

Attachment B

ARB Staff's Proposed Modifications to the Regulation to Control Emissions from In-Use On-Road Diesel-Fueled Heavy-Duty Drayage Trucks (December 5, 2007)

Note: Original Regulation language is shown in regular text. The proposed modifications are shown in ~~strikeout~~ to indicate deletions and underline to indicate additions. The symbol * * * * * indicates there are no proposed modifications to intervening provisions.

Section 2027. ~~Purpose and Definitions of Control Measure~~ In-Use On-Road Diesel-Fueled Heavy-Duty Drayage Trucks.

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- (c) **Definitions.** For purposes of this section, the definitions of Health and Safety Code section 39010 through 39060 apply except to extent that such definitions may be modified by the following definitions that apply specifically to this regulation.

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- (6) "California-Based Drayage Trucks" means drayage trucks that are registered in California and have a California license plate or registered in the IRP and have a California apportioned license plate.
- (~~7~~6) "CARB Diesel Fuel" is diesel fuel certified by ARB as meeting the fuel specification standards set forth at title 13, California Code of Regulations (CCR) section 2280 et seq.
- (~~8~~7) "Class I Railroad" is a freight railway based on large revenues (\$250 million or more) in comparison to the revenues of Class II (which ranges from greater than \$20 million but less than \$250 million) and Class III (less than \$20 million) railways, as defined by the Surface Transportation Board (STB).
- (~~9~~8) "Compliance Label" is a tag issued by ARB or its designee under the Drayage Truck Registry for heavy-duty drayage trucks operated at the ports and intermodal rail yards that meet the requirements and compliance schedules of subsection (d) of this regulation.
- (~~10~~9) "Dedicated Use Vehicles" are uni-body vehicles that do not have separate tractor and trailers and include but are not limited to:

- (A) Dedicated auto transports;
- (B) Dedicated fuel delivery vehicles;
- (C) Concrete mixers;
- (D) On-road Mobile Cranes

(~~1140~~) “Diesel Fuel” means any fuel that is commonly or commercially known, sold, or represented by the supplier as diesel fuel, including any mixture or primarily liquid hydrocarbons (HC) – organic compounds consisting exclusively of the elements carbon and hydrogen – that is sold or represented by the supplier as suitable for use in an internal combustion, compression – ignition (CI) engine.

(~~1244~~) “Diesel-Fueled” means a CI engine fueled by diesel fuel, CARB diesel fuel, or jet fuel, in whole or part, including liquid natural gas (LNG) engines using diesel-fuel for pilot injection are subject to the requirements of this regulation.

(~~1342~~) “Diesel particulate matter (diesel PM)” means the particles found in the exhaust of diesel-fueled compression ignition engines. Diesel PM may agglomerate and adsorb other species to form structures of complex physical and chemical properties. ARB has identified diesel PM as a toxic air contaminant.

(~~1443~~) “Drayage Truck” means any in-use on-road vehicle with a gross vehicle weight rating (GVWR) of 33,000 pounds or greater operating on or transgressing through port or intermodal rail yard property for the purpose of loading, unloading or transporting cargo, such as containerized, bulk or break-bulk goods.

(~~1544~~) “Drayage Truck Owner” means:

- (A) the person registered as the owner of a drayage truck as shown by the Department of Motor Vehicles, or its equivalent in another state, province, or country; or the International Registration Plan.

or

- (B) the lessee of the truck, as indicated on the drayage truck’s registration pursuant to Vehicle Code section 4453.5.

(~~1645~~) “Drayage Truck Operator” means the driver of the vehicle or any person, party or entity that controls operation of a drayage truck at a port or intermodal rail yard facility.

