

State of California
AIR RESOURCES BOARD

Notice of Public Availability of Modified Text

PUBLIC HEARING TO CONSIDER THE ADOPTION OF A DIESEL PARTICULATE
MATTER AND OXIDES OF NITROGEN AND GREENHOUSE GASES CONTROL
MEASURE FOR ON-ROAD HEAVY-DUTY DIESEL-FUELED VEHICLES OPERATING
IN CALIFORNIA

Public Hearing Date: December 11, 2008
Public Availability Date: August 19, 2009
Deadline for Public Comment: September 3, 2009

At its December 11, 2008, public hearing, the Air Resources Board (ARB or Board) approved the adoption of the "Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants, and Greenhouse Gases from In-Use Heavy-Duty Diesel-Fueled Vehicles" (Truck and Bus Regulation) to the California Code of Regulations (Cal. Code Regs.) title 13, in new section 2025. The Truck and Bus Regulation will significantly reduce emissions of diesel particulate matter (PM) and oxides of nitrogen (NOx) from in-use on-road heavy-duty diesel-fueled vehicles owned or operated in California by requiring the use of best available control technology (BACT), which is defined in the approved regulation. The Truck and Bus Regulation also supports the Diesel Risk Reduction Plan, which was adopted by the Board on September 30, 2000.

The Board also approved amendments to several existing regulations. The amended regulations are contained in Cal. Code Regs., title 13, section 2020, "Purpose and Definitions of Diesel Particulate Matter Control Measures;" sections 2022 and 2022.1, "Diesel Particulate Control Measure for Municipality or Utility On-Road Heavy-Duty Diesel-Fueled Vehicles;" section 2027, "Regulation to Control Emissions from In-Use On-Road Diesel-Fueled Heavy-Duty Drayage Trucks;" sections 2449 and 2449.3, "Regulation for In-Use Off-Road Diesel-Fueled Fleets;" sections 2451, 2452, 2453, 2455, 2456, 2458, 2461, and 2462 of the "Statewide Portable Equipment Registration Program;" section 2479, "Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Railyards;" section 2485, "Airborne Toxic Control Measure to Limit Diesel Fueled Commercial Motor Vehicle Idling;" section 1956.8, "Exhaust Emissions Standards and Test Procedures – 1985 and Subsequent Model Heavy-Duty Engines and Vehicles;" and title 17, sections 93116.1, 93116.2 and 93116.3 of the "Airborne Toxic Control Measure for Diesel Particulate Matter from Portable Engines Rated at 50 Horsepower and Greater."

The Board's Action

At the hearing, the Board adopted Resolution 08-43, in which it approved the initially

proposed Truck and Bus Regulation and the amendments to the regulations described above (respectively attached to the Resolution as Attachments A and B) with modifications proposed by staff at the hearing (Attachments C and D, which respectively reflect changes to the Truck and Bus Regulation and subsequent amendments to the other regulations.) The modifications set forth in Attachments C and D had been suggested by staff in response to comments made since the Notice of Public Hearing and Initial Statement of Reasons (Staff Report) was initially published on October 24, 2008. Resolution 08-43 and its attachments are available online at the following ARB website:

<http://www.arb.ca.gov/regact/2008/truckbus08/truckbus08.htm>.

Printed copies may be obtained by contacting Ms. Gloria Lindner, Mobile Source Control Division, at (916) 323-2803.

Resolution 08-43 directed the Executive Officer to incorporate the approved modifications, including additional modifications as directed by the Board at the hearing, into the proposed regulatory text, with other such modifications as may be appropriate, and to make the modified text available for a supplemental comment period of at least 15 days.

The Modified Text Being Made Available and the Public Comment Process

Modified text being made available: Attachment 1 to this notice contains the proposed regulatory text showing the modifications to the initially proposed text of the Truck and Bus Regulation that was made available at the time of the 45-Day Public Notice. Additions to the initially proposed language are shown in underline and deletions are shown in ~~strikeout~~.

Attachment 2 reflects the modifications to the amendments proposed for the other above-identified regulations since the initial publication of the 45-Day Public Notice. The originally proposed modifications to the preexisting regulatory language are shown in underline and deletions are shown in ~~strikeout~~, and the additional proposed modifications are shown in double underline and deletions are shown in double ~~strikeout~~.

A summary of proposed modifications to the regulatory text are summarized below. Attachments 1 and 2 also reflect other editorial number reformatting and minor grammatical changes that are not included in the summary below. The attachments are available at the following ARB website:

<http://www.arb.ca.gov/regact/2008/truckbus08/truckbus08.htm>

Summary of Proposed Modifications made to Attachment 1

Section 2025(a)

The abbreviation “NOx” has been added after the term “oxides of nitrogen” because this is the first time the term is used and NOx is used thereafter.

Section 2025(b)(1)

Language has been added to clarify that yard trucks with on-road engines as well as yard trucks with off-road engines are part of the scope of the Truck and Bus regulation.

New section 2025(c)(12)

Language has been added to exempt drayage trucks from the regulation until January 1, 2021. Between now and January 1, 2021, drayage trucks are required to comply with the drayage truck regulation. The exemption makes clear that these trucks have no obligations under this regulation until January 1, 2021.

New section 2025(c)(13)

Language has been added to exclude personal use trucks with a gross vehicle weight rating of 19,500 pounds or less with a pick-up bed that was originally installed by the vehicle manufacturer. There are a limited number of manufacturers who sell large diesel powered pick-up trucks, some of which are used in non-commercial applications for personal use such as towing boats and other sports related equipment. This exemption targets this narrow class of vehicles that are easily discernable from other vehicles subject to the regulation for enforcement purposes.

Section 2025(d)(1), section 2025(d)(2), section 2025(d)(4) (respectively sections 2025(d)(3), (d)(2), and (d)(1) of the initially proposed regulation)

The definitions of, “2004 Model Year NOx Emissions Equivalent,” “2007 Model Year NOx Emissions Equivalent,” and, “2010 Model Year NOx Emissions Equivalent” have been rearranged to be in numerical order.

Section 2025(d)(1)

The words, “means emissions from:” have been added to allow a list to follow.

Sections 2025(d)(1)(A) and)(B)

The words, “Emissions from a” were removed because the term, “emissions from” have been added to section heading.

