

Notice of Public Availability of Modified Text and Availability of Additional Documents and Information

Proposed Amendments to the In-Use Off-Road Diesel-Fueled Fleets Regulation

Public Hearing Date: November 17, 2022
Public Availability Date: April 10, 2023
Deadline for Public Comment: April 25, 2023

At its November 17, 2022, public hearing, the California Air Resources Board (CARB or Board) approved for adoption the proposed amendments to the In-Use Off-Road Diesel-Fueled Fleets Regulation (the current regulation) in sections 2449, 2449.1, and 2449.2, Title 13, California Code of Regulations (CCR).¹ The amendments will reduce emissions by requiring that fleets of off-road diesel vehicles phase out operation of their oldest and highest emitting off-road diesel vehicles, prohibiting the addition of high emitting vehicles to a fleet, and requiring the use of 99 percent or 100 percent renewable diesel in off-road vehicles. The proposed amendments also enhance enforcement of the current regulation by including several additional requirements on entities that enter into contracts with fleets subject to the current regulation. In addition, the proposed amendments introduce voluntary compliance flexibility options for fleets that adopt zero-emission technology.

The Board directed the Executive Officer to determine if additional conforming modifications to the proposed amendments were appropriate and, if so, to make any proposed modified regulatory language available for public comment, with any additional supporting documents and information, for a period of at least 15 days as required by Government Code section 11346.8. The Board further directed the Executive Officer to consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days and present the proposed amendments to the Board for further consideration if warranted, or take final action to adopt the proposed amendments after addressing all appropriate modifications.

The resolution and all other regulatory documents for this rulemaking are available online at the following *CARB website*: <https://ww2.arb.ca.gov/rulemaking/2022/off-roaddiesel>.

CARB has determined that additional modifications are appropriate for the proposed amendments and has developed the proposed modifications (15-Day Changes) as stated

¹ All references are to the California Code of Regulations unless otherwise specified.

below in the “Summary of Proposed Modifications” section of this notice. The Attachments showing the specific proposed modifications to the text of the proposed regulation being made with these 15-Day Changes are shown in multiple ways in order to meet the requirements of the Administrative Procedures Act (APA) while also posting alternate/complementary versions that provide increased accessibility to view the modifications in multiple ways.

The Attachments are as follows:

Attachment A - Amendments to Sections 2449, 2449.1, and 2449.2, Title 13, California Code of Regulations

- Attachment A-1: Proposed 15-Day Modifications to Proposed Regulation Order (compared to version released for 45-day comments)
- Attachment A-2: ~Alternative format to Attachment A-1~
- Attachment A-3: Proposed 15-Day Modifications to Proposed Regulation Order (15-Day Modifications and 45-Day Modifications combined and compared to existing regulatory text) in Alternative format

The Attachments showing the specific proposed modifications to the text of the proposed regulation orders available for comment with this Notice are provided in the two formats denoted with the suffixes “-1” and “-2.”

In the version denoted Attachment A-1, the 45-Day Changes (proposed regulatory language as posted on September 20, 2022) are shown in “normal type.” The deletions and additions to the 45-Day Changes that comprise the 15-day Changes that are being made public and available for comment with this Notice are shown in ~~striketrough~~ to indicate deletions and underline to indication additions.

In the version denoted Attachment A-2, the 15-Day Changes are provided in a tracked-changes format to meet the requirement for accessible electronic documents.² The 45-Day Changes are incorporated into this version as plain, clean text because they are not being made available for public comment by this Notice. The Proposed 15-day Changes are shown in tracked changes and are made public with this Notice and available for comment. To review this document in a clean format, without underline or strikeout to show changes, that shows all the proposed regulations being considered for adoption, please select “Simple Markup” or “No Markup,” or accept all changes in Microsoft Word’s Review menu. You can also change the view to the initially proposed 45-Day Changes (originally proposed regulatory text prior to these proposed modifications) by selecting “Original” or rejecting all tracked changes. Additionally, “Advanced Track Changes Options” will allow for further options regarding color and other markings.

In the version denoted Attachment A-3, the existing, original regulatory language currently adopted into the California Code of Regulations (pre-45-Day Changes) is shown as plain, clean text, while the 45-Day Changes and the proposed 15-Day Changes are combined and shown in tracked changes. To review the net proposal in this document in a clean format (no underline or strikeout to show changes), please select “Simple Markup” or “No Markup” in Microsoft Word’s Review menu or accept all changes. You can also change the view to the

² Assembly Bill 434 (Baker, Chapter 780, Statutes of 2017).

original (originally proposed regulatory text *prior* to any proposed modifications, or 45-Day Changes) by selecting “Original” or rejecting all tracked changes. By progressing through the changes and comparing them with the 15-Day Changes, the public can see the net and stepwise changes being proposed in relation to existing law. Please refer to the version denoted A-1 to review the 15-Day Changes available for comment and its companion/alternate version A-2 to view an accessible version showing the 15-Day Changes.

In the Final Statement of Reasons, staff will respond to all comments received on the record during the comment periods. The APA requires that staff respond to comments received regarding all noticed changes. Therefore, staff will only address comments received during this 15-day comment period that are responsive to this notice, documents added to the record, or the changes detailed in Attachment A-1.

