

## Attachment C - Proposed Language to Be Added to New Article 4.8

### 2449.1 Requirement for Largest Fleets to Achieve Additional Reductions of Oxides of Nitrogen Under the Solicitation for Applications Program

(a) **Purpose** – To achieve additional reductions of oxides of nitrogen (NOx) emissions from in-use off-road diesel-fueled vehicles in California air basins not in attainment with the federal ambient air quality standards for PM2.5. The reductions must be surplus to those that would otherwise be achieved through implementation of title 13, California Code of Regulations, section 2449, “Regulation for Statewide In-Use Off-Road Diesel Vehicles”.

#### (b) **Applicability**

(1) **District Applicability** - Section 2449.1 applies only in California air basins not in attainment with the federal ambient air quality standards for PM2.5, and only if the respective Districts’ governing boards hold public hearings and formally opt into the program.

(2) **Fleet Applicability** – Section 2449.1 applies only to fleets that:

- (A) As of January 1, 2008, consisted of more than 40 percent Tier 0 and Tier 1 vehicles, and;
- (B) Operate individual vehicles within the respective district.

#### (c) **Definitions**

The definitions title 13, CCR, section 2449(c) apply, along with the following definitions:

- (1) **Operate in the district** means a vehicle that in one of the most recent three years before the solicitation deadline has operated within the boundaries of the air district at least one hundred hours per year and for over half its annual operating hours.
- (2) **Contract period** means the period of time over which the vehicle is under contract to the district to operate to achieve emission reductions.
- (3) **Solicitation** means an announcement, released to the public by a district, requesting the submission of grant applications to the district for emission reduction incentive programs.
- (4) **Solicitation deadline** means the last day, as provided in the solicitation, on which a solicitation must be physically received by a district.

#### (d) **Requirements**

- (1) If a district, having held a public hearing and opting into this regulation, issues a solicitation for applications for funding under the South Coast/San

Joaquin Valley Off-road Opt-in for NOx (SOON) program, fleets subject to section 2449.1 must, before the solicitation deadline, do the following:

- (A) **Report to District and ARB** - Report information to the district and ARB for which they are seeking funding regarding both their total statewide and that part of the fleet that has operated in the district. All information required by section 2449(g) must be reported. If the solicitation deadline is before April 1, 2009, the fleet as of January 1, 2008 must be reported. If the solicitation deadline is on or after April 1, 2009, the information reported to ARB on the most recent April 1 reporting date must be submitted.
- (B) **Calculate NOx index** - Determine the NOx index for vehicles that operated in the district for the year in which the solicitation deadline occurs according to the formula in section 2449(d)(1)(A)1.
- (C) **Calculate NOx target rate** - Determine the NOx target rate for vehicles that operated in the district for the year in which the solicitation deadline occurs according to the formula in section 2449(d)(1)(A)1. using the targets in Table 1 below:

<b>Table 1: NOx Targets for each Max Hp Group</b>								
<b>Compliance Date: March 1 of Year</b>	<b>25-49 hp</b>	<b>50-74 hp</b>	<b>75-99 hp</b>	<b>100-174 hp</b>	<b>175-299 hp</b>	<b>300-599 hp</b>	<b>600-750 hp</b>	<b>&gt;750 hp</b>
2011	5.6	6.2	6.7	6.0	5.4	5.1	5.3	6.4
2014	4.9	5.1	5.2	4.7	2.8	2.7	2.7	4.2
2017	4.2	4.1	3.8	3.4	1.5	1.5	1.5	3.2
2020	3.5	3.2	2.4	2.2	0.9	0.9	0.9	2.6
2023	3.5	3.2	2.4	2.2	0.9	0.9	0.9	2.6

- (D) **Apply for funding** –All fleets that have a statewide fleet with maximum power greater than 20,000 horsepower (hp) for which the NOx index, as calculated in section 2449.1(d)(1)(B), is greater than the NOx target rate, as calculated in section 2449.1(d)(1)(C), must apply. The application submitted must be completed according to the guidelines and conditions established under the solicitation. The NOx retrofits, repowers, or vehicle replacements for which funding is requested must be sufficient to bring the NOx index to less than or equal to the NOx target rate calculated in 2449.1(d)(1)(C).
- (E) **Achieve NOx reductions** – Fleets that receive SOON funding must complete the actions for which they were funded per the conditions of the solicitation. Fleets that do not receive requested SOON funding are not required to take actions beyond compliance with the in-use off-road diesel vehicle regulation, as specified in section 2449.

- (2) Districts that opt into SOON must prioritize requested projects based on the optimum NOx cost-effectiveness. Only projects that have cost-effectiveness of \$5,000/ton NOx or better may be funded. Districts must

report to ARB all projects funded by SOON, including the equipment identification number of all vehicles included.

**(e) Special Provisions –**

- (1) **Accounting for the in-use off-road diesel vehicle rule** – Reductions achieved through SOON are intended to be surplus, over the entire contract period, to those required by the “Regulation for Statewide In-Use Off-Road Diesel Vehicles”. During the contract period, vehicles funded under the SOON program with NOx retrofits, engine repowers, or have been replaced, cannot use this lower emission rate to calculate NOx indices, PM indices, NOx target rates, PM target rates, turnover credit and retrofit credit under section 2449. Instead, for the purposes of calculating NOx indices, PM indices, NOx target rates, PM target rates, turnover credit and retrofit credit under section 2449, these vehicles must reflect the emission rate for that engine(s) as if the actions taken under SOON did not occur. These vehicles may be used for determining compliance under section 2449 after the completion of the SOON project contract period for that vehicle.

For example, if a Tier 0 vehicle is repowered with a Tier 3 engine with SOON funds, for purposes of compliance with Section 2449, that vehicle is still treated as if it were a Tier 0 until the end of the contract period for the SOON project.

- (2) **Turnover in section 2449** - A fleet may apply to the Executive Officer for an extension from the requirements in section 2449(d)(2)(A) if, using the accounting provisions in section 2449.1(e)(1), section 2449(d)(2)(A) would require, prior to March 1, 2014, a fleet to turn over vehicles that are Tier 2 or better.
- (3) **Compliance plans** – The Executive Officer may require fleets applying for SOON funding to prepare and submit a compliance plan laying out the actions they are required to take under Section 2449 and Section 2449.1.
- (4) **Surplus** - Participation in SOON does not reduce the actions required for any fleet to comply with any requirements in the statewide in-use off-road diesel vehicle regulation under Section 2449.
- (5) **Tracking devices** - Any vehicles repowered, retrofit, or replaced with incentive money through this program must be equipped with vehicle location devices (per the respective districts guidelines and conditions for receiving funding) to ensure the vehicles are used in the district for the required percent of operating hours.
- (6) **Particulate Matter Retrofits** - The exemption from retrofit requirements for engines in vehicles less than 5 years old in 2449(d)(2)(B)4.a. does not apply to vehicles that are replaced with SOON funds.
- (7) **Guidelines**- If funded with Carl Moyer program money, the SOON program must be administered consistent with applicable Carl Moyer program guidelines. If it is funded from other sources, the SOON program

must be administered consistent with any applicable guidelines. The district shall develop guidelines for administration of the SOON program as provided in Section 2449.1(f).

**(f) Local Air District Opt-In**

- (1) A local air district opting-in to Section 2449.1 may develop, through a public process and duly noted-public hearing, additional administrative provisions necessary to implement this section, including, but not limited to, funding guidelines (as required under section 2449.1(e)(7)) and reporting and monitoring requirements. Funding guidelines are subject to approval of the Executive Officer.