

State of California  
AIR RESOURCES BOARD

**Notice of Public Availability of Modified Text**

**PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE  
REGULATIONS FOR IN-USE OFF-ROAD DIESEL-FUELED FLEETS AND OFF-ROAD  
LARGE SPARK IGNITION ENGINE FLEET REQUIREMENTS**

Public Hearing Date: December 17, 2010

Public Availability Date: August 22, 2011

Deadline for Public Comment: September 6, 2011

At its December 17, 2010, public hearing, the Air Resources Board (ARB or Board) approved amendments to its regulations for In-Use Off-Road Diesel-Fueled Fleets (Off-Road regulation), California Code of Regulations (CCR), title 13, sections 2449 through 2449.3, and for Large Spark Ignition Engine Fleet Requirements (LSI fleet regulation), CCR, title 13, sections 2775 through 2775.2. The Off-Road regulation, approved in 2007, is intended to significantly reduce emissions of diesel particulate matter (PM) and oxides of nitrogen (NOx) from the over 150,000 in-use off-road diesel vehicles that operate in California by requiring their owners to modernize their fleets and install exhaust retrofits. Complementing this regulation is the large spark ignition (LSI) fleet regulation, approved in 2006. The LSI fleet regulation is intended to reduce hydrocarbon and oxides of nitrogen (HC+NOx) emissions from the nearly 90,000 LSI vehicles operating in California by accelerating the introduction of new clean vehicles and the retrofit or retirement of uncontrolled in-use vehicles.

**The Board's Action**

At the December 17, 2010, hearing, after considering staff's recommended amendments to both the Off-Road and LSI fleet regulations, the Board adopted Resolutions 10-47 and 10-48 (appended to this notice as Attachments 1 and 2). The proposed amendments to the Off-Road regulation delay the initial compliance date for all fleets by four years, provide a path to compliance without any required retrofits, simplify the regulation, and lower the costs of the regulation significantly while still maintaining progress toward clean air. The amendments also include additional minor modifications to clarify or simplify regulatory provisions. For the LSI fleet regulation, the proposed amendments broaden the definition of low-use vehicles to match that in the Off-Road regulation, broaden compliance extension flexibility, and make other minor clarifications.

At the December 17 hearing, staff also proposed additional amendments in response to comments made since the Notice of Public Hearing and Initial Statement of Reasons (Staff Report) was initially published on October 28, 2010. This included:

- 1) Amending the applicability of the Off-road regulation to bring in both engines of most two-engine vehicles;
- 2) Amending the alternative fuel provisions;
- 3) Clarifying the requirements for fleets that transfer ownership; and
- 4) Add a new section to clarify that some funding sources may have guidelines limiting how future vehicles/retrofits can be counted towards compliance with the Off-Road regulation.

In addition to staff's proposed amendments, the Board directed staff to take public comment on the following additional modifications to the Off-Road regulation:

Incorporating into the Off-Road regulation and Truck and Bus regulation a compliance option that would allow on-road and off-road vehicles that have been retrofitted consistent with the requirements of the two regulations to count towards the compliance requirements of either regulation for a specified period of time, so long as the actions taken under this option do not result in the loss of emission benefits in any given year, and

Adding Northern Sonoma County to the list of areas covered by the definition of "captive attainment area fleet."

In Resolutions 10-47 and 10-48, the Board directed the Executive Officer to incorporate the amendments set forth above into the proposed regulatory text, along with other modifications and clarifications as may be appropriate, and to make such modifications available for a supplemental comment period of at least 15 days. This notice describes those proposed amendments and modifications.

### **Summary of Proposed Modifications to the Off-Road Regulation**

At the December 17, 2010, hearing, staff proposed the following modifications in response to comments received since the Staff Report was published on October 28, 2010. These modifications include:

#### **1. Two-Engine Vehicles**

Staff is proposing to amend the applicability of the Off-Road regulation (section 2449(b)) to include both engines of all off-road and on-road two-engine vehicles, except for the following:

- 1) Two-engine on-road sweepers regulated by the Truck and Bus regulation;
- 2) Vehicles already subject to the Public Fleet and Utilities regulation (PAU regulation); and
- 3) Two-engine vehicles that have Tier 0 auxiliary engines.

