

Frequently Asked Questions In-Use Off-Road Diesel Vehicle Regulation

Low-Use Provisions Revised November 2014

Q – What if I have vehicles that I do not use very much or that I could get by with using only very little?

A – The regulation contains special provisions for low-use vehicles. Although low-use vehicles must still be reported and labeled, they do not count towards a fleet's total horsepower and are not included in the portion of a fleet that must meet the fleet average target rates; in other words, low-use vehicles do not have to be turned over or retrofitted. As discussed further below, claiming vehicles as low-use can be a very useful way for some fleets to reduce their compliance obligations under the off-road regulation.

Q – What is considered a low-use vehicle?

A – Low-use vehicles are defined in the regulation as vehicles used less than 200 hours per year, or less than 600 hours over a 3 year period. For a vehicle to be considered low-use, the owner must have a non-resettable hour meter installed on the vehicle, and report the annual hour meter readings to ARB.

Q – How can a fleet utilize the low-use provisions?

A – There are two ways the low-use definition may be applied, and there are substantial differences in the restrictions and benefits associated with the types of low-use designations:

Year-by-year low-use: A fleet owner may track a vehicle's hours of use during a compliance year, and claim the vehicle as low-use in that one year. For example, a large fleet with a 2014 compliance year would log the vehicle's hours of use from Jan. 1, 2013, to Dec. 31, 2013. If the vehicle is used under 200 hours in that year (or under 600 hours for the preceding three year period starting, for purposes of this example, January 1, 2011 through December 31, 2013), that vehicle can be claimed as low-use. The vehicle will be removed from the fleet's total horsepower (hp) when calculating the January 1, 2014 requirements and would not need to be retrofitted or turned over in that year. Consider, for example, a fleet with 6,000 total hp, 1,000 hp of which is claimed as year-by-year low-use. For that fleet to meet the BACT turnover

While this document is intended to assist fleets with their compliance efforts, it does not alter or modify the terms of any ARB regulation, nor does it constitute legal advice. It is the sole responsibility of fleets to ensure compliance with the In-Use Off-Road Diesel-Fueled Fleets Regulation.

requirements of 8 percent per year, the fleet would need to turn over 400 hp (8 percent of 5,000 hp). This reduction in horsepower can also be used to have a fleet reclassified to a smaller fleet size, with the associated change in requirements.

After a fleet claims a vehicle one year as year-by-year low-use, the fleet can continue to report the vehicle as low-use every year, and report its annual hours of use. Vehicles reported as year-by-year low-use do not receive credit towards the BACT requirements for engine turnover.

A fleet reporting a vehicle as year-by-year low-use does not have to continue to report the vehicle as low-use in future years and the vehicle may be used 200 hours or more per year in subsequent years. Once used more than 200 hours or more in a year, it would then be counted toward the fleet's total horsepower and would be included in the emissions requirements for that year as well as later years. Similarly, the vehicle would not need to meet the adding vehicles requirements in order to be used more than 200 or more hours per year in future years. For example, if a fleet reported a Tier 0 vehicle as year-by-year low-use, but later wanted to use that vehicle 200 hours per year or more, the fleet could do so without penalty (i.e., that vehicle does not have to meet the adding vehicles requirements).

Permanently designated low-use: A fleet owner may designate a vehicle as permanently low-use, which permanently limits the vehicle's hours of use to less than 200 hours in any **future** year (the vehicle did not have to be used under 200 hours in the current or previous compliance years). The vehicle must meet the regulation's standards for adding vehicles if the fleet owner ever brings the vehicle back into full service and operates the vehicle more than the low-use limits. For example, if a fleet permanently designated a Tier 0 vehicle as low-use, but later wanted to use that vehicle 200 hours per year or more, the fleet would not be able to do so because the Tier 0 would not meet the adding vehicles requirements. If a fleet permanently designates a vehicle as low-use no earlier than January 1st of the year before their first required compliance date, the fleet will be able to receive credit towards the BACT requirements for that vehicle's horsepower as long as the fleet follows the order of BACT requirements. For example, a medium fleet has their first required compliance date on January 1, 2017. If the fleet designates a vehicle as permanently low-use in September 2015, they will not receive BACT credit for that vehicle, even if/when they later sell the vehicle. However, if a medium fleet designates a vehicle as permanently low-use on or after January 1, 2016, they will receive the maximum horsepower of that vehicle in BACT credit upon designating it as permanently low-use. For more information on the order of BACT requirements,

