

Attachment A-3

Proposed 15-Day Changes to Proposed Regulation Order, Alternate Version

Amendments to Sections 2449, 2449.1, and 2449.2, Title 13, California Code of Regulations

[Note: This alternate version of the Proposed Regulation Order is provided to improve the accessibility, readability, and ease of review of the regulatory text, but is not available for comment as of this Notice. The existing, original regulatory language currently adopted into the California Code of Regulations (pre-45-day changes) is shown as plain, clean text, while the proposed amendments released on September 20, 2022, (45-day changes) and the proposed 15-day modifications (15-day changes) in this Notice are combined and shown in tracked changes. To review this document in a clean format (no underline or strikethrough to show changes), please select "Simple Markup" or "No Markup" in Microsoft Word's Review menu, or accept all changes. You can also change the view to the original (originally proposed regulatory text prior to proposed modifications) by selecting "Original" or rejecting all tracked changes. Additionally, "Advanced Track Changes Options" will allow for further options regarding color and other markings. [Instructions on using/viewing Track Changes can be found here](#). The 15-Day Changes are being presented in multiple versions. For the version compliant with Government Code sections 11346.2, subdivision (a)(3), and 11346.8, subdivision (c), and subject to comment with this Notice, please see Attachment A-1.]

Chapter 9. Off-Road Vehicles and Engines Pollution Control Devices

Article 4.8. In-Use off-Road Diesel-Fueled Fleets

Section 2449. General Requirements for in-Use Off-Road Diesel-Fueled Fleets.

Section 2449.1. Performance Requirements.

Section 2449.2. Surplus Off-Road Opt-In for NO_x (SOON) Program.

Proposed Regulation Order

Regulation for In-Use Off-Road Diesel-Fueled Fleets

Title 13, California Code of Regulations.

Amend sections 2449, 2449.1, and 2449.2 of title 13, California Code of Regulations (CCR), to read as follows:

§ 2449. General Requirements for In-Use Off-Road Diesel-Fueled Fleets.

(a) Purpose

The purpose of this regulation is to reduce oxides of nitrogen (NO_x), diesel particulate matter (PM), and other criteria pollutant emissions from vehicles subject to this regulation.

(b) Applicability

(1) Except as provided in subsection (b)(2) below, this regulation applies to any person, business, or government agency who owns or operates within California any vehicles with a diesel-fueled or alternative diesel fueled off-road compression-ignition engine with maximum power (max hp) of 25 horsepower (hp) or greater provided that the vehicle cannot be registered and driven safely on-road or was not designed to be driven on-road, even if it has been modified so that it can be driven safely on-road.

(2) The regulation also applies to the following:

(A) Workover rigs, as defined in section 2449(c)(72), are subject to this regulation.

(B) Both engines of two-engine cranes, and two-engine water-well drilling rigs, as defined in sections 2449(c)(66) and (c)(68), respectively, that contain an auxiliary engine having a rated brake hp of 50 or greater (≥ 50 bhp) are subject to this regulation.

(C) Both engines of two-engine vehicles, as defined in section 2449(c)(67), that were designed to be driven either on-road or off-road and contain an auxiliary engine ≥ 50 bhp are subject to this regulation provided that:

1. The two-engine vehicle is not already subject to the Fleet Rule for Public Agencies and Utilities, title 13, CCR, sections 2022 and 2022.1;

2. The two-engine vehicle is not a two-engine sweeper, as defined in the Truck and Bus regulation, title 13, CCR, section 2025; and
 3. The two-engine vehicle does not have a Tier 0 auxiliary engine.
- (D) Any person who sells a vehicle subject to this regulation within California.
- (E) Any prime contractor, as defined in section 2449(c)(44), except for work performed pursuant to a contract with a homeowner on the homeowner's personal residence where the personal residence is not used for any business purpose.
- (F) Any public works awarding body, as defined in section 2449(c)(46), that awards contracts involving the operation of vehicles subject to this regulation in California.
- (G) Persons who provide financing in the form of "finance leases," as defined in California Uniform Commercial Code section 10103(a)(7), for vehicles subject to this regulation, do not "own" such vehicles for the purposes of this regulation.
- (H) The following are not subject to this regulation:
1. Locomotives;
 2. Commercial marine vessels;
 3. Marine engines;
 4. Recreational off-highway vehicles;
 5. Combat and tactical support equipment;
 6. Stationary equipment;
 7. Portable engines, except for auxiliary engines included in subsections (b)(2)(B) and (b)(2)(C) above;
 8. Equipment or vehicles used exclusively in agricultural operations;
 9. Implements of husbandry;

10. Two-engine street sweepers that are subject to the Truck and Bus Regulation, title 13, CCR, section 2025;
11. Two-engine vehicles that are subject to the Fleet Rule for Public Agencies and Utilities, title 13, CCR, sections 2022 and 2022.1;
12. Two-engine vehicles, that are not two-engine cranes or two-engine water-well drilling rigs, that have Tier 0 auxiliary engines;
13. Equipment subject to the Regulation for Mobile Cargo Handling equipment at Ports and Intermodal Rail Yards, title 13, CCR, section 2479; and
14. Off-road diesel vehicles owned and operated by an individual for personal, non-commercial, and non-governmental purposes.

(c) Definitions

- (1) "Agricultural operations" means (1) the growing or harvesting of crops from soil (including forest operations) and the raising of plants at wholesale nurseries, but not retail nurseries), or the raising of fowl or animals for the primary purpose of making a profit, providing a livelihood, or conducting agricultural research or instruction by an educational institution, or (2) agricultural crop preparation services such as packinghouses, cotton gins, nut hullers and processors, dehydrators, and feed and grain mills. Agricultural crop preparation services include only the first processing after harvest, not subsequent processing, canning, or other similar activities. For forest operations, agricultural crop preparation services include milling, peeling, producing particleboard and medium density fiberboard, and producing woody landscape materials.

For purposes of this regulation, a vehicle that is used by its owner for both agricultural and nonagricultural operations is considered to be a vehicle engaged in agricultural operations, only if over half of its annual operating hours are for agricultural operations.

- (2) "Airport ground support equipment" (GSE) is mobile diesel-fueled off-road compression ignition vehicles used to service and support aircraft operations. GSE vehicles perform a variety of functions, including but not limited to: aircraft maintenance, pushing or towing aircraft, transporting

cargo to and from aircraft, loading cargo, and baggage handling. GSE vehicles include equipment types such as baggage tugs, belt loaders, and cargo loaders.

