

APPENDIX B

DETAILED DESCRIPTION OF PROPOSED MODIFICATIONS

A. Amendments to the 2004-2006 Urban Bus Diesel Hybrid-Electric Engine Exhaust Emission Standard, title 13, California Code of Regulations (CCR), section 1956.1 (a)(11)(B)

Staff proposes to modify the 2004 to 2006 diesel HEB engine exhaust emission standards to enable manufacturers to certify diesel HEBs for 2004 through 2006. Staff is proposing to add engine exhaust emission standards of 0.5 g/bhp-hr NMHC and 15.5 g/bhp-hr CO and delete the formaldehyde standard from title 13, CCR, section 1956.1(a)(11)(B). These standards were inadvertently left out of the original proposal, which was by the Air Resources Board (Board or ARB) on June 24, 2004, and are pending final approval by the Office of Administrative Law. ARB expects to receive final approval before the February 24, 2005, hearing at which this proposal will be heard.

B. Amendments to the Diesel Particulate Matter Control Measures for In-Use Vehicles existing section 2020 Definitions

1. Add definition of "Transit Agency" to title 13, CCR, section 2020

Staff proposes to move the definition of "transit agency" to title 13, CCR, section 2020 Definitions. The definition should be located in the opening section of the in-use fleet rules to assist each transit agency in identifying which of the following in-use fleet rules is applicable for controlling emission from its fleet. This definition will be moved from title 13, CCR section 1956.2(b)(7) without change.

2. Delete "Retirement" or Retire" from section 2020 and move to section 2021 Definitions

The current definition located in section 2020 was developed to meet the needs of the Solid Waste Collection Vehicle regulation, Section 2021. Staff proposes to move this definition to Section 2021 Definitions without change.

C. Add new sections 2023 and 2023.1 and move section 1956.2, Fleet Rule for Transit Agencies, to sections 2023 and 2023.1

Staff proposes to move and renumber section 1956.2 to section 2023 with the following modifications:

1. Delete section 1956.2(a) and move to section 2023.1(a)

The existing language in 1956.2(a) will be deleted from Section 2023 and placed into a new section, Section 2023.1, Fleet Rule For Transit Agencies - Urban bus Requirements and modified as discussed in Section V.I.B. of the this report.

2. Renumber section 1956.2(b) to section 2023(a) Definitions and modify

Staff proposes to move and renumber section 1956.2(b) to section 2023(a) and modify as follows:

a. Scope of Definitions

Staff is broadening the language of 1956.2(b) to include applicable definitions found in section 2020. The new language will read as follows:

The definitions in section 2020 shall apply to sections 2023, 2023.1, 2023.2, 2023.3 and 2023.4. In addition, the following definitions apply only to sections 2023, 2023.1, 2023.2, 2023.3 and 2023.4.

b. Delete sections 1956.2(b)(1), "Alternative Fuel", and 1956.2(b)(4), "Heavy-duty pilot ignition engine"

The definitions for alternative fuel and heavy-duty pilot ignition engine are defined in section 2020, therefore redundant in this section.

c. Move and renumber definitions in sections 1956.2(b)(2), 1956.2(b)(3), 1956.2(b)(5), 1956.2(b)(6), and 1956.2(b)(8)

The following definitions will be renumbered without change:

"Active feet": section 1956.2(b)(2) to section 2023(a)(1)

"Emergency contingency vehicle": section 1956.2(b)(3) to section 2023(a)(4)

"Hybrid-electric bus": section 1956.2(b)(5) to section 2023(a)(5)

"Spare bus": section 1956.2(b)(6) to section 2023(a)(10)

"Urban bus": section 1956.2(b)(8) to section 2023(a)(13)

d. Add section 2023(a)(2), definition of "Commuter Service Bus"

Staff proposes to add a definition of "Commuter Service Bus, as discussed in Section III, Need for Modifications," of this report.

"Commuter Service Bus" means a passenger-carrying vehicle powered by a heavy heavy-duty diesel engine or of a type normally powered by a heavy heavy-duty diesel engine that is not otherwise an urban bus and which operates on a fixed route primarily during peak commute hours and that has no more than ten scheduled stops per day, excluding park-and-ride lots. A commuter service bus is a transit fleet vehicle.