While this document is intended to assist fleets with their compliance efforts, it does not alter or modify the terms of any ARB regulation, nor does it constitute legal advice. It is the sole responsibility of fleets to ensure compliance with the In-Use Off-Road Diesel-Fueled Fleets Regulation.

please see the Order of BACT Frequently Asked Questions (FAQ) at <http://www.arb.ca.gov/msprog/ordiesel/faq/orderofbact.pdf>.

Q – When should I use year-by-year low-use?

A – If you have a number of older vehicles that are not being used due to decreased activity or any other temporary causes, but that may be used 200 hours or more in the future, using the year-by-year low-use provision will most likely be a good choice. This would allow you to use the vehicles as much as needed in future years. As noted above, once a vehicle is permanently designated low-use, on the other hand, its use in future years may be restricted, particularly if it is an older vehicle (i.e., the permanently designated low-use vehicle must meet the adding vehicles requirements in order to remove the vehicle from permanent low-use status).

To use this provision for any compliance deadline, such as the January 1, 2014, deadline for large fleets, you would need to report the hour meter readings for the vehicle during the previous calendar year. In the case of 2014 deadline, the reporting period would cover January 1, 2013, through December 31, 2013. Alternatively, you could report the hour meter readings for the previous three years, January 1, 2011 through December 31, 2013, if the vehicle was used 200 hours or more in the last year, but less than 600 hours in the previous three year period. These hour meter readings would be reported as of part of the 2014 fleet report required to show compliance with the regulation, due for large fleets on March 1, 2014.

Q – When should I permanently designate vehicles as low-use?

A – If you need credit towards the BACT requirements (which begin in 2014 for large fleets, 2017 for medium fleets, and 2019 for small fleets) and have vehicles that you can permanently restrict to less than 200 hours per year, you may want to use this provision to permanently designate a vehicle as low-use. BACT credit will only be awarded for a vehicle that meets the order of BACT requirements and is designated as permanently low-use no earlier than January 1, 2013 for a large fleet, January 1, 2016 for a medium fleet, and January 1, 2018 for a small fleet. By meeting these requirements, the fleet is able to claim BACT credit in the amount of the vehicle's maximum horsepower. For more information on the order of BACT requirements, please see the Order of BACT FAQ at <http://www.arb.ca.gov/msprog/ordiesel/faq/orderofbact.pdf>.

To obtain the permanent low-use designation, the fleet is required to restrict the vehicle's use to less than 200 hours per year and to report the hour meter

While this document is intended to assist fleets with their compliance efforts, it does not alter or modify the terms of any ARB regulation, nor does it constitute legal advice. It is the sole responsibility of fleets to ensure compliance with the In-Use Off-Road Diesel-Fueled Fleets Regulation.

readings each year. Exceeding the 200-hours per year limit may result in enforcement action. The vehicle can be removed from low-use status only by meeting the requirements necessary to add vehicles to the fleet (i.e., the adding vehicles requirements). In addition, when removing the permanent low-use designation, the fleet must forfeit any BACT credit earned by the vehicle for the permanent low-use designation. For more information on the adding vehicle requirements, please see the Adding Vehicles FAQ at <http://www.arb.ca.gov/msprog/ordiesel/faq/addingvehicles.pdf>.

To use the permanent low-use designation, the fleet does not have to report the vehicle's previous hours of use. For example, if a fleet wanted to designate one of their vehicles as permanently low-use to provide credit towards their BACT requirements in 2014, the fleet could designate the vehicle as low-use by reporting the vehicle's engine hour meter reading from January 1, 2014, then each year thereafter, the fleet would be required to report the engine hour meter reading on December 31.