Summary of Proposed Modifications

The following summary does not include all modifications to correct typographical or grammatical errors, changes in numbering or formatting, nor does it include all of the non-substantive revisions made to improve clarity.

1. In sections 2449(c)(18)(A) and 2449(c)(18)(B), CARB staff removed the phrase “for a project” in the definition of activities that are considered emergency operations. This change does not materially alter the requirements, rights, and responsibilities, conditions, or prescriptions contained in the original text. The phrase “for a project” was redundant, and the removal does not change the intent of the proposed amendment.
2. In section 2449(c)(18)(B), CARB staff added the phrase “public and private” to clarify that public and private entities would be considered essential service utilities for activities that are considered emergency operations. This change does not materially alter the requirements, rights, and responsibilities, conditions, or prescriptions contained in the original text. The addition of this phrase does not change the intent of the proposed amendment. Broadband is as an entity that would be considered an essential service utility for activities that are considered emergency operations. This change is necessary to align with Executive Order N-73-20 that states, “effective emergency services require using broadband infrastructure to integrate data in real time from all available sources so decision makers at the local, regional, and statewide level have access to the information necessary for the protection of lives and property.”
3. In section 2449(c)(28), CARB staff provided additional language specifying that participation in section 2449.1(e), known as the “Alternate Compliance Pathway to Achieve Additional Emissions Reductions through Adoption of Zero-Emission,” does not impact the calculation of a fleet’s size. This is necessary due to the addition of section 2449.1(e)(4), which allows a fleet to participate in the alternate compliance pathway for vehicles operating at single facility. Clarification was needed to specify how a fleet’s size is calculated when a portion of the fleet is participating in section 2449.1(e).
4. In section 2449(c)(49), CARB staff added specific language incorporating Title 40, Code of Regulations, Part 79 and added the dates of adoption for the two documents

incorporated by reference used to define renewable diesel. This was added for the purpose of completeness.

5. Section 2449(d)(6)(I) was removed. CARB's intent with this provision was to provide assurance that the cleanest engines continue to be used in California even if CARB and the United States Environmental Protection Agency (U.S. EPA) off road engine standards do not remain aligned in the future (subsequent to Tier 4 Final). This provision would have required that new vehicles added to a fleet be equipped with a California-certified engine or a California-equivalent certified engine. CARB received feedback during the 45-day comment period that this provision was unclear to those persons directly affected by it. This change is necessary so that the requirements for what engine a fleet can add to their vehicle is clear to those persons directly affected by the requirement. Additionally, several commentors suggested CARB not include this requirement as part of the regulation until new engine certification standards are promulgated. CARB is committed to future amendments to ensure the intent of this provision is met in the event that CARB and U.S. EPA off road engine standards do not remain aligned in the future. Since section 2449(d)(6)(I) will no longer be a requirement for vehicles added to fleets, section 2449(d)(6) has been updated to only reference the requirements in subsections (A) through (H).
6. In section 2449(e)(9), CARB staff added the ability to exempt fleets from the Tier 4 Interim vehicle adding requirements in sections 2449(d)(6)(E) and 2449(d)(6)(F) if Tier 4 Final technology is not available. Section 2449(e)(9) is intended to provide CARB the ability to grant compliance flexibility in situations where Tier 4 Final vehicles are not available, but the original regulation only allowed compliance flexibility to provisions in section 2449.1. Adding in the Tier 4 Interim vehicle adding provisions in sections 2449(d)(6)(E) and (F) provides CARB the ability to grant additional compliance flexibility by allowing fleets to add Tier 4 Interim vehicles in these situations. This is necessary to provide fleets better cost-effective options when Tier 4 Final vehicles are not available while still achieving significant emissions reductions. Although section 2449(e)(9) was not amended in the initially proposed 45-Day Changes, this section is affected by the initially proposed 45-Day Changes of sections 2449(d)(6)(E) and 2449(d)(6)(F), so these 15-day changes are appropriate for inclusion in the 15-day changes.
7. In section 2449(f)(1)(A), CARB staff removed the language "or delivered." This removes the option for personal delivery of the application of an Equipment Identification Number (EIN). However, the option for mail delivery remains. This change was necessary for consistency with other provisions which require documentation be submitted to CARB. Also, CARB may not have staff present during all business hours to receive the applications due to current teleworking options for staff. Additionally, regulated entities are unable to personally deliver to a P.O. Box. This change does not significantly alter any fleet's ability to physically submit an application because the mail delivery option remains.
8. In section 2449(g)(2), CARB staff extended annual reporting dates for all fleet sizes through 2036. The timeframe for annual reporting under the Current Regulation was unclear as it is dependent on compliance with several provisions of Current Regulation. Extending the annual reporting through 2036 removes any ambiguity for those persons directly affected by the annual reporting requirements. The annual

reporting requirements are necessary to for CARB to assess the effectiveness of the regulation and ensures CARB has the necessary information to verify compliance with the regulation. It is necessary for CARB to extend reporting through 2036 because the final compliance dates for most changes to the regulation are January 1, 2036, and requiring fleets to complete annual reporting through 2036 ensures CARB receives information to determine compliance with those final compliance dates.

