

Enclosure 2

Proposed Modifications to the Proposed Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling

This document provides ARB staff's proposed modifications to the proposed Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling, which is set forth in Appendix A of the Initial Statement of Reasons (ISOR) released on June 4, 2004.

Modifications that were made since the originally proposed language was made public on June 4, 2004, are shown with deleted text in ~~striketrough~~ format and added text in underline format.

These changes were approved by the Board at the July 22, 2004 Board hearing. This modified version of the ATCM is available for public review and comment for a period of 15 days, as described in the "Notice of Public Availability of Modified Text" for this regulatory item, released August 20, 2004.

**** PROPOSED REGULATION ORDER ****

**AIRBORNE TOXIC CONTROL MEASURE TO LIMIT DIESEL-FUELED
COMMERCIAL MOTOR VEHICLE IDLING**

Adopt new section 2485 within Chapter 10 – Mobile Source Operational Controls, Article 1 – Motor Vehicles, Division 3. Air Resources Board, title 13, California Code of Regulations to read as follows:

Section 2485. Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling.

- (a) **Purpose.** The purpose of this airborne toxic control measure is to reduce public exposure to diesel particulate matter and other air contaminants by limiting the idling of diesel-fueled commercial motor vehicles.
- (b) **Applicability.** This section applies to diesel-fueled commercial motor vehicles that operate in the State of California with gross vehicular weight ratings of greater than 10,000 pounds that are or must be licensed for operation on highways. This specifically includes:
 - (1) California-based vehicles; and
 - (2) Non-California-based vehicles.
- (c) **Requirements.**

On or after January 1, 2005, the driver of any vehicle subject to this section:

- (1) ~~The driver of any vehicle subject to this section shall not idle the vehicle's primary diesel engine or operate a diesel-fueled auxiliary power system (APS) for greater than 5.0 minutes at any location, except as noted in Subsection (d);~~

and

- (2) shall not operate a diesel-fueled auxiliary power system (APS) to power a heater, air conditioner, or any ancillary equipment on that vehicle during sleeping or resting in a sleeper berth for greater than 5.0 minutes at any location when within 100 feet of a restricted area, except as noted in Subsection (d).

(d) **Exceptions.**

Subsection (c) does not apply for the period or periods during which

- (1) a bus is idling for
 - (A) up to 10.0 minutes prior to passenger boarding, or
 - (B) when passengers are onboard;
- (2) idling of the ~~main~~primary diesel -engine ~~or operating the diesel-fueled APS~~ is necessary to power a heater, air conditioner, or any ancillary equipment during sleeping or resting in a sleeper berth ~~before January 1, 2009~~. This provision does not apply when operating within 100 feet of a restricted area;
- (3) idling when the vehicle must remain motionless due to traffic conditions, an official traffic control device, or an official traffic control signal over which the driver has no control, or at the direction of a peace officer, or operating a diesel-fueled APS at the direction of a peace officer;
- (4) idling when the vehicle is queuing that at all times is beyond 100 feet from any restricted area;
- (5) idling of the primary engine or operating a diesel-fueled APS when forced to remain motionless due to immediate adverse weather conditions affecting the safe operation of the vehicle or due to mechanical difficulties over which the driver has no control;
- (6) idling to verify that the vehicle is in safe operating condition as required by law and that all equipment is in good working order, either as part of a daily vehicle inspection or as otherwise needed, provided that such engine idling is mandatory for such verification;
- (7) idling of the primary engine or operating a diesel-fueled APS is mandatory for testing, servicing, repairing, or diagnostic purposes;
- (8) idling when positioning or providing a power source for equipment or operations, other than transporting passengers or propulsion, which involve a power take off or equivalent mechanism and is powered by the primary engine for:
 - (A) controlling cargo temperature, operating a lift, crane, pump, drill, hoist, mixer (such as a ready mix concrete truck), or other auxiliary equipment; ~~or~~
 - (B) ~~(B)~~—providing mechanical extension to perform work functions for which the vehicle was designed and where substitute alternate means to idling are not reasonably available; or

(C) collection of solid waste or recyclable material by an entity authorized by contract, license, or permit by a school or local government;

(9) idling of the primary engine or operating a diesel-fueled APS when operating defrosters, heaters, air conditioners, or other equipment solely to prevent a safety or health emergency; and

(10) idling of the primary engine or operating a diesel-fueled APS by authorized emergency vehicles while in the course of providing services for which the vehicle is designed;

(11) idling of military tactical vehicles during periods of training; and

(12) idling when operating equipment such as a wheelchair or people assisted lift as prescribed by the Americans with Disabilities Act;

(e) **Relationship to Other Law.**

Nothing in this section allows idling in violation of other applicable law, including, but not limited to:

(1) California Vehicle Code Section 22515;

(2) Title 13, Section 2480, California Code of Regulations;

(3) California Health and Safety Code Section 40720; or

(4) any applicable ordinance, rule, or requirement as stringent as, or more stringent than, this section.

