

State of California
AIR RESOURCES BOARD

**Addendum to the Final Statement of Reasons for Rulemaking,
Including Summary of Comments and Agency Response**

RULEMAKING TO CONSIDER THE ADOPTION OF PROPOSED AMENDMENTS TO THE
REGULATION TO REDUCE EMISSIONS OF DIESEL PARTICULATE MATTER
(Truck and Bus)

Public Hearing Date: December 16, 2010
Agenda Item No.: 10-11-3
Addendum Prepared: December 12, 2011

As part of the Office of Administrative Law's (OAL) review of the Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants, from In-Use Heavy-Duty Vehicles (Truck and Bus Regulation), title 13, California Code of Regulations section 2025, OAL requested further explanation from the Air Resources Board (ARB) of several changes made to the Final Regulation Order as non-substantive changes. Specifically, OAL requested additional explanation of changes to the following sections: 2025(j)(1)(B); 2025(n)(1) and (2); 2025(p)(1); and 2025(p)(2)(D). The following identify the changes made to the Final Regulation Order that were not shown in the 15-Day Modifications to the Original Proposal and ARB staff's further explanation of why the final changes are not substantive. Additions to the text are marked in **BOLD** and deletions to the text are indicated by **~~BOLD STRIKEOUT~~**.

Section 2025(j)(1)(B). Form 400 Text, pg. 25.

(j) Credits for Fleets that have Downsized, Early PM Retrofits, Hybrid Vehicles, Alternative Fueled Vehicles, Vehicles with Heavy-Duty Pilot Ignition Engines, and Early Addition of Newer Vehicles

Fleets can take advantage of credits that reduce the number of vehicles with a GVWR greater than 26,000 lbs that must meet the PM BACT requirements in the phase-in option of section 2025(i) as described in items (1) to (3) below, and does not apply to school buses.

(1) Credit for Fleets that have Downsized

Until January 1, 2016, a fleet that has fewer vehicles with a GVWR greater than 26,000 lbs operating in the compliance year than in the 2006 baseline fleet may claim a credit towards compliance with the phase-in option of section 2025(i) for that year.

(B) A vehicle that is not operated in the compliance year may be excluded from the existing fleet in determining the credit if:

1. The vehicle is not driven for the entire compliance year and

- a. Either a certificate of non-operation has been issued by the DMV or a request for a non-operation certificate has been filed with DMV prior to the beginning of the compliance year; or
- b. An equivalent certificate has been issued by another state or a request for such a certificate has been filed with the state prior to the beginning of the compliance year; or
- c. The vehicle is not operated for any purpose during the compliance year except to demonstrate functionality of the vehicle to potential buyers, to move the vehicle short distances for maintenance, or to a storage facility while awaiting sale.

ARB Explanation:

The intent of the 15-day modifications was to allow fleets to exclude vehicles that are not being operated in a compliance year by a covered fleet. For purposes of documentation, ARB would accept either a notice of non-operation that has been received from the California Department of Motor Vehicles (DMV) or a request from the fleet that has been filed with the DMV but has not been acted upon. ARB would similarly accept comparable documentation sent to or issued by equivalent out-of-state agencies for vehicles that are registered outside of California. Upon review of the 15-day language, ARB thought that its intent could be expressed more clearly and consistently, which are the reasons for the changes to the final regulation order.

Section 2025(n)(1) and (2). Form 400 Text, pp. 44-45.

- (n) *Requirements for Single-Engine and Two-Engine Sweepers*
- (1) Two-engine sweepers with auxiliary engines 50 hp or greater must comply with section 2025(e). The propulsion engine is required to meet PM BACT and to upgrade to a 2010 model year emissions equivalent engine like other vehicles, and the auxiliary engines must meet PM BACT as follows:
 - (A) The auxiliary engine is required to meet PM BACT when the propulsion engine is first required to meet PM BACT or to be upgraded to a 2010 model year emissions equivalent. The auxiliary engine is not required to be replaced or upgraded if it meets PM BACT. **The reporting requirements of 2025(r)(17) must be met unless the fleet complies with the model year schedules of 2025(f) or 2025(g).**
- (2) Regardless of fleet size, two-engine sweepers ~~may not operate any with~~ Tier 0 auxiliary engines, 50 hp or greater, **may not operate** more than 450 hours per year starting January 1, 2010 until January 1, 2014 and no more than 100 hours per year thereafter. **The fleet owner must meet the reporting requirements in 2025(r)(17) for sweepers with Tier 0 auxiliary engines.**