9. In section 2449(g)(2)(C), CARB staff added flexibility allowing a fleet that is unable to take photographic evidence of low-use hour meter readings due to military security reasons to keep a written log as an alternative recordkeeping method. This change is necessary for vehicles operating at military facilities where security requirements would not allow photographs to be taken regardless of whether the fleet owned a camera. In section 2449(g)(2)(C), the subsections referenced for reporting requirements was reworded for clarity and without changing the subsection numbers. In section 2449(g)(2)(C), added the word "described" to improve sentence structure, but there was no other reasonable meaning of the phrase prior to the amendment.
10. In section 2449(g)(5)(A), CARB staff added new reporting requirements for fleets utilizing the renewable diesel exemption in section 2449.1(f)(2)(C). This exemption was newly added in the 15-day changes, and accompanying reporting requirements are necessary to ensure the effectiveness of the proposed renewable diesel requirements and that the exemption in section 2449.1(f)(2)(C) is being used appropriately. Section 2449(g)(5)(A) requires reporting to CARB on the location of the fleet or operations, the 10th percentile minimum ambient air low temperature in January for that location, and volumes of fuel used during the exemption time period. This reporting is necessary to ensure the effectiveness of the renewable diesel requirements. It is also needed to ensure that CARB receives appropriate data regarding the actions of the fleets utilizing this exemption so CARB can verify compliance with the regulation. The 10th percentile minimum ambient air low temperature is necessary to include in the reporting because that is the metric used to determine applicability in section 2449.1(f)(2)(C). Specifying that weather station data is a valid method for determining the 10th percentile minimum ambient air low temperature and a description of "10th percentile" is necessary to ensure regulated entities have clear direction for what is required of their calculation and what data is necessary for reporting purposes. It is necessary to add acceptable methods of submission (mail and email) to ensure that the regulated entities have clear instructions on how to properly submit the report required under this provision.
11. In section 2449(g)(5)(B), CARB staff added new reporting requirements for fleets utilizing the renewable diesel exemption in section 2449.1(f)(2)(D). This exemption was newly added in the 15-day changes and accompanying reporting requirements are necessary to ensure the effectiveness of the proposed renewable diesel requirements and that the exemption in section 2449.1(f)(2)(D) is being used appropriately. Section 2449(g)(5)(B) requires reporting to CARB on the location of the fleet or operations, the temperature, and volumes of fuel used during the exemption time period. This reporting is necessary to ensure the effectiveness of the renewable diesel requirements. It is also needed to ensure that CARB receives appropriate data regarding the actions of the fleets utilizing this exemption to verify compliance with the regulation. Reporting within two weeks of use was selected to ensure that CARB staff receives critical documentation to verify compliance in a timely manner. This

reporting requirement will also provide time for fleets to gather the necessary documents. Specifying the records to document a temperature forecast is necessary so that the regulated entities have clear instructions on how to report forecasted temperatures to CARB. The date and the data source are necessary for CARB to verify that the forecast occurred with 14 days of the weather event and that the forecast was a commercial or government provided local weather forecast. It is necessary to add acceptable methods of submission (mail and email) to ensure that the regulated entities have clear instructions on how to properly submit the report required under this provision.

12. In section 2449(h)(10), CARB staff made several changes to clarify that the requirement is a recordkeeping requirement, clarify that the documents are intended to be maintained to demonstrate compliance with the renewable diesel requirement in 2449.1(f), and change the requirement to no longer require fleets to maintain fuel purchase records for each vehicle in their fleet. The intent of this provision is to ensure fleets are keeping appropriate records showing their overall fleet is procuring the appropriate fuel to comply with section 2449.1(f), but the language in the 45-Day Changes could be interpreted as requiring fleets to track and keep records for the fuel usage of every vehicle in their fleet. This interpretation would have been overly burdensome for the fleets and does not match CARB's intent as seen in the purpose and rationale in the Initial Statement of Reasons. These changes were necessary to clarify that CARB's intent was not to require fleets to track fuel usage at the vehicle level. This change also continues to meet CARB's intent, which is to achieve implementation and enforcement benefits of maintaining a level playing field for compliant fleets conducting business in California. Language was also added to specify that the records must show the date and volumes of fuel purchased. This information is necessary to provide clear documentation expectations for fleets and to ensure the effectiveness of the proposed renewable diesel requirements by ensuring fleets comply with those requirements appropriately based on the time and the amount of fuel they purchased. This ensures the emissions reductions of the renewable diesel requirements are achieved.
13. In section 2449(j)(3), CARB staff added a link to the website where prime contractors can report noncompliance to CARB as well as an email address for this same purpose. This was necessary to ensure the regulated entities have clear instructions on how to report noncompliance to CARB and comply with this provision.
14. In section 2449(j)(3)(F), CARB staff made several changes that are nonsubstantial because they clarify without materially altering the requirements, rights, and responsibilities, conditions, or prescriptions contained in the original text, but are identified here in the interests of full disclosure. The changes clarify the required identification number and improve the sentence structure, but there was no other reasonable meaning of the phrase prior to the amendment.
15. In section 2449(j)(5), CARB staff adjusted the language for clarity purposes. CARB received comments stating that the language in the 45-Day Changes was not clear in specifying the timeframe for which a short-term project would not be subject to this provision, so the language was adjusted to very clearly state that this provision applies "for any project where vehicles subject to this regulation will operate for eight (8)

calendar days or more.” This change does not materially alter the requirements, rights, and responsibilities, conditions, or prescriptions contained in the original text.