Staff would like to note that his proposed amendment would only remove the auxiliary engines in two-engine vehicles from the Portable Diesel-Fueled Engines Air Toxic Control Measure (Portable ATCM), and therefore some of these auxiliary engines may

still be required to maintain either an air district Permit to Operate or an ARB Statewide Portable Equipment Registration (“PERP registration”).

Staff already amended the Off-Road regulation on two previous occasions to include both engines of two-engine cranes and two-engine water-well drilling rigs, and believes that bringing in other two-engine vehicles will continue to simplify regulatory requirements for fleets with vehicles under several ARB regulations. Staff would like to note that although this amendment would not allow two-engine vehicles with Tier 0 auxiliary engines, or vehicles already subject to the PAU regulation to be brought into the Off-Road regulation, these requirements do not apply to two-engine cranes, or two-engine water-well drilling rigs, since these vehicles were previously included in the Off-Road regulation.

Staff is not proposing to bring any other two-engine vehicles with Tier 0 auxiliary engines into the Off-Road regulation because currently most Tier 0 auxiliary engines are banned from California use under the Portable ATCM. Removing these engines from the Portable ATCM and allowing them to re-enter the state, or to return to full usage, would result in an increase in emissions from Tier 0 engines, and would result in emissions disbenefits throughout the State. Additionally, many fleets have already complied with the Tier 0 auxiliary engine ban, and would be at a competitive disadvantage if fleets with non-compliant Tier 0 engines were allowed to legally operate their two-engine vehicles with Tier 0 auxiliary engines within the State.

In addition to modifying the applicability section of the Off-Road regulation, staff is proposing the following language to address two-engine vehicles:

- 1) Add a definition for two-engine vehicles (section 2449(c)(57));
- 2) Add language to the year-by-year and permanent low-use definitions to include two-engine vehicles (sections 2449(c)(39) and (63));
- 3) Modify existing section 2449(e)(14) to describe how two-engine vehicles interact with the rounding provisions of the regulation;
- 4) Include a new initial reporting date of March 1, 2012, for all two-engine vehicles that will need to be reported (section 2449(g)(1));
- 5) Require the reporting of on-road engine and auxiliary engine information for two-engine vehicles (section 2449(g)(1)(B) and (C)); and
- 6) Exclude the horsepower of two-engine vehicles from applicability section of the SOON program (section 2449.2(b)(2)(C)).

## **2. Alternative Fuel Provisions**

Staff is proposing to amend section 2449(d)(1) of the alternative fuel provision to change the requirements for replacing diesel vehicles with gasoline-powered vehicles. Currently, a fleet may count a gasoline-powered vehicle towards compliance only if the fleet can show that a diesel vehicle was retired from the fleet within six months of the date a gasoline powered vehicle was added to the fleet. Staff has received comments that this requirement needlessly penalizes fleets that remove diesel vehicles from their inventory, but do not have the immediate need or financial ability to purchase a

replacement gasoline-powered vehicle within six months. Therefore, staff is proposing to remove this six-month requirement, so that a fleet must only identify which diesel vehicle the gasoline-powered vehicle replaced and maintain records of the functionality of both vehicles, as well as the date of sale and purchase of each vehicle.

### **3. Fleet Ownership Transferred**

Staff is proposing to clarify section 2449(d)(5) by adding language that further describes the requirements that must be met by new fleet owners who are acquiring fleets (or fleet portions), and by existing fleet owners who are acquiring fleets (or fleet portions). Currently, it is not clear as to whether or not a fleet portion is considered a “fleet” as discussed under this provision; therefore staff is proposing to add clarifying language to state that a fleet or fleet portion can be transferred. Additionally, in the current regulation there is no distinction between new and existing fleet owners. All new fleets (including new fleet owners that acquired existing fleets) are required to meet the new fleet requirements in section 2449(d)(4), which do not allow a fleet to comply with the regulation by using the Best Available Control Technology (BACT) requirements. Staff believes that this provision unfairly penalizes new fleet owners that are acquiring compliant fleets and therefore is proposing to amend this provision to allow new fleet owners who acquire already compliant fleets (or fleet portions) to meet either the BACT or fleet average requirements on the next compliance date (instead of requiring the fleet to meet the fleet average target only).

