

UPDATED INFORMATIVE DIGEST

REGULATION TO CONTROL EMISSIONS FROM IN-USE ON-ROAD DIESEL-FUELED HEAVY-DUTY DRAYAGE TRUCKS AT PORTS AND INTERMODAL RAIL YARD FACILITIES

Sections Affected:

Amendments to title 13, California Code of Regulations (CCR), section 2027.

Background:

Diesel engines are a significant source of diesel particulate matter (PM) and oxides of nitrogen (NOx) emissions in California. In December 2007, the Air Resources Board (ARB or Board) approved Resolution 07-58, in which it adopted the Drayage Truck Regulation (Regulation) to reduce emissions from in-use on-road diesel-fueled heavy duty drayage trucks. The Regulation is part of ARB's ongoing efforts to reduce PM and NOx emissions from diesel-fueled engines and improve air quality associated with goods movement.

Drayage trucks are on-road, diesel-fueled, heavy-duty trucks that transport containers, bulk and break-bulk goods to and from ports and intermodal rail yards. The Regulation requires owners and operators of Class 8 trucks having a gross vehicle weight rating (GVWR) greater than 33,000 pounds that operate at California ports and intermodal rail yard facilities to meet emission standards. This may require the installation of ARB certified retrofit technologies, the use of trucks meeting more recent California and federal emission standards, or both. The Board adopted amendments to the Regulation in 2008 by approving Resolution 08-43, which imposed additional requirements on 2004-2006 model year (MY) drayage trucks.

On October 19, 2010, ARB staff published a report, entitled "Staff Report: Initial Statement of Reasons for Proposed Rulemaking" (Staff Report). The Staff Report proposed additional amendments to cover trucks doing dray-off, and older Class 7 trucks entering drayage operations under the current Regulation and to provide a transition to a single statewide regulation (Truck and Bus Regulation). Key elements of the amendments included mitigating dray-off activity; requiring Class 7 vehicles (GVWR greater than 26,000 pounds but less than 33,001 pounds) to meet or exceed California or federal 2007 MY heavy-duty diesel engine emissions standards by December 31, 2013; requiring Class 7 vehicles operating in the South Coast Air Basin to be retrofitted with an ARB level 3 verified diesel emission control strategy (VDECS or Retrofit) for PM by December 31, 2011; and sunseting the Drayage Truck Regulation at the end of 2023, at which time drayage trucks would become subject to the requirements of the Truck and Bus Regulation.

At its December 17, 2010 public hearing, the Board adopted Resolution 10-45, in which it supported some but not all of staff's originally proposed amendments and additional suggested modifications discussed at the hearing. The resolution directed ARB staff to incorporate the modifications into the proposed regulatory text, and to make the modified regulatory language available for a supplemental comment period of 15 days. On May 19, 2011, ARB issued a Notice of Public Availability of Modified Text (15-Day Notice), which was made available for a supplemental 15-day comment period. ARB staff did not make additional modifications in response to comments received during the supplemental 15-day comment period.

Description of Regulatory Action:

The following is a summary of the proposed amendments, as modified by the 15-Day Notice.

No Change to Phase 2 Requirement

Staff initially proposed elimination of the Phase 2 performance requirement, which was initially adopted in 2007/2008 and requires that all drayage trucks be equipped with engines that meet or exceed State or federal 2007 certification standards. Pursuant to Resolution 10-45, the proposal was modified to retain the Phase 2 requirement of the 2007/2008 regulation without change.

Mitigating Dray-Off Activity

Staff included several amendments to prevent compliant drayage trucks from exchanging cargo with noncompliant trucks near port or intermodal rail yard facilities. This practice is commonly referred to as 'dray-off.' Operators who engage in dray-off are circumventing regulatory requirements by exploiting a loophole in the Regulation, which adversely impacts the air quality of the surrounding communities. The amendments allow enforcement personnel to cite non-compliant drayage trucks outside of port and intermodal rail yard facilities, and also hold motor carriers responsible for dispatching drayage trucks that engage in dray-off activities. The amendments level the playing field between noncompliant drayage truck owners and owners of drayage trucks that have invested significant funds modernizing their fleets. The following amendments prevent dray-off activity:

- Section 2027(b)(1) was modified to expand the applicability of the Regulation to drayage truck owners and operators operating off of port or intermodal rail yard facilities and their dispatching motor carriers.
- The definition of 'Drayage Truck' in section 2027(c)(15) was expanded to include trucks operating off of port or intermodal rail yard facilities while transporting cargos that are bound for, or are destined to, California's ports and intermodal rail yard facilities.
- The definition of 'Drayage Truck Operator' in section 2027(c)(17) was modified to include drivers operating vehicles off of port or intermodal rail yard facilities.

- The definition of 'Motor Carrier' in section 2027(c)(33) was modified to include motor carriers dispatching drayage trucks to locations off of port or intermodal rail yard facilities to pick-up or deliver goods that are destined for or that originated from ports or intermodal rail yard facilities.
- Section 2027(d)(4)(A)(2) was added to require drayage truck operators to identify and provide documentation as to the origin and destination of the cargo and intermodal equipment upon request.
- Section 2027(d)(5)(A)(2) was modified to require motor carriers to dispatch only compliant drayage trucks to locations off of port or intermodal rail yard facilities.
- Section 2027(d)(5)(A)(5) was modified to clarify that motor carriers are only required to keep dispatch records of drayage trucks that enter port or intermodal rail yard facilities.
- Section 2027(e)(1)(C) was modified to clarify that only drayage trucks entering port or intermodal rail yard facilities are required to register in the Drayage Truck Registry as operated by the Air Resources Board.