- (3) "Alternative diesel fuel" means any fuel used in a compression ignition engine that is not a diesel fuel, as defined in title 13, CCR, sections 2281 and 2282, and does not require engine or fuel system modifications for the engine to operate, although minor modifications (e.g., recalibration of the engine fuel control) may enhance performance. Examples of alternative diesel fuels include, but are not limited to, biodiesel, Fischer-Tropsch fuels, and emulsions of water in diesel fuel. A diesel fuel containing a fuel additive will be treated as an alternative diesel fuel unless:
 - (A) the additive is supplied to the vehicle or engine fuel by an on-board dosing mechanism, or
 - (B) the additive is directly mixed into the base fuel inside the fuel tank of the vehicle or engine, or
 - (C) the additive and base fuel are not mixed until engine fueling commences, and no more additive plus base fuel combination is mixed than required for a single fueling of a single engine or vehicle.
- (4) "Alternative fuel" means natural gas, propane, ethanol, methanol, gasoline (when used in hybrid electric vehicles only), hydrogen, electricity, fuel cells, or advanced technologies that do not rely on diesel fuel. "Alternative fuel" also means any of these fuels used in combination with each other or in combination with other non-diesel fuels.
- (5) "Best available control technology" (BACT) means Verified Diesel Emission Control Strategy (VDECS) and turnover requirements in section 2449.1(b).
- (6) "Captive attainment area fleet" means a fleet or fleet portion, as defined under section 2449(c)(24), in which all of the vehicles in the fleet or fleet portion operate exclusively within the following counties: Alpine, Colusa, Del Norte, Glenn, Humboldt, Lake, Lassen, Mendocino, Modoc, Monterey, Plumas, San Benito, San Luis Obispo, Santa Barbara, Santa Cruz, Shasta, Sierra, Siskiyou, Trinity, Tehama, Yuba, and the portion of Sonoma County that lies within the boundaries of the North Coast Air Basin. A fleet or identified fleet portion that operates one or more vehicles outside the counties and area listed above is not a captive

attainment area fleet. Captive attainment area fleets shall be treated as small fleets even if their total max hp exceeds 2,500 hp. All fleets owned by the United States, the State of California, or agencies thereof (i.e., an agency in the judicial, legislative, or executive branch of the federal or state government) are considered to be large fleets (per section 2449(c)(28)(A)), and vehicles owned by such fleets, regardless of whether they operate exclusively within the above counties and area, are not part of a captive attainment area fleet.

- (7) "CARB" means the California Air Resources Board.
- (8) "Carryover BACT credit", as calculated under section 2449.1(b)(8), means a way of tracking turnover or VDECS installations accomplished in excess of the BACT requirements. Fleets may take credit for such excess turnover or VDECS installations to do less turnover or VDECS installations in later years.
- (9) "Combat and tactical support equipment" means equipment that meets military specifications, is owned by the U.S. Department of Defense and/or the U.S. military services or its allies, and is used in combat, combat support, combat service support, tactical or relief operations or training for such operations.
- (10) "Common ownership or control" means being owned or managed day to day by the same person, corporation, partnership, or association. Vehicles managed by the same directors, officers, or managers, or by corporations controlled by the same majority stockholders are considered to be under common ownership or control even if their title is held by different business entities.
- (11) "Compression ignition engine" means an internal combustion engine with operating characteristics significantly similar to the theoretical diesel combustion cycle. The regulation of power by controlling fuel supply in lieu of a throttle is indicative of a compression ignition engine.
- (12) "Dedicated snow removal vehicle" means a vehicle that is operated exclusively to remove snow from public roads, private roads, or other paths from which snow must be cleared to allow on-road vehicle access. Dedicated snow removal vehicles must have permanently affixed snow removal equipment such as a snow blower or auger and may include, but are not limited to, motor graders, loaders, and snow blowers.
- (13) "Designated official" means a person designated by the responsible official as the person that represents the fleet. The statements of the

designated official to CARB under this regulation shall be deemed to be statements of the fleet.

- (14) "Diesel fuel" has the same meaning as defined in title 13, CCR, sections 2281 and 2282.
- (15) "Diesel particulate filter" means an emission control strategy that reduces diesel particulate matter emissions by directing all of the exhaust through a filter that physically captures particles but permits gases to flow through. Periodically, the collected particles are either physically removed or oxidized (burned off) in a process called regeneration.
- (16) "Diesel particulate matter" (diesel PM) means the particles found in the exhaust of diesel-fueled compression ignition engines. Diesel PM may agglomerate and adsorb other species to form structures of complex physical and chemical properties. The California Air Resources Board (CARB) has identified diesel PM as a toxic air contaminant.
- (17) "DOORS fleet ID number" means the number CARB assigns to each fleet when a fleet initially reports to CARB to identify the fleet.
- (18) "Emergency operation" means:
 - (A) Any activity conducted during emergency, life threatening situations, where a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or an essential public service; or in conjunction with any officially declared disaster or state of emergency, as declared by an authorized health officer, agricultural commissioner, fire protection officer, or other authorized health officer,
 - (B) Any activity conducted by essential public and private service utilities to provide electricity, natural gas, broadband and telephone, water, or sewer during periods of service outages and emergency, or
 - (C) Operations including repairing or preventing damage to roads, buildings, terrain, and infrastructure as a result of an earthquake, flood, storm, fire, other infrequent act of nature, or terrorism. Routine maintenance or construction to prevent public health risks does not constitute emergency operations.

- (19) "Emission control label" means the label which engine manufacturers are required to affix on each production engine (or piece of equipment) to provide the engine or equipment owner and service mechanic with information necessary for the proper maintenance of parts in customer use, as described in CCR title 13, section 2424.
- (20) "Emission factor" means NO_x emission rate in grams per brake-horsepower hour (g/bhp-hr) as shown in Appendix A. Engines certified to Family Emission Limits and flexibility engines must still use the emission factors in Appendix A.
- (21) "Equipment identification number" means a unique identification number assigned by CARB to each vehicle in an owner's fleet subject to this regulation. All reporting and recordkeeping will link vehicle data with this number.
- (22) "Executive Officer" means the Executive Officer of CARB or his or her authorized representative.
- (23) "Family emission limit" (FEL) means an emission level that is declared by the manufacturer to serve in lieu of an emission standard for certification purposes and for the averaging, banking, and trading program, as defined in title 13, CCR, section 2423.
- (24) "Fleet" means all vehicles and engines subject to this regulation owned by a person, business, or government agency that are operated within California and are subject to the regulation. A fleet may consist of one or more vehicles. A fleet does not include vehicles that have never operated in California.

"Fleet portions" – means that part of a fleet for which daily operations and dispatching are managed by different responsible officials because they are part of different subsidiaries, divisions, or other organizational substructures of a parent company, corporation or agency, which owns or controls the operations of the subsidiary, division, or organizational substructure, and the parent company, corporation, or agency elects to have some or all the fleet portions comply with the performance requirements separately and be reported separately. A fleet may have some fleet portions that meet the definition of captive attainment area fleet and some fleet portions that do not. However, the total max hp of the vehicles under common ownership or control of the parent company, corporation, or agency determines the fleet size. Once a fleet begins to comply and report separately as fleet portions, the fleet portions must

continue to comply and report separately, and the fleet portions must meet the adding vehicle requirements in section 2449(d)(6) just as if they were separate fleets.