Currently, in the Off-Road regulation, there is no discussion of what happens to the BACT credits of fleets (or fleet portions) that are transferred to new ownership. Therefore, staff is also proposing to add in language allowing a new or existing fleet owner who acquires a fleet (or fleet portion) that had BACT credits, to keep those BACT credits as long as the acquired fleet or fleet portion continues to comply and report separately. If the fleet owner combines the acquired fleet (or fleet portion) for compliance and reporting purposes with the rest of his or her vehicles, the fleet owner will only keep the BACT credits accumulated from retrofits and repowers, and all other BACT credits from the acquired fleet will expire immediately.

### **4. Public Funds for Purchases, Repowers, or Retrofits**

Staff is proposing to add new section 2449(e)(17) to clarify that if a fleet receives public funding to replace, repower, or retrofit a vehicle subject to the Off-Road regulation, credit towards the BACT and fleet average requirements will be awarded in accordance with the applicable funding guidelines. In addition, section 2449(g)(1)(H) of the reporting requirements was also added to require the reporting of additional information on this funded equipment. Staff would like to note that this proposed amendment is not a change in current policy, and the language does not change credit already awarded for vehicles replaced, repowered, or retrofit with public funds. The purpose of this language is only to clarify that some funding sources may have restrictions limiting how future vehicles/retrofits can be counted towards compliance with the Off-Road regulation.

In addition to the modifications described above, the Board directed that two additional amendments be made to the Off-Road regulation:

**1. Excess PM VDECS credits used for compliance with Off-Road and Truck and Bus regulations**

Staff is proposing to add new section 2449.1(b)(11) to allow fleets with vehicles in both the Off-Road regulation and Truck and Bus regulation (title 13, CCR, section 2025) to generate credits (called excess PM VDECS credits) when additional Level 3 PM VDECS are installed beyond the compliance requirements in either one of the two regulations in a given year. These credits may be transferred between the two regulations until January 1, 2017.

Additional Off-Road retrofits used towards compliance with the Truck and Bus regulation

Beginning on January 1, 2013, for large fleets, and January 1, 2016, for medium fleets, if a fleet meets the BACT requirements of the Off-Road regulation in a given compliance year, and then installs additional Level 3 PM VDECS in that same year, those additional VDECS installed may be used to generate excess PM VDECS credits to apply towards compliance the Truck and Bus regulation, under section 2025, as follows:

Excess PM VDECS credits to apply towards the Truck and Bus regulation (i.e., number of Level 3 PM VDECS to apply towards the Truck and Bus regulation) = [(Total maximum power of additional engines with the Level 3 PM VDECS installed) divided by 300] truncated to a whole number

For example, if a large Off-Road fleet is required under section 2449.1(b)(1) to retrofit or turn over 1,000 horsepower (hp) between January 1, 2013 and December 31, 2013, the fleet could accrue credit that could be used towards compliance with the Truck and Bus regulation as follows under the following scenarios :

- 1) The fleet turns over 1,000 hp, and installs Level 3 PM VDECS on 300 hp. In this scenario, the fleet will accrue credits for one Level 3 PM VDECS, which may be used towards compliance with the Truck and Bus regulation. If the fleet uses the credit towards compliance with the Truck and Bus regulation, it would not receive any BACT carryover credit under the Off-Road regulation. However, if the fleet chooses not to use the credit towards compliance with the Truck and Bus regulation, the fleet would receive 300 hp BACT carryover credit to apply towards compliance with the Off-Road regulation.
- 2) The fleet turns over 1,000 hp, and installs Level 3 PM VDECS on 400 hp. In this scenario, the fleet would still only accrue one Level 3 PM VDECS credit, which may be used to towards compliance with the Truck and Bus regulation, since [(400/300) truncated to a whole number] = 1. If the fleet uses the credit towards compliance with the Truck and Bus regulation, it would also receive a 100 hp BACT carryover credit to apply towards compliance with the Off-Road regulation (since only 300 hp of the 400 hp was used towards compliance with the Truck

and Bus regulation). However, if the fleet chooses not to use any of the credit towards compliance with the Truck and Bus regulation, the fleet would receive 400 hp BACT carryover credit to apply towards compliance with the Off-Road regulation.