Section 2025(d)(2)

The words, “means emissions from:” have been added to allow a list to follow.

Section 2025(d)(2)(A), (B), and(C)

The words, “Emissions from a” have been removed because the term, “emissions from” was added to section heading.

Section 2025(d)(2)(D)

Language has been added to the definition of “2007 Model Year NO_x Emissions Equivalent” to include engines meeting the 1.2 grams per brake horsepower (g/bhp-hr) NO_x emissions standards. These additions clarify the meaning of 2007 model year NO_x emissions equivalent to include the actual emission level that must be met by an engine that is certified to the 2007 model year standard.

New section 2025(d)(3)

A new definition for the term, “2008 Baseline Fleet,” which is used in section 2025(k), “Retired Vehicle Credit,” has been added for purposes of clarity.

Section 2025(d)(4) (section 2025(d)(1) of the initially proposed regulation)

The words, “means emissions from:” have been added to allow a list to follow.

Section 2025(d)(4)(A) and (B),

The words, “Emissions from a” have been removed because the term, “emissions from” was added to section heading.

New section 2025(4)(C)

This section has been added to further define a 2010 Model Year NO_x Emissions Equivalent to include an engine certified to the 2010 model year or newer heavy-duty diesel emissions standard.

New section 2025(d)(4)(D)

Clarifying language has been added to the definition of “2010 Model Year NO_x Emissions Equivalent” to include any engine certified to a NO_x level of 0.2 g/bhp-hr or less.

New section 2025(d)(4)(E)

Language has been added to the definition of “2010 Model Year NO_x Emissions Equivalent” to include off-road engines meeting the final tier 4 engine standards.

Section 2025(d)(5)(B) (section 2025(d)(4)(B) of the initially proposed regulation)

The words “of both” have been removed from the definition of “Agricultural Operations” because its use was incorrect in that the reference includes more than two items.

Section 2025(d)(6) (section 2025(d)(5) of the initially proposed regulation)

The phrase, “one of the following types of vehicles,” has been added to the definition of “Agricultural Vehicle” to make it clear that it applies to any of the vehicles identified within the definition.

Section 2025(d)(6)(A)

The existing language of “Agricultural Vehicle” has been modified to clarify that the definition includes truck-tractor and trailer combinations. Language was modified to clarify that placards are only required during the transportation of hazardous materials and not on the return trip.

Section 2025(d)(6)(B)

As described above, the existing language of “Agricultural Vehicle” has been modified to clarify that the definition includes truck-tractor and trailer combinations. Additional language was added to clarify that this definition applies only to vehicles that are owned by a farming business and used exclusively in that business. Finally, consistent with staff’s original intent, language was added to clarify that vehicles used to transport bees from one farm to another are included in this definition.

Section 2025(d)(6)(C)

As with subparagraphs (A) and (B), the existing language has been modified to clarify that an “Agricultural Vehicle” includes truck-tractor and trailer combinations. Additionally, language has been added to clarify the intent of this definition to include only vehicles that perform specific operations on the farm for the direct benefit of the crop. The list of examples and exclusions has also been expanded to clarify the definition’s meaning.

Section 2025(d)(6)(D)

As with the preceding subparagraphs, the language has been modified to clarify the definition of “Agricultural Vehicle” to include truck-tractor and trailer combinations. Language has been added to clarify that a “silage” truck, which collects the crop as it is being harvested in the field and then transports it to a storage area where silage is made, is included in the definition. In addition, language has been added to clarify that trucks that transport agricultural waste, such as woody products, from forest or farm to a biomass facility, are included in the definition whether or not the facility receives a majority of the waste from the farm or forest.

New section 2025(10)

A new definition of “Authorized Emergency Vehicle” has been added for purposes of clarity.

New section 2025(d)(12)

A new definition of “California based broker” has been added to provide clarity in that the term is used in section 2025(x), “Compliance Requirement.”

New section 2025(d)(13)

A new definition of “Cattle or Calf Feedlot,” has been added to provide clarity.

Section 2025(d)(23) of the initially proposed regulation

The definition of “Emergency Vehicle” has been replaced with the definition of “Authorized Emergency Vehicles.”

Section 2025(d)(27) (section 2025(d)(24) of the initially proposed regulation)

The definition of “Emergency Operation” has been modified to reference an “Authorized Emergency Vehicle” and an “Emergency Support Vehicle” to clarify that all qualifying vehicles may be dispatched by local, state, or federal agency.

Section 2025(d)(28) (section 2025(d)(25) of the initially proposed regulation)

Language has been added to clarify that an “Emergency Support Vehicle” may be dispatched by a local, state, or federal agency.

Section 2025(d)(32) (section 2025(d)(29) of the initially proposed regulation)

Language has been added to clarify that a “Farming Business” excludes landscape services or businesses involved in artificial insemination.

Section 2025(d)(33) (section 2025(d)(30) of the initially proposed regulation)

Language has been added to clarify that the “First Point of Processing” includes, in addition to locations where harvested crops are first altered from their original state, locations where harvested crops are both packaged and prepared for transportation, such as locations where oranges are sorted, washed, and loaded into transportation bins. The definition was also clarified to include biomass facilities that receive agricultural waste in the form of unprocessed agricultural materials; however, language was also added to illustrate that in some situations such as chipping wood, the first point of processing may be in the field.

Examples were added for clarity and language was added to exclude any location of the product’s final use, such as restaurants or other farms. Additional examples of facilities not meeting the definition were added.

Section 2025(d)(34) (section 2025(d)(31) of the initially proposed regulation)

The definition of “Fleet” has been modified to clarify that a fleet consists of one or more vehicles owned by a person, business, or government agency.

Section 2025(d)(34)(B)

The sub-definition of “Federal Fleet” has been modified to clarify that the intent of the section has always been to include vehicles owned by the United States Postal Service.

Section 2025(d)(34)(C)

Subparagraphs 1 through 4 of the initially proposed section 2025(d)(31)(C) have been deleted. The language defining the relationship between renting and leasing entities (those who own the vehicle) vis-à-vis renters and lessees of vehicles (those who operate the vehicles) and their respective obligations under the regulation has been moved to section 2025(d)(35) as part of the definition of “fleet owner.”

