

State of California
AIR RESOURCES BOARD

Notice of Public Availability of Modified Text

**PUBLIC HEARING TO CONSIDER ADOPTION OF PROPOSED AMENDMENTS TO
THE REGULATION TO REDUCE EMISSIONS OF DIESEL PARTICULATE MATTER,
OXIDES OF NITROGEN, AND OTHER CRITERIA POLLUTANTS FROM IN-USE ON-
ROAD DIESEL-FUELED VEHICLES**

Public Hearing Date: April 24, 2014
Public Availability Date: July 1, 2014
Deadline for Public Comment: July 17, 2014

At its April 24, 2014, public hearing, the Air Resources Board (ARB or Board) approved for adoption the proposed amendments to the Regulation to Reduce Emissions of Diesel Particulate Matter (PM), Oxides of Nitrogen, and Other Criteria Pollutants from In-Use Heavy-Duty Diesel-Fueled Vehicles (regulation) California Code of Regulations (Cal. Code Regs.), title 13, section 2025, which provide additional regulatory flexibility to small fleets, lower mileage fleets, and fleets in certain areas that have made substantial progress towards cleaner air.

At the hearing, staff presented modifications to the regulation that was proposed in the Staff Report released on March 5, 2014. The Board approved the staff recommendation with additional changes in response to comments received since the Staff Report was published including oral comments made at the public hearing. These modifications include extending the compliance date for the second truck in the small fleet option, revising the new option for fleets that cannot afford to comply, modifying the requirements for cattle livestock trucks, and other minor modifications.

Board Resolution 14-3 approved section 2025 as modified. The resolution and all other regulatory documents for this rulemaking are available online at the following ARB website: <http://www.arb.ca.gov/regact/2014/truckbus14/truckbus14.htm>

The Board directed the Executive Officer to take final action to adopt the amendments to California Code of Regulations, title 13, section 2025, after making the proposed modifications available to the public for comment for a period of at least fifteen days as required by Government Code section 11346.8. The Board further provided that the Executive Officer consider written comments submitted during the comment period and make other modifications as may be appropriate in light of the comments received, and present the regulations to the Board for further consideration if warranted. The Executive Office was also directed to determine if any proposed modifications affect the conclusion of the environmental analysis and determine whether any additional analysis is required by ARB's regulations at California Code of Regulations, title 17, sections 60001-60007.

Attachment 1 to this notice contains the proposed regulatory text showing the modifications to the initially proposed text of the regulation that was made available at the time of the 45-day public notice. Modifications to the originally proposed language are shown in double underline to indicate additions and ~~double strikeout~~ to indicate deletions. Text that is both ~~single underline and double strikeout~~ is text that staff proposed during the 45-day public notice period but later retracted as part of this 15-day public notice period.

Staff has determined that these modifications do not change implementation of the regulation in any way that alters any of the conclusions of the environmental analysis (EA) included in the Staff Report released on March 5, 2014. The modifications consist primarily of definition and provision clarifications, changes to provide consistency and improved readability, and amendments directed by the Board at the public hearing on April 24-25, 2014, including revising the language regarding cattle livestock trucks in coordination with affected stakeholders and improving enforceability of the economic hardship extension.

These modifications do not cause any changes that alter the air quality emissions assessment or otherwise result in any other significant adverse environmental impacts because providing clarity, consistency, readability, and improved enforceability does not change the compliance responses to the regulation or implementation of the regulation in a way that could result in any adverse environmental impacts. This is because these modifications are primarily administrative in nature. Further, there are no changes in circumstances or new information resulting from these modifications that would otherwise warrant any additional environmental analysis, recirculation, or additional written responses to comments raising significant environmental issues under ARB's certified regulatory program at title 17, CCR, section 60001-60007. The EA relied upon by the Board for their approval of the amendments in April 2014 adequately addresses the potential for environmental impacts resulting from implementation of the Truck and Bus Regulation.

The following is a summary of proposed modifications to the regulatory text but does not describe editorial number reformatting and minor grammatical changes.

Summary of Proposed Modifications

1. Definitions

Existing definitions in section 2025(d) were modified to provide additional clarity. The existing definition of “fleet” in amended section 2025(d)(29) was modified to include a reference to California Vehicle Code 460 to make the definition more clear regarding how the interpretation of the legal ownership is made. The definition for “Fleet Owner” in amended section 2025(d)(30) was also modified to address how enforcement would treat a situation where the operator of vehicle cannot provide evidence of legal ownership as defined in California Vehicle Code 460. The definition of “NOx Exempt Areas” as defined in renumbered section 2025(d)(45), was modified to allow fleet owners to remain eligible for the extension if traveling on the portion of highway 89 or highway 267 between Nevada County and the Tahoe Air Basin.