If any fleet (large, medium, and small) installs a Level 3 PM VDECS early (i.e., at least one year before the fleet's first Off-Road regulation compliance deadline), then that fleet has the option of 1) earning **double** carryover BACT credit to use towards compliance with the Off-Road regulation, or 2) earn **single** excess PM VDECS credit towards compliance with the Truck and Bus regulation. For example, if a large fleet installs Level 3 PM VDECS early (i.e., before January 1, 2013) on 300 hp, then that fleet has the option of 1) receiving a 600 hp of double carryover BACT credit towards the Off-Road regulation, or b) applying one Level 3 PM VDECS towards the Truck and Bus regulation.

#### Additional truck and bus retrofits used towards compliance with the Off-Road regulation

If a fleet subject to the Truck and Bus regulation generates excess PM VDECS credits under section 2025, those credits may be applied as a one-time credit towards compliance with the Off-Road regulation as follows:

Excess PM VDECS credit to apply towards the Off-Road regulation (i.e., carryover BACT credit in hp to apply towards the Off-Road regulation) = (Number of excess Level 3 PM VDECS from the Truck and Bus regulation) multiplied by 300.

For example, if one excess PM VDECS credit is generated through the Truck and Bus regulation, a **one-time** BACT carryover credit of 300 hp may be used towards compliance with the Off-Road regulation. The carryover BACT credit can be used one time towards the BACT requirements of the Off-Road regulation until January 1, 2017, or until the vehicle which generated the excess PM VDECS is needed for compliance with the Truck and Bus regulation. Thus, if in the next year, the same retrofit is still surplus, no additional BACT credit is awarded (since it is a one-time credit). And, if the carryover BACT credit is not used before 2017, it will expire.

## **2. Captive Attainment Area Fleet Definition**

Staff is proposing to amend section 2449(c)(6) to include Northern Sonoma County in the list of counties included in the captive attainment area fleet definition. The counties currently included in this definition were considered federal attainment area counties at the time the Off-Road regulation was adopted in 2007. Since Northern Sonoma County is now a federal attainment county, staff is proposing to include it in the captive attainment area fleet definition.

Additionally, staff is also proposing language to clarify that state and federally owned fleets cannot be considered captive attainment area fleets, since it is required for those fleets to meet the large fleet requirements. In the past, these federal and state fleets

could be considered captive attainment area fleets, because this status only meant a removal of the NOx requirements, and not an automatic small fleet designation. However, by changing the captive attainment area definition to re-designate all such fleets as small, staff realized it was necessary resolve these conflicting requirements, and clarify that federal and state fleets can no longer be defined as captive attainment area fleets because they are considered to be large fleets under the regulation and must meet earlier compliance dates. Although state and federally owned fleets will no longer be able to claim the captive attainment area fleet exemption, they will still experience significant economic relief through the delay and reduction in compliance requirements given to all large fleets.

In addition to the modifications and amendments listed above, staff is also proposing to restructure several sections of the regulation, correct clerical errors that have been identified since the December 2010 hearing, make consistent the use of certain terms and acronyms, and to streamline the formatting throughout the regulation. All of these changes are intended to improve the clarity and to simplify the regulation by making the language more consistent and better organized. The more significant changes are described below:

### **1. Restructuring the Applicability Section**

Staff is proposing to restructure section 2449(b), Applicability, so that this section is now a numbered list of vehicle and engine types affected by the Off-Road regulation. Previously, the applicability of the regulation was listed in paragraph form; staff believes that restructuring this section makes it easier to understand who is covered by the regulation and the types of vehicles to which the regulation applies. The changes are consistent with the structure of other ARB regulations.

### **2. Modifications to Definitions**

Staff is proposing to amend section 2449(c), Definitions, as follows:

- a. Added a definition of “fleet portion” under the fleet definition in section 2449(c)(20). This term was previously used throughout the regulation, but was not defined.
- b. Added a definition for “flexibility engine” (section 2449(c)(25)), and to remove the definition of a “post-2007 flexibility engine,” formerly section 2449(c)(39). Fleets are required to report if they own a flexibility engine; however, the requirement to use a different emission factor for post-2007 flexibility engines has now been removed, which also eliminates the need to have these types of engines defined under section 2449(c).
- c. Modified the “permanent low-use vehicle” definition in section 2449(c)(39) to clarify that these engines must be used less than 200 hours per year. Although most areas of the regulation state that low-use vehicles must be used less than 200 hours per year, this definition was inconsistent, and states that a permanent low-use vehicle can be used 200 hours or less per year (instead of less than 200 hours). Therefore, this definition is being revised to state that permanent low-use

vehicles must be used less than 200 hours per year.

