

## ATTACHMENT D

### PROPOSED REGULATION ORDER FOR AMENDMENTS TO THE AIRBORNE TOXIC CONTROL MEASURE TO LIMIT DIESEL-FUELED COMMERCIAL MOTOR VEHICLE IDLING

- Notes:
- a) The proposed regulatory amendments as noticed in the 45-day comment period are shown in underline to indicate additions to the text and ~~strikeout~~ to indicate deletions.
  - b) Modifications approved by the Board at the December 12, 2013 hearing, and conforming modifications developed by staff subsequent to the hearing, are shown in double underlined text to indicate additions and ~~double strikeout~~ to indicate deletions. Headings are shown in italics so they will be published in a distinctive font in Barclays California Code of Regulations. Some subsection numbering has been changed to reflect the conventions used in Barclays.

**§ 2485. Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling.**

- (a) *Purpose.* The purpose of this airborne toxic control measure is to reduce public exposure to diesel particulate matter and other air contaminants by establishing idling restrictions, emission standards, and other requirements for heavy-duty diesel engines and alternative idle reduction technologies to limiting the idling of diesel-fueled commercial motor vehicles.
- (b) *Applicability.* This section applies to any person, business, or government agency that owns, operates, or causes to operate the equipment listed below, at any location in California:
- (1) diesel-fueled commercial motor vehicles that operate in the State of California with gross ~~vehicular~~ vehicle weight ratings of greater than 10,000 pounds that are or must be licensed for operation on highways. This specifically includes:
- ~~(1)(A)~~ California-based vehicles; and
- ~~(2)(B)~~ Non-California-based vehicles; and
- (2) alternative idle reduction technologies including but not limited to internal combustion engine auxiliary power systems (APS), fuel-fired heaters, battery-electric APSs, and other technologies installed on diesel-fueled commercial motor vehicles.
- (c) *Requirements.*
- (1) *Idling Restriction:*
- (A) Between February 1, 2005 through December 31, 2014, On or after February 1, 2005, the driver of any vehicle subject to this section shall comply with the following requirements, except as noted in subsection (d) below:
- ~~(A)1.~~ †The driver shall not idle the vehicle's primary diesel engine for greater than 5.0 minutes at any location.
- ~~(B)2.~~ †The driver shall not operate a diesel-fueled auxiliary power system (APS) to power a heater, air conditioner, or any ancillary equipment on that vehicle during sleeping or resting in a sleeper berth for greater than 5.0 minutes at any location when within 100 feet of a restricted area.
- (B) Except as provided in subsection (d) below, on or after January 1, 2015, any person that owns, operates, or causes to operate any diesel-fueled commercial motor vehicle subject to the requirements of this section shall comply with the following requirements:

1. No vehicle subject to this section shall idle for more than 5 consecutive minutes at any location.
2. No diesel-fueled APS subject to this section shall be operated for greater than 5 minutes at any location when within 100 feet of a restricted area.

(C) On or after January 1, 2015, the driver of a vehicle subject to the requirements of this section must, upon request, provide the following information to authorized enforcement personnel:

1. driver's license;
2. vehicle registration; and
3. motor carrier's information set forth in subsection(c)(1)(D), below.

(D) On or after January 1, 2015, a motor carrier that dispatches a vehicle subject to the requirements of this section must provide the following information to a dispatched driver:

1. motor carrier's business name
2. motor carrier's street address, state, zip code;
3. motor carrier contact person's name; and
4. motor carrier contact person's business phone number.

(2) *Use of Alternative Technologies.*

(A) Between January 1, 2008 through December 31, 2014, On or after January 1, 2008, the driver shall not operate an internal combustion APS on any vehicle equipped with a 2007 and subsequent model year primary diesel engine unless the vehicle is:

1. equipped with an APS meeting the emissions performance requirements found in subsection (c)(3)(A), below; and
2. the vehicle is equipped with a label meeting the requirements pursuant to section 35.B.4 of the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," as incorporated by reference in title 13, CCR, section 1956.8(b).

