

REQUEST FOR AN EARLY EFFECTIVE DATE
Pursuant To Government Code Section 11343.4(c)

The Air Resources Board (ARB or Board) formally requests, under Government Code section 11343.4(c), that the Office of Administrative Law (OAL) prescribe an early effective date for the adopted amendments to the On-Road Heavy-Duty Diesel-Fueled Drayage Trucks at Ports and Intermodal Rail Yard Facilities (Drayage Truck regulation), title 13, Cal. Code Regs., section 2027, that were considered by the Board on December 17, 2010 and subsequently adopted. ARB believes that “good cause” exists for OAL to grant ARB’s request – i.e., that the amendments become effective with OAL’s approval and filing of the regulations with the Secretary of State.

DEMONSTRATION OF GOOD CAUSE

In this rulemaking, the Board considered and subsequently adopted amendments to close two loopholes in the existing Drayage Truck regulation. Among other things, the amendments broaden the definition of drayage trucks to include trucks that receive cargo loads transferred in neighborhoods outside of the regulated port and intermodal rail yard facilities, a practice called “dray-off.” The on-and-off loading of cargo outside of covered facilities has effectively circumvented the regulation’s in-use emissions performance requirements, which were adopted to curtail diesel particulate matter (PM) and oxides of nitrogen (NOx) pollution, reduce health-risk exposure to diesel PM, an identified toxic air contaminant, and to help California meet its State Implementation Plan obligations to achieve attainment with national ambient air quality standards. The circumvention of the regulation has enabled high-emitting vehicles to continue to operate in-and-around port and intermodal rail facilities and thereby continue to subject surrounding communities to high health risk exposure. It has also undermined the ability of those drayage truck owners who have complied with the regulation to compete with those who have not. The amendments would also effectively close a second loophole in the regulation by requiring all lighter (Class 7) trucks to meet the same in-use emissions performance requirements. Class 7 trucks, without emission controls, have been used more and more frequently in place of heavier Class 8 trucks, which have been required under the regulation to meet more stringent emission standards since December 31, 2009. Under the adopted amendments, owners of Class 7 drayage trucks would need to meet the requirements after December 31, 2011 in the South Coast Air Basin, and statewide after December 31, 2013.

An early effective date would provide owners of Class 7 drayage trucks in the South Coast Air Basin with additional notice and certainty that they must take immediate action to bring their vehicles into compliance by the end of this year. Additionally, an early effective date will expedite the closure of the dray-off loophole, and thereby minimize local communities’ health risk exposure and create a balanced playing field for all drayage truck owners. Finally, an early effective date would administratively assist ARB in expeditiously achieving the purpose and intent of the initially adopted Drayage Truck regulation.

For these reasons, ARB believes good cause exists for OAL to grant ARB's request for an early effective date that coincides with its approval of the amendments and filing of the amendments to the Secretary of State pursuant to Government Code section 11343.4(c).

Date: September 21, 2011

/s/

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