- (25) "Fleet average index" means an indicator of a fleet's overall emission rate. The fleet average index for a specific fleet is determined by summing (adding) the product of the max hp of each engine times the emission factor, and dividing by the fleet's total max hp.
- (26) "Fleet average target rate" means the fleet average that a specific fleet must meet in a compliance year in order to show compliance with the fleet average requirements. The fleet average target rate varies depending on a fleet's hp distribution. The fleet average target rate for a specific fleet for each compliance year is determined by summing (adding) the product of the max hp of each engine times the target, and dividing the resulting sum by the fleet's total max hp.
- (27) "Fleet owner" means, except as qualified below, the person who owns and has possession of the vehicles in the fleet.

"Rental or Leased Fleets" – Vehicles that are owned by a rental or leasing company and that are leased by the same lessee for a period of one year or more may be excluded from the rental company fleet and included in the fleet of the lessee only if such arrangement is delineated in the written lease agreement.

Vehicles that are rented or leased for a period of less than one year must be included in the fleet of the rental or leasing company. Off-road vehicles and engines subject to this regulation that are owned by a lessor and leased to a lessee under a "lease" as defined in California Uniform Commercial Code, section 10103(a)(10), for a duration of at least one year, dated prior to the effective date of these regulations, are considered part of the fleet of the lessee rather than the lessor.

- (28) "Fleet size category" means fleets are classified by size as described below. A fleet must meet large fleet requirements if the total vehicles under common ownership or control would be defined as a large fleet. A fleet must meet medium fleet requirements if the total vehicles under common ownership or control would be defined as a medium fleet. Individual federal or state agencies may report as separate fleets, but all vehicles owned by agencies of the United States or the State of California agencies must meet the large fleet requirements. Permanent and year-by-year low-use vehicles, dedicated snow-removal vehicles, and

vehicles used solely for emergency operations need not be included in the total max hp used to classify fleets by size. Participation in section 2449.1(e), Alternate Compliance Pathway through Zero-Emission Technology, does not alter the total max hp used to classify fleets by size.

- (A) "Large fleet" – A fleet with a total max hp (as defined below) greater than 5,000 hp. A fleet must meet large fleet requirements if the total vehicles under common ownership or control would be defined as a large fleet. All fleets owned by the United States, the State of California, or agencies thereof (i.e., an agency in the judicial, legislative, or executive branch of the federal or state government) will be considered as a unit whole and must meet the large fleet requirements.
 - (B) "Medium fleet" – A fleet that is not a small or large fleet.
 - (C) "Small fleet" – A fleet with total max hp of less than or equal to 2,500 hp that is owned by a business, non-profit organization, or local municipality, a local municipality fleet in a low population county irrespective of total max hp, a non-profit training center irrespective of total max hp, or a captive attainment area fleet irrespective of total max hp.
- (29) "Flexibility engine" means an engine certified to the implementation flexibility standards in title 13, CCR, section 2423(d).

"Post-2007 flexibility engine" – A flexibility engine certified on or after January 1, 2007. Such flexibility engines are generally labeled as follows by the engine manufacturer:

"THIS ENGINE COMPLIES WITH CALIFORNIA EMISSION REQUIREMENTS UNDER 13 CCR 2423(d)..." or "THIS ENGINE CONFORMS TO CALIFORNIA OFF-ROAD COMPRESSION-IGNITION ENGINE REGULATIONS UNDER 13 CCR, 2423(d)."

- (30) "Forest operations" means (A) forest fire prevention activities performed by public agencies, including but not limited to construction and maintenance of roads, fuel breaks, firebreaks, and fire hazard abatement or (B) cutting or removal or both of timber, other solid wood products, including Christmas trees, and biomass from forestlands for commercial purposes, together with all the work incidental thereto, including but not limited to, construction and maintenance of roads, fuel breaks, firebreaks, stream crossings, landings, skid trails, beds for falling trees,

fire hazard abatement, and site preparation that involves disturbance of soil or burning of vegetation following forest removal activities. Forest operations include the cutting or removal of trees, tops, limbs and or brush which is processed into lumber and other wood products, and or for landscaping materials, or biomass for electrical power generation. Forest operations do not include conversion of forestlands to other land uses such as residential or commercial developments.

- (31) "Hour meter log" means a log of the hours that a vehicle operated directly taken from the vehicle's hour meter.
- (32) "Implement of husbandry" is as defined in California Vehicle Code (Veh.Code) division 16.
- (33) "Local municipality" means a city, county, city and county, special district, or other public agency, or two or more public entities acting jointly, or the duly constituted body of an Indian reservation or rancheria. Agencies of the United States of America or the State of California, and departments, divisions, public corporations, or public agencies of this State or of the United States are not considered local municipalities.
- (34) "Low-population county local municipality fleet" means a fleet owned by a local municipality (as defined above) that is located in a county as defined in title 13, CCR, section 2022(b)(4) and identified in section 2022.1(c)(2), Table 2, or, using the criteria set forth in title 13, CCR, section 2022.1(c)(4), a local municipality not located in a low-population county that has requested and has received Executive Officer approval to be treated like a municipality in a low-population county. Fleets owned by such local municipalities shall be treated as small fleets even if their total max hp exceeds 2,500 hp.
- (35) "Maximum power" (max hp) means the engine's net horsepower (hp) or net flywheel power certified to Society of Automotive Engineers (SAE) Method J1349 or International Organization for Standardization (ISO) Method 9249. If the engine's net hp or net flywheel power certified to SAE Method J1349 or ISO Method 9249 is not readily available, another net hp or net flywheel power from the manufacturer's sales and service literature or hp from the engine label may be used.
- (36) "Model year" has the same meaning as defined in title 13, CCR, section 2421(a)(38).
- (37) "New fleet" means a fleet that is acquired or that enters California on or after January 1, 2012. Such fleets may include new businesses or out-of-

state businesses that bring vehicles into California for the first time on or after January 1, 2012.

- (38) "Newly reported fleet" means a fleet that reports to CARB for the first time.
- (39) "Non-profit training center" means an entity that operates a program for training in the use of off-road vehicles and that (A) is a community college program that trains students in the use of off-road vehicles or (B) qualifies as a non-profit or not for profit organization under title 26 Internal Revenue Code section 501(a), (c)(3), (c)(5), or (c)(6). Any vehicles that are not used for an off-road training program are not considered part of a non-profit training center and must be considered a separate fleet.
- (40) "Off-highway vehicle" is defined in Veh. Code division 16.5.
- (41) "Operator log" means a log of the hours that a vehicle operated taken from records of vehicle operator hours.
- (42) "Oxides of nitrogen" (NO_x) means compounds of nitric oxide, nitrogen dioxide, and other oxides of nitrogen. Nitrogen oxides are typically created during combustion processes and are major contributors to smog formation and acid deposition.
- (43) "Permanent low-use vehicle" means a vehicle that a fleet owner has designated as operating less than 200 hours a calendar year, for all years subsequent to the designation. For example, if a fleet designates a vehicle as permanent low-use at any point in 2014, that vehicle can only be used less than 200 hours in any calendar year from 2015 onwards. To be considered a permanent low-use vehicle, the fleet owner must submit the engine hours of operation from a functioning non-resettable hour meter.
 - (A) Vehicles used outside California – Vehicles that operate both inside and outside of California can meet the permanent low-use vehicle definition if they are used less than 200 hours per year in California.
 - (B) Emergency operation hours – Hours used for emergency operations are not counted when determining permanent low-use status.