(B) Between January 1, 2008 through December 31, 2014, On or after January 1, 2008, the driver shall not operate a fuel-fired heater on any vehicle equipped with a 2007 and subsequent model year primary diesel-engine unless the fuel-fired heater meets the emissions performance requirements found in subsection (c)(3)(B), below;

- (C) Between January 1, 2008 through December 31, 2014, On or after January 1, 2008, the driver of a vehicle equipped with a 2006 or older model year primary diesel engine may use and operate in California any certified internal combustion APS with or without the additional PM control specified in subsection (c)(3)(A)1. or any other certified alternative idling reduction technology. In addition, the APS or idle reduction technology used or operated on such a vehicle is exempt from the requirements specified in subsection (c)(3), below.
- (D) Except as provided in subsection (d) below, on or after January 1, 2015, any person who owns or operates any vehicle equipped with an alternative technology subject to the requirements of this section shall comply with the following requirements:
1. No internal combustion APS installed on any vehicle equipped with a primary diesel engine certified to the 2007 and subsequent model year engine standards set forth in title 13, CCR, section 1956.8, shall be operated at any location in California unless:
    - a. the APS is verified to comply with the emission performance requirements found in subsection (c)(3)(A), below; and
    - b. the vehicle is equipped with a label for a verified APS meeting the requirements set forth in section 35.B.4 of the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," as last amended on April 18, 2013, which is incorporated by reference herein.
  2. No fuel-fired heater installed on any vehicle equipped with a primary diesel engine certified to the 2007 and subsequent model year engine standards set forth in title 13, CCR, section 1956.8, shall be operated at any location in California unless the fuel-fired heater meets the emission performance requirements found in subsection (c)(3)(B), below;
  3. Any internal combustion APS equipped with a California or federally certified off-road engine or any other certified alternative idle reduction technology may be installed and operated on a vehicle equipped with a primary diesel engine certified to the 2006 or older model year engine standards set forth in title 13, CCR, section 1956.8. In addition, the APS or idle reduction technology used or operated on such a vehicle is exempt from the requirements specified in subsection (c)(3), below
- (3) Idle Reduction Technology Compliance Requirements. As an alternative to idling the primary engine, diesel-fueled engines/vehicles may, as an option, be equipped with alternative technologies, as listed and defined below in

subsections (c)(3)(A), (c)(3)(B), and (c)(3)(C) of this subsection. If so equipped, these technologies are subject to the following requirements:

(A) *Internal Combustion APS.*

1. In order to operate in California, an APS utilizing an internal combustion engine must comply with applicable California off-road and/or federal non-road emission standards and test procedures for its fuel type and power category. In addition, diesel-fueled APSs installed on vehicles equipped with primary engines certified to the 2007 and subsequent model year heavy-duty diesel-engine standards, pursuant to section 1956.8(a)(2)(A) of title 13, CCR, shall either, be equipped with a verified Level 3 in-use strategy for particulate matter control (see title 13, CCR, sections 2700 to 2710), or have its exhaust routed directly into the vehicle's exhaust pipe, upstream of the diesel particulate matter aftertreatment device.
2. With advance Executive Officer approval, a certifying/verifying APS manufacturer may petition for an alternate compliance strategy other than described in (A)1.a. or b. in this subsection above. However, this provision is limited to manufacturers that can demonstrate, to the satisfaction of the Executive Officer, that their alternative strategy is equivalent (or "cleaner"), from an emissions standpoint, compared to the requirement described in (A)1.a. or b. in this subsection above. As an example, strategies that can use the available electric power infrastructure, instead of solely operating a diesel-fueled APS for engine and/or cab heating and cooling, may be able to use such a strategy to demonstrate compliance with these requirements.

(B) *Fuel-Fired Heaters.* Fuel-fired heaters must comply with the applicable California emission standards and test procedures as specified in the Low Emission Vehicle program requirements found in title 13, CCR, subsections 1961(a)(15) and (d), or in Part IE.1.13 of the "California Exhaust Emission Standards and Test Procedures for 2001 through 2014 Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2009 through 2016 Model Greenhouse Gas Exhaust Emission Standards and Test Procedures for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," ~~California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles,"~~ as incorporated by reference in title 13, CCR, section 1961(d). However, the specified requirement that limits fuel-fired heaters from being operated above 40°F does not apply.