(f) **Enforcement.** This section may be enforced by the Air Resources Board; peace officers as defined in California Penal Code, title 3, chapter 4.5, Sections 830 et seq. and their respective law enforcement agencies' authorized representatives; and air pollution control or air quality management districts.

(g) **Penalties.** For violations of subsection (c)(1) or (c)(2), the driver ~~(for (c)(1)) and owner (for (c)(2))~~ of a subject vehicle is subject to a minimum civil penalty of 100 dollars and to criminal penalties as specified in the Health and Safety Code and the Vehicle Code.

(h) **Definitions.**

The following definitions apply to this section:

- (1) "Authorized emergency vehicle" is as defined in Vehicle Code Section 165.
- (2) "Auxiliary power system" or "APS" means any device that provides electrical, mechanical, or thermal energy to the primary diesel engine, truck cab, or sleeper berth as an alternative to idling the primary diesel engine.
- (3) "Bus" means any vehicle defined in Title 13, California Code of Regulations, Section 2480, subsections (h) (13)-(16), inclusive or as defined in the Vehicle Code Section 233.
- ~~(3)~~(4) "Commercial Motor Vehicle" means any vehicle or combination of vehicles defined in Vehicle Code Section 15210(b) and any other motor truck or bus with a gross vehicle weight rating of 10,001 pounds or more, except the following:
 - (A) a zero emission vehicle; or
 - (B) a pickup truck as defined in Vehicle Code Section 471.
- ~~(4)~~(5) "Driver" is as defined in Vehicle Code Section 305.
- (6) "Gross vehicle weight rating" is as defined in Vehicle Code Section 350.
- (7) "Highway" is as defined in Vehicle Code Section 360.
- (8) "Idling" means the vehicle engine is running at any location while the vehicle is stationary.
- (9) "Motor truck" or "motortruck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.
- (10) "Official traffic control device" is as defined in Vehicle Code Section 440.
- (11) "Official traffic control signal" is as defined in Vehicle Code Section 445.
- (12) "Owner" is as defined in Vehicle Code Section 460.
- (13) "Primary diesel engine" means the diesel-fueled engine used for vehicle propulsion.
- (14) "Queuing" means (A) through (C)
 - (A) the intermittent starting and stopping of a vehicle;

- (B) while the driver, in the normal course of doing business, is waiting to perform work or a service; and
 - (C) when shutting the vehicle engine off would impede the progress of the queue and is not practicable.
 - (D) Queuing does not include the time a driver may wait motionless in line in anticipation of the start of a workday or opening of a location where work or a service will be performed.
- (15) "Restricted area" means any real property zoned for individual or multifamily housing units that has one or more of such units on it.
- (16) "Safety or health emergency" means:
 - (A) a sudden, urgent, or usually unforeseen, occurrence; or
 - (B) a foreseeable occurrence relative to a pre-disclosed medical or physiological condition.
- (17) "Sleeper berth" is as defined in Title 13, California Code of Regulations, Section 1265.
- (18) "Vehicle" is as defined in the Vehicle Code Section 670.

Authority Cited: Sections 39600, 39601, 39658, 39614 (b) (6) (A), 39667, 39674, 39675, 42400 et seq., 42402 et seq., 42410, 43000.5 (d), 43013 (b), 43013 (h), 43018 (b), and 43018 (c), Health and Safety Code; and *Western Oil & Gas Assn. v. Orange County Air Pollution Control Dist.* (1975) [14 Cal.3d.411].

Reference: Sections 39002, 39003, 39027, 39500, 39600, 39650, 39655, 39656, 39657, 39658, 39659, 39662, 39665, 39674, 39675, 42400 et seq., 42402 et seq., 42403.5, 42410 Health and Safety Code; Sections 305, 336, 350, 440, 445, 545, 546, 642, 680, 21400, 22452, 22515, 27153, 43018(e), Vehicle Code; and Sections 1201,1900, 1962, 2480, title13, California Code of Regulations.