A "commuter service bus" would therefore be considered to be a transit fleet vehicle as defined and subject to the transit fleet vehicle requirements proposed for section 2023.2.

This definition relies on both the physical characteristics of the bus engine (i.e., it is a heavy heavy-duty engine) and its duty cycle, and focuses on the number of stops that qualifies a bus as an urban bus. ARB's guidance (ARB 2001b) states that an urban bus would be one that has "more than one or a few stops at the pick-up and drop-off locations . . ." In this new proposed definition, staff is specifying that a commuter service bus operates on a fixed route primarily during peak commute hours, does not allow passenger-initiated stops (bypassing a stop would be allowed), and has no more than ten stops per day excluding park-and-ride lots.

Through this new definition, staff proposes to adopt into regulation its existing guidance (ARB 2001b). Adoption of this definition will therefore have no effect on the emission benefits of this rule because the number of commuter buses that are not currently identified as urban buses by ARB should not change. Staff agrees with the transit agencies that there is a benefit to adopting a definition of commuter service bus to reduce confusion over when one of these buses is or is not an urban bus.

e. Add section 2023(a)(3), definition of "Diesel PM Emission Total"

"Diesel PM emission total" is a term that is used in 1956.2(f) (or the new 2023.1(e)) to provide each transit agency with a consistent method to calculate its diesel PM reductions. Because of the expansion of the regulation to include transit fleet vehicles and the use of this term throughout the regulation, staff is adding this definition for clarity and deleting language in section 2023.1(e).

"Diesel PM emission total," for the purposes of sections 2023.1 and 2023.2, means the sum of the particulate matter (PM) engine certification standard for each diesel-fueled, dual-fuel, bi-fuel (except for heavy-duty pilot ignition engines), and diesel hybrid-electric engine in its active fleet or transit fleet vehicle fleet in g/bhp-hr. For 1987 and earlier engines, the PM exhaust emission value shall be presumed to be 1.0 g/bhp-hr.

f. Add section 2023(a)(6), definition of "Low Usage Vehicle"

During development of this rule, staff received comments that there should be a definition of a low usage transit fleet vehicle to parallel the definition in the rule for solid waste collection vehicles. Thus staff is proposing a definition that would designate only non-revenue generating trucks or buses that are used infrequently, as for parades or emergency service, and exempt them from this rule.

"Low Usage Vehicle" means a non-revenue generating transit fleet vehicle that operates for no more than 1000 miles per year.

g. Add section 2023(a)(7), definition of "New Transit Agency"

Staff has been approached by two transit agencies in 2004 regarding the start-up criteria for a newly formed transit agency that operates urban transit buses. Since these transit agencies are starting up after the establishment of the urban bus fleet

requirements, new criteria are required to be included in the regulation. Staff propose adding a new definition of " New Transit Agency" to read as follows:

"New Transit Agency" means (A) for the purposes of section 2023.1, a transit agency formed after January 1, 2002; (B) for the purposes of section 2023.2, a transit agency formed after January 1, 2005.

h. Add section 2023(a)(8), definition of "NOx Fleet Average"

"NOx fleet average" is a term that is used in 1956.2(e) (or the new 2023.1(d)) to provide each transit agency with a consistent method to calculate its NOx fleet average for the purpose of emission reduction. Because of the expansion of the regulation to include transit fleet vehicles and the use of this term throughout the regulation, staff is adding this definition for clarity and deleting language in section 2023.1(d).

"NOx fleet average," for the purposes of sections 2023.1 and 2023.2 means the average of the oxides of nitrogen (NOx) emissions for all transit fleet vehicles or urban buses, owned, operated, or leased by a transit agency, based on the engine certification standard of each engine. The NOx fleet average is calculated by summing the NOx engine certification values, in g/bhpr-hr, of each engine in an active fleet or transit fleet vehicle fleet, and dividing by the total number of vehicles in that fleet.

i. Add section 2023(a)(9), definition of "Retirement" or "Retire"

For clarity and consistency with other fleet rules, staff is adding a definition for "Retirement" or "Retire" to read as follows:

"Retirement" or "Retire" means an engine will be withdrawn from a transit fleet in California. The engine may be sold outside of California, scrapped or used in an emergency contingency vehicle or low usage vehicle.

j. Add section 2023(a)(11), definition of "Transit Fleet"

Staff proposes adding a new definition of "transit fleet" to clarify requirements that apply to all buses and trucks owned or operated by a transit agency.

