

FINAL REGULATION ORDER

DIESEL PARTICULATE MATTER CONTROL MEASURE FOR ON-ROAD HEAVY-DUTY DIESEL-FUELED VEHICLES OWNED OR OPERATED BY PUBLIC AGENCIES AND UTILITIES

Note: Amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions, compared to the preexisting regulatory language.

Amend section 2020, 2022, and 2022.1, title 13, California code of Regulations to read as follows.

§ 2020. Purpose and Definitions of Diesel Particulate Matter Control Measures.

- (a) Purpose. Diesel particulate matter was identified in 1998 as a toxic air contaminant. According to California law, an airborne toxic control measure using the best available control technology shall, therefore, be employed to reduce the public's exposure to diesel particulate matter.
- (b) Definitions. For the purposes of the rules specified in article 4, the following definitions apply:

"Alternative fuel" means natural gas, propane, ethanol, methanol, gasoline (when used in hybrid electric buses only), hydrogen, electricity, fuel cells, or advanced technologies that do not rely on diesel fuel. "Alternative fuel" also means any of these fuels used in combination with each other or in combination with other non-diesel fuels.

"Commercially available" means available for purchase and installation at a reasonable cost.

"Heavy-duty pilot ignition engine" means an engine designed to operate using an alternative fuel, except that diesel fuel is used for pilot ignition at an average ratio of no more than one part diesel fuel to ten parts total fuel on an energy equivalent basis. An engine that can operate or idle solely on diesel fuel at any time does not meet this definition.

"Level" means one of three categories of Air Resources Board-verified diesel emission control strategies: Level 1 means the strategy reduces engine diesel particulate matter emissions by between 25 and 49 percent, Level 2 means the strategy reduces engine diesel particulate matter emissions by between 50 and 84 percent, and Level 3 means the strategy reduces engine diesel particulate matter emissions by 85 percent or greater, or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter per brake horsepower-hour.

"Municipality" means a city, county, city and county, special district, or a public agency of the United States of America or the State of California, and any department, division, public corporation, or public agency of this State ~~or of the~~

~~United States, or two or more entities acting jointly, or the duly constituted body of an Indian reservation or rancheria.~~

“Owner” means the same as in title 13, California Code of Regulations, section 2180.1(a)(245).

“Transit agency” means a public entity responsible for administering and managing transit services. Public transit agencies can directly operate transit service or contract out for all or part of the total transit service provided.

“Terminal” means any place or places where a vehicle is regularly garaged or maintained, or from which it is operated or dispatched, which may include a private business or residence.

“Verified” means that a diesel emission control strategy or system has received approval from the Executive Officer according to the “Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines” in title 13, California Code of Regulations, commencing with section 2700, and incorporated by reference.

“Warranty Period” means the same as in title 13, California Code of Regulations, section 2707.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code.

Reference: Sections 39002, 39003, 39650 - 39675, 43000, 43013, 43018, 43101, 43102, 43104, 43105 and 43700, Health and Safety Code.

§ 2022. Diesel Particulate Matter Control Measure for Municipality or Utility On-Road Heavy-duty Diesel-Fueled Vehicles.

- (a) Scope and Applicability. Sections 2022 and 2022.1 apply to any municipality or utility that owns, leases, or operates an on-road diesel-fueled heavy-duty vehicle with either a 1960 to 2006 model-year medium heavy-duty or heavy heavy-duty engine or a 2007 model-year or newer engine certified to greater than 0.01 grams per brake horsepower-hour particulate emission standard and manufacturer’s gross vehicle weight rating greater than 14,000 pounds. These sections do not apply to a vehicle subject to the solid waste collection vehicle rule commencing with title 13, California Code of Regulations, section 2021 or to the fleet rule for transit agencies commencing with section 2023, or to a school bus as defined in Vehicle Code section 545, or to a military tactical support vehicle, as described in title 13, California Code of Regulations, section 1905, or to an emergency vehicle as described in California Vehicle Code, section 27156.2, or to an off-road vehicle as described in title 13, California Code of Regulations, sections 2401, 2421, 2411 and 2432.
- (b) Definitions. The definitions in section 2020 shall apply to sections 2022, and 2022.1. In addition, the following definitions apply only to sections 2022, and 2022.1.

(1) "Dedicated Snow Removal Vehicle" means a vehicle that has permanently affixed snow removal equipment such as a snow blower or auger and is operated exclusively to perform snow removal operations.

(2) "Dual Engine Street Sweeper" means an on-road heavy-duty vehicle, over 14,000 pounds gross vehicle weight rating, that is used for the express purpose of removing material from road surfaces, by mechanical means through the action of one or more brooms, or by suction through a vacuum or regenerative air system or any combination of the above. A dual engine street sweeper has an engine to propel the vehicle and an auxiliary engine to power the broom or vacuum.

(3) "Lease" means to operate a vehicle that is owned by a rental or leasing company for a period of one year or more.

~~(2)~~(4) "Low-Population County" means a county with a population of less than 125,000, based upon the California Department of Finance estimates as of July 1, 2005, and as listed in Table 2 of title 13, California Code of Regulations section 2022.1.