16. In section 2449.1(e), CARB staff changed the title of the section to “Alternate Compliance Pathway through Zero-Emission Technology” to better represent the content of the section. This change does not materially alter the requirements, rights, and responsibilities, conditions, or prescriptions contained in the original text.
17. In sections 2449.1(e)(1)(C) and 2449.1(e)(2), CARB staff changed the word “transition” to technology to better represent the intent of the phrase “zero-emission technology application.” This change does not materially alter the requirements, rights, and responsibilities, conditions, or prescriptions contained in the original text.
18. In section 2449.1(e)(2)(A), CARB staff added additional information required to be submitted by a fleet during the Zero-Emission Technology Application (ZETA) process. This additional information includes fleet name, DOORS³ fleet ID number, and contact information, all of which is necessary to properly identify and communicate with the fleet that is requesting the use of the alternate compliance pathway. As a result of adding subsection (A) the subsequent subsections were renumbered accordingly.
19. In section 2449.1(e)(2)(B), CARB staff added language specifying that if a fleet is applying for all their vehicles operating at a single facility per section 2449.1(e)(4), then the zero emission percentage requirements apply to the total horsepower of all those vehicles at the facility and not the fleet’s entire total horsepower. This is necessary due to the addition of section 2449.1(e)(4), which allows vehicles operating at a single facility to participate in this alternate compliance pathway. The zero-emission percentage requirements had to be clearly defined for this new type of participation. Also changed the word “transition” to “achieve” to better reflect the actions the fleet would be taking in order to meet these requirements.
20. In section 2449.1(e)(2)(H), CARB staff changed the word “transition” to “achieve” to better reflect the actions the fleet would be taking in order to meet these requirements.
21. In section 2449.1(e)(3), CARB staff changed the title to include the word “approval” to better reflect the content of section 2449.1(e)(3).
22. In section 2449.1(e)(3)(A), CARB staff changed the phrase “accepted or considered by CARB” to “accepted by CARB” to remove any potential ambiguity caused by the word “consider.”
23. In section 2449.1(e)(3)(C)1., CARB staff removed the language “or delivered.” This removes the option for a personal delivery of the ZETA application, the options for mail or email delivery remain. This change was necessary for consistency with other provisions which require documentation be submitted to CARB. Also, CARB may not have staff present during all business hours to receive the applications due to current teleworking options for staff. Additionally, regulated entities are unable to personally deliver to a P.O. Box. This change does not significantly alter any fleet’s ability to

³ DOORS is the reporting tool for the In-Use Off-Road Diesel-Fueled Fleets Regulation. The DOORS fleet ID number is the number assigned by CARB when a fleet initially reports to CARB.

submit a ZETA because two delivery options remain that are less cumbersome for the fleet to implement.

24. In section 2449.1(e)(3)(E)1., CARB staff added language that the letter approving the ZETA will specify whether the entire fleet or whether only the vehicles operating at a single facility per section 2449.1(e)(4) will not be subject to the requirements outlined in sections 2449.1(a), (b), and (c). This is necessary due to the addition of section 2449.1(e)(4), which allows vehicles operating at a single facility to participate in this alternate compliance pathway and the approval letter must clearly explain what flexibility is being provided.
25. In section 2449.1(e)(3)(E)2., CARB staff updated the reference to the correct subsection accordingly as a result of these proposed modifications.
26. In section 2449.1(e)(3)(E)3., CARB staff removed the phrase “CARB may agree to make adjustments...” and replaced it with “CARB will follow the process outlined in section 2449.1(e)(2)(I)2.” in order to remove any potential ambiguity with the word “may” and remove any ambiguity regarding the process CARB will follow under these circumstances.
27. In section 2449.1(e)(4), CARB staff added the option for vehicles operating at a single facility to participate in section 2449.1(e), the Alternate Compliance Pathway through Zero-Emission Technology. CARB received feedback during the 45-day comment period stating if a fleet wishing to reduce emissions by using zero-emission technology at a single facility were allowed to use this new alternate compliance pathway, then utilization of the provision might increase. CARB agrees that introducing this option for vehicles operating at a single facility could increase the utilization of this alternate compliance pathway and, therefore, could reduce emissions beyond those achieved from the current regulation by increasing the use of zero-emission technology. 15-day changes are proposed to allow this because higher utilization of the provision is in line with CARB’s goal of encouraging fleets to maximize emission reductions by deploying zero-emission technology. This 15-day change is necessary to increase the utilization of the alternate compliance pathway. Additional reporting requirements specific to fleets using this provision for a subset of vehicles are also added to ensure the fleet’s compliance is tracked properly. The additional information is readily available to fleets choosing this provision. The vehicles, including EIN are currently reported to CARB through the reporting required in section 2449(g) and this additional reporting ensures CARB can accurately identify which vehicles are participating in the alternate compliance pathway.
28. In section 2449.1(f)(1), CARB staff changed the phrase “use” to “procure” and added the phrase “and use this fuel” in all vehicles subject to the regulation. This change does not materially alter the requirements, rights, and responsibilities, conditions, or prescriptions contained in the original text. This change is necessary to better align with the proposed 15-day changes to section 2449(h)(10), where the recordkeeping requirement is focused on the fleet’s procurement of fuel.
29. In section 2449.1(f)(2), CARB staff removed the word “fleets” because it was duplicative with the following subsections. This change does not materially alter the requirements, rights, and responsibilities, conditions, or prescriptions contained in the original text.