- d. Modified the definition of “retire” in section 2449(c)(45) to “retire or retirement”, which clarifies that retire and retirement have the same meaning in the regulation. Staff is also proposing to clarify in this definition that the return of a rented or leased vehicle by a fleet to a rental or leasing company is not considered to be a retirement, and that similarly, the rental or leasing of a vehicle by a rental or leasing company does not count as a retirement for the rental or leasing company. Although this language was included in guidance documents and implied throughout the regulation, it is not explicitly stated in the current regulation, and is therefore being proposed at this time to provide additional clarification on this issue.
- e. Modified the “turnover” definition in section 2449(c)(55) to remove NOx VDECS from this definition. The installation of NOx VDECS still accrues BACT carryover credit in the regulation, however, the amount of credit is calculated differently from the other actions included in this turnover definition. Since the calculations are different, staff feels that including NOx VDECS in the turnover definition is not appropriate, and is therefore proposing to remove the term NOx VDECS from this definition. Additionally, staff is also proposing to clarify that rented or leased vehicles that are returned to a rental or leasing company do not count as turnover for the lessee, and that similarly, vehicles leased or rented out by a rental or leasing company do not count as turnover for the rental or leasing company.

### **3. New Fleet Provisions**

Staff is proposing to amend section 2449(d)(4) to require that new fleets must also meet the adding vehicle requirement (for all vehicles in the fleet) upon purchasing vehicles, or entering the State for the first time. Previously, a new fleet was only required to meet the next applicable fleet average target upon formation or entering the State, and did not have any adding vehicle requirements. However, this would still allow new fleets to bring into California or purchase older dirtier equipment that current in-state fleets are banned from purchasing. This amendment is intended to close this loophole.

### **4. VDECS Removal**

Staff is proposing to add language to section 2449(d)(8) to clarify what happens if a VDECS is removed when it is not damaged and has not failed. If the VDECS is removed for safety or visibility purposes (as provided in section 2449(d)(8)(A)), and the fleet is no longer in compliance with the most recent compliance requirements, then the fleet owner has 90 days from the date of removal to bring the fleet back into compliance. In such a case, the fleet may keep any BACT credit earned from the installation of the removed VDECS. However, if the VDECS is removed for a reason other than safety or visibility issues, the fleet must forfeit any BACT credit earned from the installation of the removed VDECS. Additionally, if the fleet could not meet the most recent compliance requirements without the removed VDECS and forfeited BACT credit, the fleet would be required to be brought back into compliance within 90 days of the removal of the VDECS.



Staff is also proposing to add language to the annual reporting and record keeping requirements in sections 2449(g)(2)(B) and 2449(h)(5), respectively, to require the reporting of when and why a VDECS is removed. This information will allow ARB staff to track the various reasons for VDECS removal, and to identify potential VDECS performance and maintenance issues if they arise.

## **5. Compliance After the Final Target Date**

Staff is proposing to clarify that after the final target date for all fleets, the fleets may no longer use accrued BACT carryover credits (i.e., BACT carryover credit goes to zero). Therefore, if a fleet did not meet the final fleet average target by the applicable date, it would not be able to use any accumulated BACT credit after this point, and would need to take additional actions (such as further turnover or VDECS installations) in order to reduce its fleet average index each year until the final fleet average target is met.

## **6. Compliance Extension for Equipment Manufacturer or Installer Delays**

Staff is proposing to amend section 2449(e)(6) to reduce the lead time required to claim the compliance extension for equipment manufacturer or installer delays. Currently the regulation provides that if a fleet shows it has purchased or entered into a purchasing agreement for new vehicles or equipment (including VDECS) at least four months before the next applicable compliance date, the fleet will not be penalized if the equipment arrival is delayed or cannot be installed by the applicable compliance date. However, when staff proposed to move the compliance dates from March 1 to January 1 each year, the four months lead time required to obtain this extension was also moved, inadvertently, from November 1 to September 1 of each year. Many public fleets were concerned that because of currently established procurement schedules, or because of timelines based on city/county fiscal budgets, they would not be able to gain the appropriate approval to purchase (or enter into a purchasing agreement) before September 1 of each year. Therefore, to alleviate this concern from public fleets, staff is proposing to reduce the lead time required to claim this compliance extension from four to two months, which would maintain the original November 1 deadline.