A vehicle that is designated as permanently low-use for the 2014 compliance year, the first year of required compliance, may have operated an unlimited number of hours prior to December 31, 2013, and still receive BACT credit that can be used towards 2014 compliance, so long as the vehicle is not operated more than 200 hours between January 1 and December 31, 2014. The fleet would need to report the vehicle as permanently designated low-use in their 2014 compliance report (due March 1, 2014, for large fleets), and have an hour meter installed and begin logging the hours by January 1, 2014. The fleet will also need to report the hours of use for the vehicle in every future year until the vehicle is sold. As stated, if the vehicle in any subsequent year meets or exceeds the 200 hour limit, the vehicle would lose its permanently low-use vehicle status, enforcement action could occur, and the fleet would have to meet the adding vehicle requirements for that vehicle.

When designating a vehicle as permanently low-use, the fleet cannot use the three-year rolling average provision.

Q – What if I permanently designate a vehicle low-use that was previously a year-by-year low-use vehicle?

A – Vehicles such as year-by-year low-use vehicles are exempt from the performance requirements of the regulation, and cannot generate BACT credits. In contrast, vehicles designated as permanently low-use can receive BACT credits to meet compliance requirements. Therefore, to receive BACT credit for permanently designating a vehicle as low-use, the fleet must first remove the

While this document is intended to assist fleets with their compliance efforts, it does not alter or modify the terms of any ARB regulation, nor does it constitute legal advice. It is the sole responsibility of fleets to ensure compliance with the In-Use Off-Road Diesel-Fueled Fleets Regulation.

vehicle from year-by-year low-use status. Once the vehicle's low-use status has been removed, as part of the next annual reporting date the fleet may permanently designate the vehicle as low-use and receive BACT turnover credit for that vehicle.

Q – What if I retire a low-use vehicle?

A – **Year-by-year low-use:** As stated, vehicles that are exempt from the performance requirements of the regulation, such as low-use vehicles, cannot be used to generate BACT credits. Therefore, in order to receive BACT credit for retiring a year-by-year low-use vehicle, the fleet must first remove the vehicle from year-by-year low-use status. Once the vehicle's low-use status has been removed, the fleet may report the vehicle as retired on the next annual reporting date and receive BACT turnover credit for that vehicle.

Permanent low-use: If a fleet retires a vehicle that was permanently designated low-use, the fleet will not receive additional credit towards the BACT requirements.

Q – What if I had a low-use vehicle in my fleet when I did my initial reporting in 2009?

A – Vehicles initially reported to ARB as low-use in 2009 may use either of the low-use provisions – year-by-year or permanent low-use. If a vehicle was used less than 200 hours in the year proceeding the compliance year, but has not been reported as one of the two low-use options detailed above, the vehicle will not be considered low-use, and its horsepower will be added to the fleet's total when determining if the fleet meets its compliance requirements. Note that if the fleet wants to use the year-by-year low-use option to remove the vehicle from its upcoming compliance requirements, the fleet must log the hours of use from January 1st to December 31st of the previous year. The hours of use must then be submitted to ARB on the fleet's annual reporting date of March 1st. As stated above, a fleet may designate a vehicle as permanently low-use for the forthcoming compliance year and tracking of annual operating hours commences on January 1 of the compliance year.

For example, using the referenced 2009 reporting period for a vehicle wanting to be claimed as year-by-year low-use, a medium fleet (with an upcoming compliance year of 2017) that reported a vehicle low-use to ARB during its initial reporting in 2009 would need to log the vehicle's hours of use from January 1, 2016 to December 31, 2016. The fleet owner must then submit the hours of use by March 1, 2017, its annual reporting date. The fleet would be

While this document is intended to assist fleets with their compliance efforts, it does not alter or modify the terms of any ARB regulation, nor does it constitute legal advice. It is the sole responsibility of fleets to ensure compliance with the In-Use Off-Road Diesel-Fueled Fleets Regulation.

required to provide use information between January 1 and December 31, 2017, if it wanted to claim the vehicle as permanently low-use.

Q – What if I have vehicles used partially inside and partially outside of California?