- (C) Future increase in hours – Except as set forth in (F) below, once designated as permanent low-use, a vehicle may only be used up to 200 hours per year by the fleet unless the vehicle meets the adding vehicles requirements in section 2449(d)(6). If the vehicle meets the adding vehicle requirements, the fleet may increase the use to 200 hours or more per year, and report the updated status of the vehicle to remove the low-use designation.
 - (D) No obligation – A fleet is not obliged to designate a vehicle whose use drops below 200 hours per year as a permanent low-use vehicle. If such a vehicle is not designated as permanent low-use, its use may increase to 200 hours or more per year in subsequent years without meeting the adding vehicles requirements in section 2449(d)(6).
 - (E) Two-engine vehicles – Both engines of two-engine vehicles must each operate less than 200 hours per year in order for the vehicle to be considered a permanent low-use vehicle.
 - (F) Three-year rolling average – Beginning January 1, 2024, a vehicle operated only in California for three consecutive years and owned by the same owner during that entire period, may be considered permanent low-use if it is operated an average of 200 or fewer hours per year during that consecutive three-year period and all subsequent three-year periods and the vehicle’s hours are reported for all three consecutive years and subsequent three-year periods in accordance with section 2449(g)(2)(C).
- (44) “Prime contractor” means the entity that holds the contract for a project directly with the awarding authority or the owner of the project, to oversee all or part of a project in which vehicles subject to this regulation are operated.
 - (45) “Public incentive funds” or “Public incentive funding” means any funding provided by one or more public entities via a grant, voucher, contract, or loan program that includes limitations on using the funding for regulatory benefit or credit.
 - (46) “Public works awarding body” means any public agency (state, county, city, school board, water district, etc.), or official thereof, in the state of California, that awards or enters into a contract for the erection, construction, alteration, repair, removal, or improvement of any public

structure, building, road, or other public lands, property, or improvement of any kind.

- (47) "Queuing" means the intermittent starting and stopping of a vehicle while the driver, in the normal course of doing business, is waiting to perform work or a service, and when shutting the vehicle engine off would impede the progress of the queue and is not practicable. 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.
- (48) "Registered and driven safely on-road" means a vehicle meets the requirements to be registered for on-road operation in Veh. Code division 3, chap. 1, article 1, sections 4000 et seq. (i.e., required to be registered or could be registered), and the requirements to be driven safely on-road in "Equipment of Vehicles" requirements in Veh. Code division 12, chap. 1, sections 24000 et seq. and "Size, Weight, and Load" requirements in Veh. Code division 15, sections 35000 et seq. Having a California Special Construction Equipment plate as defined in California Veh. Code sections 565 and 570 does not constitute registration.
- (49) "Renewable diesel, R99 or R100" means a diesel fuel substitute produced from non-petroleum renewable sources, including vegetable oils and animal fats, that meets both a) Title 40, Code of Federal Regulations, Part 79 – Registration of Fuels and Fuel Additives (July 2021), which is hereby incorporated by reference herein; and b) American Society for Testing Materials specification D975 (approved August 1, 2021), which is hereby incorporated by reference herein.
- (50) "Replacement" means the addition of off-road diesel vehicles to a fleet that had retired one or more off-road diesel vehicles of an equivalent hp in a given year.
- (51) "Replacement emission control label" means a label which is identical to the emission control label that was installed on the engine at the time of manufacture, meets the requirements of Title 13 CCR section 2424, and was approved at the time of certification.
- (52) "Repower" means to replace the engine in a vehicle with another engine meeting a subsequent engine emissions standard (e.g., replacing a Tier 0 engine with a Tier 2 or later engine).
- (53) "Responsible official" means one of the following:

- (A) For a corporation: A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation.
 - (B) For a partnership or sole proprietorship: a general partner or the proprietor, respectively.
 - (C) For a municipality, state, federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of the United States Environmental Protection Agency [U.S. EPA]).
- (54) "Retire or retirement" means removal of an engine from fleet service, so that the engine is not subsequently operated by the fleet in the State of California. To retire an engine, the vehicle with the engine may be moved outside of California, sold to another fleet (in or outside California), or scrapped. The return of a rented or leased vehicle by a fleet to a rental or leasing company is not considered to be a retirement. 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.
- (55) "Snow removal operations" means removing snow from public roads, private roads, or driveways.
- (56) "Specialty vehicle" means a vehicle for which no used vehicle with a cleaner engine that can serve an equivalent function and perform equivalent work is available.
- (57) "Subcontractor" means any person or entity who has a contract with the prime contractor or another subcontractor, but does not have a contract directly with an awarding authority or owner, for work involving the operation of vehicles subject to this regulation.
- (58) "Tier 0 engine" means an engine not subject to the requirements in title 13, CCR, section 2423; Title 40, Code of Federal Regulations (CFR), Part 89; or Title 40, CFR, Part 1039.
- (59) "Tier 1 engine" means an engine subject to the Tier 1 new engine emission standards in title 13, CCR, section 2423(b)(1)(A) and/or Title 40, CFR, Part 89.112(a). This also includes engines certified under the

averaging, banking, and trading program with respect to the Tier 1 Family Emission Limits (FEL) listed in title 13, CCR, section 2423(b)(2)(A) and/or Title 40, CFR, Part 89.112(d).

- (60) "Tier 2 engine" means an engine subject to the Tier 2 new engine emission standards in title 13, CCR, section 2423(b)(1)(A) and/or Title 40, CFR, Part 89.112(a). This also includes engines certified under the averaging, banking, and trading program with respect to the Tier 2 FEL listed in title 13, CCR, section 2423(b)(2)(A) and/or Title 40, CFR, Part 89.112(d).
- (61) "Tier 3 engine" means an engine subject to the Tier 3 new engine emission standards in title 13, CCR, section 2423(b)(1)(A) and/or Title 40, CFR, Part 89.112(a). This also includes engines certified under the averaging, banking, and trading program with respect to the Tier 3 FEL listed in title 13, CCR, section 2423(b)(2)(A) and/or Title 40, CFR, Part 89.112(d).
- (62) "Tier 4 Final engine" means an engine subject to the final after-treatment-based Tier 4 emission standards in title 13, CCR, section 2423(b)(1)(B) and/or Title 40, CFR, Part 1039.101. This also includes engines certified under the averaging, banking, and trading program with respect to the Tier 4 FEL listed in title 13, CCR, section 2423(b)(2)(B) and/or Title 40, CFR, Part 1039.101.
- (63) "Tier 4 Interim engine" means an engine subject to the interim Tier 4 emission standards (also known as transitional) in title 13, CCR, section 2423(b)(1)(B) and/or Title 40, CFR, Part 1039.101. This also includes engines certified under the averaging, banking, and trading program with respect to the Tier 4 FEL listed in title 13, CCR, section 2423(b)(2)(B) and/or Title 40, CFR, Parts 1039.102 and 1039.104(g).
- (64) "Total maximum power" (total max hp) means the sum of the max hp for all of a fleet's engines that are subject to this regulation. Permanent and year-by-year low-use vehicles, dedicated snow-removal vehicles, and vehicles used solely for emergency operations shall not be included in the sum.
- (65) "Turnover" means retiring a vehicle, designating a vehicle as a permanent low-use vehicle, repowering a vehicle with a higher tier engine, or rebuilding the engine to a more stringent emissions configuration. Rented or leased vehicles that are returned to a rental or leasing company do not count as turnover for the lessee. Similarly,

vehicles leased or rented out by a rental or leasing company do not count as turnover for the rental or leasing company.