- (1746) “Drayage Truck Registry (DTR)” is an ARB database that contains information on all trucks that conduct business at California ports and intermodal rail yards.
- (1847) “Drayage Truck Registry Number” is a unique identifier issued to the owner of a drayage truck upon registering in the DTR and corresponds to the truck registered.
- (1948) “Emergency Event” means any situation arising from sudden and reasonably unforeseen natural disaster such as earthquake, flood, fire, or other acts of God, or other unforeseen events beyond the control drayage truck owners and operators that threatens public health and safety or the reasonable flow of goods movement.
- (2049) “Emergency Decree” means a determination by the Executive Officer that an emergency event has occurred that requires the immediate temporary operation of drayage trucks at ports and rail yard facilities.
- (2120) “Executive Officer” is the Executive Officer of ARB or his/her authorized representative.
- (2224) “Gross Vehicle Weight Rating (GVWR)” is as defined in Vehicle Code Section 350.
- (2322) “Heavy-Duty” is a manufacturer’s gross vehicle weight rating of greater than 33,000 or more pounds.
- (2423) “Intermodal Rail Yard” is any rail facility owned or operated by a Class 1 railroad within 80 miles of a port where cargo is transferred from truck to train or vice versa. Intermodal rail yards include, but are not limited to, the following facilities: Union Pacific (UP) Oakland, Burlington Northern Santa Fe (BNSF) Hobart, LATC Union Pacific, Commerce UP, Richmond BNSF, Commerce Eastern BNSF, ICTF UP, San Bernardino, Stockton Intermodal BNSF, Lathrop Intermodal UP, and BNSF Oakland.
- (2524) “International Registration Plan” is a registration reciprocity agreement among states of the United States and provinces of Canada providing for payment of license fees on the basis of total distance operated in all jurisdictions.
- (2625) “Lessee” has the same meaning as in Vehicle Code section 371.
- (2726) “Liquid Natural Gas (LNG) Fueled Trucks” are drayage trucks that utilize a heavy-duty pilot ignition engine that is designed to operate using an alternative fuel, except that diesel fuel is used for pilot ignition at an average ratio of no more than one part diesel fuel to ten parts total fuel on

any energy equivalent basis. An engine that can operate or idle solely on diesel fuel at any time does not meet this definition.

- (~~2827~~) "Marine or Port Terminals" means wharves, bulkheads, quays, piers, docks and other berthing locations and adjacent storage or adjacent areas and structures associated with the primary movement of cargo or materials from vessel to shore or shore to vessel including structures which are devoted to receiving, handling, holding, consolidating and loading or delivery of waterborne shipments or passengers, including areas devoted to the maintenance of the terminal or equipment. For the purposes of this regulation, the term includes but is not limited to production or manufacturing areas, warehouses, storage facilities, and private or public businesses or entities located on or surrounded by port property.
- (~~2928~~) "Military Tactical Support Vehicles" is as defined in title 13, CCR, section 1905.
- (~~3029~~) "Motor Carrier" is a business intermediary that contracts with beneficial cargo owners, ship companies, port terminals or Class I railroads for pick-up and delivery of goods and with drayage truck owners, who it dispatches to ports and/or intermodal rail yards to pick up and deliver such goods.
- (~~3130~~) "On-road" means a vehicle that is designed to be driven on public highways and roadways and that is registered or is capable of being registered by the California Department of Motor Vehicles (DMV) under Vehicle Code sections 4000 et seq. – or DMV's equivalent in another state, province, or country; or the International Registration Plan. A vehicle covered under ARB's In-Use Off-Road Regulation, title 13, CCR, section 2449 is not an on-road vehicle.
- (~~32~~) "Out-of-State Based Drayage Trucks" means drayage trucks that are not registered and plated in California or do not have a California apportioned license plate under the IRP.
- (~~3334~~) "Oxides of nitrogen (NOx)" means compounds of nitric oxide, nitrogen dioxide, and other oxides of nitrogen. Nitrogen oxides are typically created during combustion processes and are major contributors to smog formation and acid deposition.
- (~~3432~~) "Port" is the port property where marine and port terminals are typically located for the loading and unloading of any facility used for water-borne commerce which typically consists of different terminals, where cargo is loaded onto and unloaded from ocean-going vessels. For the purposes of this regulation, ports does not include, port property that is neither related to nor primarily used to engage in water-borne commerce. Ports covered

by this regulation include, but are not limited to, the Port of Long Beach, Port of Los Angeles, Port of Humboldt Bay, Port of San Diego, Port of Hueneme, Port of Oakland, Port of San Francisco, Port of Sacramento, Port of Stockton, Port of Redwood City, Port of Crockett, Port of Richmond, Port of Pittsburg, and the Port of Benicia.

- (~~3533~~) “Port Authority” means those entities, either public or private, that are responsible for the operation of the ports.
- (~~3634~~) “Port Property” means publicly or privately owned the property where a port is located. It is the property that includes constituting the physical boundaries, either contiguous or non-contiguous, of a the port and may include other properties owned by the port. For the purposes of this regulation, port property ~~also~~ includes privately owned property located within a publicly or privately owned port property’s boundaries.
- (~~3735~~) “Rail Yard Authority” means those entities, either public or private, that are responsible for the operation of Class I rail yards.
- (~~3836~~) “Rail Yard Property” means the property constituting the physical boundaries of intermodal rail yards. For the purposes of this regulation, rail yard property also includes privately owned property located within rail yard boundaries.
- (~~3937~~) “Uni-Body Vehicles” are vehicles that do not have separate tractor and trailer and include but are not limited to:
- (A) concrete mixers;
 - (B) on-road mobile cranes;
 - (C) on-road construction equipment.
- (~~4038~~) “Vehicle” is as defined in Vehicle Code Section 670.
- (~~4139~~) “Verified Diesel Emission Control Strategy (VDECS)” is an emission control strategy that has been verified pursuant to the “Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines” in Title 13, California Code of Regulations, commencing with section 2700, and incorporated by reference.
- (~~4240~~) “Yard Truck” means an off-road mobile utility vehicle used to carry cargo containers with or without chassis; also know as utility tractor rig (UTR), yard tractor, yard goat, yard hustler, or prime mover.