A – If you operate a vehicle both inside and outside of California, you may use the hours that it is operated inside California to determine if the vehicle is low-use. For instance, if a fleet uses a vehicle 199 hours inside California in one year, and 2000 hours in Nevada and another 1000 hours in Oregon in the same year, the vehicle would meet the low-use requirements for that year. The vehicle will be reported as “Low-use Outside”, and the hours of use inside California only will be reported in that year. Additionally, the vehicle owner must also log and report the date and the hour meter reading each time the vehicle entered and left the state. The ‘Reporting Form: Low-Use Vehicles Operated Inside and Outside of California’ is available in the Off-Road Regulation Knowledge Center at: <http://www.arb.ca.gov/msprog/ordiesel/documents/doors/out-of-state-reporting.pdf>

Q – What about vehicles used partially for emergency services?

A – If you use a low-use vehicle for emergency services (e.g., fighting or controlling a wildfire), you do not need to include the hours of use that were for emergency use when determining the vehicle’s annual hours of use. For example, if a vehicle was used 195 hours in one year in general use, but was also used 50 hours to help fight wildfires, that vehicle would meet the low-use requirements for that year. The vehicle owner would need to log the hour meter readings during general services (non-emergency use) and report those as the vehicles hours of use in that year, and keep a record of the logs of emergency services.

Q – Can a two-engine vehicle subject to the off-road regulation be considered a low use vehicle if only one engine is low use? For example, what if the lower (carrier) engine is used less than 200 hours per year, but the upper engine is used more often?

A – No. In order to be considered a low use vehicle, both engines of a two-engine vehicle must meet the criteria of the low-use provisions individually. For example, if the upper engine on a two-engine crane operated for 190 hours in a year, and the lower engine was also operated for 190 hours in that year, that two-engine crane could be considered a low-use vehicle.

While this document is intended to assist fleets with their compliance efforts, it does not alter or modify the terms of any ARB regulation, nor does it constitute legal advice. It is the sole responsibility of fleets to ensure compliance with the In-Use Off-Road Diesel-Fueled Fleets Regulation.

Q – If I designate a vehicle as low-use, but I don't report engine hour meter readings, is my vehicle still considered low-use?

A – A vehicle's low-use status can only be confirmed through reported engine hour meter readings. While a fleet may designate a vehicle as low-use in the Diesel Off-road Online Reporting System (DOORS) without reporting engine hour meter readings, the engine hour meter readings must be submitted as part of the fleet's annual reporting requirements.¹ Large fleets are required to submit engine hour meter readings for each vehicle designated as permanent or year-by-year low-use by March 1st each year, beginning in 2012. Medium and small fleets are required to submit annual engine hour meter readings beginning in 2016 and 2018, respectively. Vehicles designated as low-use in DOORS will be removed from the fleet average, BACT requirement, and fleet size calculations.

Q – What if my non-resettable engine hour meter breaks or becomes unreadable?

A – A broken or unreadable non-resettable engine hour meter must be immediately removed and replaced with a new, operational non-resettable hour meter, and accurate record keeping of the meter's failure and replacement is necessary. When reporting the updated hour information in DOORS, you will add the new hour meter's reading to the last reading on the old meter (at the time it broke or became unreadable), and then only report the new hour meter's readings for all subsequent required reporting. For additional information, please see the DOORS user guide for reporting low-use vehicles at <http://www.arb.ca.gov/msprog/ordiesel/documents/doors/userguide-lowuse.pdf>.

¹ Because the annual reporting requirement for medium and small fleets does not begin until 2016 and 2018, respectively, medium and small fleets are not required to submit their hour meter readings before March 1 of those years. This includes fleets that would otherwise be large but that are classified as medium or small due to some of their vehicles being low-use and hence not counted in their total horsepower.

While this document is intended to assist fleets with their compliance efforts, it does not alter or modify the terms of any ARB regulation, nor does it constitute legal advice. It is the sole responsibility of fleets to ensure compliance with the In-Use Off-Road Diesel-Fueled Fleets Regulation.