- (66) "Two-engine crane" means a mobile diesel-powered machine with a hoisting mechanism mounted on a specially constructed truck chassis or carrier; one engine provides motive power, and a secondary (auxiliary) engine 50 bhp or greater that is used to lift and move materials and objects.
- (67) "Two-engine vehicle" means a specially constructed on-road or off-road mobile diesel-powered vehicle that was designed by the original equipment manufacturer to be equipped with 2 diesel engines: 1 engine provides the primary source of motive power of the vehicle while the second engine is an auxiliary engine 50 bhp or greater that is permanently attached and integrated into the design of the vehicle to perform a specific function, which may include providing auxiliary power to attachments, performing special job functions, or providing additional motive power.
- (68) "Two-engine water-well drilling rig" means a mobile diesel-powered drilling rig owned by a water well drilling contractor with a current, valid C-57 license issued by the Contractors State License Board of California and used exclusively to drill water wells with a drilling mechanism mounted on a specialty constructed truck chassis or carrier; 1 engine provides motive power, and a secondary (auxiliary) engine 50 bhp or greater that is used to power the drilling mechanism.
- (69) "Verified diesel emission control strategy" (VDECS) means an emissions control strategy that has been verified pursuant to the "Verification Procedures, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emission from Diesel Engines" (Verification Procedure), title 13, CCR, sections 2700-2710. VDECS can be verified to reduce PM emissions, or NOx emissions, or both.
 - (A) "Highest level PM VDECS" means the highest level VDECS verified by CARB to reduce PM under its Verification Procedure. The highest level is determined solely based on verified diesel PM reductions, not based on verified NOx reductions. VDECS can be verified to achieve Level 1 diesel PM reductions (at least 25 percent), Level 2 diesel PM reductions (at least 50 percent), or Level 3 diesel PM reductions (at least 85 percent). All Level 3 diesel PM devices are higher than all Level 2 diesel PM devices. Level 1 PM devices are never considered highest level PM VDECS

for the purpose of this regulation. "Plus" designations do not matter; that is, a Level 3 Plus is the same diesel PM level as Level 3; and Level 2 Plus is the same diesel PM level as Level 2. A PM VDECS shall be considered the highest level PM VDECS only if (1) it can be used without impairing the safe operation of the vehicle as demonstrated per section 2449(e)(8), and (2) the diesel emission-control strategy manufacturer and authorized diesel emission-control strategy dealer agree it can be used on a specific engine and vehicle combination without jeopardizing the original engine warranty in effect at the time of application.

- (B) "VDECS verified to reduce NO_x" means VDECS verified by CARB to reduce NO_x under its Verification Procedure. NO_x VDECS are not verified by Level, but are verified by the percent reduction in NO_x emissions from the engine achieved by the VDECS. See also definition of Verified Percent NO_x Reduction.
- (70) "Verified percent NO_x reduction" means the verified percent reduction in NO_x emissions from the engine achieved by the VDECS verified to reduce NO_x.
- (71) "VDECS failure" means the condition of a VDECS not achieving the emissions reductions to which the VDECS is verified. Such a condition could be due to inappropriate installation, damage, or deterioration during use. If a Level 3 VDECS is emitting visible smoke, it shall be assumed to have failed.
- (72) "Workover rig" means a mobile self-propelled rig used to perform one or more remedial operations, such as deepening, plugging back, pulling and resetting liners, on a producing oil or gas well to try to restore or increase the well's production.
- (73) "Year-by-year low-use vehicle" means a vehicle that operated in California less than 200 hours during the preceding 12-month calendar year. For example, when reporting in 2014, the hours of use between January 1, 2013 and December 31, 2013, would be used to determine year-by-year low-use status. To be considered a year-by-year low-use vehicle, the fleet owner must annually submit engine operation data from a functioning non-resettable hour meter.
- (A) Vehicles used outside California – Vehicles that operate both inside and outside of California can meet the year-by-year low-use

vehicle definition if they are used less than 200 hours per year in California.

- (B) Three-year rolling average – A vehicle operated only in California for the previous 3 years and owned by the same owner during that period will be considered year-by-year low-use if it operated on average less than 200 hours per year during that previous three-year period.
- (C) Emergency operation hours – Hours used for emergency operations are not counted when determining year-by-year low-use status.
- (D) Two-engine vehicles – Both engines of two-engine vehicles must each operate less than 200 hours per year in order for the vehicle to be considered a year-by-year low-use vehicle.
- (E) The year-by-year low-use option sunsets on January 1, 2024 meaning no vehicle will be considered a year-by-year low-use vehicle on or after January 1, 2024.

(74) “Zero-emission vehicle” means a vehicle that produces zero exhaust emissions of any criteria pollutant (or precursor pollutant) or greenhouse gas under any and all possible operational modes and conditions.

(d) Performance Requirements

Fleets that are subject to fleet average requirements in section 2449.1(a) may include vehicles and systems used in place of diesel vehicles in their fleet average index and target rate calculations as described in subsection (1) below. Each fleet must meet the performance requirements in subsections (2) to (9) below. There are differing requirements for large, medium, and small fleets. As stated in section 2449(c)(24), fleet portions may comply with the performance requirements separately and be reported separately. Captive attainment area fleets, non-profit training centers, and fleets owned by low-population county local municipalities are subject to the small fleet requirements, even if their total max hp exceeds 2,500 hp. Section 2449(d)(3) describes requirements for fleets that change in size.

- (1) Vehicles and Systems Used in Place of Diesel Vehicles – Fleets with electric, alternative fuel, or gasoline-powered vehicles may include such vehicles in their fleet average index and target rate calculations as follows:

(A) Alternative Fuel and Gasoline-Powered Vehicles

1. Fleets may include an alternative fuel or gasoline-powered vehicle with a max hp 25 hp or greater or that replaced a diesel vehicle with max hp 25 hp or greater in their fleet average index if all of the following conditions are met:
 - a. The owner can demonstrate it serves a function and performs the work equivalent to that of diesel vehicles and is used for a purpose for which diesel vehicles are predominantly used,
 - b. The vehicle is used predominantly outdoors,
 - c. The vehicle is not already included in the fleet average emission level requirements for Large Spark Ignition Engine Fleets in title 13, Section 2775.1; and
 - d. The owner must demonstrate that it is certified to a NOx standard less than or equal to the Tier 1 NOx standard for the same hp in title 13, CCR, section 2423(b)(1)(A) and is less than or equal to the NOx emissions of a diesel engine of the same model year and hp.
 - e. If the vehicle is a gasoline-powered vehicle, the owner must identify the diesel vehicle that the gasoline-powered vehicle replaced and maintain records documenting the function of the diesel vehicle replaced and the gasoline-powered replacement vehicle, and the dates of sale and purchase for both vehicles.
2. Fleets may include a diesel vehicle with a max hp 25 hp or greater that has been repowered with an alternative fueled or gasoline-powered engine in their fleet average index and target rate calculations.
3. For the purposes of compliance with section 2449.1(a):
 - a. Alternative fuel vehicles – Each alternative fuel vehicle, or diesel vehicle that has been repowered with an alternative fuel engine, shall use an emission factor equal to the NOx emission standard to which

its engine is certified in g/bhp-hr. If the alternative fuel vehicle or engine is not certified to a NO_x emission standard, the owner may apply to the Executive Officer to use an emission factor. In the application, the owner must demonstrate that the chosen emission factor is appropriate and not exceeded by the alternative fuel vehicle.

