

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

### **Manufacturer Delays for Vehicle Purchases FAQ Revised May 2011**

**Q – I ordered a vehicle from a manufacturer, but due to manufacturer delays, I will not receive my new vehicle in time for my January 1<sup>st</sup> compliance date. This vehicle was going to replace my older vehicle, which I was planning on retiring in order to meet the BACT requirements for the off-road regulation. I cannot retire my older vehicle until I receive the new one. Will the manufacturer delay provisions of the regulation mean I am still in compliance in this case?**

A – Yes, you will be able to use the manufacturer delay provisions in section 2449(e)(6). As long as you order your new vehicle before November 1<sup>st</sup> of the previous year (i.e., two months before the January 1<sup>st</sup> compliance deadline), you may use the new equipment and the retirement of your old vehicle to meet requirements for the following January 1<sup>st</sup> deadline. You will need to have a proof of purchase, such as a purchase order or signed contract for the sale. Once the new vehicle is received, it must be placed into operation and the old vehicle retired.

For example, consider a fleet that placed an order for a new scraper (Scraper B) in the hopes of retiring Scraper A by January 1, 2014 to meet the January 1, 2014 compliance date. For business reasons, the fleet has to hold on to Scraper A until it receives Scraper B. As long as Scraper B is ordered before November 1, 2013, the fleet can count Scraper A as retired and Scraper B as part of its fleet on January 1, 2014. This retirement of Scraper A can be used to help satisfy the fleet's BACT requirements or Scraper B can be included when the fleet demonstrates how it meets the fleet averages. The DOORS reporting system will allow the fleet to indicate that it is awaiting delivery of Scraper B.

Once Scraper B is received, Scraper A must be retired and Scraper B placed into service. The fleet may follow normal procedures to test and prepare Scraper B for service before placing it into service; however, it may not begin working with Scraper B until Scraper A has been retired (i.e., moved outside of California, sold, or scrapped).

The relevant portion of the regulation reads as follows:

*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.*

**2449(e)(6) Compliance Extension for Equipment Manufacturer Delays**

A fleet owner who has purchased new equipment (including VDECS) or vehicles in order to comply with this regulation, will be excused from immediate compliance if the new equipment or vehicles have not been received due to manufacturing delays as long as all the conditions below are met:

- (A) The equipment or vehicle was purchased, or the fleet owner and seller had entered into contractual agreement for the purchase, at least two months prior to the required compliance date, or - for a VDECS purchased to replace a failed or damaged VDECS – the fleet owner and seller had entered into contractual agreement for the purchase within 60 days of the VDECS failure.
- (B) Proof of purchase, such as a purchase order or signed contract for the sale, including engine specifications for each applicable piece of equipment, must be maintained by the fleet owner and provided to an agent or employee of ARB upon request.
- (C) The new equipment or vehicles are immediately placed into operation upon receipt.
- (D) Documentation from the manufacturer or the installer that there is a delay, such that the equipment or vehicle will be received or installed after the compliance date.

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