~~(3)~~(5) "Low Usage Vehicle" means a vehicle that is operated for fewer than 1000 miles or 50 hours per year, based on a 5 year rolling mileage or engine-hour average. A vehicle that does not have a properly functioning odometer, tachograph, or other reliable device to measure usage may not qualify as a low usage vehicle.

~~(4)~~(6) "Low-Population County Low Usage Vehicle" means a vehicle that is owned or operated by a municipality or utility located in a low-population county and is operated, based on a 5 year rolling mileage or engine hour average for fewer than 3000 miles or 150 hours, excluding mileage or engine hours used during snow removal operations. A vehicle that does not have a properly functioning odometer, tachograph, or other reliable device to measure usage may not qualify as a low-population county low usage vehicle.

(7) "Operate" means to use or manage a vehicle by a municipal or utility employee for the purposes of conducting work by or for the municipality or utility. This does not include personal vehicle use for commuting to or from the workplace.

~~(5)~~(8) "Retirement" or "Retire" means the withdrawal of an engine or vehicle subject to this rule from a municipality or utility fleet in California; the engine may be sold outside the State of California, scrapped, converted for use in a low usage vehicle or low-population county low usage vehicle. "Retirement" or "retire" also means the transfer of an engine or vehicle, which is subject to this rule and has been brought into compliance with title 13, California Code of Regulations, section 2022.1(b), from a municipality or utility fleet in California to another person or entity in California. In addition, "retirement" means the sale of a dual engine street sweeper with a model year engine of 2004, 2005, or 2006 in the State of California to a buyer who must comply with title 13, California Code of Regulations, section 2025.

(9) "Sold Outside of the State of California" means a sale of a vehicle for operation outside the State of California to satisfy the definition of "retirement" in section

2022(b)(8). A municipality or utility must submit a completed “VIN stop” application, as defined in title 13, California Code of Regulations, section 2022(b)(10), to the Executive Officer prior to sale of the vehicle. ARB will obtain VIN Stop from Department of Motor Vehicles. A municipality or utility must also follow the record-keeping requirements as defined in title 13, California Code of Regulations, section 2022(f)(1)(K). If a municipality or utility is selling a vehicle through a Third Party Vehicle Seller, it must include Third Party Vehicle Seller contract language as defined in title 13, California Code of Regulations, section 2022(h).

(10) “Third Party Vehicle Seller” means a person that a municipality or utility uses to sell a vehicle outside of the State of California.

~~(6)~~(11) “Total Fleet” means the total of a municipality’s or utility’s on-road heavy-duty vehicles with a 1960 to 2006 model-year medium heavy-duty or heavy heavy-duty engine and a manufacturer’s gross vehicle weight rating greater than 14,000 pounds, excluding low usage vehicles; low-population county, low usage vehicles; dedicated snow-removal vehicles; and gasoline fueled vehicles.¹ As of January 1, 2009, “Total Fleet” means the total of a municipality’s or utility’s on-road heavy-duty vehicles with a manufacturer’s gross vehicle weight rating greater than 14,000 pounds with a 1960 to 2006 model-year heavy-duty engine or with a 2007 model-year or newer heavy-duty engine certified to greater than 0.01 grams per brake horsepower-hour particulate emission standard, excluding low usage vehicles; low-population county, low usage vehicles; dedicated snow-removal vehicles; and gasoline fueled vehicles.

~~(7)~~(12) “Utility” means a privately-owned company that provides the same or similar services for water, natural gas, and electricity as a public utility operated by a municipality.

~~(8)~~(13) “Vehicle Type” means one of the following categories: “Compliant” for those vehicles that meet the requirements of section 2022.1(b); “Future Compliant” for those vehicles for which the municipality or utility has a planned compliance date; “Retired” for those vehicles that will meet the definition of “retirement” at a planned retirement date; “Low Usage or Low-Population County Low Usage” for those vehicles that meet the applicable definitions in this section; and “Experimental” for those vehicles that are part of an experimental program and comply with the provisions of section 2022.1(d)(5).

(14) “VIN stop” means a Department of Motor Vehicle’s registration hold based on a vehicle identification number to prevent a vehicle from being re-registered in California after a vehicle is “retired.”

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 39655, 39656, 39657, 39658, 39659, 39660, 39661, 39662, 39664, 39665, 39667, 39669, 39674, 39675, 43000, 43013, 43018, 43101, 43102, 43104, 43105, and 43700, Health and Safety Code.

¹ Gasoline vehicles that do not meet the best available control technology (BACT) requirements specified in title 13, California Code of Regulations, section 2022.1(b)(3) are excluded from the total fleet calculation.

§ 2022.1. Determining Compliance for a Municipality or Utility.