- b. Gasoline-powered vehicles – Each gasoline powered vehicle, or vehicle that has been repowered with a gasoline-powered engine, shall use an emission factor equal to the gasoline-powered vehicle's or engine's HC+NO_x certified emission standard in g/bhp-hr multiplied by 0.95.
4. Fleets may include a diesel vehicle with a max hp 25 hp or greater that has been converted to alternative fuel or gasoline-power in their fleet average index and target rate calculations. The emission factor remains the same as the emission factor for the diesel vehicle.

(B) Electric Vehicles

- 1. Fleets may include an electric vehicle with a max hp 25 hp or greater or that replaced a diesel vehicle with max hp 25 hp or greater in their fleet average index if all the following conditions are met:
 - a. The owner can demonstrate it serves a function and performs the work equivalent to that of diesel vehicles and is used for a purpose for which diesel vehicles are predominantly used;
 - b. The electric vehicle is used predominately outdoors; and
 - c. Except as provided in section 2449(d)(1)(B)(2)(a), the electric vehicle is not already included in the fleet average emission level requirements for Large Spark Ignition Engine Fleets in title 13, section 2775.1.
- 2. For the purposes of compliance with sections 2449.1(a), electric vehicles shall be credited as follows:

- a. GSE Electric Vehicles Purchased Prior to January 1, 2007 – Electric airport GSE vehicles with a max hp of 25 hp or greater or that replaced a diesel vehicle with max hp 25 hp or greater purchased prior to January 1, 2007, may be partially counted in the fleet average calculations as follows:
 - i. Max Hp for Electric Vehicles – For an electric vehicle that replaced a diesel vehicle in the owner’s fleet, the max hp of the diesel vehicle replaced may be used as the electric vehicle’s max hp. Otherwise, the electric vehicle’s own max hp rating shall be used.
 - ii. Include such vehicle’s max hp times 0.2 as the max hp in calculating the fleet average index and target rate in section 2449.1(a), along with an emission factor of 0.
- b. Non-GSE Electric Vehicles Purchased Prior to January 1, 2007 – Electric vehicles with a max hp of 25 hp or greater purchased prior to January 1, 2007 that replaced a diesel vehicle with max hp 25 hp or greater, may be counted in the fleet average calculations as follows:
 - i. Max Hp for Electric Vehicles – For an electric vehicle that replaced a diesel vehicle in the owner’s fleet, the max hp of the diesel vehicle replaced may be used as the electric vehicle’s max hp. Otherwise, the electric vehicle’s own max rating shall be used.
 - ii. Include such vehicle’s max hp as the max hp in calculating the fleet average index and target rate in section 2449.1(a), along with an emission factor of 0.
- c. Electric Vehicles or Zero-Emission Vehicles Purchased on or after January 1, 2007
 - i. Max Hp for Electric Vehicles – For an electric vehicle that replaced a diesel vehicle in the owner’s fleet, the max hp of the diesel vehicle

replaced may be used as the electric vehicle's max hp. For an electric vehicle added to the fleet that did not replace a diesel vehicle, the fleet owner may apply to the Executive Officer to use the max hp of a diesel vehicle that serves the same function and performs equivalent work to that of the electric vehicle. In making his or her determination, the Executive Officer will approve the use of the minimum max hp of a diesel vehicle that would be required to perform the same functions and equivalent work. If no request to the Executive Officer is received, the electric vehicle's own max hp rating shall be used.

- ii. Double Credit for Electric in 2014-2016 – For compliance dates in 2014 through 2016, the max hp of all electric vehicles purchased on or after January 1, 2007 may be doubled in determining the max hp that is used in calculating the fleet average index. An emission factor of 0 may be used. The max hp of each electric vehicle is included but not doubled in the calculation of fleet average target rate.
- iii. Single Credit for Electric in 2017 and Later – For compliance dates in year 2017 and later, the max hp of all electric vehicles purchased on or after January 1, 2007 is used in determining the max hp that is used in calculating the fleet average index and target rate. An emission factor of 0 may be used.
- iv. Single Credit for Zero-Emission in 2024 and Later – For compliance dates in calendar year 2024 and later, the max hp of all zero-emission vehicles purchased on or after January 1, 2007 is used in determining the max hp that is used in calculating the fleet average index and target rate. An emission factor of 0 may be used.

3. Electric vehicles need not be included when determining fleet size, or when calculating the required hp for the BACT requirements in section 2449.1(b).

(C) Stationary or Portable System Used to Replace Mobile Diesel Vehicle

Fleet owners may apply to the Executive Officer to include electric portable or electric stationary systems that replace mobile diesel vehicles, such as an electric conveyor system used to replace diesel haul trucks at a mine, in the fleet average calculations. The system may be considered in the fleet average calculations by including the max hp of the diesel vehicles replaced in the calculations of the fleet average index and target rate above, along with an emission factor of 0. In order to count such a system, all the following conditions must be met:

1. The owner must demonstrate that it replaced an off-road diesel fueled vehicle subject to this regulation on or after January 1, 2007, and
2. The system is not already counted toward the fleet average emission level requirements for Large Spark Ignition Engine Fleets in title 13, CCR, section 2775.1 or for portable diesel engine fleets in title 17, CCR, section 93116.3.

(D) Hybrid Off-Road Vehicles

Fleets may include a hybrid off-road diesel vehicle with a max hp 25 hp or greater in their fleet average index and target rate calculation. The emission factor for the hybrid vehicle shall be equal to the NO_x emission standard to which its engine is certified in g/bhp-hr. If a fleet owner wishes to use different emission factor, other than the standard to which the engine is certified, the owner may apply to the Executive Officer to use an alternative emission factor. The Executive Officer shall approve the alternative emission factor if, in the fleet owner's application, the owner demonstrates that the chosen emission factor is appropriate and not exceeded by the hybrid vehicle.

- (2) Idling – The idling limits in section 2449(d)(2) shall be effective and enforceable immediately upon this regulation being certified by the Secretary of State. Fleets must meet the following idling limits.

