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

Private Fleet Size Determination and Reporting Requirements FAQ
Revised October 2012

Q – Why is fleet size important in the In-Use Off-Road Diesel Vehicle Regulation (Off-Road Regulation)?

A – Compliance requirements for ARB's Off-Road Regulation vary for each fleet and are determined based on the total off-road horsepower contained in the fleet. In the Off-Road Regulation, there are three "fleet size categories": small, medium, and large; a fleet will have different reporting and compliance requirements depending upon their fleet category classification.

To determine the fleet size category, the horsepower of all mobile off-road vehicles under common ownership or control must be summed. Low-use vehicles, dedicated snow-removal vehicles, and vehicles used solely for emergency operations should not be included in this sum when determining the fleet size category.

Q – What do you mean by common ownership or control?

A – If vehicles are under common ownership, this means they are owned by the same person, corporation, partnership, or association. In addition, vehicles managed day to day by the same directors, officers, or managers, or by corporations controlled by the same majority stockholders are considered to be under common control even if their title is held by different business entities.

Q – How do private fleets determine their fleet size?

A – Private companies determine their fleet size by adding up all the horsepower of the vehicles owned in their fleet. If a company has multiple fleet portions, then the total fleet size is the sum of all horsepower for all fleet portions that are under common ownership or control.

Q – If a company has separate locations in California, can they comply and report fleets separately at different locations, or must the company report/comply as a whole?

A – If a company has separate fleet portions under the control of different responsible officials (fleet managers) because they are part of different subsidiaries,

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divisions, or other type of organizational structure, each fleet portion can report and comply separately with the regulation. However, the total horsepower of the company must be determined by adding up the total horsepower under common ownership or control in order to determine the total fleet size. Fleet size will determine the first compliance date for the fleet. Fleets that have the same majority stockholders (over 50 percent) are considered to be under common control. For example, if one parent company is comprised of three 2,000 hp fleets (at different locations), the sum of the fleet's horsepower for purposes of determining fleet size is 6,000 hp, and the combined fleet will be considered a large fleet (greater than 5,000 hp). However, each location is considered a fleet portion under the regulation and can report/comply separately, but must comply with the large fleet targets. For information on fleet portions, please see the "Fleet Portions" Frequently Asked Questions (FAQ) document available at http://www.arb.ca.gov/msprog/ordiesel/faq/fleetportions.pdf.

Please see also the further examples below.

Example 1 – Parent/Child Company

XYZ Corporation (in California) forms a new corporation, South Coast Paving and Grading (in California), which XYZ Corporation continues to wholly own, and secures a different federal tax identification number for the new company. While the fleets of XYZ Corporation and South Coast Paving and Grading can report and comply separately with the Off-Road Regulation (since they are considered to be fleet portions), because they are under common ownership, the total horsepower of both must be summed in order to determine the total fleet size, and subsequently, the first compliance date for both corporations' fleets.

Example 2 – Common Ownership

ABC Company and 123 Company are wholly-owned subsidiaries of Alphabet Group Incorporated. They were acquired by Alphabet Group Incorporated in 1950 and 1970, respectively. Alphabet Group Incorporated is located in Nevada, however ABC Company and 123 Company are both located in California and each have their own Federal Tax Identification number. In addition, they each have unique California State Contractor's license numbers. Both ABC and 123 are decentralized, with most of the decision making pushed down to the operating company level. However, the corporate office centralizes things like insurance, bonding, cash, and financial statement consolidation.

Because ABC and 123 are under common ownership, the total horsepower of the two California-based fleets must be determined by adding their combined total horsepower, which will determine the fleet size and first compliance date for the combined fleet. However, as fleet portions, ABC and 123 can report and comply separately under the Off-Road Regulation

Example 3 – Common Control

Bill Brown owns Brown Construction and controls the day-to-day operation of his fleet. Bonnie Brown is the owner of Bonnie's Earthmoving, but her vehicles are controlled on a day-to-day basis by Bill Brown. Bill Brown makes decisions regarding vehicle use, maintenance, purchases and sales, etc. for both fleets. Because Brown Construction and Bonnie's Earthmoving fleets are under the common control of Mr. Brown, their horsepower must be summed to determine their fleet size. If the summed horsepower is over 5,000 hp, both would need to meet the large fleet requirements. Unlike Examples 1 and 2, the fleets of the two companies cannot be treated as fleet portions because they are not under the control of different responsible officials.