"Transit Fleet" means the total population of a transit agency's urban buses and transit fleet vehicles, excluding emergency contingency vehicles and low usage vehicles.

k. Add section 2023(a)(12), definition of “Transit Fleet Vehicle”

Staff proposes to add a definition of “transit fleet vehicle” and expand the scope of the Fleet Rule for Transit Agencies from urban buses only to urban buses and transit fleet vehicles. As discussed in Section III of this report, staff makes this proposal because of the need to reduce emissions from a growing segment of vehicles owned or operated by transit agencies.

“Transit Fleet Vehicle” means an on-road vehicle greater than 8,500 pounds gross vehicle weight rating (GVWR) powered by heavy-duty engine fueled by diesel or alternative fuel owned or operated by a transit agency and which is not an urban bus.

3. Add new section 2023(b), for newly formed transit agencies

New transit agencies may be formed for a variety of reasons, including population growth into new areas and resulting demand for transit services where transit service does not exist, changes in political boundaries, and reconfiguration of existing transit agencies for administrative reasons. To ensure new agencies meet emission reductions that are equivalent to those required of existing transit agencies, staff proposes the establishment of requirements for new transit agencies to read as follows:

A new transit agency shall:

(1) notify the Executive Officer in writing of its existence and submit reports to the Executive Officer as required in section 2023.4(j);

(2) choose a compliance path for its active fleet and notify the Executive Officer within 120 days of formation of its intent to follow either the diesel path or alternative path, as described in section 2023.1(a), except that a new transit agency that is a successor to an existing transit agency shall follow the compliance path of the transit agency out of which it has been formed;

(3) meet the NO_x fleet average and the diesel PM emission total of the urban buses and transit fleet vehicles (A) used in the transit operations of the existing transit agency out of which the new transit agency is formed or, (B) if not formed from an existing transit agency, meet the requirements set forth in 2023.1(d)(4), 2023.1(e)(5) for urban buses and 2023.2 (a)(1)(B), 2023.2 (a)(2)(B), 2023.2(b)(3) for transit fleet vehicles; and,

(4) comply with all applicable requirements of section 2023, section 2023.1, 2023,2 and 2023.4.

4. Add new section 2023(c) and renumber subsection 1956.2(f)(8) to section 2023(c)

This new section contains general requirements applicable to all vehicles owned or operated by transit agencies. This specific section requires that a diesel emission control strategy be verified under the procedures found in section 2700 et seq., title 13, CCR. To extend this requirement to diesel emission control strategies used by transit

fleet vehicles, staff proposes moving the subsection 1956.2(f)(8) to section 2023(c) without change.

5. Add new section 2023(d) and renumber section 1956.2(f)(9) to section 2023(d); modify to expand its applicability to include transit fleet vehicles

Section 1956.2(f)(9) provides the methodology to calculate particulate emission reductions required in the Fleet Rule for Transit Agencies. To extend this methodology to transit fleet vehicle diesel PM emission total reduction requirements, staff proposes moving section 1956.2(f)(9) to section 2023(d) and modifying as follows:

A transit agency that installs a diesel emission control strategy on an ~~urban bus~~ engine shall use the following percentage reductions from the engine certification standard value when calculating its total diesel PM emissions: 25 percent for a Level 1, 50 percent for a Level 2, and 85 percent for a Level 3 diesel emission control strategy.