- (a) Compliance Requirements. Beginning with the applicable effective dates, a municipality or utility is required to comply with this diesel particulate matter control measure for each vehicle in its total fleet. Compliance requires all of the following:
- (1) Use of a best available control technology for each vehicle in the total fleet as specified in subsection (b);
 - (2) Implementation for each vehicle in the total fleet as specified in subsection (c);
 - (3) If a compliance deadline extension is granted by the Executive Officer per subsection (d), the municipality or utility shall be deemed to be in compliance as specified by the Executive Officer's authorization;
 - (4) Special circumstances must be followed as specified in subsection (e);
 - (5) Records must be kept as specified in subsection (f); and
 - (6) Continuous compliance: municipality or utility is required to keep each vehicle in compliance with this regulation, once it is in compliance, so long as the municipality or utility is operating the vehicle in California.
- (b) Best Available Control Technology. Each municipality or utility shall use one of the following best available control technologies on each applicable vehicle in its total fleet as required by the implementation schedule in subsection (c):
- (1) An engine or power system certified to the optional 0.01 grams per brake horsepower-hour (g/bhp-hr) particulate emission standard as specified in title 13, California Code of Regulations, section 1956.8(a)(2), or the 0.01 g/bhp-hr particulate emission standard as specified in title 13, California Code of Regulations, section 1956.8(a), as appropriate for the engine's model-year; or
 - (2) An engine or power system certified to the 0.10 g/bhp-hr particulate emission standard, as specified in title 13, California Code of Regulations, section 1956.8, used in conjunction with the highest level diesel emission control strategy as defined in subsection (b)(4) applied by the implementation schedule in subsection (c); or
 - (3) An alternative fuel engine, heavy-duty pilot ignition engine, or gasoline engine; model-year 2004-2006 alternative fuel engines must be certified to the optional, reduced emission standards as specified in title 13, California Code of Regulations, section 1956.8 (a)(2)(A); gasoline engines must be certified to the emission standards as specified in title 13, California Code of Regulations, for heavy-duty Otto-cycle engines used in heavy-duty vehicles over 14,000 pounds gross vehicle weight, sections 1956.8(c)(1)(B) and 1976(b)(1)(F); or

- (4) The highest level diesel emission control strategy per title 13, California Code of Regulations, section 2702 (f), Table 1, that is verified for a specific engine to reduce diesel particulate matter and which the diesel-emission-control strategy manufacturer or authorized dealer agrees can be used on a specific engine and fleet-vehicle combination, without jeopardizing the original engine warranty in effect at the time of application.

(c) Implementation Schedule.

- (1) A municipality or utility shall comply with the schedule in Table 1 - Implementation Schedule for a Municipal and Utility Total Fleet Vehicle, 1960 ~~to 2006~~ and newer Model-Year Engines for the specified percentage of vehicles by each applicable compliance deadline.

Table 1 - Implementation Schedule for a Municipal and Utility Total Fleet Vehicle, 1960 ~~to 2006~~ and newer Model-Year Engines.

<i>Group</i>	<i>Engine Model-Years</i>	<i>Percentage of Group to Use Best Available Control Technology</i>	<i>Compliance Deadline, As of December 31</i>
1 ^a	1960 – 1987	20	2007
		60	2009
		100	2011
2	1988 – 2002	20	2007
		60	2009
		100	2011
3	2003 – 2006 (Includes dual-fuel and bi-fuel engines)	50	2009
		100	2010
<u>4</u>	<u>2007 and newer certified above the 0.01g/bhp-hr std.</u>	<u>100</u>	<u>2012</u>

^a An owner may not use Level 1 technology, as classified pursuant to title 13, California Code of Regulations section 2700, as best available control technology on a Group 1 engine or vehicle.

- (2) Municipality or Utility Located in a Low-Population County. A municipality or utility that is headquartered in a county in Table 2 may elect to follow the option in Table 3 below in lieu of the implementation schedule in Table 1.

Table 2 - Low-Population Counties

<i>COUNTY</i>	<i>Population as of July 1, 2005</i>
ALPINE	1,300
AMADOR	37,600
CALAVERAS	47,800
COLUSA	24,200
DEL NORTE	31,500
GLENN	31,800
INYO	18,800
LAKE	69,200
LASSEN	39,800
MARIPOSA	19,600
MENDOCINO	95,500
MODOC	10,100
MONO	14,200
NEVADA	106,300
PLUMAS	21,900
SAN BENITO	63,600
SIERRA	3,700
SISKIYOU	47,200
SUTTER	90,400
TEHAMA	63,400
TRINITY	13,800
TUOLUMNE	62,200
YUBA	66,000

Table 3 - Implementation Schedule for a Municipality or Utility Located in a Low-Population County or Granted Low-Population County Status

<i>Group</i>	<i>Engine Model-Years</i>	<i>Percentage of Group to Use Best Available Control Technology</i>	<i>Compliance Deadline, as of December 31</i>
1	1960 – 1987	20	2009
		40	2011
		60	2013
		80	2015
		100	2017
2	1988 – 2002	20	2008
		40	2010
		60	2012
		80	2014
		100	2016
3	2003 – 2006 (Includes dual-fuel and bi-fuel engines)	20	2011
		40	2012
		60	2013
		80	2014
		100	2015
4	<u>2007 and newer certified above the 0.01g/bhp-hr std.</u>	<u>20</u>	<u>2012</u>
		<u>40</u>	<u>2013</u>
		<u>60</u>	<u>2014</u>
		<u>80</u>	<u>2015</u>
		<u>100</u>	<u>2016</u>

- (3) *Accelerated Turnover Option for Municipality or Utility Located in a Low-Population County.* A municipality or utility headquartered in a county listed in Table 2 may elect to follow the option in Table 4 below in lieu of the implementation schedules in Table 1 or 3.

