



California Council for Environmental and Economic Balance

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November 7, 2022

Nathan Dean, Air Pollution Specialist
Johanna Levine, Off-Road Implementation Section Manager
California Air Resources Board
Submitted electronically to the regulatory [docket](#)

Re: In-Use Off-Road Diesel-Fueled Fleets September 2022 Draft Regulatory Package

Johanna and Nathan,

The California Council for Environmental and Economic Balance (CCEEB) appreciates the opportunity to provide preliminary comments on potential amendments to the In-Use Off-Road Diesel-Fueled Fleets Regulation ("In-Use Off-Road rule"), as described in the September 20, 2022 draft regulatory package. Many CCEEB members own and operate off-road vehicles subject to the rule, and some members process diesel and renewable diesel at facilities in California. CCEEB recognizes that emissions reductions from the off-road sector are needed to attain federal air quality standards and that reductions of both NOx and PM will further protect public health, especially at the local level. CCEEB also appreciates the proposed regulation's focus on streamlining compliance and promoting fair and equitable enforceability.

Regulate Renewable Diesel through CARB Fuels Policies and Programs, Not Fleet Rules

As stated in our January 2022 comments on the concept language, our primary concern regards the proposed requirement that all off-road fleets must use only renewable diesel (RD), starting on January 1, 2024. CCEEB and its members are strong supporters of renewable diesel, and we are proud of efforts by our refinery members to convert facilities and operations to the production of RD in California. For example, conversion of two Bay Area refineries to renewable diesel production could produce over 1.5 billion gallons per year of RD in the near term, as well as creating thousands of jobs and reducing both local and statewide criteria and greenhouse gas emissions.¹

However, we are concerned that end user requirements, such as those proposed in the In-Use Off-Road rule, could get ahead of efforts to produce and distribute RD across the state. In the early years, as refinery capacity and supporting infrastructure are built out, the requirements in Section 2449.1(f) seem to create unnecessary recordkeeping burden on fleets by requiring them to demonstrate that neither they nor their fuel providers were able to procure RD. CCEEB

¹ Please see <https://www.rodeorenewed.com> and <https://www.marathonmartinezrenewables.com> for detailed information about these projects.

appreciates the revision to Section 2449.1(f)(3) since the concept document was released, as the recordkeeping and documentation requirements for fleets unable to use RD are more easily implementable as stated in the proposed regulation than in the concept language released in 2021. However, CCEEB maintains that CARB should refocus its RD efforts on fuel-specific programs and policies, such as the Low Carbon Fuel Standard (LCFS).

As referenced in the ISOR, “Federal and State programs provide substantial economic value to low-CI fuels for producers, importers, and blenders, through the use of market signals,” and “Nearly all domestically produced and imported renewable diesel is used in California due to economic benefits under the Low Carbon Fuel Standard.”² Such a fuels-focused approach also has much greater reach and penetration, as it will affect all categories of diesel equipment and vehicles, not just those subject to the In-Use Off-Road rule.

CARB has already developed a regulatory mechanism to incentivize the production and marketing of RD in the state. Fleet rules should remain fuel-neutral and allow market mechanisms to drive what will likely be a natural transition to increased RD use.

Should CARB retain the RD requirement, one option to further facilitate compliance would be to add case-by-case exemptions where renewable diesel is unavailable to use. For example, if a vendor’s renewable diesel supply has been compromised through unforeseen technical difficulties, a fleet would need a temporary exemption until the vendor can supply RD. This will be particularly helpful as fleets transition to renewable diesel.

Conflict with Existing Regulatory Requirements

CCEEB members, like other fleet owners and operators, have been relying on the fleet averaging methodology in order to comply with the requirements of the current regulation. Capital planning for vehicles subject to the proposed regulation often occurs 2-3 years out from receipt of equipment, as delivery of equipment typically takes approximately 1 year. These timelines have been exacerbated by the supply chain crisis precipitated by COVID-19. In our January 2022 comments, we requested that all implementation dates be pushed out by a year to accommodate both the supply chain challenges and the fact that the current regulation extends to 2023. At a minimum, fleets should have a process to apply for case-by-case extensions, with proper documentation and demonstration of supply chain delays.

Other comments

- CCEEB supports the provisions in Section 2449(g)(2)(C)(2) for permanent low-use vehicles. This provision should also apply to vehicles that operate part time in California.
- The requirement in Section 2449(j)(3) that requires the prime contractor³ to notify CARB of non-compliance from a fleet entity is not necessary and should be removed. While

² ISOR p. 55, https://afdc.energy.gov/fuels/emerging_hydrocarbon.html

³ As defined in Section 2449(c)(44)

we appreciate staff's intent to even the playing field between compliant and non-compliant fleets, DOORS is already set up to determine if a fleet is non-compliant. Because CARB is the entity responsible for enforcement action, it is more appropriate for CARB to utilize its reporting system and investigate the non-compliant fleets instead of relying on contracting entities.

Thank you for the opportunity to provide comments. Please feel free to contact me at christinew@cceeb.org if you have any questions or would like to discuss our comments further.

Sincerely,



Christine Wolfe
Policy and Communications Director
CCEEB

Cc:
Tim Carmichael
CCEEB Air Project Members