30. In section 2449.1(f)(2)(A), CARB staff added language allowing vehicles that operate in captive attainment regions to be exempted from the renewable diesel requirements in addition to fleets specifically designated as captive attainment area fleets. CARB received comments during the 45-day comment period stating that there could be cases in which a fleet is not designated as a captive attainment area fleet but is operating its vehicles in these areas, and these operations should be exempt as well. CARB agrees that this change is necessary because these operations should be exempted in order to provide additional flexibility to fleets that operate in regions that do not face the same air quality challenges as the non-attainment areas of California.
31. In sections 2449.1(f)(2)(A) and 2449.1(f)(2)(B), CARB staff added "fleet portion" to the exemptions to clarify that the exemptions apply to both fleets and fleet portions as defined in section 2449(c)(25). This is necessary to remove ambiguity as to when these exemptions apply.
32. In sections 2449.1(f)(2)(C) and 2449.1(f)(2)(D), CARB staff added an exemption to the renewable diesel requirements for fleets, fleet portions, or vehicles operating in cold temperatures. This change is necessary because comments were made during the 45-day comment period that demonstrated potential performance issues when using renewable diesel at cold temperatures and an exemption for these situations is necessary to prevent potential performance issues. The exemptions provide necessary limitations to ensure CARB continues to maximize the emission reductions achieved through renewable diesel. A detailed description of the added exemptions is provided below:
- a. Section 2449.1(f)(2)(C) allows fleets to procure and use low temperature-specific diesel fuel during the months of November, December, January, and February if a fleet, fleet portion, or vehicle is located or operated in a location where the 10th percentile minimum ambient air low temperature in January drops below 20 degrees Fahrenheit (20° F). This temperature threshold is necessary to ensure that the exemption is clear to those persons directly affected by it and aligns with temperature profile maps in American Society for Testing Materials (ASTM) D975-21 used to estimate low temperature operability requirements for diesel fuel. The added exemption allows fleets to use low temperature-specific diesel fuel from October 15 through the end of February and to continue to use excess low temperature-specific diesel procured during this time period. This is necessary for fleets to be able to procure the appropriate fuel prior to the beginning of November and to ensure fleets can use the fuel they have procured so they do not incur excess costs.
 - b. Section 2449.1(f)(2)(D) allows fleets to procure and use low temperature-specific diesel fuel where the temperature drops below 20° F or a commercial or government provided local weather forecast predicts temperatures to drop below 20° F for the period of days in which the low temperature condition(s) occurs. Examples of commercial or government local weather forecast include, but are not limited to, those made by the National Weather Service, local television or print news, The Weather Channel, and other weather apps. This temperature threshold is necessary to ensure that the exemption is clear to those persons directly affected by it and aligns with temperature profile maps in ASTM D975-21 used to estimate low temperature operability requirements for

diesel fuel. Additionally, the temperature forecast must occur within 14 days of the first day of the cold temperature event. The 14-day timeframe was selected because it should provide fleets with sufficient lead time to procure a low temperature-specific diesel while still being a reliable forecast. This exemption is necessary to allow fleets to use the appropriate cold temperature fuel when they operate vehicles in an area that does not meet the requirements in section 2449.1(f)(2)(C) or if a cold weather event occurs outside of the months of November, December, January, and February. This exemption allows fleets to continue to use excess low temperature-specific diesel procured during the weather event. This is necessary to ensure fleets can use the fuel they have procured so they do not incur excess costs.

33. In section 2449.1(f)(4), CARB staff changed the phrase “solely rent and do not themselves operate” to “provide for rent.” This change is necessary as the original text unintentionally restricted the use of this provision to fleets that do not operate any of their own affected vehicles and to remove any ambiguity as to whether section 2449.1(f)(4) applied to customers that rent vehicles. This change is needed because fleets that, in addition to renting, also themselves operate affected vehicles could need this flexibility as well. The revision also includes clarifying language to better identify which fleet is being referenced in each piece of the provision. This clarifying language does not materially alter the requirements, rights, and responsibilities, conditions, or prescriptions contained in the original text. Also changed the language stating that “if CARB has a good faith reason to believe that a fleet that rented a vehicle was not compliant with the renewable diesel requirements...” because this language was discretionary and did not clearly describe when CARB would request information from the fleet. This change was necessary to more clearly describe the expectations of the fleet and remove ambiguity.

In addition to the modifications described above, additional modifications correcting grammar, punctuation and spelling have been made throughout the proposed changes. These changes are nonsubstantive.