- (C) *Other Idle Reduction Technologies.* Other technologies that will reduce idling emissions may also be used, including the use of batteries, fuel cells, power inverter/chargers for on-shore electrical power, on-shore electric power infrastructure also known as truck stop electrification, and other technologies that produce minimal or no emissions. With the exception of battery and fuel cell powered APSs, power inverter/chargers, and electric power infrastructure, the use of other technologies ~~are~~ is subject to advance Executive Officer approval and must be at least as effective in reducing idling emissions as the technologies described in subsections (c)(3)(A), above, or the NOx idling emission standard specified in title 13, CCR, section 1956.8(a)(6)(C). The Executive Officer shall use good engineering judgment and test data to determine if an idle reduction technology provides idling emission controls equivalent to the standards specified in subsection (c)(3)(A) above, or in title 13, CCR, section 1956.8(a)(6)(C).
- (D) *Labeling Requirements.* 2007 and subsequent model year commercial diesel vehicles equipped with an internal combustion APS meeting the requirements specified in subsection (c)(3)(A) shall have a label affixed to the hood of the vehicle to allow operation of the APS in California. The labels shall meet the requirements specified in section 35.B.4 of the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," as incorporated by reference in title 13, CCR, section 1956.8(b).

(d) *Exceptions.*

- (1) Except when a vehicle is located within 100 feet of a restricted area, subsections (c)(1)(A)1 and (c)(1)(B)1 does not apply, if the vehicle is equipped with
- (A) a primary diesel engine meeting the optional NOx idling emission standard pursuant to title 13, CCR, section 1956.8(a)(6)(C); and
  - (B) a label meeting the requirements pursuant to section 35.B.4 of the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," as incorporated by reference in title 13, CCR, section 1956.8(b).
- (2) Subsection (c)(1) does not apply for the period or periods during which
- (A) a bus is idling for
    - 1. up to 10.0 minutes prior to passenger boarding, or
    - 2. when passengers are onboard;
  - (B) prior to January 1, 2008, idling of the primary diesel engine is necessary to power a heater, air conditioner, or any ancillary equipment during

sleeping or resting in a sleeper berth. This provision does not apply when operating within 100 feet of a restricted area;

- (C) idling when the vehicle must remain motionless due to traffic conditions, an official traffic control device, or an official traffic control signal over which the driver has no control, or at the direction of a peace officer, or operating a diesel-fueled APS or other device at the direction of a peace officer;
- (D) idling when the vehicle is queuing that at all times is beyond 100 feet from any restricted area;
- (E) idling of the primary diesel engine, operating a diesel-fueled APS, or operating other devices when forced to remain motionless due to immediate adverse weather conditions affecting the safe operation of the vehicle or due to mechanical difficulties over which the driver has no control;
- (F) idling to verify that the vehicle is in safe operating condition as required by law and that all equipment is in good working order, either as part of a daily vehicle inspection or as otherwise needed, provided that such engine idling is mandatory for such verification;
- (G) idling of the primary diesel engine, operating a diesel-fueled APS, or operating other devices is mandatory for testing, servicing, repairing, or diagnostic purposes, including regeneration or maintenance of the exhaust emission control device during engine idling when the dashboard indicator light, if so equipped, is illuminated indicating that regeneration or maintenance is in progress;
- (H) idling when positioning or providing a power source for equipment or operations, other than transporting passengers or propulsion, which involve a power take off or equivalent mechanism and is powered by the primary diesel engine for:
  - 1. controlling cargo temperature, operating a lift, crane, pump, drill, hoist, mixer (such as a ready mix concrete truck), or other auxiliary equipment;
  - 2. providing mechanical extension to perform work functions for which the vehicle was designed and where substitute alternate means to idling are not reasonably available; or
  - 3. collection of solid waste or recyclable material by an entity authorized by contract, license, or permit by a school or local government;
- (I) idling of the primary diesel engine, operating a diesel-fueled APS, or operating other devices when operating defrosters, heaters, air

conditioners, or other equipment solely to prevent a safety or health emergency;

- (J) idling of the primary diesel engine, operating a diesel-fueled APS, or operating other devices by authorized emergency vehicles while in the course of providing services for which the vehicle is designed;
- (K) idling of military tactical vehicles during periods of training, testing, and deployment;
- (L) idling when operating equipment such as a wheelchair or people assist lift as prescribed by the Americans with Disabilities Act;
- (M) idling of armored cars in the course of providing services for which the vehicle is designed; and
- (N) idling of workover rigs while performing work for which the vehicle is designed.