6. Add new section 2023(e) and renumber section 1956.2(g) to section 2023(e); modify to expand its applicability to include transit fleet vehicles

Section 1956.2(g) provides an extension of the requirements in section 1956.2 for financial hardship for urban bus fleet. To extend the applicability of this extension to transit fleet vehicle requirements, staff is proposes moving section 1956.2(g) to section 2023(e) and modify as follows:

A transit agency with fewer than ~~20~~ 30 buses in its ~~bus~~ transit fleet may apply for an extension to comply with the provisions of section ~~1956.2~~ 2023.1 and section 2023.2 by submitting documentation of financial hardship to the Executive Officer, in writing, at least thirty (30) days before the requirement becomes applicable for approval by the Executive Officer. Documentation of financial hardship shall include, but is not limited to, an analysis of the cost of compliance, the sources of available funds, and the shortfall between funds available and the cost of compliance. The transit agency must also specify the date and means by which compliance will be achieved in the request for a delay.

7. Add new section 2023(f) and renumber section 1956.2(f)(5) to section 2023(f); modify to expand its applicability to include transit fleet vehicles

Section 1956.2(f)(5) provides an extension of diesel PM emission reduction requirements for one year based on the unavailability of technology for urban buses. To extend the applicability this extension to transit fleet vehicle requirements, staff proposes moving section 1956.2(f)(5) to section 2023(f) and modify as follows:

A transit agency that is unable to comply with an implementation deadline specified in section 2023.1 paragraph ~~(f)~~(e)(1), (2), (3), or (4) or section 2023.2 (b)(1) or (2) because of the unavailability of technology may apply in writing to the Executive Officer for an

extension of the compliance deadline. The application to the Executive Officer must be made in writing and at least to comply no later than ninety (90) days before prior to the applicable implementation deadline. The Executive Officer may grant an extension, for a time of up to, but not to exceed, one year, provided that t—The applicant: (1) must demonstrates that the technology is unavailable; (2) shall explains why the transit agency cannot comply by retiring older buses; and (3) shall provides a schedule for compliance.

8. Add new section 2023(g) and renumber section 1956.2(f)(7) to section 2023(g); modify to expand its applicability to include transit fleet vehicles

Section 1956.2(f)(7) provides an implementation delay by removing the requirement to meet the intermediate of the PM requirements for transit agencies with 20 or fewer urban buses and is located in an one hour federal ozone attainment area. To extend the applicability this extension to transit fleet vehicle requirements, staff proposes moving section 1956.2(f)(7) to section 2023(g) and modify as follows:

A transit agency that owns, operates, or leases fewer than 20 diesel-fueled, dual-fuel, bi-fuel, or diesel hybrid-electric buses in its active transit fleet and that operates in a federal one-hour ozone attainment area may delay implementation of the intermediate total diesel PM emission reduction requirements provided the transit agency complies with the implementation deadlines set forth in section 2023.1 paragraphs (e)(3)(A) or (e)(4) or section 2023.2 paragraph (b)(2).

9. Add section 2023(h), Non-Compliance

To address non-compliance issues. staff proposes to add section 2023(h) to read as follows:

Noncompliance. Any violations of sections 2023, 2023.1, 2023.2, 2023.3, or 2023.4 may be subject to civil penalties as specified in state law and regulations.

D. Add new section 2023.1 titled Fleet Rule for Transit Agencies – Urban Bus Requirements

Staff is adding a new section 2023.1, Fleet Rule for Transit Agencies – Urban Bus Requirements. This section, although new, contains existing language from section 1956.2(a), (c) through (f). Non-substantive modifications of the urban bus requirements were made to realign section numbering. In addition, staff proposes adding requirements for newly formed transit agencies, including adding NOx averaging requirements for newly formed transit agencies, and modifying the diesel PM emission reduction requirements to allow for a final urban bus diesel PM average of 0.01 g/bhp-hr. These proposed changes are detailed below.

1. Add section 2023.1(a)(3) to specify the compliance path requirement for a new transit agency

Section 2023(a) contains existing language found in 1956.2(a). Staff proposes adding a new requirement for a new transit agency that is formed as a successor to all or part of an existing transit agency, as in a situation when a transit agency splits into two transit agencies, or when several transit agencies combine to form one transit agency. Staff believes that urban buses used for the same service but operated by a new transit agency must meet the same regulatory requirements as the previous transit agency or agencies to maintain emission benefits. Staff proposes the following language:

A new transit agency that is a successor to an existing transit agency or that has been created from a merger of two or more transit agencies or parts of two or more transit agencies must have the same compliance path as the transit agency or agencies out of which it is formed.