Additional Information, Documents, and Incorporated Documents Added to the Record

Update to Staff Report: Initial Statement of Reasons (ISOR) (Date of Release: September 20, 2022)

The following is an addendum to Chapter VI of the Staff Report: Initial Statement of Reasons for the Public Hearing to Consider Proposed Amendments to the In-Use Off-Road Diesel-Fueled Fleets Regulation, released to the public on September 20, 2022. This additional information is in regards to CARB staff’s determination that each provision of the Proposed Amendments to the In Use Off Road Diesel Fueled Fleets Regulation (Proposed Amendments), (title 13, CCR §§ 2449 et seq.) is: (1) reasonably necessary to carry out the purpose of the regulation; and (2) reasonably necessary to address the problem for which the regulation is proposed.

Rationale for Section 2449(f)(2)

The 10-day timeframe to contact the manufacturer and 30-day timeframe for the manufacturer to affix the label is sufficient time without being overly burdensome to a fleet. These timeframes are necessary because they allow CARB to make compliance determinations in a timely manner. An engine operating without a visible and legible label, as required by title 13, CCR section 2424, impedes CARB's ability to determine compliance of that engine with the Off-Road Regulation.

Rationale for Section 2449(j)(4)

The requirement that prime contractors immediately disclose to CARB the name and contact information of each responsible party for all vehicles subject to this regulation operating at a job site or for the prime contractor is critical for CARB enforcement efforts. It is necessary that CARB enforcement staff identify responsible parties at the time staff is present at the job site and while potential noncompliance is being observed. A delay in accessing such information would reduce enforcement effectiveness.

Rationale for Section 2449(j)(5)

Posting signs on job sites by the eighth day is necessary to ensure the sign is posted in a timeframe that prime contractors can reasonably comply with while also achieving the benefits described in the rationale for posting the sign. This timeframe also aligns with the exemption for operations that last seven or fewer days. Any other timeframe for posting the sign would be in direct conflict with the exemption and would put the prime contractor at risk of noncompliance.

Additional Documents Added to the Record:

In the interest of completeness and in accordance with Government Code section 11347.1, subdivision (a), staff has also added to the rulemaking record and invites comments on the following additional documents:

- CARB. (2007a). Technical Support Document: Proposed Regulation for In-Use Off-Road Diesel Vehicles. April 2007.
<https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2007/ordiesl07/tsd.pdf>
- CARB. (2007b). Appendix J. Cost and Economic Analysis Methodology. Technical Support Document: Proposed Regulation for In-Use Off-Road Diesel Vehicles. April 2007.
<https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2007/ordiesl07/tsdappj.pdf>.
- CARB. (2008). Final Statement of Reasons for Rulemaking Including Summary of Comments and Agency Responses, Public Hearing to Consider the Adoption of a Proposed Regulation for In-Use Off-Road Diesel Vehicles. Filed with the Office of Administrative Law April 4, 2008.
<https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2007/ordiesl07/fsor.pdf> .
- CARB. (2019). CEPAM2019v1.03 Emission Projection Data. Retrieved March 28, 2023, from <https://ww2.arb.ca.gov/applications/emissions-air-district>
- CARB. (2021). 2021 Agricultural Equipment Emission Inventory. August 2021. Retrieved March 24, 2023, from https://ww2.arb.ca.gov/sites/default/files/2021-08/AG2021_Technical_Documentation_0.pdf

- CARB. (2022a). 2022 State Strategy for the State Implementation Plan. Retrieved February 15, 2023, from https://ww2.arb.ca.gov/sites/default/files/2022-08/2022_State_SIP_Strategy.pdf.
- CARB. (2022b). California Air Resources Board. 2022. Off-Road Regulation Amendments Cost Analysis for the SRIA. This workbook provides the full economic model used in the SRIA. Workbook includes statewide direct costs for the SRIA proposal and Alternatives 1, and 2.
- CARB. (2022c). California Air Resources Board. 2022. Off-Road Regulation Amendment Vehicle Capital Costs for the SRIA. This workbook provides the direct vehicles costs for the amendment scenario for the SRIA.
- CARB. (2022d). California Air Resources Board. 2022. Off-Road Regulation Amendment Typical Fleet Direct Costs for the SRIA. This workbook provides the direct costs for typical fleets for the SRIA.
- CARB. (2022e). California Air Resources Board. 2022. Off-Road Regulation Amendment Vehicle Capital Costs for SRIA and ISOR Alternative 1. This workbook provides the direct vehicles costs for the Alternative 1 for the SRIA and ISOR.
- CARB. (2022f). California Air Resources Board. 2022. Off-Road Regulation Amendment Vehicle Maintenance Costs for SRIA and ISOR Alternative 1. This workbook provides the direct vehicle maintenance costs for the Alternative 1 for the SRIA and ISOR.
- CARB. (2022g). California Air Resources Board. 2022. Off-Road Regulation Amendment Vehicle Capital Costs for SRIA Alternative 2. This workbook provides the direct vehicles costs for the Alternative 2 for the SRIA.
- CARB. (2022h). California Air Resources Board. 2022. Off-Road Regulation Amendment Vehicle Maintenance Costs for SRIA Alternative 2. This workbook provides the direct vehicle maintenance costs for the Alternative 2 for the SRIA.
- CARB. (2022i). California Air Resources Board. 2022. Off-Road Regulation Baseline Direct Vehicle Costs. This workbook provides the direct vehicles costs for the baseline scenario.
- CARB. (2022j). California Air Resources Board. 2022. Off-Road Regulation Amendments Cost Analysis for the ISOR. This workbook provides the full economic model used in the ISOR. Workbook includes statewide direct costs for the SRIA proposal and Alternatives 1, and 2.
- CARB. (2022k). California Air Resources Board. 2022. Off-Road Regulation Amendment Vehicle Capital Costs for the ISOR. This workbook provides the direct vehicles costs for the amendment scenario for the ISOR.
- CARB. (2022l). California Air Resources Board. 2022. Off-Road Regulation Amendment Vehicle Capital Costs for ISOR Alternative 2. This workbook provides the direct vehicles costs for the Alternative 2 for the ISOR.
- CARB. (2022m). California Air Resources Board. 2022. Off-Road Regulation Amendment Vehicle Maintenance Costs for ISOR Alternative 2. This workbook provides the direct vehicle maintenance costs for the Alternative 2 for the ISOR.
- CARB. (2022n). California Air Resources Board. 2022. Off-Road Regulation Amendment Emissions Calculations for SRIA Main Proposal. This workbook provides the emissions reductions calculations for the Main Proposal for the SRIA.
- CARB. (2022o). California Air Resources Board. 2022. Off-Road Regulation Amendment Emissions Calculations for SRIA Alternative 1. This workbook provides the emissions reductions calculations for Alternative 1 for the SRIA.