(d) **Requirements and Compliance Deadlines.** Drayage trucks subject to this regulation must meet the following requirements by the compliance deadlines detailed in both Phase 1 AND Phase 2.

(1) **Phase 1:** By December 31, 2009, all drayage trucks must be equipped with-a:

(A) 1994 – 2003 model year engine certified to California or federal emission standards and a level 3 VDECS for PM emissions;

or,

(B) 2004 or newer model year engine certified to California or federal emission standards;-

or,

(C) a 1994 or newer model year engine that meets or exceeds 2007 model year California or federal emission standards.

(2) **Phase 2:** ~~After~~ By December 31, 2013, all drayage trucks must be equipped with an a 1994 or newer model year engine that meets or exceeds 2007 model year California or federal emission standards.:

~~(A) —meets or exceeds 2007 model year California or federal heavy-duty diesel-fueled on-road emission standards;~~

~~or,~~

~~(B) —is certified to 2004 or newer model year California or federal emission standards.~~

(3) *Drayage Truck Owner requirements*

(A) California based drayage truck owners shall:

1. meet all applicable requirements and deadlines set forth in Phases 1 and 2 above;

2. register with the DTR, according to subsection (e);

3. upon receipt of ARB issued DTR compliance label, affix label as required under subsection (e)(5);

~~4. —ensure that all emission control devices are functioning properly;~~

5. ~~maintain all installed VDECS per manufacturer's specifications;~~
- 4.6. maintain and keep VDECS maintenance log in the drayage truck and available upon request;
- 5.7. ensure that the drayage truck(s) has all information required under subsection (d)(5)(A)(4) for the dispatching motor carrier available and accessible in the vehicle and that the driver of the vehicle be instructed to provide the information upon demand to any enforcement personnel listed in subsection (i).
6. ensure the following aftermarket level 3 VDECS and original equipment manufacturer (OEM) equivalent diesel emissions control devices requirements are met.
 - i. **Installation:** Before installing an aftermarket diesel emissions control strategy on a vehicle, the vehicle owner, or the contractor, truck dealership, vendor, or firm employed to perform the installation task, must ensure that:
 - a. the diesel emissions control strategy is a VDECS verified for use with the engine and vehicle, as described in the Executive Order for the VDECS;
 - b. use of the vehicle is consistent with the conditions of the Executive Order for the VDECS;
 - c. the diesel emissions control strategy is installed in a verified configuration;
 - d. the engine to be retrofitted with the VDECS meets the engine manufacturer's operational specifications prior to the VDECS installation;
 - e. the VDECS label will be visible after the installation.
 - ii. **Performance and Warranty:** The drayage truck owner shall ensure that all emission control devices are functioning properly and maintained per manufacturer's specifications. In the event of a failure or damage of an aftermarket level 3 VDECS or an

OEM equivalent diesel emissions control system while the device is still under warranty, the owner of the affected vehicle shall ensure that the device is repaired or replaced by the manufacturer or authorized dealer with the same level of VDECS or OEM equivalent diesel emissions control system within 45 days of first noticing or being notified of the failure or damage to the device. If the failure or damage to the level 3 VDECS or OEM equivalent diesel emissions control system occurs after expiration of the warranty period, then the owner must repair or replace the failed or damaged device with the same level VDECS or OEM equivalent diesel emissions control system available for the engine within 90 days of first noticing or being notified of the failure or damage to the device. The owner of the level 3 VDECS or the OEM equivalent diesel emissions control system in the affected vehicle subject to section (d) of this regulation shall also adhere to the terms and conditions in the aftermarket manufacturer or OEM warranty governing the use of the device.

iii. **Safety:** The owner of a vehicle subject to the requirements of section (d) of this regulation shall ensure that the level 3 VDECS is mounted in a safe and secure manner on the vehicle consistent with provisions in (6)(i)(C) above, and the fixed position of the level 3 VDECS does not obscure vehicle rear view or side mirror visibility in any way.

iv. **Misuse and Tampering:** The owner of a vehicle subject to the requirements of section (d) of this regulation shall not misuse, dismantle, or tamper with any components of the level 3 VDECS or OEM equivalent diesel emissions control system, except for purposes of recommended periodical maintenance by an authorized agent, or when it is necessary to detach the device to service the vehicle.