2. Add section 2023.1(b) to include requirements for a transit agency on the alternative-fuel path

Section 2023.1(b) contains the same language as the existing language in section 1956.2(c). This section applies to transit agencies on the alternative-fuel path for their urban buses. Non-substantive modifications were made to realign section numbering.

3. Add section 2023.1(c) to include requirements for a transit agency on the diesel path

Section 2023.1(c) contains the same language as the existing language in section 1956.2(d). This section applies to transit agencies on the diesel path for their urban buses. Non-substantive modifications were made to realign section numbering.

4. Add section 2023.1(d) to include the NO_x fleet average requirement for urban buses

Section 2023.1(d) contains the same language as the existing language in section 1956.2(e). This section applies to transit agencies with urban buses. Non-substantive modifications of the urban bus requirements were made to realign section numbering.

Beginning on October 1, 2002, section 1956.2(e) required all transit agencies to meet a NO_x fleet average of 4.8 g/bhp-hr for their urban buses. The regulation is silent as to the NO_x fleet average for newly formed transit agencies. To provide for new transit agencies, staff proposes the following changes:

a. Add section 2023.1(d)(4) regarding the NO_x fleet average requirement for a newly formed transit agency, as follows:

A transit agency established after January 1, 2005, shall not operate an active fleet of urban buses with an average NOx emission in excess of 4.0 g/bhp-hr or (A) the NOx average of the active fleet of the transit agency from which it was formed, whichever is lower, or (B) in the case of a merger of two or more or parts of two or more transit agencies, the average of the NOx fleet averages, whichever is lower.

5. Add section 2023.1(e) to include the urban bus diesel PM reduction requirement for transit agencies

Section 2023.1(e) contains the same language as the existing language in section 1956.2(f), with some modifications. First, non-substantive modifications of the urban bus requirements were made to realign section numbering. In addition, staff proposes to add a diesel PM fleet average standard applicable to urban buses to allow for fleet growth and to add diesel PM reduction requirements for a newly formed transit agency:

a. Modify section 2023.1(e) to remove avoid duplication

Staff defined "Diesel PM emission total" in section 2023(a)(3). To prevent duplication of language, staff recommends removing the language in 2023(e) that originally was in 1956.2(f). Staff recommends that section 2023.1(e) read as follows:

To reduce public exposure to diesel particulate matter, each transit agency shall reduce the ~~total~~ diesel PM emissions total of the diesel buses in its active fleet relative to its ~~total~~ diesel PM emissions total as of January 1, 2002, according to the schedule below, and shall operate its diesel buses on diesel fuel with a maximum sulfur content of 15 parts per million by weight. ~~A transit agency shall calculate its diesel PM emission total by summing the PM exhaust emission values specified in section 1956.1(a) for each diesel-fueled, dual-fuel, bi-fuel (except for heavy-duty pilot ignition engines), and diesel hybrid-electric engine in its active fleet in grams per brake horsepower-hour (g/bhp-hr). For 1987 and earlier engines, the PM exhaust emission value shall be presumed to be 4.0 g/bhp-hr.~~ Documentation of compliance with these requirements must be provided in accordance with the provisions of subdivision (d) of section ~~1956.4~~2023.4, title 13, CCR.

b. Modify sections 2023.1(e)(3) and (e)(4) to allow for growth in an urban bus active fleet

Section 2023(e) contains the existing language found in 1956.2(f), PM reduction requirements. The use of a diesel PM total to guide emission reductions, however, has the unfortunate consequence of limiting growth in fleet size following attainment of the final diesel PM reduction goals. Staff proposes to modify the final emission reduction goals to allow a transit agency on the diesel path to grow its fleet as long as all the urban buses meet the 0.01 g/bhp-hr PM emission standard. Staff proposes to modify section 2023.1(e)(3)(A) to read as follows:

The diesel PM emission total for a transit agency on the diesel path shall be no more than 15 percent of its diesel PM emission total on January 1, 2002 or equal to 0.01 g/bhp-hr times the total number of diesel-fueled active fleet buses, whichever is greater.