Section 2025(d)(34)(D) of the initially proposed regulation

The sub-definition of “Fleet Size,” has been moved from under the definition of “Fleet” to section 2025(d)(36) in order to clarify that fleet size is based on the total number of vehicles in the fleet, independent of the fleets home base or whether the vehicles operate in California. For example, if a fleet is located in Chicago, Illinois and has four vehicles, only two of which operate in California, the fleet size would be four vehicles.

Section 2025(d)(34)(F)

Language has been added to the sub-definition of “Small Fleet” to clarify that a small fleet consists of three or fewer vehicles.

New section 2025(d)(35)

See discussion above regarding section 2025(d)(34)(C).

A new definition of fleet owner was added to clarify who is responsible for compliance. The language defining the fleet owner of a leased or rented vehicle has been modified to be the lessor rather than the lessee for leases of one year or longer unless otherwise specified in writing. Language was also added such that in the event that a vehicle is cited for non-compliance both the rental or leasing entity and the operator could be held responsible for compliance if the operator does not possess evidence of the party responsible for compliance.

New section 2025(d)(36)

As explained above, the definition of “Fleet Size” has been removed as a sub-definition of “Fleet,” and made a stand alone definition. Language has been added to clarify that fleet size is based on the total number of vehicles owned and is not limited to those operating in California.

New section 2025(d)(37)

A new definition of “Governmental Agency,” has been added because it is used in section 2025(d)(64) to define “Responsible Official.”

Section 2025(d)(39) (section 2025(d)(33) of the initially proposed regulation)

The definition of “Heavy Heavy-Duty Diesel Vehicle” has been expanded to include motorcoaches, except where specific treatment of motorcoaches differs.

Section 2025(d)(44) (section 2025(d)(38) of the initially proposed regulation)

The definition of “Limited-Mileage Agricultural Vehicle” has been modified to provide that any vehicle that replaces a limited-mileage vehicle would also be considered to be a limited-mileage vehicle if meeting the requirements set forth in section 2025(m)(6)(B) and (C).

Section 2025(d)(45) (section 2025(d)(39) of the initially proposed regulation)

The definition of a “Low-Mileage Agricultural Vehicle” has been modified to provide that any vehicle that replaces a low-mileage agricultural vehicle would be considered a low-mileage agricultural if meeting the requirements set forth in section 2025(m)(7)(B) and (C).

Section 2025(d)(47) (section 2025(d)(41) of the initially proposed regulation)

The definition of “Low-Use Vehicle” has been modified to require a functioning hour-meter since the definition includes both limitations on mileage and hours of use.

Section 2025(d)(43) of the initially proposed regulation

The former definition of “Military Tactical Vehicle” has been deleted in that such vehicles are listed as exempt from the regulation’s coverage and the definition of the term is referenced in section 2025(c)(5).

New section 2025(d)(49)

A new definition of “Motorcoach” has been added for purposes of clarity because the term is used in sections 2025(g) and (h).

Section 2025(d)(54) (section 2025(d)(48) of the initially proposed regulation)

The term “Tier 4 Final Engine” has been removed from this definition and added to the definition of, “2010 Model Year NOx Emissions Equivalent” in section 2025(d)(4).

Section 2025(d)(56) (section 2025(d)(50) of the initially proposed regulation)

The definition of “NOx Exempt Vehicle” has been modified to clarify that a vehicle meeting the definition is exempt from the requirements in section 2025(f), (g), and (h).

Section 2025(d)(56)(B) and (C)

The term, “subject to this regulation,” was removed from these subparagraphs of the definition of “NOx Exempt Vehicle” because, by definition, any vehicle qualifying as a NOx exempt vehicle is subject the regulation.

Section 2025(d)(56)(E)

The definition of “NOx Exempt Vehicle” has been modified to include motorcoaches since they are exempt from the NOx performance requirements until 2017. The term “NOx performance requirements” has been deleted and replaced with the more precise language that vehicles meeting the definition of “NOx Exempt Vehicle” are exempt from meeting NOx BACT or fleet average emission standards of sections 2025(f), (g), and (h).

Section 2025(d)(58) (section 2025(d)(52) of the initially proposed regulation)

The definition of “NOx Mileage Exempt Vehicle” has been modified to clarify that vehicles meeting the definition are exempt from the requirements of section 2025(f), (g), and (h).

Section 2025(d)(58)(A)

The language has been modified by moving the term “diesel yard truck” to make it clear that yard trucks without PTO are considered NOx mileage exempt vehicles. The term, “heavy heavy-duty” was removed because it does not provide any additional clarity.

Section 2025(d)(58)(B)

The language that included medium heavy-duty diesel yard trucks has been deleted because yard trucks are tractors and by definition are treated the same as other heavy heavy-duty diesel trucks regardless of weight class.

Section 2025(d)(58)(C), and (D)

The language has been modified to clarify that vehicles that are not equipped with power take off (PTO) to operate in a stationary mode have no hours of use restrictions to meet the definition.

Section 2025(d)(55) of the initially proposed regulation

The former definition of “Owner” has been deleted. The text of the former definition has been replaced by the new definition of “Fleet Owner” at section 2025(d)(34) of the proposed modified text.

Section 2025(d)(62)(B) (section 2025(d)(57)(B) of the initially proposed regulation)

The definition of “PM BACT” has been modified to clarify that a one-year extension of the compliance deadline may be granted through January 1, 2017, for engines for which no VDECS can be equipped based on information submitted pursuant section 2025(r)(7).

Section 2025(d)(62)(C) (section 2025(d)(57)(C) of the initially proposed regulation)

This subsection to the definition of “PM BACT” has been modified to make it clear that the auxiliary engine on two-engine sweepers are included in the definition.

Section 2025(d)(58) of the initially proposed regulation

The former definition of “Governmental Agency” has been deleted because the term is no longer used to describe “Emergency Operation” and “Emergency Support Vehicle.”

New section 2025(d)(66)

A new definition of “San Joaquin Valley Air Basin” has been added to provide clarity in that the term is used in section 2025(m)(8), “Requirements for Specialty Agricultural Vehicles.”

Section 2025(d)(69) (section 2025(d)(64) of the initially proposed regulation)

The definition of “Specialty Agricultural Vehicle” has been modified to clarify that vehicles with body types listed in subsection A through D that have been approved by the Executive Officer will be treated as specialty vehicles.