ARB Explanation:

Section (r)(17) requires all owners of two engine sweepers to report specific information to ARB. However, sections 2025(f) and (g) state that propulsion engines meeting the model-year schedules for those sections do not need to meet the reporting requirements of section (r). The change to section (n)(1) was intended to clarify the requirements of the section (n)(1) consistent with sections 2025(f), (g), and (r)(17).

The exemption from the reporting requirements in sections 2025(f) and (g) was not intended to apply to the auxiliary engine of a two-engine sweeper. Thus the change to (n)(2) was intended to make it clear that owners must report information on the auxiliary engine consistent with section 2025(r)(17).

Section 2025(p)(1). Form 400 Text, pg. 47

(p) *Exemptions, Delays, and Extensions* ~~*Exemptions, Compliance Extensions, and Credits*~~

(1) Vehicles used Exclusively in NOx Exempt Areas

This section applies to vehicles that are used exclusively in NOx exempt areas as defined in section 2025(d)(46) when operating in California. The fleet owner must meet the record keeping requirements of section 2025(s) and meet the reporting requirements as specified below.

(A) Any vehicle with a GVWR greater than 14,000 lbs that is used exclusively in NOx exempt areas **shall meet PM BACT but** may be exempt from meeting the 2010 model year emissions equivalent requirements of section 2025(f) or 2025(g) if the vehicle meets PM BACT by the compliance date that the engine would otherwise be required to be upgraded to a 2010 model year emissions equivalent engine.

ARB Explanation

Sections 2025(f) and (g) require all heavy-duty vehicles to comply with the model-year schedules set forth in Tables 1 and 2, which require PM BACT and turnover to 2010 model-year or emissions-equivalent engines. Section 2025(p)(1) provides an exemption from the turnover requirements for vehicles that operate exclusively in NOx exempt areas. The language “meet PM BACT but” was added to make it clear that the exemption only applies to the turnover requirement. The initially submitted Final Regulation Order incorrectly inserted “may” after “meet PM BACT but” (the term was not part of the 15-Day Notice). The term has been deleted from

the revised Final Regulation Order, making it clear that if the conditions of the section are met the vehicle will be exempt.

Section 2025(p)(2)(D). Form 400 Text, pg. 50.

- (p) *Exemptions, Delays, and Extensions* ~~*Exemptions, Compliance Extensions, and Credits*~~

(2) Extension for Low-Mileage Construction Trucks

Beginning January 1, 2012, fleets with low-mileage construction trucks as defined in section 2025(d)(40) may opt to have a limited number of low-mileage construction trucks in the fleet comply by meeting all of the requirements as set forth below and do not need to include such vehicles in meeting the fleet requirements of sections 2025(g) through (i).

- (D) ~~Alternately, f~~Fleets that have low-mileage construction trucks and other vehicles with a GVWR greater than 26,000 lbs ~~that comply with section 2025(e), except low-use vehicles, may must, except low-use vehicles,~~ must demonstrate that the combined fleet meets the phase-in schedule of Table 9 and, if so, the low-mileage construction vehicles in the fleet qualifying for the extension under sections 2025(p)(2)(A) and (C) above may delay having to comply with PM BACT until as late as 2016.

ARB Explanation

“Alternately,” was deleted as its use was confusing given the structure of section 2025(p)(2). The word “other” was added to make it clear that the reference to “greater than 26,000 lbs refers to construction vehicles as well as other vehicles in the fleet. The reference to “that comply with section 2025(e)” was deleted and the reference to “for low-use vehicles,” was added to make it clearer as to exactly what types of vehicles must be included when calculating the combined fleet and what vehicles must be excluded. Consistent with those changes the term “may” was replaced with “must.” The changes are consistent with the requirements of section 2025(e), which requires that unless otherwise provided, all vehicles 26,000 lbs. or greater must meet the PM BACT and 2010 model-year or emissions-equivalent engines by specified dates, and the exemption from those requirements in section 2025(p)(4).