Staff also proposes making the same change to the language applicable to transit agencies on the alternative-fuel path:

No later than January 1, 2009, the diesel PM emissions total for a transit agency on the alternative fuel path shall be no more than 15 percent of its diesel PM emission total on January 1, 2002 or equal to 0.01 g/bhp-hr times the total number of diesel-fueled active fleet buses, whichever is greater.

c. Add section 2023.1(e)(5) to include requirements for diesel PM emission reductions for a newly formed transit agency, as follows:

A new transit agency established January 1, 2005, or later shall not operate an active fleet of urban buses with a diesel PM emission total exceeding the following values:

(A) As of January 1, 2005, through December 31, 2009, 0.05 g/bhp-hr (exhaust emission value) times the total number of buses in the active fleet;

(B) As of January 1, 2010, 0.01 g/bhp-hr (exhaust emission value) times the total number of buses in the active fleet.

E. Add new section 2023.2 with new proposed requirements titled: Fleet Rule for Transit Agencies – Transit Fleet Vehicle Requirements

As justified in Section III, Need for Modification, of the Staff Report, to reduce diesel PM and NOx emissions from transit fleet vehicles, staff is proposing to adopt requirements similar to those applied to urban buses but that will apply to other buses and vehicles owned or operated by transit agencies. These requirements follow the current structure of the existing urban bus requirements, which staff proposes maintaining for consistency in application. Transit agencies have been implementing the urban bus requirements and understand how to plan, report on, and implement the existing regulations.

1. Add section 2023.2(a) to require reductions in NOx emissions

Staff surveyed existing transit agencies to obtain data regarding the specific vehicle types, vehicle model years, engine models and engine model years used in buses and vehicles that are not urban buses. Using Federal Transportation Administration (FTA) funding guidelines for vehicle replacement, staff determined the replacement timing for each fleet surveyed (Appendix D). Based on these data, staff proposes to set the NOx fleet average standards to encourage the earliest most practicable vehicle replacement of older transit fleet vehicles based on FTA replacement funding. In addition to the NOx fleet option, staff is also proposing a retirement option, encouraging the removal of the

oldest dirtiest vehicles from the fleet. Staff notes that this is similar to the method used to establish the NOx fleet average requirement for urban buses in the 2000 Fleet Rule for Transit Agencies.

The NOx fleet average is based on the average of engine emission standards of all diesel and alternative-fueled vehicles greater than 8,500 GVWR in the transit agency's transit fleet vehicle fleet. Engine emissions have been certified for NOx and for NOx plus nonmethane hydrocarbon (NOx+NMHC), depending on the model year of the engine. For those engines certified to a NOx+NMHC standard, a transit agency may use only the NOx portion of the value in the averaging. For example, the 2004 heavy duty diesel engine emission certification standard is 2.4 g/bhp-hr for NOx+NMHC or 2.5 g/bhp-hr NOx+NMHC with 0.5 g/bhp-hr NMHC cap. For most engines certified to this standard, only 2.0 grams of the emissions is from NOx. A transit agency may find this information by reading the certification Executive Order issued to the engine manufacturer.

There are four subsections to section 2023.2(a). Subsection 2023.2(a)(1) sets the NOx fleet average for December 31, 2007, through December 30, 2010 at 3.2 g/bhp-hr, and allows an alternative mechanism of compliance by retiring all 1997 and earlier model year engines in transit fleet vehicles by December 31, 2007. In addition, a NOx fleet average is set for a new transit agency formed after December 31, 2007, through December 30, 2010.

Subsection 2023.2(a)(2) sets the NOx fleet average for December 31, 2010, and beyond at 2.4 g/bhp-hr. Again, staff proposes to allow an alternative compliance mechanism of retiring all 2001 and earlier model year engines in transit fleet vehicles by December 31, 2010, and set requirements for a new transit agency formed after December 31, 2010.