Section 2025(d)(69)(A)

The first of the four types of “Specialty Agricultural Vehicle” listed in subsection (A), “nurse rig,” has been deleted because it is not defined elsewhere in the regulation and replaced by the more common term, “truck, or truck-tractor and trailer combination.”

Section 2025(d)(69)(B)

The term “cotton module mover which is a motortruck,” was deleted because it is not defined elsewhere in the regulation. In its place the term, “truck, or truck-tractor and trailer combination” was added.

Section 2025(d)(69)(C)

The word vehicle was deleted and replaced with “truck” to clarify that truck-tractor and trailer combinations used to haul water tanks do not fall within the definition of “Specialty Agricultural Vehicle.” In addition, the word, “livestock” was added to the list of operations for which water trucks could be used.

Section 2025(d)(69)(D)

The term “feed or mixer-feed truck” has been modified to clarify that the term includes feed trucks dispensing feed at cattle or calf feed lots regardless of who owns the vehicles.

Section 2025(d)(70) (section 2025(d)(65) of the initially proposed regulation)

The definition of “Three Day Pass,” has been modified to clarify that the pass is a temporary permit that will be granted to only one vehicle in a fleet per year and that it is only good for three consecutive days.

Section 2025(d)(73) (section 2025(d)(68) of the initially proposed regulation)

The definition “truck-tractor” has been modified to refer to the definition in section 655 of the California Vehicle Code.

Section 2025(d)(75) (section 2025(d)(70) of the initially proposed regulation)

The definition of “Utility” has been deleted and replaced with the definition of “Utility Vehicle,” which more accurately describes the term used in section 2025(e)(4), “Requirements for Drayage and Utility Vehicles.”

Section 2025(e)

The section title, “Performance Requirements,” has been changed to, “General Requirements,” to more accurately reflect the content of the section. References to “performance” in subsections 2025(e)(3)(B), e(5), (e)(6), and (e)(8) have been removed for purposes of consistency and clarity.

Section 2025(e)(1)

Language was added to clarify that the section 2025(e)(1) does not apply to fleets utilizing the provisions available to small fleets.

Section 2025(e)(2)

The section has been modified to delete the word, “performance,” to clarify that schoolbus fleets must meet all of the requirements of section 2025(j). Also, the reference that school bus fleets are exempt from the NOx performance requirements has been deleted to avoid redundancy now that section 2025(j) includes such language.

Section 2025(e)(4)

This section has been modified to better clarify the responsibility of drayage truck owners under this and the drayage truck regulation. The requirements of section 2025(k)(2) have been moved to this section and have been modified to state that drayage trucks must meet the requirements of this regulation beginning January 1, 2021.

Section 2025(e)(5)

Language has been added to clarify that vehicles within a fleet that are under the control of different responsible officials may be separately reported and may comply independently.

Section 2025(e)(7)

Language has been added to clarify that fleets utilizing the retired vehicle provision must possess the same qualifications as fleet owners utilizing any of the other special provisions.

Section 2025(e)(7)(A)2

The word, "or," has been deleted at the end of subsection (A)2 in that its use was unnecessary since it is clear that fleets may use any of the listed options to satisfy the requirements of this section.

Section 2025(e)(8)

Language has been added to clarify that vehicles in the fleet that are exempt from the NOx BACT requirements must meet the requirements of section 2025(p)(1).

Section 2025(e)(9)

This section has been deleted because the concept was moved to the introduction of section 2025(e).

Section 2025(f)

Language has been modified to clarify that fleet owners utilizing provisions of section 2025(f) must comply with the definition of both PM and NOx BACT. Language has been added to clarify that all vehicles in the fleet must be in compliance with the requirements set forth in Table 1 before the reporting requirement is suspended.

Section 2025(g)

Section 2025(g) has been reorganized for clarity. Section 2025(g)(1) in the initially proposed regulation has been changed to an introductory sentence to the section. The word, "performance" has been deleted from the sentence to clarify that the reference was inaccurate in that the term "performance" is not used elsewhere in the section and that fleets must meet all requirements set forth in the section.

Section 2025(g)(1) (section 2025(g)(2) of the initially proposed regulation)

Language has been added to clarify that motorcoach engines are included in the requirements for propulsion engines.

Section 2025(g)(2) (section 2025(g)(3) of the initially proposed regulation)

Language has been added that requires motorcoaches to meet specific NOx BACT requirements separately from the other vehicles in the fleet. This language has been added to clarify that fleets that have motorcoaches are permitted to comply with a separate NOx percent limit schedule identified as MC NOx BACT.

Section 2025(g) Table 2

Consistent with the changes made in renumbered section 2025(g)(2), a column listing the percentage of the motorcoach fleet that must meet BACT in a compliance year has been added to provide motorcoaches a separate compliance path.

Section 2025(h)(2)(B)

The language has been added to include motorcoaches when defining the emissions factor for heavy heavy-duty vehicles.

Section 2025(h)(2)(B)1

The language has been added to clarify that for purposes of calculating the NOx fleet average the emissions factor for a “2010 Model Year Equivalent Engine” will always be the emissions factor for a 2010 engine from Table A-2 in Appendix A, and not the emissions factor as calculated using the percent reduction resulting from the use of a VDECS.

Section 2025(h)(2)(B)2

The language has been modified to change the date from 2013 to 2017, at which time fleets must include 2007 model year engines when calculating the fleet average. The change has been made because the NOx target does not decrease to below the NOx emissions factor for 2007 model year engines, until 2017. This provides fleets with more flexibility to operate 2007 and newer vehicles in California without any increase in emissions.

Section 2025(h)(2)(C)

A definition of the NOx target for motorcoaches has been added. It is used in determining the NOx target rate for motorcoaches in a fleet.

Section 2025(h)(2)(C) Table 3

Consistent with the change made in section 2025(h)(2)(C), a column has been added to Table 3 listing the fleet NOx targets for motorcoaches along with medium and heavy heavy-duty vehicles.

Section 2025(h)(3)(B)

The term “including motorcoaches” has been added to clarify that motorcoaches are included in meeting the PM requirement like other vehicles.

Section 2025(h)(3)(B)(1)

The term, “propulsion” was added to the description of an engine to clarify that for vehicles with an auxiliary engine, the reference is to only the engine that propels the vehicle.

