

State of California  
AIR RESOURCES BOARD

**Executive Order R-10-009**

*Relating to the Regulation for In-Use Off-Road Diesel-Fueled Fleets*

WHEREAS, the Air Resources Board (Board or ARB) adopted the Regulation for In-Use Off-Road Diesel-Fueled Fleets on April 4, 2008, and it became operative on June 15, 2008, and the Board subsequently approved amendments to the regulation on December 12, 2008, and January 22, 2009;

WHEREAS, the legislature adopted and the Governor signed on February 20, 2009, Assembly Bill 8 2X (AB 8 2X or ABX2 8), legislation intended to provide economic relief and to preserve jobs in the construction industry;

WHEREAS, on July 23, 2009, the Board conducted a hearing to consider proposed amendments to sections 2449 through 2449.2, title 13, California Code of Regulations, including those directed by AB 8 2X as well as other amendments not directed by AB 8 2X but intended to spur early actions by fleets to reduce emissions and to provide clarification to the regulation;

WHEREAS, the Board approved the proposed amendments of sections 2449 through 2449.2, title 13, California Code of Regulations, on July 23, 2009 in Resolution 09-50, as set forth in the Attachment 1 to this Order;

WHEREAS, the California Legislature in AB 8 2X, Health and Safety Code section 43018.2(b), exempted the AB 8 2X amendments from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code);

WHEREAS, the Executive Officer deemed it necessary to bifurcate the AB 8 2X-directed amendments to sections 2449 through 2449.2, title 13, California Code of Regulations, from the other amendments approved on July 23, 2009, to expedite the adoption of the AB 8 2X amendments, so that they became operative as soon as possible and to provide as much certainty as possible to affected fleets;

WHEREAS, on December 3, 2009, the AB 8 2X-directed amendments to sections 2449 through 2449.2, title 13, California Code of Regulations, were filed with the Office of Administrative Law and became effective on that date;

WHEREAS, on April 15, 2010, the non-AB 8 2X amendments were made available for public comment for a period of 15 days, with the changes to the previously proposed text clearly indicated, in accordance with the provisions of title 1, California Code of Regulations, section 44; and

WHEREAS, one comment was received during the 15 day comment period and that comment has been considered by the Executive Officer.

NOW, THEREFORE, IT IS ORDERED that the recitals and findings contained in Resolution 09-50 are incorporated by reference herein.

IT IS FURTHER ORDERED that the non-AB 8 2X-directed amendments to sections 2449 through 2449.2, title 13, California Code of Regulations, are adopted as set forth in Attachment 2 to this Order.

Executed this 3<sup>rd</sup> day of June 2010, at Sacramento, California.

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James N. Goldstene  
Executive Officer

Attachments

- 1- Resolution 09-50
- 2- Final Regulation Order