

## UPDATED INFORMATIVE DIGEST

### **PROPOSED AMENDMENTS TO THE REGULATION TO REDUCE EMISSIONS OF DIESEL PARTICULATE MATTER, OXIDES OF NITROGEN, AND OTHER CRITERIA POLLUTANTS FROM IN-USE HEAVY-DUTY DIESEL-FUELED VEHICLES**

**Sections Affected:** Amendments to California Code of Regulations (Cal. Code Regs.), title 13, section 2025, “Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen, and Other Criteria Pollutants from In-Use Heavy-Duty Diesel-Fueled Vehicles”. The regulation is commonly referred to as the Truck and Bus regulation.

**Background:** The Truck and Bus regulation was approved by ARB on December 12, 2008, to reduce emissions of diesel particulate matter (PM), oxides of nitrogen (NOx), and other criteria pollutants from about one million in-use diesel trucks and buses that operate in California. The regulation became effective in January 2010. On December 17, 2010, the Board approved amendments to the regulation to take into account that emissions were lower as a result of the recession while continuing to meet air quality goals and obligations. The amended regulation became effective on December 14, 2011. At the Board’s October 2013 meeting, staff updated the Board on the implementation of the regulation and on-going efforts to assist fleet owners with compliance. Staff also discussed potential amendments to the regulation that could provide additional flexibility to vehicle owners by ensuring a more successful compliance path, thereby better protecting the emission benefits of the regulation through greater levels of compliance. These potential amendments specifically focused on small fleets, lower mileage fleets, and fleets in rural areas, all of which arguably continue to be impacted by the recession. At that meeting, the Board directed staff to return in April 2014 with proposed amendments to implement such changes.

**Description of Regulatory Action:** At the Board’s April 24 – 25, 2014 public hearing, the Board approved the amended regulation, summarized below, as noticed on March 7, 2014, in the California Notice Register and as set forth in the Staff Report: Initial Statement of Reasons released on March 5, 2014 with additional changes made available for comment.

#### ***Provide Relief in Rural Areas with Cleaner Air***

Changes to the compliance options for vehicles that are operated in NOx Exempt Areas were made by expanding the regions that are in the definition and by extending compliance requirements over a longer period of time. The following counties were added: Amador, Butte, Calaveras, Eastern Kern, Inyo, Mariposa, Mono, Nevada, Northern Sutter, Tuolumne, the portion of El Dorado that is within the Lake Tahoe Air Basin, and the portion of Placer that is East of Highway 89 or within the Lake Tahoe Air Basin. PM filter requirements are phased-in from January 1, 2015, through January 1, 2020.

### Additional Time and Lower-Cost Pathway for Small Fleets

For small fleets (not operated exclusively in NOx exempt areas) compliance requirements for the second and third truck in a small fleet were deferred, such that the second truck must have a PM filter installed by 2017 and the third truck must have a PM filter installed by 2018.

### Economic Hardship Extension for Owners that Cannot Currently Comply

A new flexibility option was added that defers compliance with the PM filter requirements for up to three vehicles until January 1, 2017, for owners that are financially unable to comply in 2014. The option can only be used by owners that were financially unable to comply with the January 1, 2014, PM filter requirements and still do not have the financial means to comply. Owners that have increased the number of heavier trucks in the California fleet since January 1, 2012, are not eligible. Eligible owners can opt-in by reporting no later than January 31, 2015. By January 1, 2017, owners must comply with the Engine Model Year Schedule like other fleets.

### Expanded Low-Mileage Work Truck Option

The Low-Mileage Work Truck Option replaces the existing Low Mileage Construction Truck Extension and extends the compliance schedule by two years and broadens the definition of eligible trucks. This option provides an extended compliance schedule for work trucks that travel less than a total of 20,000 miles per compliance year, regardless of a truck's weight or where the truck is operated. This option was also expanded to provide flexibility for lighter trucks in fleets that have trucks with originally equipped PM filters.

### Expanded Low-Use Vehicle Exemption

The existing "Low-Use Vehicle" definition was amended to include vehicles that operate fewer than 5,000 miles total per compliance year until January 1, 2020. The definition was revised to remove the annual hourly limit for vehicles that use power take off while stationary.