Table 4 - Accelerated Turnover Option for a Municipality or Utility Located in a Low-Population County

<i>Engine Model-Year</i>	<i>Fleet Percent to Repower with a 1994 or newer engine</i>	<i>Compliance Date as of Dec 31</i>	<i>Percent of Fleet to use BACT</i>	<i>Compliance Date as of Dec 31</i>
1960 – 1993	100%	2020	100%	2025
<u>1994 – 2006 and newer</u>	N/A	N/A	100%	2025

- (4) A municipality or utility not specifically listed in Table 2 may apply to the Executive Officer for consideration as a fleet located in a designated “low-population county.” The Executive Officer shall issue that designation provided that all of the following criteria are met:
- (A) The total fleet is located in a "nonurbanized area," a "rural and small urban area," or any area outside of an urbanized area, as designated by the U.S. Bureau of the Census. An urbanized area consists of a core area and the surrounding densely populated area with a total population of 50,000 or more, with boundaries fixed by the Bureau of the Census or extended by state and local officials; or
 - (B) The fleet is located in a county that, as of July 1, 2005, has a population of less than 325,000 and meets the definition of a low-population county when the population of one or more cities that have their own municipal vehicle fleet are subtracted from the county population, and the fleet does not operate within those cities’ boundaries; and
 - (C) The fleet revenue is not based on special district assessments or fees.
- (5) Calculating Number of Total Fleet Vehicles Required for Implementation.
- (A) As of January 1 of each year where a compliance deadline is applicable, a municipality or utility shall calculate, for each engine model-year group, the number of vehicles in its total fleet for which compliance will be required. This fleet size by engine model-year group ($\#MUV_{by\ group}$)² must be calculated using the following equation:

$$\#MUV_{by\ group} = \# Vehicles_{by\ group} + TotRetire_{by\ group}$$

Where:

$\#Vehicles_{by\ group}$ = the number of vehicles in an engine model-year group subject to the rule, and

$TotRetire_{by\ group}$ = the number of vehicles removed from the model-year group by retirement in prior years, beginning with January 1 of the initial applicable compliance deadline year for each group.

If a vehicle has left the total fleet for reasons other than retirement, it must not be included in the calculation of $\#MUV_{by\ group}$.

- (B) The municipality or utility shall use the following equation to determine the total number of vehicles in an engine model-year group that are

² “bBy group” means all vehicles in an engine model-year group as described in Table 1 under (c)(1).

required to be in compliance by the deadline in Table 1
($TotVeh_{by\ group}$):

$$TotVeh_{by\ group} = Group\%BACT_{by\ group} \times \#MUV_{by\ group}$$

Where:

$Group\%BACT_{by\ group}$ = the percentage of vehicles in an engine model-year group that must meet BACT requirements for a given year as specified in subsection (c), and

$\#MUV_{by\ group}$ = the total fleet size by engine model-year group as defined in paragraph (5)(A) above

(C) After the first compliance deadline for each group, the municipality or utility shall determine the number of additional vehicles in each model-year group to be brought into compliance each year that a compliance deadline is applicable ($TotAddComp_{by\ group}$). The following equation must be used to calculate $TotAddComp_{by\ group}$:

$$TotAddComp_{by\ group} = TotVeh_{by\ group} - TotBACT_{by\ group} - TotRetire_{by\ group}$$

Where:

$TotVeh_{by\ group}$ = the total number of vehicles in an engine model-year group required to be in compliance, as defined in paragraph (5)(B) above,

$TotBact_{by\ group}$ = the number of vehicles in an engine model-year group that have been brought into compliance since the earliest compliance deadline using the method listed in subsection (b), and

$TotRetire_{by\ group}$ = the number of vehicles retired in prior years as defined in paragraph (5)(A) above

If a vehicle has left the total fleet for reasons other than retirement, it must not be included in the calculation of $TotAddComp_{by\ group}$.

(D) Notwithstanding subsection (C) above, in the 100 percent compliance deadline year for each engine model-year group, the municipality or utility shall bring the remaining vehicles into compliance.

(E) If the $TotVeh_{by\ group}$ or $TotAddComp_{by\ group}$ is not equal to a whole number, the municipality or utility shall round up a whole number when the fractional part of $TotAddComp_{by\ group}$ is equal to or greater than 0.5, and round down if less than 0.5.