- CARB. (2022p). California Air Resources Board. 2022. Off-Road Regulation Amendment Emissions Calculations for SRIA Alternative 2. This workbook provides the emissions reductions calculations for Alternative 2 for the SRIA.
- CARB. (2022q). California Air Resources Board. 2022. Off-Road Regulation Amendment Emissions Calculations for ISOR Main Proposal. This workbook provides the emissions reductions calculations for the Main Proposal for the ISOR.
- CARB. (2022r). California Air Resources Board. 2022. Off-Road Regulation Amendment Emissions Calculations for ISOR Alternative 1. This workbook provides the emissions reductions calculations for Alternative 1 for the ISOR.
- CARB. (2022s). California Air Resources Board. 2022. Off-Road Regulation Amendment Emissions Calculations for ISOR Alternative 2. This workbook provides the emissions reductions calculations for Alternative 2 for the ISOR.
- CARB. (2022t). California Air Resources Board. 2022. Health and Economic Impacts Calculations for the SRIA of the Off-Road Regulation Amendment rulemaking. This workbook provides the health and economic impacts calculations for the SRIA of the Off-Road Regulation Amendment rulemaking for the Main Proposal, Alternative 1, and Alternative 2.
- CARB. (2022u). California Air Resources Board. 2022. Health and Economic Impacts Calculations for the ISOR of the Off-Road Regulation Amendment rulemaking. This workbook provides the health and economic impacts calculations for the ISOR of the Off-Road Regulation Amendment rulemaking for the Main Proposal, Alternative 1, and Alternative 2.
- CARB. (2023a). California Air Resources Board. 2023. Off-Road Regulation Amendments Cost Analysis for the 15-Day Changes. This workbook provides the full economic model used in the 15-Day Changes. Workbook includes statewide direct costs for the SRIA proposal and Alternatives 1, and 2.
- CARB. (2023b). California Air Resources Board. 2022. Off-Road Regulation Amendment Emissions Calculations for the 15-Day Changes to the Main Proposal. This workbook provides the emissions reductions calculations for the 15-Day Changes to the Main Proposal.
- CARB. (2023c). California Air Resources Board. 2022. Off-Road Regulation Amendment Emissions Calculations for the 15-Day Changes to Alternative 2. This workbook provides the emissions reductions calculations for the 15-Day Changes to Alternative 2.
- CARB. (2023d). California Air Resources Board. 2023. Health and Economic Impacts Calculations for the 15-Day Changes of the Off-Road Regulation Amendment rulemaking. This workbook provides the health and economic impacts calculations for the 15-Day Changes of the Off-Road Regulation Amendment rulemaking for the Main Proposal and Alternative 2.
- CARB. (2023e). California Air Resources Board. 2023. Query of DOORS reporting system data for Airport Ground Support Equipment. This table provides the counts of Airport Ground Support Equipment reported into the DOORS reporting system, broken down by fuel type, and if the fuel type is diesel, also by the engine tier.
- CARB and State Water Resources Control Board. (2013). Joint Statement: Renewable Diesel Should Be Treated the Same as Conventional Diesel. July 31, 2013. Retrieved February 14, 2023 from https://ww2.arb.ca.gov/sites/default/files/2018-08/Renewable_Diesel_Joint_Statement_7-31-13.pdf.