- (A) Idling Limit – No vehicle or engines subject to this regulation may idle for more than five consecutive minutes. Idling of a vehicle that is owned by a rental company is the responsibility of the renter or lessee, and the rental agreement shall so indicate. The idling limit does not apply to:
 - 1. idling when queuing,
 - 2. idling to verify that the vehicle is in safe operating condition,
 - 3. idling for testing, servicing, repairing or diagnostic purposes,
 - 4. idling necessary to accomplish work for which the vehicle was designed (such as operating a crane),
 - 5. idling required to bring the machine system to operating temperature, and
 - 6. idling necessary to ensure safe operation of the vehicle.
 - (B) Written Idling Policy – As of March 1, 2009, medium and large fleets must also have a written idling policy that is made available to operators of the vehicles and informs them that idling is limited to five consecutive minutes or less.
 - (C) Waiver – A fleet owner may apply to the Executive Officer for a waiver to allow additional idling in excess of five consecutive minutes. The Executive Officer shall grant such a request upon finding that the fleet owner has provided sufficient justification that such idling is necessary.
- (3) Changing Fleet Size –
- (A) Small fleets that become medium or large fleets must meet the medium or large fleet requirements, respectively, on the compliance date in section 2449.1 two years subsequent to the year they became a medium or large fleet.
 - (B) Large fleets that become medium fleets may meet either the medium or large fleet requirements on the next compliance date in section 2449.1. Large fleets that become small fleets may meet

either the small or large fleet requirements on the next compliance date in section 2449.1.

- (C) Medium fleets that become small fleets may meet either the small or medium fleet requirements on the next compliance date in section 2449.1. Medium fleets that become large fleets must meet the large fleet requirements on the compliance date in section 2449.1 two years subsequent to the year they became a large fleet.

(4) New and Newly-Reported Fleets

- (A) Large and medium fleets – New and newly-reported large and medium fleets must meet the next large fleet average requirement in section 2449.1(a)(1) and the Tier phase-out requirements in section 2449.1(c) immediately on purchasing vehicles subject to the regulation, bringing such vehicles into the State of California for the first time, or reporting the fleet to CARB for the first time, whichever occurs first. New and newly-reported fleets do not have the option of complying with the BACT requirements in section 2449.1(b) when they enter the State for the first time. For the next applicable compliance date that must be met, the new or newly-reported fleet can choose to meet either the fleet average requirements, or comply with the BACT requirements of section 2449.1(b). For example, if a medium fleet enters the State of California on January 1, 2012, it must meet the January 1, 2014, large fleet average requirements immediately upon entering the State. However, the next applicable compliance date for this fleet is not until the first medium fleet compliance date of January 1, 2017, at which time, the fleet may fulfill the compliance requirements by meeting either the fleet average requirements or the BACT requirements.
- (B) Small fleets – New and newly-reported small fleets must meet the fleet average requirements in section 2449.1(a)(2) for the next small fleet compliance date and the Tier phase-out requirements in section 2449.1(c) immediately upon purchasing vehicles subject to the regulation, bringing such vehicles into the State of California for the first time, or reporting the fleet to CARB for the first time, whichever occurs first. New and newly-reported small fleets do not have the option of complying with the BACT requirements in section 2449.1(b) when they enter the State for the first time. For the next applicable compliance date that must

be met, the new or newly reported fleet can meet either the fleet average requirements, or comply with the BACT requirements.

- (C) All fleets – New and newly-reported fleets must comply with the idling requirements in section 2449(d)(2) and the adding vehicle requirements in section 2449(d)(6) immediately upon purchasing vehicles subject to the regulation, upon bringing such vehicles into the State, or upon reporting the fleet to CARB for the first time, whichever occurs first. New and newly reported fleets must report vehicles subject to the regulation to CARB within 30 days of purchasing or bringing such vehicles into the State, in accordance with the requirements in section 2449(g).

(5) Fleet Ownership Transferred

- (A) New fleet owner – If ownership of a fleet or fleet portion, which is complying and reporting separately per section 2449(c)(24), is transferred to a new fleet owner who did not own a fleet before the transfer of ownership and the fleet or fleet portion was meeting the BACT requirements in lieu of the fleet average requirements before the transfer, the fleet may continue to meet the BACT requirements and is not required to meet the fleet average requirements in section 2449.1(a) or adding vehicle requirements in section 2449(d)(6) as new fleets are required to do. If a new fleet owner who did not own a fleet before acquires a fleet or fleet portion that did not previously comply with the regulation, or acquires a fleet portion that is not complying and reporting separately per section 2449(c)(24), it must meet the new fleet requirements in section 2449(d)(4) above.
- (B) Existing fleets – Existing fleets may acquire other fleets or fleet portions which are complying and reporting separately per section 2449(c)(24), without condition if the existing fleet and the acquired fleet were in compliance with the individual fleet requirements. If existing fleets acquire a fleet or fleet portion that did not previously comply with the regulation, or they acquire a fleet portion which is not complying and reporting separately per section 2449(c)(24), they must meet the requirements for adding vehicles in section 2449(d)(6) when adding the entire fleet or fleet portion.
- (C) Existing BACT credits – If ownership of a fleet or fleet portion, which is complying and reporting separately per section

2449(c)(24), is transferred to a new fleet owner and the transferred fleet or fleet portion had BACT credits, the new fleet owner may maintain the BACT credits of the acquired fleet if the acquired fleet or fleet portion continues to comply and report separately. The new fleet owner may keep the acquired fleet separate from the rest of the vehicles owned for the purposes of maintaining credits even if the vehicles are under common ownership or control. If the new fleet owner combines the acquired fleet or fleet portion for compliance and reporting purposes with the rest of his vehicles, the acquired fleet or fleet portion shall maintain only the credits accumulated from retrofits and repowers, and all other BACT credits shall expire immediately.

- (6) Adding Vehicles – With the exception noted below for fleets owned by lessors of vehicles, the requirements in (A) through (H) below apply to all fleets. Fleets owned by lessors are not subject to (A) through (H) for vehicles owned by the lessor and returned to the lessor fleet at the end of a lease if the vehicles were included in the fleet of the lessee for the compliance year in question. Vehicles returned to a lessor fleet must, however, be included in the lessor fleet’s fleet average demonstration on subsequent compliance dates. For the purposes of this requirement, a vehicle may be assumed to meet the engine emission standard tier in effect for the model year of the engine.
 - (A) Ban on adding Tier 0s – Effective upon U.S. EPA issuing authorization for this regulation, a fleet may not add a vehicle with a Tier 0 engine to its fleet. The engine tier must be Tier 1 or higher.
 - (B) Ban on adding Tier 1s – Beginning January 1, 2012, for large and medium fleets, a fleet may add a vehicle with a Tier 1 engine if and only if the vehicle has an equipment identification number (EIN) that CARB assigned to the vehicle prior to January 1, 2012, and both the fleet selling and the fleet purchasing the vehicle with the Tier 1 engine must have reported to CARB by January 1, 2012, or have entered the State of California for the first time after January 1, 2012. Beginning on January 1, 2013, for large and medium fleets, and January 1, 2016, for small fleets, a fleet may not add any vehicle with a Tier 1 engine. The engine tier must be Tier 2 or higher.
 - (C) Ban on adding Tier 2s – Beginning January 1, 2018, for large and medium fleets, and January 1, 2023, for small fleets, a fleet may

not add a vehicle with a Tier 2 engine to its fleet. The engine tier must be Tier 3 or higher.