(d) Compliance Extensions. A municipality or utility may be granted an extension to a compliance deadline specified in subsection (c) for one of the following reasons:

- (1) Compliance Extension Based on Early Implementation. A municipality or utility may be granted an extension based on compliance with one or more of the following early implementation schedules, provided the Executive Officer has received a letter by the applicable early compliance deadline stating the municipality's or utility's intent to comply with one of the following conditions and meets the requirements set forth in paragraphs (A), (B), (C) or (D).
 - (A) If a municipality or utility has implemented best available control technology on fifty percent or more of its Group 1 vehicles in its total fleet by December 31, 2007, then the municipality or utility may delay the intermediate and final compliance deadlines for the remaining Group 1 vehicles to July 1, 2012.
 - (B) If a municipality or utility has implemented best available control technology on fifty percent or more of its Group 2 vehicles in its total fleet by December 31, 2007, then the municipality or utility may delay the intermediate and final compliance deadlines for the remaining Group 2 vehicles to July 1, 2012.
 - (C) If a municipality or utility has implemented BACT on 100 percent of its Group 1 and Group 2 engines by December 31, 2008, then the municipality or utility may follow the alternate implementation schedule for its Group 3 engines of 20 percent BACT by December 31, 2009, 60 percent BACT by December 31, 2011 and 100 percent BACT by December 31, 2012.
 - (D) If a municipality or utility employs significant quantities of advanced technology vehicles (for example, hybrid electric vehicles) to meet BACT requirements, then the municipality or utility may apply to the Executive Officer for approval of a longer implementation schedule for its Group 2 and Group 3 vehicles, or approval of credits to be used towards BACT compliance. The longer implementation schedule must be proportionate to the additional emissions benefits from the use of the advanced technology vehicles, and BACT credits cannot exceed the additional emissions benefits. The advanced technology vehicles must meet or exceed MY 2007 and later emissions standards and significantly reduce greenhouse gas emissions and petroleum use.
- (2) Compliance Extension Based on No Verified Diesel Emission Control Strategy. If the Executive Officer has not verified a diesel emission control strategy, or one is not commercially available, for a particular engine and vehicle combination, an annual extension in compliance may be granted by the Executive Officer under one of the conditions specified below:
 - (A) Executive Officer Compliance Extension. The Executive Officer shall grant a blanket one-year compliance extension if a diesel emission

control strategy is not verified for an engine ten months prior to each compliance deadline specified in subsection (c).

1. For a Group 1 engine for which there is no verified diesel emission control strategy, the Executive Officer shall grant a one-year extension, after which the municipality or utility shall comply with subsection (b). If no diesel emission control strategy for the engine is verified during the extension period, the Executive Officer shall grant an additional one year extension. The Executive Officer may grant one-year extensions until December 31, 2012, (or December 31, 2018 for a municipality or utility located in a low-population county, or granted low-population county status), after which the municipality or utility shall comply with subsection (b).
2. For a Group 2 engine for which there is no verified diesel emission control strategy, the Executive Officer shall grant a one-year extension, after which the municipality or utility shall comply with subsection (b). If no diesel emission control strategy for the engine is verified during the extension period, the Executive Officer shall grant an additional one-year extension. The Executive Officer may grant one-year extensions until December 31, 2012, (or December 31, 2017 for a municipality or utility located in a low-population county), after which the municipality or utility shall comply with subsection (b)

(B) Municipality or Utility Application for Compliance Extension. A municipality or utility may apply to the Executive Officer for a compliance extension pursuant to subsection (d) for an engine no later than July 31 prior to each compliance deadline specified in subsection (c). Before requesting this extension, the municipality or utility shall demonstrate compliance or intent to comply with applicable deadlines for the remaining vehicles in the fleet. The municipality or utility shall meet the following application conditions and documentation requirements by providing the following to the Executive Officer:

1. Identification of each engine, by vehicle identification number; engine manufacturer, model-year, family, and series; and type of vehicle for which no diesel emission control strategy has been verified; or
2. Identification of each engine, by vehicle identification number; engine manufacturer, model-year, family, and series; and type of vehicle for which a specific diesel emission control strategy would void the original engine warranty and a statement from the engine manufacturer or authorized dealer stating the original engine warranty would be voided; or

3. Identification of each engine and vehicle combination, by vehicle identification number; engine manufacturer, model-year, family, and series; and type of vehicle for which no diesel emission control strategy is commercially available and a list of manufacturers that have been contacted, with the manufacturers' responses to a request to purchase; and
 4. A description of the reason for the request for a compliance extension for each engine or engine and fleet-vehicle combination; and
 5. A copy of the statement of compliance as required in subsection (f)(1)(K); and
 6. The application for compliance extension to be submitted to the Executive Officer no later than July 31 annually beginning 2007.
 - a. A municipality or utility. For a Group 1 engine, the Executive Officer will accept an annual compliance-extension application until July 31, 2011, after which the municipality or utility shall comply with subsection (b) by December 31, 2012. The Executive Officer will only grant one compliance extension for an engine in Group 1. For a Group 2 engine, the Executive Officer will accept an annual compliance extension application until July 31, 2011, after which the municipality or utility shall comply with subsection (b) by December 31, 2012.
 - b. A municipality or utility either located in a low-population county, or granted low-population county status. For a Group 1 engine, the Executive Officer will accept an annual compliance extension application until July 31, 2017, after which the municipality or utility shall comply with subsection (b) by December 31, 2018. The Executive Officer will only grant one compliance extension for an engine in Group 1. For a Group 2 engine, the Executive Officer will accept an annual compliance extension application until July 31, 2016, after which the municipality or utility shall comply with subsection (b) by December 31, 2017.
- (3) Compliance Extension for a Municipality or Utility that Operates a Dual-Fuel or Bi-Fuel Engine. A municipality or utility may delay implementation of a Group 1 or 2 dual-fuel or bi-fuel engine to the Group 3 compliance deadlines.
- (4) Compliance Extension for an Engine Near Retirement. If a municipality or utility has applied best available control technology to all engines as required, and the next engine subject to implementation under subsection (c) is scheduled to be retired from the total fleet within one year