2. General Requirements

Section 2025(e)(7) was modified to replace the term “hybrid vehicle” with the term “advanced technology vehicle” to be consistent with the amended definition. Language was added to section 2025(e)(10) to further clarify how a vehicle must be kept in compliance.

3. Engine Model Year Schedule for Lighter Vehicles

The title of section 2025(f) and language in sections 2025(f)(2) and 2025(f)(3) were modified to improve readability. Section 2025(f)(4) was amended to further clarify that the vehicle replacement limits apply to engine years that are subject to replacement as specified in Table 1. Additional language was also added to ensure that the original intent of adding the annual compliance limit would not be abused.

4. Engine Model Year Schedule for Lighter Vehicles

The titles of section 2025(g) and section 2025(g)(4) were modified to improve readability. Staff also added language to section 2025(g)(5) to clarify the exemptions and extensions of sections 2025(p) and 2025(m) are for heavier vehicles. Section 2025(g)(7) was amended to further clarify that the vehicle replacement limits apply to engine years that are subject to replacement as specified in Table 2. Additional language was also added to ensure that the original intent of adding the annual compliance limit would not be abused.

5. Small Fleet Option

The compliance date for the second truck was extended to January 1, 2017 in section 2025(h)(1)(B) to reflect the Board decision to change the compliance date. In addition, some clarifying edits were made to section 2025(h) and renumbered subsection 2025(h)(2). A reference to section 2025(g)(4) was added to newly numbered section 2025(h)(5) and the corresponding language that was in section 2025(h)(7) was deleted because it is redundant with language that is already in section 2025(g)(4).

6. Phase-In Option

Additional language was added to renumbered section 2025(i)(2) to clarify that fleet owners that reported on or before January 31, 2014, and complied with the regulation, would remain eligible to use the phase-in option of 2025(i).

7. Credits for Fleets that have Advanced Technology Vehicles

Section 2025(j)(2)(B) was revised to clarify that the credit for adding advanced technology vehicles counts towards meeting PM BACT, as defined in renumbered section 2025(d)(47) for another vehicle in the fleet, and clarifies that the term “added to the fleet” means advanced technology vehicles that were added to the fleet since October 1, 2006.

8. Specialty Agricultural Vehicles

Amendments for livestock cattle trucks were made in coordination with affected stakeholders per the Board direction. The amended section allows certain cattle livestock trucks to qualify for the specialty agricultural vehicle extension and allows others to operate under the extension for two cattle seasons each year. Language was modified in section 2025(m)(11)(B) and three additional subsections were added. Additional language about vehicle labeling was also added to section 2025(m)(13)(A)(1).

9. Requirements for Heavy Cranes

Section 2025(n)(2) was corrected to indicate that the definition of heavy cranes is in section 2025(d)(33) instead of 2025(d)(34).

10. Changes in an Existing Fleet

Additional language was added to existing section 2025(o)(2)(C)(3) to clarify what is meant by the term “bring the fleet into compliance.” The added language clarifies that a vehicle that exceeds the allowable miles or otherwise fails to meet the criteria that allowed the vehicle to operate with an extension must be retired or must be retrofitted with a PM filter to comply.

11. Exemptions, Delays, and Extensions

Language was added at the beginning of section 2025(p) to clarify that the compliance options in the various subsections may be selected annually and that reporting and recordkeeping requirements apply.

12. Vehicles Used Exclusively in NOx Exempt Areas

Clarifying edits were made to sections 2025(p)(1)(A), and 2025(p)(1)(B)(4) and language was added in newly numbered section 2025(p)(1)(B)(8) to clarify that vehicles that are approved for an annual extension due to unavailability of a PM filter retrofit to comply with the requirements must continue to operate exclusively in NOx Exempt Areas, as defined in renumbered section 2025(d)(45). Section 2025(p)(1)(D)(1) was also revised to eliminate the vague term “other” services and replace it with a more clear meaning of “maintenance” services to clarify that vehicles can operate outside the regions for needed repairs and maintenance.

13. Low Mileage Work Truck Phase-in Option

The amended low mileage work truck extension replaces the former low-mileage construction truck extension with an extended compliance period and expanded vehicle definition. Additional changes were needed to clarify requirements and to preserve consistency for fleet owners that are already complying.