(e) *Relationship to Other Law.*

Nothing in this section allows idling in violation of other applicable law, including, but not limited to:

- (1) California Vehicle Code ~~§~~section 22515;
- (2) ~~¶~~title 13, CCR, §section 2480, ~~California Code of Regulations~~;
- (3) title 13, CCR, section 1956.8
- (~~34~~) California Health and Safety Code ~~§~~section 40720; or
- (~~45~~) any applicable ordinance, rule, or requirement as stringent as, or more stringent than, this section.

(f) *Enforcement.* This section may be enforced by the Air Resources Board; peace officers as defined in California Penal Code, title 3, chapter 4.5, Sections 830 et seq. and their respective law enforcement agencies' authorized representatives; and air pollution control or air quality management districts.

(g) *Penalties.* For violations of subsection (c)(1), (c)(2) or (c)(3), that occur prior to January 1, 2015, the driver of a subject vehicle is subject to a minimum civil penalty of 300 dollars and to criminal penalties as specified in the Health and Safety Code and the Vehicle Code.

On or after January 1, 2015, any person who violates any requirement of this section is subject to the penalties set forth in California Health and Safety Code sections 39674, 39675, 42400 et seq., 42402 et seq. and 42410 and 43704.

(h) *Definitions.* The following definitions apply to this section:

- (1) "Armored car" is as defined in California Vehicle Code §section 115
- (2) "Authorized emergency vehicle" is as defined in California Vehicle Code §section 165.
- (3) "Auxiliary power system" or "APS" means any device that is permanently dedicated to the vehicle on which it is installed and provides electrical, mechanical, or thermal energy to the primary diesel engine, truck cab, and/or sleeper berth, bus's passenger compartment or any other commercial vehicle's cab, as an alternative to idling the primary diesel engine.
- (4) "Bus" means any vehicle defined in ~~¶~~title 13, ~~CCR~~California Code of Regulations, §section 2480, subsections (h) (13)-(16), inclusive or as defined in the California Vehicle Code §section 233.
- (5) "Child care facility" is a facility that meets the definition of a "child day care facility" in Health and Safety Code section 1596.750 and that is subject to the requirements of Health and Safety Code sections 1596.7 to 1597.71.
- (~~6~~) "Commercial Motor Vehicle" means any vehicle or combination of vehicles defined in California Vehicle Code §section 15210(b) and any other motor truck or bus with a gross vehicle weight rating of 10,001 pounds or more, except the following:
  - (A) a zero emission vehicle; or
  - (B) a pickup truck as defined in California Vehicle Code §section 471.
- (~~7~~) "Driver" is as defined in California Vehicle Code §section 305.
- (~~8~~) "Emission standard" as it applies to compliance with the requirements and standards set forth in this section, and the remedies provided for in the Health and Safety Code for noncompliance, relates to the emission characteristics of a motor vehicle or off-road engine and means:
  - (a) a numerical limit on the amount of a given pollutant that a motor vehicle engine or off-road engine may emit into the atmosphere; or
  - (b) a requirement that a motor vehicle , motor vehicle engine, or off-road engine be equipped with a certain type of pollution-control device or some other design feature related to the control of emissions.
- (~~9~~) "Evaporative emission standards" are a subset of emission standards that refer to the specific motor vehicle fuel evaporative emission standards and test procedures incorporated by reference in title 13, CCR section 1976 to which a vehicle is certified.