Section 2025(i)

Initially proposed section 2025(i) has been deleted and replaced with new language that clarifies the optional small fleet requirements and incorporates the Board’s directive to provide additional time to such fleets.

Section 2025(i)(1)

New section 2025(i)(1) clarifies that small fleets may comply by meeting the same requirements as all other fleets and to clarify that section 2025(i) is an optional method of compliance. Small fleets choosing to comply with section 2025(i) must still comply with section 2025(e) except for section 2025(e)(1).

Section 2025(i)(2)(A)

Newly worded section 2025(i)(2)(A) clarifies the dates that fleets with one vehicle must comply. The dates have been extended by one year from January 1, 2013, to January 1, 2014, and from January 1, 2018, to January 1, 2019, as directed by the Board. The new section also clarifies that by January 1, 2014, a single vehicle fleet is required to have at least a 2004-2006 model year equivalent engine meeting PM BACT and that by January 1, 2019, the engine in the vehicle must comply with the requirements of 2025(f).

Section 2025(i)(2)(B)

Newly worded section 2025(i)(2)(B) provides two compliance pathways for a small fleet with two vehicles. The section also clarifies that the dates for compliance for a fleet with two vehicles have been extended by one year, consistent with the overall one year extension for small fleet compliance as directed by the Board.

A second compliance option is described to make it easier to understand the option. This option was already available under section 2025(g), the percent limits where the fleet owner could elect by January 1, 2014, to have one vehicle equipped with a 2010 model year equivalent engine and the second vehicle would be equipped with the highest level of VDECS available. In such a case, the second vehicle would then have to meet the BACT requirements of section 2025(f) by January 1, 2017.

Section 2025(i)(2)(C)

Similar to the subsection (B), newly worded section 2025(i)(2)(C) provides two compliance pathways for a small fleet with three vehicles. The section also clarifies that the compliance dates for fleets with three vehicles have been extended for one year.

Section 2025(j)

The reference that school bus fleets are exempt from the NO_x performance requirements formerly part of section 2025(e)(2) has been moved to this section to provide greater clarity of the responsibilities of schoolbus fleets.

Section 2025(j)(3)

Language has been removed to clarify that all diesel powered schoolbuses must be retrofitted with the highest level VDECS by January 1, 2014, and that schoolbuses are exempt from meeting NO_x BACT.

Section 2025(j)(7)(B)1 and 3

The word, “performance,” has been deleted to clarify that the reference is to all requirements of the section since the term “performance” is not used in the referred sections. The reference to reporting was changed to reference the specific reporting requirements.

Section 2025(j)(9)

Section 2025(B) of the initially proposed regulation has been moved to section 2025(r)(14), the reporting section, since the provisions of the section involve reporting. The remaining paragraph of section 2025(j)(9) refers the fleet owner to the reporting section and the requirements that it must follow.

Section 2025(j)(10) of the initially proposed regulation

The former entire section has been moved to section 2025(s)(4), the record keeping section, since provisions of the section involves records that must be maintained.

Section 2025(k) of the initially proposed regulation

The former entire section regarding drayage and utility trucks has been modified and moved to section 2025(e). The modifications to the section were made because the drayage regulation (title 13, California Code of Regulations, section 2027) has been modified to include the requirements of section 2025(k)(1) of the initially proposed regulation.

New section 2025(k)

This section has been added to provide credits to fleets that decrease in size through vehicle retirement. The provision for retirement credits was added to allow fleets to obtain credits should the overall fleet size be smaller on any compliance date compared to the fleet size on July 1, 2008. The new section sets forth how such changes in fleet size should be calculated.

New section 2025(l)

A new section has been added to provide motorcoaches an exemption from the NO_x requirements until January 1, 2017, at which point they are required to use the motorcoach NO_x value from the appropriate table when utilizing the fleet averaging or BACT percent limits.

Section 2025(m)(1) (section 2025(l)(1) of the initially proposed regulation)

The word, “performance,” has been deleted to clarify that the reference is to all requirements of the section since the term “performance” is not used in the section.

Section 2025(m)(2) (section 2025(l)(2) of the initially proposed regulation)

Language has been added allowing vehicles in agricultural fleets that do not qualify as agricultural vehicles the option to comply using the percent limits option in section 2025(g) in addition to the BACT compliance schedule or the fleet averaging provisions.

Section 2025(m)(3) (section 2025(l)(3) of the initially proposed regulation)

Language has been added to clarify that agricultural fleet owners utilizing the agricultural vehicle provisions must report and maintain records on all vehicles subject to the regulation every year.

Section 2025(m)(6)(B) (section 2025(l)(6)(B) of the initially proposed regulation)

Language has been added to the limited-mileage replacement requirements to clarify that low-mileage vehicles may be replaced with any vehicle provided the requirements of section 2025(m)(7)(C) are met.

Section 2025(m)(6)(D) (section 2025(l)(6)(D) of the initially proposed regulation)

Because the definition of a limited-mileage agricultural vehicle includes low-mileage agricultural vehicles, language has been added to clarify that only the vehicles not meeting the definition of the low-mileage agricultural vehicle are subject to the requirements of this section.

Section 2025(m)(6)(E) (section 2025(l)(6)(F) of the initially proposed regulation)

The word, “performance,” has been deleted to clarify that the reference is to all requirements of the section since the term “performance” is not used in the section.

Section 2025(m)(7)(E) (section 2025(l)(7)(E) of the initially proposed regulation)

The word, “performance,” has been deleted to clarify that the reference is to all requirements of the section since the term “performance” is not used in the section.

Section 2025(m)(8)(A) (section 2025(l)(8)(A) of the initially proposed regulation)

The word, “performance,” has been deleted to clarify that the reference is to all requirements of the section since the term “performance” is not used in the section.

Section 2025(m)(8)(B)1 (section 2025(l)(8)(B)(1) of the initially proposed regulation)

Wording has been added to clarify that the limitation on specialty agricultural vehicles applies to the vehicles operating in the San Joaquin Valley.

New section 2025(m)(8)(C)

This new section clarifies the method to be used to select the limited number of specialty agricultural vehicles in California and the San Joaquin Valley in the event that the limits would be exceeded. The process assures that vehicles approved for the specialty vehicle exemptions are widely dispersed among eligible fleets.