of the applicable compliance deadline, then the municipality or utility shall be exempted from applying the best available control technology as defined in subsection (b) to that engine for a maximum of one year, provided documentation of the expected retirement date is kept in records as specified in subsection (f) and the engine is retired by the stated anticipated date.

- (5) Use of Experimental Diesel Emission Control Strategy. A municipality or utility may use an experimental diesel emission control strategy provided by, or operated by, the manufacturer in no more than 20 vehicles, or ten percent of its total fleet, whichever is less, for testing and evaluation purposes. The municipality or utility shall keep documentation of this use in records as specified in subsection (f). Each vehicle will be considered to be in compliance for the duration of the experiment to a maximum of two years. The municipality or utility must bring the vehicle into compliance within six months of the end of the testing and evaluation period. No experimental diesel emission control strategy may be used on a vehicle after December 31, 2012.
- (6) Accelerated Turnover Option. A municipality or utility either located in a low-population county or granted low-population county status may follow the accelerated turnover option provided in subsection (c)(3), provided the Executive Officer has received a letter by July 31, 2008, stating the municipality's or utility's intent to comply with this option.
- (7) Light Heavy-Duty Engine Extension. A municipality or utility may apply for a one year extension from the 2009 compliance deadline for light heavy-duty engines if after counting light heavy-duty engines as a part of the total fleet prevents the fleet from complying with the 2009 intermediate BACT compliance requirements in section 2022.1(c)(1). A municipality or utility must:
 - (A) Submit a letter to the Executive Officer by December 31, 2009 requesting the light heavy-duty engine extension;
 - (B) Submit documentation to demonstrate it cannot comply with the 2009 intermediate BACT compliance requirements in section 2022(c)(1) after adding light heavy-duty engines as a part of the total fleet size. Documentation shall include, but is not limited to, proof of financial hardship, budgeting schedules, etc. Documentation of financial hardship shall include an analysis of cost of compliance, sources of available funds and shortfall between funds available and cost of compliance; and
 - (C) Meet the record-keeping requirements under section 2022.1(f).

(8) Privately-Owned Utility Extension. A utility may be granted an extension for Group 2 and Group 3 intermediate and final compliance deadlines as required in section 2022.1(c)(1) by two years, provided that thirty (30) percent of its fleet vehicles meet the 2010 model year NOx emissions equivalent as defined in section 2025(d), and twenty (20) percent of its fleet vehicles meet the 2007 model year NOx emissions equivalent as defined in section 2025(d) by December 31, 2013. A privately-owned utility must:

(A) submit a letter to the Executive Officer by December 31, 2009 stating the utility's intent to comply with this section,

(B) submit records by December 31, 2009 required by section 2022.1(f)(1),

(C) label each vehicle in its fleet according section 2022.1(f)(3)(G),

(D) submit by December 31, 2011 records required by section 2022.1(f)(1), and

(E) submit by December 31, 2013 records required by section 2022.1(f)(1) and documentation, such as but not limited to percent of fleet calculations and purchase records, demonstrating the utility's compliance with the above conditions.

(e) Diesel Emission Control Strategy Special Circumstances. A municipality or utility shall maintain the original level of best available control technology on each engine once that engine is in compliance, and will not be required to upgrade to a higher level of best available control technology, except under specified special circumstances, as follows:

(1) Fuel Strategy Diesel Emission Control Strategy.

(A) If a municipality or utility determines that the highest level diesel emission control strategy for a small percentage of its fleet would be a level 2 fuel-based strategy, and implementation of this diesel emission control strategy would require installation of a dedicated storage tank, then the municipality or utility shall request prior approval from the Executive Officer to allow use of a lower level diesel emission control strategy; or

(B) If a municipality or utility elects to use a fuel-based diesel emission control strategy across its fleet, and some vehicles can use a level 3 hardware diesel emission control strategy, then the municipality or utility shall request prior approval from the Executive Officer to allow use of a lower level diesel emission control strategy. This provision is only available if a minimum level 2 diesel emission control strategy is used.

