

## **SPECIAL SPECIFICATION**

### **5018**

#### **Incentive for Using Non-Road Diesel Equipment Powered by EPA Tier 1, 2 or 3 Diesel Engines in Nonattainment and Affected Counties**

- 1. Description.** This Item will govern for using non-road diesel equipment powered by diesel (compression-ignition) engines rated at 50 horsepower or above that meet the Environmental Protection Agency (EPA) Tier 1, 2 or 3 engine emission standards during roadway construction or maintenance for the Department in the specified counties in the following districts: Austin (Bastrop, Caldwell, Hays, Travis and Williamson Counties), Atlanta (Harrison and Upshur Counties), Beaumont (Chambers, Hardin, Jefferson, Liberty and Orange Counties), Corpus Christi (Nueces and San Patricio Counties), Dallas (all counties except Navarro County), El Paso (El Paso County), Fort Worth (Hood, Johnson, Parker and Tarrant Counties), Houston (all counties), Paris (Hunt County), San Antonio (Bexar, Comal, Guadalupe and Wilson Counties), Tyler (Gregg, Henderson, Rusk and Smith Counties) and Yoakum (Victoria County).

Notify the Engineer in writing that you plan to request incentive payments under this optional special specification.

Notify the Engineer in writing that you request incentive payments to be determined based on a district-wide basis and not on an individual project basis.

Use the non-road diesel engine on the project site or on a project specific location (PSL) that is located within 1 mile of the project. A PSL is a location for a construction support activity, including but not limited to concrete batch plants, asphalt batch plants, equipment storage areas, material storage yards, borrow areas, and excavated material disposal areas, that only provides support to the project.

This special specification will only be in effect until November 1, 2007 to assist areas in attaining compliance with the federal Clean Air Act. No incentive payments will be made for use of non-road diesel equipment after October 31, 2007.

For purposes of bidding, prepare the price for each line item of the bid on the basis of its typical, traditional usage of non-qualifying non-road diesel equipment without regard to any incentive payment. The Department retains the right to suspend incentive payments for this project if the Department determines the incentive payments are not assisting the area in attaining compliance with the federal Clean Air Act or suspending incentive payments is determined to be in the best interest of the state. No claim or dispute for recovery of suspended incentive payments will be made and no additional compensation will be offered or made if the Department suspends incentive payments.

- 2. Materials.** Non-road diesel equipment as identified in this special specification is equipment that is powered by or utilizes one or more eligible non-road diesel (compression-ignition) engines subject to the emission standards for NOx (oxides of nitrogen) or NMHC (non-methane hydrocarbon) + NOx as established by the EPA in the Code of Federal Regulations (CFR) at 40 CFR §89.112(a) for Tier 1, Tier 2 or Tier 3 (Tier 1, 2 or 3) non-road engines. Each non-road diesel engine must be subject to the EPA Tier 1, 2 or 3 emission standards to be eligible for an incentive payment.

To be eligible, the non-road diesel engine must be certified by the EPA or California Air Resources Board (CARB) or otherwise accepted by the Texas Commission on Environmental Quality (TCEQ) as meeting the EPA Tier 1, 2 or 3 emission standards. The lowest emission standard certified as being met will establish the EPA tier for an eligible engine and the corresponding incentive payment rate specified in Article 4, "Measurement and Payment," regardless of the model year the engine was introduced. The non-road diesel engine must be certified based on the engine being a new, rebuilt or remanufactured engine. A rebuilt or remanufactured engine must use original equipment manufacturer (OEM) components only and be purchased from the OEM or its authorized dealers and distributors. A rebuilt or remanufactured engine provided by another entity may be accepted, if it has been certified or verified by the TCEQ as meeting the EPA Tier 1, 2 or 3 emission standards. The non-road diesel engines horsepower rating must be 50 horsepower or above.

A non-road diesel engine is not eligible if it is a retrofit of an existing diesel engine or adding on devices to the engine or equipment. Non-road diesel engines that are not eligible will not qualify to receive an incentive payment.

- 3. Documentation.** Provide the following equipment and engine information for each eligible non-road diesel engine for which a request for payment as specified in Article 4, "Measurement and Payment," is submitted.

- A.** Contractor unique identification number assigned to and displayed on the exterior of each individual piece of equipment;
- B.** Dates each piece of equipment arrives or departs the project or each project, if the incentive payment is based on district wide basis; and,
- C.** Equipment information including equipment make, equipment description, equipment model number, equipment identification number, model year, engine make, engine model, engine identification number, engine model year, engine family code, engine horsepower rating, identify equipment or engine certification by either EPA, CARB or TCEQ, the EPA Tier 1, 2 or 3 emission standard claimed.
- D.** Adjusted engine horsepower rating for equipment that was required on site for less than the entire month.

Submit documentation on a monthly basis on the printed Department's Excel spreadsheet format provided.

Provide upon request copies of any or all equipment or engine certifications that are the basis for the payment request. Provide the requested copies within 15 days of receipt of the request.

- 4. Measurement and Payment.** This Item will be paid for at the following rates for eligible non-road diesel equipment required in support of the work on the project site in specified a district and county in Article 1, "Description." The payment rates will be per engine horsepower rating for EPA Tier 1, 2 or 3 eligible non-road diesel engines. The payment rates will be the basis for determining the monthly incentive compensation and any adjustments to the compensation as specified below.

EPA Tier	Incentive Payment Rate per Engine Horsepower Rating
1	\$0.50
2	\$0.75
3	\$1.00

The Engineer will review the requests for payment to determine if the non-road diesel equipment is eligible and was required to support of the work. The Engineer will adjust a request for payment for any non-road diesel equipment the Engineer deems was not eligible or required to support the work. Protest any adjustment to a request for payment in writing and showing cause within 30 days of receipt of the adjusted incentive payment. Failure to protest within the specified 30 days indicates approval of the adjustment to the request for payment and further consideration of the request for payment will not be permitted.

Incentive payments will only be made for eligible non-road diesel equipment that was required and used on the project site or on a PSL located is within 1 mile of the project during the month.

Adjustments will be made for non-road diesel equipment that arrives or was not required on the project until after the 1st day of a month or leaves or is no longer required on the project before the last day of the month. The adjustments will only apply to non-road diesel equipment that was on site for less than a full month. If the equipment usage is being determined on a district-wide basis, adjustments will be determined based on the total number of days the equipment was on district projects including the travel time between the projects. Incentive payments based on a district wide basis will be prorated between multiple projects by the Department. The incentive payment rate per engine horsepower rating will be adjusted to reduce any incentive amount due for the engine as follows:

- A.** When the total is 7 days or less, the incentive payment rate will be multiplied by 0.10.
- B.** When the total is 8 days or more but 15 days or less, the incentive payment rate will be multiplied by 0.25.
- C.** When the total is 16 days or more but 22 days or less, the incentive payment rate will be multiplied by 0.50.
- D.** When the total is 23 days or more but less than the entire month, the incentive payment rate will be multiplied by 0.75.

The Department retains the right to suspend incentive payments for this project when inconsistencies or improprieties are found.

As specified in Article 1, "Description," the Department retains the right to suspend further incentive payments for this project upon written notice. Adjustments to the payment rates for all non-road diesel equipment will be made, as noted above, for non-road diesel equipment on the project site for less than a full month if the effective date of the suspension is other than the last day of the month.