## **7. Initial Reporting**

Staff is proposing to modify the reporting requirements in section 2449(g)(1)(B) to include the reporting of whether or not a vehicle has a VDECS safety exemption, and if the vehicle is exempt from the BACT requirements per section 2449.1(b)(2)(E) for the early installation of highest level PM VDECS. This reporting is necessary for staff to determine whether or not a fleet is meeting the applicable compliance requirements.

Additionally, staff is proposing to remove the requirement for fleets to report the emission factor (sections 2449(g)(1)(C)9. and 10.), and to provide the certification Executive Order or certificate number for flexibility engines. Since these flexibility engines are no longer treated differently in the fleet average index, staff believes it is unnecessary to require fleet owners to report this information since it is no longer being

used in the fleet average index calculations.

## **8. Annual Reporting and Responsible Official Affirmation of Reporting**

Since the first large fleet compliance date has been delayed until January 1, 2014, staff is proposing to delay the start date for the annual reporting requirements for large fleets in section 2449(g)(2) until March 1, 2012. Additionally, staff is proposing to clarify the responsible official affirmation of reporting requirements in this section to state that a responsible official or designee only needs to submit one affirmation if there are several fleets or fleet portions under the control of that responsible official or designee. To require more would be redundant.

## **9. Fleet Average Requirements**

Staff is proposing to modify the VDECS factors in section 2449.1(a) of the fleet average requirements to add factors for PM VDECS that are not the highest level PM VDECS, and for NO<sub>x</sub> VDECS that are installed in combination with a PM VDECS that is not the highest level VDECS. These factors were inadvertently left out when staff originally proposed the concept of VDECS factors in the Staff Report.

## **10. BACT Requirements**

Staff is proposing to both restructure and modify section in 2449.1(b), which contains the BACT requirements, to streamline the subsections, remove or combine unnecessary headings, and to group similar provisions together as a result of combining the PM and NO<sub>x</sub> sections 2449.1 and 2449.2. In addition to the restructuring of this section, staff is adding clarifying language to several provisions, as follows:

- a. Clarified section 2449.1(b) to provide that vehicles exempt from the performance requirements under section 2449(e), and vehicles with PM VDECS installed that are not the highest level VDECS, cannot be used to generate BACT credits. Staff is also proposing to remove some of the language in the beginning paragraphs of this section to more simply explain what the BACT requirements are, and the dates in which the BACT requirements must be fulfilled.
- b. Added an example of how a fleet calculates its BACT requirements each year to section 2449.1(b)(1), so that fleets may more easily understand how to calculate the BACT requirements each year.
- c. Added section 2449.1(b)(10) to outline how BACT credit is calculated for turnover and VDECS installations.
- d. Added language to section 2449.1(b)(15) to further describe the calculations for early VDECS installations.
- e. Removed the section that previously described credit given for designating a vehicle as permanent low-use. Designating a vehicle as a permanent low-use vehicle is considered "turnover" (per section 2449(c)(55)), and is now included in the BACT calculations for turnover as described in section 2449.1(b)(10), and not as a separate subsection.
- f. Added an example to section 2449.1(b)(16) to further illustrate that a fleet cannot use reduced horsepower credit earned from 2006 to 2010 to comply with the

2014 compliance requirements.

- g. Renamed section 2449.1(b)(19) to “Credit for 2010 to 2011 Reduced Fleet Hp” so it more appropriately describes the content of this section, and to clarify that low-use vehicles must also be included in the calculations (as also required by section 2449.1(b)(16)).
- h. Renamed section 2449.1(b)(18) to include “Retirement,” and to clarify that vehicles replaced under this section must be replaced with a vehicle containing a Tier 2 or higher engine.

Staff would like to note that the amendments listed above are only clarifications to the BACT requirements and are not substantive changes to the regulation.