- (2) *Diesel Emission Control Strategy Failure or Damage.* In the event of a failure or damage of a diesel emission control strategy, the following conditions apply:
- (A) *Failure or Damage During the Warranty Period.* If a diesel emission control strategy fails or is damaged within its warranty period and the diesel emission control strategy manufacturer or authorized dealer determines it cannot be repaired, the municipality or utility shall replace the diesel emission control strategy with either the same level diesel emission control strategy or another best available control technology as defined in subsection (b).
 - (B) *Failure or Damage Outside of Warranty Period.* If a diesel emission control strategy fails or is damaged outside of its warranty period, and it cannot be repaired, the municipality or utility shall apply the best available control technology at the time of replacement, as defined in subsection (b).
- (3) *Discontinuation of Fuel Verified as a Diesel Emission Control Strategy.* If a municipality or utility discontinues use of a fuel verified as a diesel emission control strategy, the municipality or utility shall apply best available control technology within 30 days of the date of discontinuation or submit a compliance plan to the Executive Officer no later than 30 days after discontinuation that demonstrates how the municipality or utility will bring the vehicles into compliance within six months of the date of discontinuation.
- (4) *Limited Use of Level 1 Diesel Emission Control Strategy.* If a Level 1 diesel emission control strategy is identified as the best available control technology pursuant to subsection (b), a municipality or utility is subject to the following limitations:
- (A) Group 1
 1. A municipality or utility may not use a Level 1 diesel emission control strategy on any Group 1 engine.
 2. *Exception for low-population counties.* The limitation in (A)1. does not apply to a vehicle owned or operated by a municipality or utility located in a low-population county (Table 2), or to a vehicle owned or operated by a municipality or utility that has been granted low-population county status.
 - (B) Group 2
 1. *Ten year limit.* A municipality or utility may use a Level 1 diesel emission control strategy in a Group 2 engine for up to ten years. The municipality or utility shall then replace the Level 1 diesel emission control strategy with the best available control

technology from subsection (b). The replacement cannot be a Level 1 diesel emission control strategy.

2. Exception for low-population counties. The limitation in (B)1. does not apply to a vehicle owned or operated by a municipality or utility located in a low-population county (Table 2) or to a vehicle owned or operated by a municipality or utility that has been granted low-population county status.

(C) Group 3 and 4

1. Five year limit. A municipality or utility may use a Level 1 diesel emission control strategy in a Group 3 and 4 engine for up to five years. The municipality or utility shall then replace the Level 1 diesel emission control strategy with the best available control technology from subsection (b). The replacement cannot be a Level 1 diesel emission control strategy.
2. Exception for low-population counties. The limitation in (C)1. does not apply to a vehicle owned or operated by a municipality or utility located in a low-population county (Table 2) or to a vehicle owned or operated by a municipality or utility that has been granted low-population county status.

(f) Record-Keeping Requirement. A municipality or utility shall maintain the following records. The municipality or utility shall provide the following records upon request to an agent or employee of the Air Resources Board for all vehicles in its total fleet subject to compliance with this regulation.

(1) Records to be Kept For Inspection. Beginning December 31, 2007, the municipality or utility shall keep the following records either in hard-copy format or as computer records:

- (A) A list by vehicle identification number of vehicles, identifying each vehicle type; engine manufacturer, model-year, family, and series; and status as a total fleet or low usage vehicle; and
- (B) Correlated to each vehicle, the installed diesel emission control strategy family name, its serial number, manufacturer, installation date, and if using a Level 1 or Level 2 verified diesel emission control strategy, the reason for the choice; and
- (C) Records of maintenance for each installed diesel emission control strategy; and
- (D) For fuel or fuel additives used as a diesel emission control strategy, the most recent two years' worth of records of purchase that demonstrate usage; and

- (E) For each low usage vehicle, or low-population county low usage vehicle, its mileage or engine hours as of December 31 of each year beginning 2007, and records to document its five-year mileage or engine hours, as of December 31 of each year beginning 2007, correlated to the vehicle identification information in paragraph (1)(A) above; and
- (F) If a municipality or utility is located in a low-population county or has been granted low-population county status, documentation affirming that the vehicle is not operated at any time in a metropolitan statistical area as defined by the U.S. Census Bureau; and
- (G) For each engine for which a municipality or utility is claiming an extension pursuant to paragraph (d)(4), the retirement date correlated to the vehicle identification information in paragraph (1)(A) above; and
- (H) For each engine for which a municipality or utility is claiming an extension pursuant to paragraph (d)(5), the records of the test plan, including start and end dates of the experiment; diesel emission control strategy manufacturer name and contact information (representative, address, and phone number); name and type of experimental diesel particulate matter emission control strategy; and targeted data to be generated by experiment and correlated to the vehicle identification information in paragraph (1)(A) above; and
- (I) For each engine for which a municipality or utility located in a low-population county is following the accelerated turnover path in Table 3, the date of each engine repower correlated to the vehicle identification information in paragraph (1)(A) above; and
- (J) Records to document the retirement of a vehicle. For each vehicle or engine to be retired, list the vehicle identification number, engine manufacturer, model-year, family, and series. For each vehicle that will be transferred to another fleet in California, include also the information required by sections 2022.1(f)(1)(B) and a statement of compliance that the vehicle meets the provisions of section 2022.1(b). For each vehicle or engine to be retired, provide the date of retirement, and written confirmation from the recipient of the retired vehicle or engine that the destination of the vehicle or its engine meets the requirements of the definition of “retirement” or “retire” in section 2022(b).
- (K) Vehicles sold outside of the State of California. For a vehicle to qualify for retirement, a municipality or utility must:
 - 1. Submit to the Executive Officer a completed VIN Stop application, which includes: vehicle license plate number, vehicle identification number, vehicle model-year, vehicle

make, vehicle model, engine manufacturer, engine serial number, and engine model year;

2. Receive and maintain VIN Stop submittal to Department of Motor Vehicles in municipality's or utility's records; and
3. Obtain and maintain out-of-state buyer's contact information, such as name, address and phone number for the vehicle sold outside of the State of California and acknowledgement of the vehicle's operational status.