(B) Out-of-state-based drayage truck owners shall:

1. Meet requirements 1, 2, and 6 of section 2427(d)(3)(A) above as required for California-based drayage truck owners.

2. Meet requirements 3 through 5 of section 2427(d)(3)(A) above as required for California-based drayage truck owners, or request and obtain approval from the Executive Officer for an alternative means of compliance that ensures equally effective compliance with requirements 3 through 5.

(CB) Phase 1 compliance deadline extension:

1. Drayage truck owners may apply for a one-time, one-year, per-truck Phase 1 compliance deadline extension. The compliance deadline application must be either electronically filed or postmarked by June 1, 2009. To receive the Phase 1 compliance deadline extension, a drayage truck owner must demonstrate all of the following:
 - i. the engine installed on his/her current truck is a California or federally certified 1994 – 2003 model year engine;
 - ii. the truck was registered with the DTR prior to June 1, 2009;
 - iii. no Level 3 diesel emission control technology verified by ARB for use on that combination of truck and engine was available at the time the extension was filed.
2. Compliance extension applications shall be submitted to ARB at:

California Air Resources Board
c/o Drayage Truck Phase1 Extension
P.O. Box 2815
Sacramento, CA, 95812

or electronically through ARB's drayage truck website;

<http://www.arb.ca.gov/drayagetruck>
3. If after the one-year extension ARB verified technology is still unavailable, the truck owner must comply with the regulation within 90 days of the expiration of the extension by replacing the existing heavy duty truck and / or engine with a truck or engine that meets or exceeds the Phase 1 requirements.

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(5) *Motor Carrier requirements*

(A) Each motor carrier shall:

1. provide a copy of this regulation or an ARB approved summarized version to each drayage truck owner that it contracts with for deliveries to ports and intermodal rail yards;
2. ensure that all trucks dispatched to a port or intermodal rail yard meet emission standards and compliance deadlines set forth in Phases 1 and 2 in subsection (d);
3. ensure that all California-based drayage trucks dispatched to ports and intermodal rail yards are registered and in good standing with the Drayage Truck Registry (DTR) and are properly affixed with an ARB issued compliance label according to subsection (e);
4. ensure that all out-of-state-based drayage trucks dispatched to ports and intermodal rail yards are registered and in good standing with the Drayage Truck Registry (DTR) and are either properly affixed with an ARB issued compliance label according to subsection (e) or use an Executive Officer approved alternative method to demonstrate compliance.
- ~~5.4.~~ ensure the motor carrier information listed below is available and accessible on each California-based drayage truck covered by this regulation that it contracts with and that the driver of the vehicle is instructed to provide a copy of the information, upon demand, to enforcement personnel, as listed in subsection (i).
 - i. the motor carrier's business name;
 - ii. contact person's name;
 - iii. motor carrier's street address, state, and zip code;
 - iv. contact person's business phone number.
6. ensure the motor carrier information listed in 5. above is available and accessible on each out-of-state-based drayage truck covered by this regulation, unless the Executive Officer has approved an alternative method to demonstrate compliance, and that the driver of the vehicle is instructed to

provide a copy of the information, upon demand, to enforcement personnel, as listed in subsection (i).

~~7.5.~~ keep a record of all dispatched drayage trucks containing the information set forth in i through iv below for a minimum of five years from the dispatch date. Dispatch records are to be made available to enforcement personnel within 72 hours of an official written or oral request.

- i. truck dispatch date and time;
- ii. bill of lading or tracking number;
- iii. truck license plate number and issuing state;
- iv. Drayage Truck Registry number.

(6) *Marine or Port Terminals and Rail Yard Requirements*

- (A) Starting ~~January 1~~ September 30, 2009, marine or port terminals and intermodal rail yards shall collect the following information for each dispatching motor carrier and each drayage truck subject to this regulation that enters the facility not displaying a valid and current compliance label that does business at its facility.

(e) ***Drayage Truck Registry and Compliance Label Requirements***

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(5) All DTR compliance labels shall be:

- (A) located on or near the lower left hand corner on the outside of the driver's side door; and,
- (B) unless an alternative compliance method has been approved by the Executive Officer, affixed to the truck in clear view, correct side up, un-obstructed; and kept and maintained in a manner that retains legibility.