Section 2025(m)(8)(D) (section 2025(l)(8)(C) of the initially proposed regulation)

Language has been added to clarify that vehicles not approved as specialty agricultural vehicles must meet the requirements of section 2025(e) and 2025(m) that apply to agricultural vehicles in general.

New section 2025(m)(8)(E)

This new section clarifies that fleet owners with vehicles that have been granted specialty agricultural vehicle status will keep that status should the vehicle be replaced

with another one meeting the same requirements.

Section 2025(m)(9)(A) (section 2025(l)(9)(A) of the initially proposed regulation)

Language has been modified to clarify the labeling requirements for agricultural vehicles.

Section 2025(m)(9)(A)1

Language has been added to specify that the type of lettering to be used to identify an agricultural vehicle must be block lettering.

Section 2025(m)(9)(A)2

Language has been added to ensure that the label must be in clear view at all times and not obstructed by any vehicle component.

Section 2025(n)(1) (section 2025(m)(1) of the initially proposed regulation)

Language has been added to clarify that the auxiliary engine in a two engine sweeper must meet PM BACT when the propulsion engine is required to meet PM BACT under section 2025(f), or when the propulsion engine is used to meet PM BACT, percent limit option 2025(g) or fleet averaging section 2025(h).

Section 2025(n)(2) (section 2025(m)(2) of the initially proposed regulation)

Clarifying language has been added to ensure that regardless of fleet size, Tier 0 engines, 50 horsepower or greater, would be limited to no more 450 hours of use per year instead of 250. The 50 horsepower criterion reflects the same horsepower range in the current portable engine regulation.

Section 2025(n)(3)(A) (section 2025(m)(3)(A) of the initially proposed regulation)

The labeling requirement to affix labels on the doors has been moved to a separate subparagraph 2. in the section.

Section 2025(n)(3)(A)1

Language has been added to specify that the type of lettering to be used to identify a two-engine sweeper must be block lettering. The color scheme was reversed to increase visibility.

New section 2025(n)(3)(A)2

This new subsection states where the labels need to be affixed and added the requirements that the label remain unobstructed.

Section 2025(o)(1) (section 2025(n)(1) of the initially proposed regulation)

Language referring to sections 2025(f), (g), and (h) have been deleted because they are redundant since section 2025(o)(1) refers to section 2025(e) which references the deleted sections.

New section 2025(o)(2)(C)

To reduce the reporting requirements on fleet owners a new subsection has been

added to give fleets the option of not having to report any 2007, 2008, or 2009 model year vehicles that are added in mid-year until the next reporting date. The option expires on January 1, 2017.

New section 2025(o)(2)(D)

This new section provides that fleet owners are also not required to report the addition of vehicles with 2010 or later model year engines until the next reporting date and that this provision has no expiration date. This was provided because 2010 model year engines meet NOx BACT and are expected to meet PM BACT.

Section 2025(p)(1) (section 2025(o)(1) of the initially proposed regulation)

The word, “performance,” has been deleted to clarify that the reference is to all requirements of the section since the term “performance” is not used in the section. Language has been added to make it clear that section (p) now includes all provisions regarding compliance extension relief for vehicles excused from having to meet the NOx BACT requirements for specified period of time. Specifically, reference has been made that motorcoaches are now covered in newly proposed subsection (D) and the section previously providing an extension for early action compliance, former section 2025(p)(7) has been moved to subsection (E) of this section.

Section 2025(p)(1)(A)

The section has been clarified by adding the term “emergency support vehicle” in place of the broader term “vehicle.”

New section 2025(p)(1)(D)

This new subsection adds motorcoaches to the list of vehicles that are exempt from the NOx requirements. It exempts motorcoaches until January 1, 2017.

New section 2025(p)(1)(E)

Former section 2025(7) has been moved to this subsection to group provisions that are exempt from the NOx BACT requirements.

Section 2025(p)(2) (section 2025(o)(2) of the initially proposed regulation)

The word, “performance,” has been deleted to clarify that the reference is to all requirements of the section since the term “performance” is not used in the section. Language has been added to clarify that vehicles that qualify for the Cab-Over-Engine exemption must still be included in the fleet for the purpose of calculating the fleet average or BACT percent limits if those options are used for meeting compliance.

Section 2025(p)(3) (section 2025(o)(3) of the initially proposed regulation)

The word, “performance,” has been deleted to clarify that the reference is to all requirements of the section since the term “performance” is not used in the section. Language has been added to clarify that vehicles that qualify for the Unique Vehicles exemption must still be included in the fleet for purposed of calculating the fleet average or BACT percent limits if those options are used for meeting compliance.

Section 2025(p)(4)(A), (B) and (C) (section 2025(o)(4) (A), (B) and (C) of the initially proposed regulation)

The word, “performance,” has been deleted to clarify that the reference is to all requirements of the section since the term “performance” is not used in the section.

Section 2025(p)(4)(D) (section 2025(o)(4) (D) of the initially proposed regulation)

This section was expanded and moved to section 2025(p)(5).

New section 2025(p)(5)

Language has been added to clarify that the three-day pass option expires on January 1, 2021 and that vehicles operating under this option do not have to meet the requirements of the regulation except for reporting. Language has also been added to state that permission must be obtained from the Executive Officer and that authorizing documentation must be kept in the vehicle while traveling in California.

Section 2025(p)(6) (section 2025(o)(5) of the initially proposed regulation)

The section has been clarified to broaden the exemption for vehicles awaiting sale to allow vehicles to be moved short distances for the purpose of storage as well as maintenance.

Section 2025(o)(7) of the initially proposed regulation

The former entire section of the compliance extension based on early action was moved to section 2025(p)(1)(E) to bring together in one place all the requirements for vehicles requesting exemptions from the NOx BACT requirements.

Section 2025(p)(8)(B) (section 2025(o)(8)(B) of the initially proposed regulation)

Language has been added to clarify that for the purpose of claiming double credits under the hybrid vehicle provision, the emissions factors used in calculating compliance with the percent limits or fleet averaging will be based on the engine model year of the hybrid vehicle or the emissions factor associated with the engine standard to which it is certified.