Inclusion of Class 7 Trucks

Staff proposed amendments to the Drayage Truck Regulation to broaden coverage to include Class 7 drayage trucks statewide and require them to operate with a level 3 VDECS for PM emissions by December 31, 2011 while operating in the South Coast Air Basin and that all Class 7 drayage trucks meet or exceed 2007 emission standards by December 31, 2013. Class 7 trucks operate with a manufacturer's assigned GVWR of 26,001-33,000 pounds. The amendments eliminate the increasingly common practice of operating older and dirtier Class 7 trucks at the ports and rail yards instead of emission compliant Class 8 drayage trucks. This practice circumvents the intent of the Regulation and is delaying the expected emission reductions and benefits to local communities affected by drayage truck activity. The amendments to the Regulation close this loophole and ensure that all drayage trucks operate with PM controls in the near-term and PM and NOx controls by December 31, 2013. The following are amendments that affect Class 7 drayage trucks:

- The definition of a 'drayage truck' in section 2027(c)(15) was expanded to include trucks with a GVWR greater than 26,000 pounds.
- The definition of 'heavy-duty' in section 2027(c)(26) was modified to a manufacturer's rating of greater than 26,000 pounds.
- The definition 'South Coast Air Basin' in section 2027(c)(41) was added to identify the geographical boundary of the South Coast Air Basin in southern California.
- The Phase 1 requirements in sections 2027(d)(1)(A), 2027(d)(1)(B), and 2027(d)(1)(C) were modified to only be applicable to drayage trucks with a GVWR of greater than 33,000 pounds.
- A new Phase 1 requirement was added in section 2027(d)(1)(D) for trucks with a GVWR of 26,001 to 33,000 pounds to be equipped with a level 3 VDECS by January 1, 2012 while operating in the South Coast Air Basin.

- The original Phase 2 requirement for all drayage trucks to be equipped with a 1994 or newer model year engine that meets or exceeds 2007 model year California or federal emission standards after December 31, 2013 was retained. This retention does not alter existing requirements for Class 8 trucks, but when combined with modifications listed above for Class 7 trucks, places the same requirement on Class 7 trucks.

Sunsetting the Drayage Truck Regulation

To complete the transition to one statewide regulation for all diesel-fueled trucks, staff made the following modifications:

- The applicability in section 2027(b) was modified and a provision was added in new section 2027(j) to formally sunset the Drayage Truck Regulation after December 31, 2022. Starting January 1, 2023, all drayage truck owners and operators would be subject to the requirements of the Truck and Bus Regulation. For clarity on future truck requirements under the Truck and Bus Regulation, language was added to specify that drayage trucks that are not otherwise exempt will have to operate with a 2010 model year emissions equivalent engine by January 1, 2023.

Non-Substantive changes to the Drayage Truck Regulation

- Definitions in sections 2027(c)(1), 2027(c)(27), and 2027(c)(41-44), the 'Requirements and Compliance Deadline's' section 2027(d)(7)(C), and sections 2027(j-k) were renumbered or changed to provide clarity and consistency with existing Regulation language or numbering scheme. These changes do not alter the meaning or intent of the existing Regulation.
- The Phase 1 requirement in section 2027(d)(1)(A)(3) was deleted. This requirement was deleted for clarity because it was redundant with requirements specified in sections 2027(d)(1)(A)(1-2) and section 2027(d)(2).
- Sections 2027(d)(5)(A)(4)(c) and 2027(d)(6)(A)(1)(c) were modified to add reporting of the 'city' as part of the mailing address. In both sections, a mailing address was required and staff inadvertently omitted requiring the 'city' in the original rulemaking.
- Several sections were added and one deleted in the 'Authority cited' note listed at the end of the Regulation language.

Regulatory Emission Benefits:

The amendments to the Drayage Truck Regulation provide needed diesel PM and NOx emissions reductions throughout the State, ensure that the original emission reduction goals are met, and are necessary to meet State Implementation Plan (SIP) commitments.

The diesel PM and NOx emissions reductions are expected to reduce the number of people exposed to increased cancer risk surrounding California's ports and intermodal rail yard facilities, especially near the Port of Los Angeles, Port of Long Beach, and the Port of Oakland. The Regulation will continue to reduce NOx emissions that contribute to exceedances of ambient air quality standards for particulate matter 2.5 microns or less in diameter and ozone. Statewide, the emission reductions will significantly reduce premature deaths and cases of asthma-related and other lower respiratory symptoms by the year 2020, as well as other health benefits. These reductions will assist California in achieving State and federal air quality standards. Additionally, these emission reductions will occur in areas along the ports, intermodal rail yard facilities, warehouses, and nearby roadways where environmental justice concerns are especially prevalent.

Comparable Federal Regulations:

Section 209(a) of the federal Clean Air Act (CAA) preempts states from adopting emission standards for new motor vehicles and engines. However, section CAA 209(b) provides that the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) shall grant California a waiver of preemption, unless certain specified findings can be made. The regulations proposed for amendment do not establish emission standards for new motor vehicles and engines, and thus no issue of federal preemption exists. Additionally, U.S. EPA does not have authority to adopt in-use emission standards relating to the control of in-use motor vehicles. Thus, there are no federal regulations comparable to the Drayage Truck Regulation to reduce emissions from in-use on-road diesel vehicles that operate in California. There are also no comparable mandatory federal regulations to control GHG emissions from on-road heavy-duty vehicles.