Example 4 – 50/50 Ownership

John Smith owns Company A, and Jane Doe owns Company B. Both companies control the day-to-day operations of their respective fleets. John and Jane also each both own 50 percent of Company C. Company C independently controls the day-to-day operations of its own fleet. Because neither John nor Jane has a majority stake in Company C, Company C is not under common ownership or control of either Company A or B. Thus, neither John nor Jane must add Company C's horsepower to their own fleet when determining fleet size. Each fleet - Company A, B, and C - would determine its fleet size, as well as report and comply separately.

If, however, John controlled both the Company A and Company C fleet on a day-to-day basis (managing the vehicles' use, maintenance, purchases and sales, etc.), then Company A and Company C's horsepower would need to be combined when determining fleet size.

ARB enforcement may use organizational documents of fleet owners (such as articles of incorporation) to validate fleet ownership.

Q – How does a joint venture company determine their fleet size?

A – A joint venture company, i.e., a business arrangement wherein two parties come together to take on a project or enterprise and equally share in revenues, expenses and assets, would be treated like the "50/50 Ownership" company shown above in Example 4. As long as the joint venture company fleet is not under common control with another fleet, each partner in the joint venture and the joint venture company itself would report and determine its fleet size separately.

Q – What is a captive attainment area fleet?

A – Captive attainment area fleets are fleets or fleet portions in which all of the vehicles operate exclusively within the following counties: Alpine, Colusa, Del Norte, Glenn, Humboldt, Lake, Lassen, Mendocino, Modoc, Monterey, Plumas, San Benito, San Luis Obispo, Santa Barbara, Santa Cruz, Shasta, Sierra, Siskiyou, Trinity, Tehama, Yuba, and the portion of Sonoma County that lies within the boundaries of the North Coast Air Basin. Captive attainment area fleets are treated as small fleets even if their total horsepower exceeds 2,500 horsepower.

Q – What is a non-profit training center, and what is my fleet size if I qualify as this type of fleet?

A – A non-profit training center is an entity that operates a training program in the use of off-road vehicles and that (A) is a community college program that trains students in the use of off-road vehicles or (B) qualifies as a non-profit or not for profit organization under title 26 Internal Revenue Code section 501(a), (c)(3), (c)(5), or (c)(6). Any vehicles that are not used for an off-road training program are not considered part of a non-profit training center and must be considered a separate fleet. Non-profit training centers are treated as small fleets even if their total horsepower exceeds 2,500 horsepower.

Q – Do low-use vehicles count towards the total hp of a fleet? Are low-use vehicles included when calculating hp to be turned over/retrofit under BACT?

A – Low-use vehicles should NOT be included when calculating a fleet's total horsepower, and should also not be included in any of the fleet average index or target calculations. Therefore, when calculating the horsepower necessary to meet the BACT requirements, low-use vehicles should not be included in the total horsepower, and should also not be "turned over" or retrofitted to meet the BACT requirements. For information on low-use vehicles, please see the "Low-Use Vehicles" FAQ, which is available at http://www.arb.ca.gov/msprog/ordiesel/faq/lowusefaq.pdf.

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Q – My fleet's total horsepower is less than 500 hp. Do I still have to meet the small fleet requirements?

A – No. As an option, you can choose to phase out all of your fleet's Tier 0 and Tier 1 vehicles and replace them with Tier 2 or greater vehicles according to the phase-out schedule specified in section 2449(e), and shown below.

Optional Compliance Schedule for Fleets with 500 HP or Less

Compliance Date: January 1 of Year	Percent of Fleet (by horsepower) Which Must Have a Tier 2 or Higher Engine
2019	25
2022	50
2026	75
2029	100

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