Section 2025(p)(10)(A) (section 2025(o)(10)(A) of the initially proposed regulation)

Language has been added to clarify that fleet owners that have purchased a VDECS or vehicle or have entered into a contract to purchase for either of the foregoing qualify for a manufacturer delay extension.

Section 2025(p)(10)(D) (section 2025(o)(10)(D) of the initially proposed regulation)

Language has been added to ensure that as soon as the new or retrofitted vehicle is available after being delayed that they are promptly put into service and that the replaced vehicles are removed from service within 30 days.

New section 2025(p)(10)(E)

Language has been added to require fleet owners to keep records of when it received a delayed delivery of a vehicle or VDECS and when a replaced vehicle has been removed from service.

Section 2025(p)(11) (section 2025(o)(11) of the initially proposed regulation)

The word, “performance,” has been deleted to clarify that the reference is to all requirements of the section since the term “performance” is not used in the section.

Section 2025(q)(3)(B) (section 2025(p)(3)(B) of the initially proposed regulation)

The word, “performance,” has been deleted to clarify that the reference is to all requirements of the section since the term “performance” is not used in the section.

Section 2025(q)(4)(A) (section 2025(p)(4)(A) of the initially proposed regulation)

Language was added to clarify that fleet owners may use experimental technology for the purposes of supporting the verification of a diesel emissions control strategy.

Section 2025(q)(4)(A)1

Language has been added to require vehicle engine and odometer readings to the application for use of experimental technology.

Section 2025(r) (section 2025(q) of the initially proposed regulation)

Section 2025(q) as initially proposed had an introductory paragraph, which has now been broken up into four new subsections (r)(1) through (4).

New section 2025(r)(1) New subsection (r)(1)

In addition to including part of the introductory paragraph of initially proposed section 2025(q), language has been added to this subsection to clarify that fleets utilizing the optional small fleet provision or the agricultural vehicle provision must include such information in their reports. While the requirements existed in the respective sections, these were added here from to provide a single location reporting requirements.

New Section 2025(r)(2)

In addition to including part of the introductory paragraph of initially proposed section 2025(q), language has been added to this subsection to clarify that fleets utilizing any of the exemptions, compliance extensions, or credits must include information regarding the entire fleet in their reports.

New Section 2025(q)(3)

This section has been created from section 2025(r). Language has been added to clarify that fleet owners who choose to comply using the BACT compliance schedule do not have to report the information required in this section.

New Section 2025(r)(4)

This section has been created from section 2025(r). Language has been added to ensure that all data submitted was done so on approved forms to ensure that the data submitted is consistent.

Section 2025(r)(5), (section 2025(q)(1) of the initially proposed regulation)

The word, “performance,” has been deleted to clarify that the reference is to all requirements of the section since the term “performance” is not used in the section.

Language has been modified to remove the first reporting date and instead refer to the applicable reporting date as set forth in the sections that describe the applicable provisions covered. Language has also been added to clarify that fleet owners need not report which compliance option they will use to comply. Submission of the engine model years and exemption usage will determine which compliance option satisfies the requirements.

New section 2025(r)(7)(M)

A new subsection has been added to require fleets to include, if applicable, any license number issued by the Public Utilities Commission in their reporting.

Section 2025(r)(8) (section 2025(q)(4) of the initially proposed regulation)

As set forth below, several new subsections have been added to this section as well as modifications to subsections that were initially proposed.

New section 2025(r)(8)(B)

Language has been added requiring fleet owners to report any school buses, motorcoaches, truck-tractors, shuttle vehicles, two engine sweepers, or yard trucks to ensure sufficient information is available to determine compliance and report requirements, in their fleet.

New section 2025(r)(8)(C)

A new subsection (C) has been added to newly renumbered section 2025(q)(8) requiring fleet owners to report the date any vehicle was added, first reported or retired.

Section 2025(r)(8)(G) (section 2025(q)(4)(E) of the initially proposed regulation)

Language has been removed to clarify that fleet owners must report the vehicle's gross vehicle weight rating without consideration of how the vehicles are defined.

New section 2025(r)(8)(K)3

A new subsection has been added to clarify that fleet owners must report whether a vehicle has PTO to perform work in stationary mode.

Section 2025(r)(8)(L)

Language has been added to clarify that the information reported is for emergency support vehicles and not emergency vehicles since a definition exist for emergency support vehicles.

New section 2025(r)(8)(P)

This section has been added to require that fleet owners report the type of fuel used in the vehicle.

Section 2025(r)(9) (section 2025(q)(5) of the initially proposed regulation)

As set forth below, several new subsections have been added to this section as well as modifications to subsections that were initially proposed. Language has been added to the introductory paragraph to section 2025(r)(9) to clarify that information regarding

auxiliary engines in sweepers must be reported. Additional engine information requirements are being added to clarify the emissions category the engine.

New section 2025(r)(9)(F)

A new subsection has been added to require information about whether the engine meets the on-road or off-road standards.

New section 2025(r)(9)(G) A new subsection has been added requiring fleet owners to report information as to whether the engine is used to power the vehicle or operate auxiliary equipment .

New section 2025(r)(9)(H)

A new subsection has been added requiring fleet owners to report the standard to which the engine was certified if lower than the certification standard for the engine model year.

Section 2025(r)(10)(D) (section 2025(q)(6)(D) of the initially proposed regulation) Language has been added to require reporting of a VDECS's experimental part number or aftermarket part number in case no serial number is available.

New section 2025(r)(13)

This new section delineates the reporting requirements for fleet owners utilizing the retirement credits provision. It states that information must be reported for all vehicles in the fleet as of July 1, 2008 instead of January 1, 2009.

New section 2025(r)(14)

This section has been relocated here from former section 2025(j)(9)(B).

Section 2025(r)(15) (section 2025(q)(9) of the initially proposed regulation)

The first reporting date has been changed from 2009 to 2010 to correct an error. In addition the initial reporting date was moved from January 1, 2010 to March 31, 2010 to allow more time for public outreach.

New section 2025(r)(15)(C)

A new subsection has been added to require fleet owners to report which of the three types of agricultural vehicles is being reported, low-mileage, limited-mileage, or specialty agricultural vehicle.

New section 2025(r)(15)(D)

A new subsection has been added to require fleet owners to report whether the vehicle is being added or deleted from the fleet.