Subsection 2023.2(a)(3) states that zero-emission buses used to meet the urban bus fleet average cannot be used in the transit fleet vehicle average. This requirement is necessary because a transit agency may have applied a zero-emission bus, that would otherwise not have met the definition of an urban bus, to its NOx fleet average for urban buses. This was allowed in the regulation. To allow those same buses to be used here would be counting emission reductions twice.

Subsection 2023.2(a)(4) explicitly allows a transit agency to claim NOx emission reductions from the use of an ARB-verified device in complying with the NOx fleet average reduction requirement. A transit agency would use the verified NOx reduction found the Executive Order for the device in determining the correct reduction to apply.

2. Add new section 2023.2(b) to require reductions in total diesel PM emissions from transit fleet vehicles

Staff is proposing to require that a transit agency reduce its total diesel PM emissions from diesel transit fleet vehicles relative to its total diesel PM emissions from diesel

transit fleet vehicles as of January 1, 2005. The diesel PM emission total for transit fleet vehicles is calculated by summing the PM engine certification standard, in g/bhp-hr, for each transit fleet vehicle, as identified in the Executive Order for the specific engine and engine model year used in the transit fleet vehicle.

There are three subsections to section 2023.2(b). Subsection 2023.2(b)(1) states that, no later than December 31, 2007, the diesel PM emission total shall be no more than by 60 percent of the transit agency's January 1, 2005, diesel PM emission total.

Subsection 2023.2(b)(2) sets the December 31, 2010, diesel PM emission total reduction at 80 percent of a transit agency's January 1, 2005, diesel PM emission total, or equal to 0.01 g/bhp-hr times the total number of transit fleet vehicles in the current fleet, whichever is greater. This provision allows for fleet growth relative to the January 1, 2005, baseline, so long as emission reduction goals are achieved.

Subsection 2023.2(b)(3) establishes diesel PM emission total reduction requirements for a new transit agency established after January 1, 2005. For a new transit agency established January 1, 2005 through December 31, 2006, the PM baseline is established as an average of 0.1 g/bhp-hr times the number of transit fleet vehicles, and reduction goals are the same as established in section 2023.2(b)(1) and (2). For a transit agency established January 1, 2007, through December 31, 2009, the PM baseline is also 0.1 g/bhp-hr times the number of transit fleet vehicles, but staff proposes that the agency reduce its diesel PM emission total by 50 percent of the PM baseline by December 31, 2010, and 80 percent by December 31, 2012. For a new transit agency established January 1, 2010 or later, the diesel PM emission total must meet 0.01 g/bhp-hr (exhaust emission value) times the total number of diesel transit fleet vehicles.

3. Add section 2023.2(c) to allow a delay for transit agencies operating vehicles under a contract

Some transit agencies have told staff that they operate transit fleet vehicles that are under a contract and are not owned by the transit agency. These transit agencies have stated that it would be a severe hardship if they were required by the rule to break a contract in order to reduce either NOx or PM emissions under the proposed rule. These vehicles may be fully paid for and amortized through the life of the contract, typically five years. Staff proposes to allow a transit agency that operates transit fleet vehicles under a contract to apply for an extension for compliance for the 2007 NOx and PM compliance deadlines. Staff proposes to add the following language to section 2023.2(c):

"A transit agency may apply to the Executive Officer for a delay in meeting the provisions of section 2023.2(a) and 2023.2(b) for up to one year to allow for the termination of a vehicle lease, maintenance/lease, turnkey or vehicle/service contract as defined by the Federal Transit Administration (FTA). The transit agency shall apply to the Executive Officer no later than 90 days prior to the applicable deadlines and shall

include a description of the reason the delay is required, the reason the contractor cannot provide a newer vehicle to replace an existing vehicle within the terms of the contract, and provide a schedule for compliance by the end of the compliance extension."

F. Add new section 2023.3 and renumber section 1956.3, Zero-Emission Bus Requirements, to section 2023.3

Staff is proposing to move the ZEB requirements to section 2023.3 as discussed previously. Only non-substantive changes will be made to this section to ensure proper section references.