- ~~(9)~~(10) "Exhaust emission standards" or "tailpipe emission standards" are a subset of emission standards that collectively refer to the specific standards to which a motor vehicle, motor vehicle engine, or off-road engine is certified.
- ~~(40)~~(11) "Executive Officer" means the Executive Officer of the California Air Resources Board or his or her delegate.
- ~~(7)~~~~(41)~~(12) "Fuel-fired heater" means a fuel burning device that creates heat for the purpose of (1) warming the cab or sleeper berth compartment of a vehicle or (2) warming the engine oil and/or coolant for easy start-up of the vehicle's engine but does not contribute to the propulsion of the vehicle.
- ~~(8)~~~~(42)~~(13) "Gross vehicle weight rating" is as defined in California Vehicle Code Section 350.
- ~~(9)~~~~(43)~~(14) "Highway" is as defined in California Vehicle Code Section 360.
- ~~(10)~~~~(44)~~(15) "Idling" means the vehicle engine is running at any location while the vehicle is stationary.
- ~~(45)~~(16) "Motor Carrier" means a person providing transportation of goods or passengers for compensation.
- ~~(11)~~~~(46)~~(17) "Motor truck" or "motortruck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.
- ~~(12)~~~~(47)~~(18) "Official traffic control device" is as defined in California Vehicle Code Section 440.
- ~~(13)~~~~(48)~~(19) "Official traffic control signal" is as defined in California Vehicle Code Section 445.
- ~~(14)~~~~(49)~~(20) "Owner" is as defined in Vehicle Code Section 460 means the person or persons registered as the owner of the vehicle by the California Department of Motor Vehicles or its equivalent in another state, province, or country (presumed at the time of violation to be the person or persons identified as the owner on the registration document or title carried on the vehicle). For the purposes of this section, the definition of an owner excludes a lessor or a renter who leases or rents vehicles without a driver for a fixed rate or price, and does not operate or permit to operate the vehicle at the time of violation.
- ~~(20)~~(21) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, instrumentality, public corporation, or any other legal or commercial entity.
- ~~(15)~~~~(24)~~(22) "Primary diesel engine" means the diesel-fueled engine used for vehicle propulsion.

~~(16)(2223)~~ "Queuing" means (A) through (C)

- (A) the intermittent starting and stopping of a vehicle;
- (B) while the driver, in the normal course of doing business, is waiting to perform work or a service; and
- (C) when shutting the vehicle engine off would impede the progress of the queue and is not practicable.
- (D) Queuing does not include the time a driver may wait motionless in line in anticipation of the start of a workday or opening of a location where work or a service will be performed.

~~(17)(2324)~~ "Restricted area" means any real property zoned for individual or multifamily housing units, ~~schools, hotels, or motels, hospitals, senior care facilities or child care facilities,~~ that has one or more of such units on it.

~~(18)(2425)~~ "Safety or health emergency" means:

- (A) a sudden, urgent, or usually unforeseen, occurrence; or
- (B) a foreseeable occurrence relative to a medical or physiological condition.

~~(26)~~ "Senior care facility" is a facility that meets the definition of "residential care facility for the elderly" in Health and Safety Code section 1569.2(k) and that is subject to the requirements of the California Residential Care Facilities for the Elderly Act (Health and Safety Code sections 1569 to 1569.889).

~~(19)(2527)~~ "Sleeper berth" is as defined in Title 13, ~~California Code of Regulations,~~ Section 1265.

~~(20)(2628)~~ "Vehicle" is as defined in the California Vehicle Code Section 670.

~~(21)(2729)~~ "Workover rig" is as defined in Section 2449 of Title 13, ~~California Code of Regulations.~~

(i) Severability.

If any section, paragraph, subparagraph, sentence, clause, phrase, or portion of the section is, for any reason, held invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this section.

NOTE: Authority cited: Sections 39600, 39601, 39614(b)(6)(A), 39658, 39667, 43000.5(d), 43013(b), 43013(h), 43018(b), and 43018(c), Health and Safety Code; and *Western Oil & Gas Assn. v. Orange County Air Pollution Control Dist.* (1975) 14 Cal.3d.411. Reference: Sections 39002, 39003, 39027,

39500, 39600, 39650, 39655, 39656, 39657, 39658, 39659, 39662, 39665, 39674, 39675, 42400, 42400.1, 42400.2, 42400.3, 42402, 42402.1, 42402.2, 42402.3, 42403.5, 42410, 43013, 43018, and 43704, Health and Safety Code; Sections 305, 336, 350, 440, 445, 545, 546, 642, 680, 21400, 22452, 22515, 27153, 40001, 40001(b)(5), California Vehicle Code; and Sections 1201, 1900, 1962, 2480, Title 13, California Code of Regulations.