~~(K)~~(L) A statement of compliance, prepared beginning December 31, 2007, and renewed each December 31, thereafter until December 31, 2012, with low-population counties continuing until December 31, 2018, certifying that the municipality's or utility's engines are in compliance as required, including the following:

1. "The [insert name of municipality or utility] vehicles at terminal [insert terminal identification number or address] are in compliance with title 13, California Code of Regulations, section 2022.1"; and
 2. The municipality's or utility's name, address, and business telephone; and the signature of the municipality's or utility's agent and the date signed.
- (2) Inspection of Records at the Terminal. Beginning December 31, 2007, the municipality or utility shall provide to any ARB representative any records required to be maintained by the municipality or utility pursuant to subsection (f)(1), by appointment, at the terminal where a vehicle normally resides.
- (3) Records Kept in the Vehicle. For each vehicle, beginning December 31, 2007, the municipality or utility shall keep the following information in the form of a legible and durable label affixed to the driver's side door jamb, or another readily accessible location known to the driver of each vehicle:
- (A) For each installed diesel emission control strategy, the diesel emission control strategy family name as specified in title 13, California Code of Regulations, section 2706(g)(2), and the installation date; or
 - (B) Engine model-year and planned compliance date, and a statement that the vehicle is following the accelerated turnover option, if applicable; or

- (C) Designation as a low usage vehicle or low-population county low usage vehicle (as applicable) and the vehicle's mileage or hours as of December 31 of each year beginning December 31, 2007; or
- (D) Engine model-year and terminal where the vehicle is permanently housed if the municipality or utility is located in a low-population county or has been granted low-population county status; or
- (E) Engine model-year and retirement date for an engine for which a municipality or utility is claiming an extension pursuant to paragraph (d)(4); or
- (F) Engine model-year and the beginning and the ending dates for the test plan of an engine for which a municipality or utility is claiming an extension pursuant to paragraph (d)(5); or
- (G) Engine model-year and planned compliance date, and a statement that the vehicle is following the private utility extension, if applicable.

(4) Each municipality or utility shall maintain these records for each vehicle until it is sold outside of the State of California or is no longer owned or operated by the municipality or utility. If ownership is transferred, the seller shall convey these records to the buyer, or a third-party sales representative.

(g) Contractor Compliance Requirement. In any contract for services that a municipality or utility enters that has an effective date of December 31, 2007, or later, the municipality or utility shall include language requiring the contractor to be in compliance with all federal, state, and local air pollution control laws and regulations applicable to the contractor.

(h) Third Party Vehicle Seller Contract Requirement. In any contract with a third party vehicle seller for the sale of a vehicle outside of the State of California to satisfy retirement, a municipality or utility must:

(1) Include in the contract that it is the third party vehicle seller's responsibility to:

- (A) Ensure that the vehicle is sold outside of the State of California, or if sold to an intermediate buyer in state, inform the intermediate buyer in writing that the vehicle cannot be sold or operated within California unless the vehicle is in compliance with section 2022.1(b);
- (B) Inform the buyer in writing that the vehicle cannot be registered in California unless the vehicle is in compliance with section 2022.1(b); and
- (C) Notify the buyer in writing to inform future buyers that the vehicle cannot be registered/operated in California unless the vehicle is in compliance with section 2022.1(b).

- (2) Obtain a written statement from the third party vehicle seller with the buyer's contact information, such as name, address, and phone number; obtain acknowledgment of the requirements in subparagraph 2022.1(h)(1); and provide original copy to public agency or utility.

~~(h)~~(i) Non-Compliance. Any violations of this section may carry civil penalties as specified in state law and regulations, including, but not limited to, Health and Safety Code Section 39674.

- (1) A municipality or utility that fails to maintain the required records in paragraph (f)(1) may be subject to civil penalties of not less than \$100 per day for every day past the required record-keeping date.
- (2) A municipality or utility that fails to maintain the required records in the vehicle as specified in paragraph (f)(3) may be subject to civil penalties of not less than \$100 per day per vehicle for every day past the required record-keeping date.

NOTE: Authority cited: Sections 39600, 39601, and 39658, Health and Safety Code.

Reference: Sections 39002, 39003, 39655, 39656, 39657, 39658, 39659, 39660, 39661, 39662, 39664, 39665, 39667, 39669, 39674, 39675, 43000, 43013, 43018, 43101, 43102, 43104, 43105 and 43700, Health and Safety Code.