G. Add new section 2023.4 and renumber title 13, CCR, section 1956.4 to section 2023.4, Reporting Requirements for all Urban Bus Transit Agencies

Staff is proposing to renumber section 1956.4 to section 2023.4. For subsections 2023.4(a) through (d) (formerly subsection 1956.4(a) through (d)), staff proposes to make non-substantive changes to align referencing sections and add subject clarity to the existing regulation section 1956.4. Subsections 1956.4(e) through (h) will be renumbered to subsections 2023.4(f) through (i), with non-substantive changes only to align the numbering and language. Staff also proposes to change the title of this section to "Reporting Requirements for Transit Agencies" to reflect the expansion of scope.

Staff proposes to add new subsections 2023.4(e), (j) and (k). These reporting requirements will address transit fleet vehicle requirements and requirements for newly formed transit agencies. In addition, new penalties for non-reporting have been added.

1. Add new section 2023.4(e) to add reporting requirements applicable to transit fleet vehicles

Mirroring the reports required for urban buses, this subsection has three parts. Subsection 2023.4(e)(1) requires that transit agencies submit annual reports describing their transit fleet vehicles and establishes specific information to be submitted: vehicle model year, engine model and model year and fuel used for each transit fleet vehicle. The annual report is due on January 31st each year from 2006 to 2016 and should contain the previous year's fleet information through or as of December 31.

Subsection 2023.4(e)(2) requires that each transit agency submit four reports documenting NOx fleet average reductions. The first report supplies ARB with initial documentation of the NOx fleet average, the steps the agency will be taking to come into compliance with the deadlines in 2007 and 2010, and final documentation of compliance with each NOx fleet average deadline. In addition staff is proposing that transit agencies notify ARB within 30 days if any time between reporting periods changes occur that would change the compliance schedule of the transit agency

meeting the requirements for the 2007 or the 2010 NOx Fleet Average requirements. These reports are due on January 31 in 2006, 2008, 2009 and 2011.

Subsection 2023.4(e)(3) requires that each transit agency submit three reports documenting the total diesel PM emissions and reductions it has achieved. The first report, due January 31, 2006, includes initial documentation of the 2005 PM baseline. The second report is due January 31, 2008 and documents the 2007 diesel PM emission reduction. The final report is to be submitted by January 31, 2011 and documents the 2010 diesel PM emission reduction. In each report, a transit agency must include specified information regarding the use of a verified diesel emission control strategy on any of its transit fleet vehicles: the Diesel Emission Control Strategy (DECS) Family Name and date of installation for all DECS installed to reduce diesel PM.

2. Add new section 2023.4(j) to specify reporting requirements for a newly formed transit agency

Staff proposes that a new transit agency submit information to the Executive Officer twice. First, within 60 days of its formation, staff proposes that the new transit agency submit initial information that provides the name of the new transit agency, its mailing address, name of a contact person and with e-mail address and phone number; a description of the service area and proposed routes; and the planned number of urban bus and transit fleet vehicles, including the model years of engines. Second, within 120 days of its formation, staff proposes that the transit agency submit information of its NOx fleet average and diesel PM emission total for its active fleet and, separately, its transit fleet vehicles.

3. Add new section 2023.4(k) regarding non-compliance with reporting requirements

Staff has added additional penalties for transit agencies that fail to report on time. This is necessary because in each year since transit agencies have been required to submit annual reports to document compliance with the Fleet Rule for Transit Agencies, some transit agencies have submitted late or incomplete information. Late and incomplete submittals require considerable staff time to follow up with each late transit agency to obtain the correct information. Staff cannot ensure compliance with the emission reductions unless these reports are received. Staff proposes the following language:

(1) A transit agency that fails to submit a complete report in accordance with this section is subject to civil penalties of not less than \$100 per day for every day past January 31 of each reporting year through 2016. (2) A new transit agency that fails to submit its report or required information in accordance with this section is subject to civil penalties of not less than \$100 per day for every day past the required reporting dates in section 2023.4(j). (3) A report that fails to be complete if it does not contain all required information. A report will be considered to be complete as of the date that all required information is submitted.