### Phase-in Requirements for Low Mileage Agricultural Vehicles

The extension was amended to allow agricultural vehicles that operate more than 10,000 miles per year, but less than the mileage thresholds shown in the table below, to continue using the extension past January 1, 2017. The amendments allow the extension to continue for vehicles that operate less than 15,000 miles per year from January 1, 2017, until January 1, 2020, and less than 10,000 miles per year from January 1, 2020, to January 1, 2023. The opt-in period was reopened until January 1, 2015, for fleet owners that show compliance retroactively.

| Engine Year    | Annual Mileage Limits |              |              |
|----------------|-----------------------|--------------|--------------|
|                | 2011 to 2016          | 2017 to 2019 | 2020 to 2022 |
| 2006 or newer  | 25,000 miles          | 15,000 miles | 10,000 miles |
| 1996 to 2005   | 20,000 miles          | 15,000 miles | 10,000 miles |
| 1995 and older | 15,000 miles          | 15,000 miles | 10,000 miles |

Relief for Cattle Livestock Trucks

The specialty agricultural truck extension was amended to allow cattle livestock truck owners to claim the extension by reporting prior to January 31, 2015. Amendments were made to allow not-for-hire cattle livestock trucks to use the existing specialty agricultural truck extension and to allow for-hire livestock trucks to operate during a spring and fall cattle season. Cattle truck owners may opt-in until January 31, 2015.

Added Flexibility for Heavy Cranes

A new compliance option for heavy cranes was added to phase-in 2010 model year or newer model year engines without PM filter retrofit requirements. The Compliance schedule requires heavy cranes to be upgraded to 2010 model year or newer engines at a rate of 10 percent of the heavy cranes in the fleet per year from January 1, 2018, to January 1, 2027. Credit was also provided for heavy cranes that are equipped with a retrofit or original equipment PM filter before January 1, 2018, by counting such cranes towards meeting the 2010 engine requirement.

Smooth Out Regulatory Compliance Requirements

Compliance requirements were amended to limit the number of trucks that would need to be upgraded to 2010 model year or newer engines each year. Fleet owners that comply with the engine model year schedules will not be required to upgrade with 2010 engines more than 25 percent of the fleet or 2 trucks, whichever is greater. The limit applies separately for lighter and heavier trucks.

Recognize Early Actions Already Taken by Fleets to Comply

Amendments were made to recognize fleet owners that acted early or complied on time. For an engine that was retrofitted with a PM filter prior to January 1, 2014, the compliance period was extended from January 1, 2020, to January 1, 2023, provided that the owner reports by January 31, 2015, and the vehicle remains in the fleet. Existing credits were extended to January 1, 2020, for fleet owners that were in compliance with the phase-in option. Compliance requirements were extended five years for retrofit PM filters that are recalled after the PM filter is installed and is not repaired or replaced by the manufacturer.

### Minor changes

Minor changes were made to modify existing definitions, clarify existing requirements, improve enforceability of the regulation, and update reporting and recordkeeping requirements.

### **Comparable Federal Regulations**

No comparable federal regulations exist under the federal Clean Air Act (CAA), and the United States Environmental Protection Agency (U.S. EPA) does not have authority to adopt in-use emission standards relating to the control of in-use motor vehicles or engines or in-use nonroad (off-road) engines used in vehicles or equipment. Thus, there are no federal regulations comparable to the Truck and Bus regulation to reduce emissions from in-use on-road diesel vehicles or vehicles that use off-road engines that operate in California.

Section 209(a) of the CAA preempts states from adopting emission standards for new on-road motor vehicles and engines. However, CAA section 209(b) provides that the Administrator of the 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, CAA section 209(e)(2) allows California, upon obtaining authorization from U.S.EPA, to adopt and enforce emission standards and other requirements related to the control of emissions for new and in-use off-road engines not expressly preempted (i.e., as set forth in CAA section 209(e)(1), new off-road engines under 175 horsepower used in farm and construction equipment and vehicles and new locomotives and locomotive engines). The Truck and Bus regulation has requirements for off-road engines used in yard-goats (for agricultural operations) and auxiliary engines of two-engine sweepers that require waiver authorization from U.S. EPA for California to be authorized to enforce requirements on those vehicles. With the exception of these two vehicle types, no other vehicle types subject to the regulation require an authorization.

ARB requested that U.S. EPA grant authorization of a waiver for the two above-described types of vehicles on March 2, 2012, and on May 24, 2013 was granted the request for authorization of California's emission standards and accompanying enforcement procedures for in-use off-road yard trucks and auxiliary engines used in two-engine sweepers as described in the Truck and Bus regulation. To the extent that the proposed amendments affect the previously granted authorization, ARB may submit a subsequent request to U.S. EPA for authorization action.