### **Summary of Proposed Modifications to the LSI Fleet Regulation**

At the December 17, 2010, hearing, staff proposed and the Board approved modifications in response to comments received since the Staff Report was published on October 28, 2010. These modifications include:

#### **1. Limited Hours of Use Provision**

Staff is proposing to add a limited hours of use (LHU) definition that more clearly states the LHU parameters. These parameters include basing the LHU determination on prior calendar year usage, allowing fleet operators to exclude from their 2011 fleet average emission level (FAEL) calculations LSI equipment that was operated no more than 250 hours in the 2010 calendar year, and allowing fleet operators to exclude from their 2012 and subsequent year FAEL calculations LSI equipment that was operated no more than 199 hours in the prior calendar year. The ARB is proposing the 250 hour LHU cap for 2011 calendar year FAEL calculations because many operators had been employing the prior LHU provision that allowed exclusion of LSI equipment operated 250 hours per year or less, on average, over a three year running average. The ARB is proposing to reestablish the upper bound of the LHU provisions for 2012 and subsequent calendar year calculations at 199 hours inclusive to harmonize with the low-use provisions contained in the Off-Road regulation.

Staff is also proposing to modify section 2775.1(d)(1)(A) to remove the LHU operating thresholds now proposed in the LHU definition.

#### **2. Agricultural Crop Preparation Services Definition**

Staff is proposing to amend the “Agricultural Crop Preparation Services” definition in section 2775(c) to add a description of those agricultural crop preparation services associated with forest operations. These services include milling, peeling, producing particleboard and medium density fiberboard, and producing woody landscape materials. The ARB proposes this change so that the LSI fleet regulation definition for agricultural crop preparation services more closely aligns with the similarly titled definition in the Off-Road regulation. Staff is not proposing to incorporate the “first processing after harvest” component of the Off-Road regulation definition because the

existing LSI definition already specifically enumerates which non-forestry industry operations are considered post-harvest crop activities.

### **3. Forest Operations Definition**

Staff is proposing to add a “Forest Operations” definition in section 2775(c) since it is referenced in the “Agricultural Operations” definition in the same section.

### **4. Operator Definition**

Staff is proposing to amend the “Operator” definition in section 2775(c) to clarify that only service equipment operated by equipment dealers and rental equipment company operators is subject to the FAEL standards calculations. Operations or rental equipment that is primarily intended for rental, lease, or sale and in the fleet of an equipment dealer or rental equipment company operator is not subject to the FAEL standards calculations.

### **5. Other Amendments**

In addition to the amendments listed above, staff is also proposing to correct any errors that have been found since the December 2010 hearing, make consistent the use of certain terms, and to streamline the formatting throughout the regulation. All of these changes are intended to improve the clarity and to simplify the regulation by making the language more consistent and organized.

## **The Modified Text Being Made Available and the Public Comment Process**

**Modified Text Being Made Available:** Attachments 3 and 4 to this notice contain modifications to the text, with proposed amendments, to the Off-Road and LSI fleet regulations, respectively. The amendments that were initially proposed to the Board at the December 2010 hearing are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions. Modifications that are proposed here, subsequent to the December 2010 hearing, are shown in double underline to indicate additions and ~~double-strikeout~~ to indicate deletions. The symbol “\*\*\*\*\*” indicates that regulatory language is not shown because it was not initially proposed for amendment or is not being modified.

Attachments 1 through 4 are available online at the following ARB website: <http://www.arb.ca.gov/regact/2010/offroadlsi10/offroadlsi10.htm>. Printed copies may be obtained by contacting Mr. Michael Baker, Mobile Source Control Division, at 916-323-2791.

**Comments and Subsequent Action:** Written comments on the proposed modifications may be submitted by postal mail or electronic mail submittal as follows:

Postal mail: Clerk of the Board, Air Resources Board  
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

In order to be considered by the Executive Officer, comments must be directed to ARB in one of the two forms described above and received by ARB by 5:00 p.m., on the deadline date for public comment listed at the beginning of this notice. Only comments relating to the above-described modifications to the text of the regulations will be considered by the Executive Officer.

If you need this document in an alternate format (i.e., Braille, large print, etc.) or another language, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alterno (por decir, sistema Braille, o en impresión grande) u otro idioma, por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de cinco (5) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

Attachments (4)

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see ARB's website at [www.arb.ca.gov](http://www.arb.ca.gov).*