Section 2025(r)(15)(E) (section 2025(q)(9)(C) of the initially proposed regulation)

Language has been added requiring fleet owners reporting information about specialty agricultural vehicles to identify which of the body types listed in section 2025(d)(69) is being reported.

New section 2025(r)(15)(F)

A new subsection has been added to require fleet owners to prioritize the order in which vehicles should be chosen should the vehicles be awarded specialty vehicle status.

New section 2025(r)(15)(G)

A new subsection has been added requiring fleet owners to state if the specialty vehicle will operate exclusively outside of the San Joaquin Valley.

New section 2025(r)(15)(H)

A new subsection has been added requiring fleet owners to identify vehicles that are operated for compensation outside a farming business's farm.

Section 2025(r)(15)(I) (section 2025(q)(9)(D) of the initially proposed regulation)

Language has been modified to move the date the first odometer reading is required from 2011 to 2010. Limited and low-mileage agricultural vehicles must demonstrate that they have remained below the thresholds by January 1, 2011. As a result, odometer readings need to begin in 2010.

Section 2025(r)(16)(B) (section 2025(q)(10)(B) of the initially proposed regulation)

Language has been added to remove the requirements to have hour meters and reporting hours of use for vehicles used exclusively for emergency operations.

Section 2025(r)(16)(C) (section 2025(q)(10)(C) of the initially proposed regulation)

Language has been modified to clarify that the record keeping requirement for vehicles used to aid in emergency operations include documentation of being dispatched by a local, state, or federal agency or another entity approved by the Executive Officer.

Section 2025(r)(17)(A) (section 2025(q)(11)(A) of the initially proposed regulation)

The initial reporting date for fleet owners utilizing the early action provision has been changed from January 1, 2010 to March 31, 2010 to be consistent with all other dates in which reporting is required prior to the first compliance date of January 31, 2011 to provide more time for outreach.

Section 2025(r)(17)(B) (section 2025(q)(11)(B) of the initially proposed regulation)

The reporting dates for fleet owners reporting NOx mileage exempt vehicles has been changed from January 31, 2010 to January 31 of each compliance year recognizing the status could change at any time. The date was changed to clarify that fleets could utilize the NOx exemptions in later years without starting on the first compliance date.

Section 2025(r)(17)(B)2

Language has been added to clarify which NOx exempt vehicles need to report both mileage and hour meter readings and which ones only need to report mileage.

Section 2025(r)(17)(C) (section 2025(q)(11)(C) of the initially proposed regulation)

The initial reporting date for fleet owners reporting vehicles operating exclusively in NOx-exempt area has been changed from January 31, 2010 to January 31 of each

compliance year to recognize the status could change in any year. As in section 2025(r)(17)(B), the date was changed to clarify that fleets could utilize the NOx exemptions in later years without starting on the first compliance date.

Section 2025(r)(17)(C)2

The word, “performance,” has been deleted to clarify that the reference is to all requirements of the section since the term “performance” is not used in the section. Language has been added to make it clear that the tracking system must be electronic and that the Executive Officer could approve alternative methods meet the same requirements.

New section 2025(r)(17)(D)

This new section delineates the reporting requirements for fleet owners utilizing the provisions for unique vehicles. It includes owner, vehicle, and engine information in addition to photos and a complete description of the vehicle. It also requires a complete explanation of why the vehicle qualifies as a unique vehicle, the name and phone numbers of the sources contacted in an attempt to find a replacement vehicle. Letters from VDECS vendors stating that retrofit technology is unavailable is also required.

New section 2025(r)(17)(E)

This new section delineates the reporting requirements for two engine sweepers. It includes reporting the readings from the auxiliary engine hour-meter every year for each compliance year for all Tier 0 engines and for any auxiliary engine if claiming less than 100 hours of operation.

New section 2025(r)(21)

This new section delineates the reporting requirements for fleet owners utilizing the provision for compliance extension for manufacturer’s delays. It includes reporting the dates contracts were entered into, dates devices or vehicles are placed into service and dates replaced vehicles are removed from service.

New section 2025(s)(4)

This section has been relocated here from former section 2025(j)(10) because it involves record keeping.

New section 2025(s)(6)

This new section requires fleets that demonstrate compliance under either the BACT percent limits or the fleet averaging option to keep records showing that affected vehicles operated in California.

New section 2025(s)(7)

This new section outlines the record keeping requirements associated with the provisions for retirement credits. It requires copies of the retired vehicle’s registration, ownership documents, and a copy of the bill of sale. It also requires all documents to be kept related to a change in business form such as changing from a partnership to a

corporation.

Section 2025(z) (section 2025(y) of the initially proposed regulation)

The word, “performance,” has been deleted to clarify that the reference is to all requirements of the section since the term “performance” is not used in the referred section.

Summary of Proposed Modifications made to Attachment 2

Section 2022.1(d)(8)

Language has been modified to reference the definitions of 2010 model year NOx emissions equivalent and 2007 model year NOx emissions equivalent found in section 2025(d).

Section 93116

Correct the regulatory reference from title 13 to title 17, California Code of Regulations.

Section 2027(c)(15)

The definition of “Drayage Truck” has been by modified to be consistent with the definition of “Heavy-Duty” by adding language that changes the definition from a vehicle with a GVWR of 33,000 pounds or more to a vehicle with a GVWR greater than 33,000 pounds.

Comments and Subsequent Action: In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adoption sections 2025, 1956.8, 2020, 2022, 2022.1, 2027, 2449, 2456, 2479, 2485 of title 13 and section 93116 of title 17 of the CCR, after making the modified text available to the public for comment for a period of at least 15 days. The Board conditioned this directive with the instruction that the Executive Officer consider the written comments regarding the modified text that may be submitted during this period, make modifications as may be appropriate in light of the comments received, and present the regulations to the Board for further consideration if warranted.

Written comments will only be accepted on the modifications approved by the Board and may be submitted by postal mail or electronic mail submittal as follows:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

In order to be considered by the Executive Officer, comments must be directed to ARB in one or two forms described above and received by ARB by 5:00 p.m. on the deadline date for public comment listed at the beginning of this notice. Only comments relating to the above-described modifications to the text of the regulations shall be considered by the Executive Officer.

Attachments (2)