



# Advisory

To: Owners of Off-road Diesel  
Vehicles in California

Number 390

February 2009

## **BAN ON ADDITION OF TIER 0 VEHICLES FOR OWNERS OF IN-USE OFF-ROAD DIESEL VEHICLES EFFECTIVE 3/01/09**

The Air Resources Board (ARB) has a new regulation for In-Use Off-Road Diesel Vehicles, which became effective under California law on June 15, 2008. This regulation is designed to reduce harmful emissions from diesel powered construction and mining vehicles operating in California. Among other things, fleet owners are subject to retrofit or accelerated replacement/repower requirements, as well as reporting requirements and restrictions on unnecessary idling. In addition, this regulation imposes a ban on the addition of the oldest, dirtiest vehicles, called Tier 0 vehicles, to fleets operating in California.

This ban on adding vehicles with Tier 0 engines is effective and enforceable as of March 1, 2009. Fleets are still allowed to operate Tier 0 vehicles they already own; they just may not purchase additional Tier 0 vehicles for use in California.

Tier 0 engines include the following:

- Model year (MY) 1998 and earlier engines with 25 to 49 maximum horsepower (hp);
- MY 1997 and earlier engines with 50 to 99 maximum hp;
- MY 1996 and earlier engines with 100 to 174 maximum hp;
- MY 1995 and earlier engines with 175 to 750 maximum hp;
- MY 1999 and earlier engines with greater than 750 maximum hp.

This requirement is specified in title 13, California Code of Regulations as follows:

### **§2449(d)(7) Adding Vehicles**

**(A) Beginning March 1, 2009** - *Beginning March 1, 2009 a fleet may not add a vehicle with a Tier 0 engine to its fleet.*

**Non-Compliance:** Health and Safety Code, Section 39674 (a) authorizes civil penalties for the violation of the programs for the regulation of toxic air contaminants not to exceed one thousand dollars (\$1,000) for each day in which the violation occurs. Health and Safety Code, Section 39674 (b) authorizes civil penalties for the violation of the programs for the regulation of toxic air contaminants not to exceed ten thousand dollars (\$10,000) for each day in which the violation occurs.

As a matter of policy, fleets found to have illegally added Tier 0 vehicles will be assessed a minimum civil penalty of \$50 per engine horsepower. For example, a fleet that illegally added a 150 horsepower vehicle would be assessed a \$7,500 fine. The standard for assessing penalties is one of strict liability.

For further information about the In-Use Off-Road Diesel Vehicle regulation, please visit our website at: <http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm>. Fact sheets, advisories, and guidance documents are available at <http://www.arb.ca.gov/msprog/ordiesel/knowcenter.htm>, and the full text of the regulation is available at <http://www.arb.ca.gov/regact/2007/ordiesl07/frooal.pdf>

For questions regarding enforcement of the In-Use Off-Road Vehicle regulation, please contact Mr. Tajinder Gill at (626) 459-4304 or [tgill@arb.ca.gov](mailto:tgill@arb.ca.gov).

If you have questions about the regulation, please contact Ms. Kim Heroy-Rogalski (916-327-2200 or [kheroyro@arb.ca.gov](mailto:kheroyro@arb.ca.gov)) or Ms. Elizabeth Yura (916-323-2397 or [eyura@arb.ca.gov](mailto:eyura@arb.ca.gov)).