- California Department of Finance. (2021). Report P-3: Population Projections, California, 2010-2060 (Baseline 2019 Population Projections; Vintage 2020 Release). Sacramento: California. July 2021. Retrieved January 11, 2023, from https://dof.ca.gov/wp-content/uploads/Forecasting/Demographics/Documents/P3_Complete.zip.
- California Department of Finance. (2022a). National Economic Forecast – Annual & Quarterly. Sacramento: California. November 2022. Retrieved January 11, 2023, from <https://dof.ca.gov/wp-content/uploads/Forecasting/Economics/Documents/United-States-Economic-Forecast-GB-2023-24.xlsx>.
- California Department of Finance. (2022b). California Economic Forecast – Annual & Quarterly. Sacramento: California. November 2022. Retrieved January 11, 2023, from <https://dof.ca.gov/wp-content/uploads/Forecasting/Economics/Documents/California-Economic-Forecast-GB-2023-24.xlsx>.
- California Department of Finance. (2022c). National Deflators: Calendar Year averages: from 1929, April 2021. Sacramento: California. November 2022. Retrieved January 11, 2023, from <https://dof.ca.gov/wp-content/uploads/Forecasting/Economics/Documents/Implicit-Price-Deflators-CY.xlsx>.
- California Department of Tax and Fee Administration. (2022). California City & County Sales & Use Tax Rates. California Department of Tax and Fee Administration. Retrieved February 22, 2023, from <https://www.cdtfa.ca.gov/taxes-and-fees/sales-use-tax-rates.htm>.
- Executive Department State of California. (2020). Executive Order N-73-20. Office of Governor Gavin Newsom. Retrieved February 9, 2023, from <https://www.gov.ca.gov/wp-content/uploads/2020/08/8.14.20-EO-N-73-20.pdf>.
- Finkelstein, M. M. et. al. (2023). Relation between income, air pollution, and mortality: A cohort study. Canadian Medical Association Journal. Retrieved March 28, 2023, from <https://www.cmaj.ca/content/169/5/397>.
- Jbaily, A., et al. (2022). Air pollution exposure disparities across US populations and income groups. Nature. Retrieved March 28, 2023, from <https://pubmed.ncbi.nlm.nih.gov/33148655/>.
- Mikati, I. et al. (2018). Disparities in distribution of particulate matter emissions sources by race and poverty status. A Publication of the American Public Health Associations. Retrieved March 28, 2023, from <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2017.304297>.
- Morello-Frosch, R. et. al. (2002). Environmental Justice and Regional Inequality in Southern California: Implications for Future Research. National Library of Medicine. Retrieved March 28, 2023, from <https://pubmed.ncbi.nlm.nih.gov/11929723/>.
- Office of Environmental Health Hazard Assessment, CalEPA. (2021a). CalEnviroScreen 4.0 Report. Retrieved March 28, 2023, from <https://oehha.ca.gov/media/downloads/calenviroscreen/report/calenviroscreen40reportf2021.pdf>.
- Office of Environmental Health Hazard Assessment, CalEPA. (2021b). Analysis of Race/Ethnicity and CalEnviroScreen 4.0 Scores. Retrieved March 28, 2023, from <https://oehha.ca.gov/media/downloads/calenviroscreen/document/calenviroscreen40raceanalysisf2021.pdf>.
- Reichmuth, David. (2019). Inequitable exposure to air pollution from vehicles in California. Union of Concerned Scientists. Retrieved March 28, 2023, from

<https://www.ucsusa.org/resources/inequitable-exposure-air-pollution-vehicles-california-2019>.

- U.S. Department of Energy. (2022). Clean Cities Alternative Fuel Final Report January 2022 - October 2022. Alternative Fuels Data Center. Retrieved February 16, 2023, from <https://afdc.energy.gov/publications/search/keyword/?q=alternative-fuel-price-report>.
- U.S. EPA. (2023). 40 Code of Federal Regulations (CFR) Parts 50, 53, and 58, Reconsideration of the National Ambient Air Quality Standards for Particulate Matter. Federal Register Volume 88, Number 18 (January 27, 2023) Page 5558- 5719. Retrieved January 31, 2023, from <https://www.govinfo.gov/content/pkg/FR-2023-01-27/pdf/2023-00269.pdf>.

Additional Document Incorporated by Reference:

- U.S. EPA. (2021). 40 CFR 79 Part 79 – Registration of Fuels and Fuel Additives. July 1, 2021.

These documents are available for inspection at the California Air Resources Board, 1001 I Street, Sacramento, California, 95814, between the hours of 9:00am to 4:00pm, Monday through Friday (excluding holidays). To inspect these documents please contact Chris Hopkins, Regulations Coordinator, at (279) 208-7347.

Agency Contacts

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative, Johanna Levine, Air Resources Supervisor I, Off-Road Implementation Section, at ordamendments@arb.ca.gov or (916) 570-7888, or Angie Polanco, Air Resources Engineer, at (916) 292-8344.

Public Comments

Written comments will only be accepted on the modifications identified in this Notice. Comments may be submitted by postal mail or by electronic submittal no later than the due date to the following:

Postal mail: Clerks' Office, California Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <https://ww2.arb.ca.gov/applications/public-comments>

Please note that under the California Public Records Act (Gov. Code § 7920.000 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 CARB in one of the two forms described above and received by CARB no later than 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 Clerks' Office 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 alterno 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.

California Air Resources Board



Steven S. Cliff, Ph.D.,
Executive Officer

Date: April 10, 2023

Attachments

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see [CARB's website](http://www.arb.ca.gov) (www.arb.ca.gov).