control 20 percent of that portion as prescribed in subdivision (d)(1)(D)(i) below; and
 - (2) by January 1, 2012, control 100 percent of the owned 1990 and newer LSI forklift fleet for which retrofit emission control systems have been verified as prescribed in subdivision (d)(1)(D)(i) below.
- (3) Operators of fleets used in agricultural crop preparation services may exclude from their LSI forklift fleet:
 - (A) leased forklifts provided the forklifts meet a 4.0 g/kW-hr (3.0 g/bhp-hr) standard or better. Forklifts under a lease agreement that was initiated prior to May 25, 2006 may also be excluded from the 4.0 g/kW-hr standard for the life of the lease, or until January 1, 2010, whichever is earlier, and
 - (B) rental forklifts rented on or after January 1, 2009, provided the forklifts meet a 4.0 g/kW-hr standard or better. Forklifts with an uncontrolled 2003 or 2004 model year engine may be excluded from the requirements of this subpart until January 1, 2010.
- (d) *Limited Hours of Use Provisions.*
 - (1) Forklift and non-forklift equipment in medium and large fleets shall be exempted from the provisions of subdivision (a) of this section provided that:

- (A) the equipment is used, on average over any three year period, less than 251 hours per year, and
- (B) the equipment is equipped with an operational hours of use meter, and
- (C) the operator maintains hours of use records for the piece of equipment at a facility, and
- (D) the operator addresses the emissions by January 1, 2011, through option (i) or (ii) below:
 - (i) retrofit or repower the equipment to a Level 2 or Level 3 verification level as described in Title 13, California Code of Regulations, Section 2782 (f), or
 - (ii) retire the equipment or replace the equipment with a new or used piece of equipment certified to a 4.0 g/kW-hr (3.0 g/bhp-hr) hydrocarbon plus oxides of nitrogen standard.
- (2) Forklifts used in agricultural crop preparation services fleets shall be exempted from the provisions of subdivision (c) of this section provided that they meet the requirements of subdivisions (d)(1)(A) through (d)(1)(C).
- (e) *Specialty Equipment Exemption.*
- (1) Forklift and non-forklift specialty equipment shall be exempt from the requirements of subdivisions (a) through (c) of this section provided that:
 - (A) the replacement cost exceeds the replacement cost of a "typical" piece of equipment from that category by 50 percent or the retrofit cost exceeds the "typical" retrofit cost of a piece of equipment from that category by 100 percent, and
 - (B) they meet the requirements of subdivisions (d)(1)(A) through (d)(1)(C), and
 - (C) the Executive Officer approves the listing of the piece of equipment as specialty equipment.
- (f) *Alternate Compliance Option for Operators of Fleets used in Agricultural Crop Preparation Services.*
- (1) Operators of forklift fleets used in agricultural crop preparation services shall be exempted from the provisions of subdivision (c) of this section provided that the forklift fleet complies with a 4.0 g/kW-hr (3.0 g/bhp-hr) fleet average emission level.

(g) *Use of Experimental Emission Control Strategies.*

(1) An operator may use an experimental emission control strategy provided by or operated by the manufacturer in no more than ten percent of his total fleet for testing and evaluation purposes. The operator shall keep documentation of this use in records as specified in Section 2775.2(b).

(h) **Severability.** If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

NOTE: Authority cited: Sections 39600, 39601, 43013, and 43018, Health and Safety Code. Reference: Sections 43013, 43017 and 43018, Health and Safety Code.

Western State Industries, Incorporated, et al. vs. Air Resources Board.

22. The Board's decision to deny the application for a permit to operate a new facility is a final administrative action. The Board's decision is a final administrative action because it is a decision that is not subject to further review by the Board. The Board's decision is a final administrative action because it is a decision that is not subject to further review by the Board.

23. The Board's decision to deny the application for a permit to operate a new facility is a final administrative action. The Board's decision is a final administrative action because it is a decision that is not subject to further review by the Board. The Board's decision is a final administrative action because it is a decision that is not subject to further review by the Board.

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