New language was added 2025(p)(2) to clarify that eligible trucks must have been in the fleet as of January 1, 2012 or must have a 1996 or newer model year engine while language in the reporting section 2025(r)(16)(C)(3) was deleted to remove the requirement to report annual odometer readings back to January 1, 2012. This change is necessary to meet the intent of allowing fleet owners to identify which vehicles would use the extension each year, and past odometer readings are not needed for trucks that did not previously use the extension. The added language to allow the extension to be used by trucks that have a 1996 model year or newer engines was made to maintain consistency with the former low-mileage construction truck extension for truck replacements that were made after January 1, 2012.

Language was added to 2025(p)(2)(B) to clarify how the exemption applies to lighter trucks because they do not have a PM BACT requirement. The existing PM BACT requirement for January 1, 2014 was inserted in Table 9 to minimize confusion for owners that are currently complying the low mileage construction truck option. Language was also added to section 2025(p)(2)(F) to clarify that the recordkeeping requirements of 2025(s) must be met, and reporting is required for the entire fleet of heavier vehicles or entire fleet of lighter vehicles. Finally, section 2025(p)(2)(G) was modified to clarify that the labeling requirement applies to the compliance year the option is used and former language that is no longer needed was deleted.

14. Exemption for Low-Use Vehicles

Language was added to section 2025(p)(4)(A)(3) to clarify that low-use vehicles need

not be included when determining compliance with sections 2025(f) and (g).

15. Compliance Extension for Emissions Control Device Manufacturer Delays

Language was added in section 2025(p)(8) to clarify that a fleet owner will be excused from immediate compliance until May 1 of the subsequent compliance year if the PM filter retrofit or vehicle has not been received due to a manufacturing delay. This change was made to clarify the length of the temporary extension.

16. Extension for Unavailable VDECS

Section 2025(p)(9) was revised to clarify that the extension of the PM BACT deadline only applies to heavier vehicles that have a PM BACT requirement and does not apply to those that are required to meet the 2010 model year equivalent requirements.

17. Economic Hardship Extension

Section 2025(p)(10) was revised to reflect the Board's direction to decrease the potential for fraud and improve enforceability. The revisions reduce the extension period to January 1, 2017, remove the requirement to upgrade to a 2010 model year equivalent engine, and identify the steps the owner must take to bring the fleet into compliance before the extension can be claimed.

New language was added to section 2025(p)(10)(B) that requires the fleet owner to have made every possible attempt to bring all vehicles into compliance and identifies the steps the owner must take to gather price estimates from retrofit installers, truck dealers, and leasing entities. Additional language was added to a newly numbered section 2025(p)(10)(C) that requires the owner to submit annual financial data such as annual revenue, debt, assets, credit score and other financial data to substantiate the claim. Additional language was added to a renumbered section 2025(p)(10)(D) that outlines the information that must be included with the loan application, and the owner must obtain a signed statement from the lender that confirms the applicant is financially unable to qualify for any loan the lender offers. A new section 2025(p)(10)(F) adds language that prevents the owner from claiming the extension and later expanding the fleet or preferentially retiring compliant vehicles rather than non-compliant vehicles. New section 2025(p)(10)(G) specifies labeling requirements for the trucks that use the economic hardship extension. Finally, new section 2025(p)(10)(H) explains the extension cannot be transferred to another truck or fleet owner.

18. Recalled PM Filters

Section 2025(q)(2)(C) was revised to clarify that the extension to operate a vehicle if the PM filter retrofit has been recalled only applies if the fleet owner has not been reimbursed and the vehicle remains in the fleet.

19. Reporting Requirements

Section 2025(r)(1) was amended to include reference to the revised Economic Hardship Extension. Staff clarified the reporting deadline in 2025(r)(16) is for the applicable

compliance year that an extension is used. A new section 2025(r)(16)(D) was added to describe the reporting requirements for claiming the Economic Hardship Extension.

20. Record Keeping Requirements

The language in section 2025(s)(19) was added to describe the record keeping requirements for fleet owners claiming the Economic Hardship Extension.

21. Minor Changes

Additional non-substantive changes were made for clarity and to maintain consistency in language.

Written comments will only be accepted on the modifications identified in this notice and on Attachment 1 to this notice, which contains the proposed regulatory text showing the modifications to the initially proposed text of the regulation. Written comments 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 verbal 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.

In order to be considered by the Executive Officer, comments must be directed to ARB in one of the 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.

If you need this document in an alternate format or another language, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alternativo u otro idioma, por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de cinco (5) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

Attachment