- (D) Ban on adding Tier 3s – Beginning January 1, 2024, for large, medium, and small fleets, a fleet may not add a vehicle with a Tier 3 engine to its fleet. The engine tier must be Tier 4 interim or higher.
 - (E) Ban on adding Tier 4 interims – Beginning January 1, 2024, for large and medium fleets, and January 1, 2028, for small fleets, a fleet may not add a vehicle with a Tier 4 interim engine to its fleet. The engine tier must be Tier 4 final or higher.
 - (F) Ban on adding Tier 4 interims for fleets with 500 hp or less – A fleet that chooses to comply with the requirements of 2449(e)(16) is not subject to the small fleet Tier 4 interim vehicle adding provision in section 2449(d)(6)(E). Instead, beginning January 1, 2035, a fleet that chooses to comply with the requirements of 2449(e)(16) may not add a vehicle with a Tier 4 interim engine to its fleet.
 - (G) Ban on adding vehicles powered by model year 2006 or earlier on-road engines – Beginning January 1, 2024, for large and medium fleets, and January 1, 2028, for small fleets, a fleet may not add a vehicle powered by a model year 2006 or earlier on-road engine to its fleet. To be added to a fleet, a vehicle powered by an on-road engine would need to be powered by an on-road engine that is model year 2007 or later.
 - (H) Ban on adding Tier 0s to special provisions – Beginning January 1, 2024, for large, medium, and small fleets, a fleet may not add a vehicle with a Tier 0 engine to its fleet as a vehicle designated as a dedicated snow removal vehicle, a vehicle used for emergency operations, or a Job Corps vehicle, as described in section 2449(e).
- (7) VDECS Installation – Before installing a VDECS on a vehicle, the fleet owner must ensure that:
- (A) The VDECS is verified for use with the engine and vehicle, as described in the Executive Order for the VDECS.
 - (B) Use of the vehicle is consistent with the conditions of the Executive Order for the VDECS.

- (C) The diesel emission control strategy is installed in a verified configuration.
 - (D) The engine on which the VDECS is to be installed is tuned up so that it meets engine manufacturer's specifications prior to VDECS installation.
 - (E) The VDECS label will be visible after installation.
- (8) VDECS Maintenance and Removal – If a fleet owner installs a VDECS to meet the requirements in section 2449.1, the VDECS must be kept installed until the VDECS fails or is damaged unless the requirements below are met. Requirements for VDECS failure or damage are in section 2449(e)(1). The owner of a vehicle with a VDECS must ensure all maintenance on the VDECS and engine is performed as required by the respective manufacturers.
- (A) Removal for safety or visibility purposes – If a fleet removes a VDECS for safety or visibility purposes, and that VDECS has not failed and is not damaged, the fleet may keep the BACT credit earned under section 2449.1(b) for the installation of the removed VDECS. If the fleet could not meet an applicable fleet average target for the most recent compliance date without the removed VDECS, the fleet owner must bring the fleet back into compliance within 90 days of the removal of the VDECS.
 - (B) Removal for other purposes – If a fleet removes a VDECS for reasons other than safety or visibility purposes, and that VDECS has not failed and is not damaged, the fleet must forfeit any BACT credit earned under section 2449.1(b) from the installation of the removed VDECS. If the fleet could not meet applicable compliance requirements under section 2449.1 for the most recent compliance date without the removed VDECS and the forfeited BACT credit, the fleet must bring the fleet back into compliance within 90 days of the removal of the VDECS.
- (9) Compliance After the Final Target Date –
- (A) Commencing respectively on January 1, 2023, for large and medium fleets, and on January 1, 2028, for small fleets, if a fleet does not meet the applicable fleet average target rate for the final target date in section 2449.1(a), the fleet must continue to meet the BACT requirements in section 2449.1(b) and report annually each year until it does so. BACT carryover credit earned in years

prior to the final target date cannot be used to meet compliance after the final target date. BACT carryover credit earned after the final target date can be used in subsequent years to meet the BACT requirements in section 2449.1(b). Vehicles exempt from BACT under sections 2449.1(b)(2) and (3) are exempt from the requirements of this paragraph.

- (B) Beginning January 1, 2024, for large and medium fleets, and on January 1, 2028, for small fleets, fleets must meet the Tier phase-out requirements in section 2449.1(c). Vehicles exempt from BACT under sections 2449.1(b)(2) and (3) are not exempt from the Tier phase-out requirements in section 2449.1(c). Beginning January 1, 2024, all fleets must meet the renewable diesel requirements in section 2449.1(f).

(e) Special Provisions/Compliance Extensions

- (1) VDECS Failure – In the event of a failure or damage of a VDECS, the following conditions apply:
 - (A) Failure or Damage During the Warranty Period. If a VDECS fails or is damaged within its warranty period and it cannot be repaired, the fleet owner must replace it with the same level VDECS or higher for the vehicle within 90 days of the failure.
 - (B) Failure or Damage Outside the Warranty Period.
 - 1. Before Final Target Date – If a VDECS fails or is damaged outside of its warranty period before January 1, 2023 for large and medium fleets, or before January 1, 2028 for small fleets, and cannot be repaired, and if the fleet could not meet an applicable fleet average target for the most recent compliance date without the failed VDECS, the fleet owner must replace the failed or damaged VDECS within 90 days of its failure, with the highest level VDECS available for the engine at time of failure.
 - 2. After Final Target Date – If a VDECS fails or is damaged outside of its warranty period on or after January 1, 2023 for large and medium fleets, or on or after January 1, 2028 for small fleets, and cannot be repaired, the fleet owner must replace the failed or damaged VDECS within 90 days of its failure with the highest level VDECS available for the engine at time of failure, regardless of

whether the fleet met the applicable fleet average requirement for the most recent compliance date.

- (2) Fuel-based Strategy VDECS –
- (A) If a fleet owner determines that the highest level VDECS for a large percentage of his fleet would be a Level 2 fuel verified as a diesel emission control strategy, and implementation of this VDECS would require installation of a dedicated storage tank, then the fleet owner may request prior approval from the Executive Officer to allow use of the level 2 fuel-based strategy across its fleet.
 - (B) Waiver for Discontinuation of Fuel Verified as a Diesel Emission Control Strategy. If a fleet owner has relied upon a fuel verified as a diesel emission control strategy to meet an applicable fleet average requirement and has to discontinue use of the fuel due to circumstances beyond the fleet owner's control, the fleet owner may apply to the Executive Officer no later than 30 days after discontinuing use of the fuel for a compliance waiver of up to 2 years to provide it time to return to compliance with the applicable fleet average requirement. The Executive Officer then has 30 days to act upon the request. Fleets that did not meet the applicable fleet average requirement in the most recent compliance year may not apply for this waiver.
- (3) Exemption for Vehicles Used for Emergency Operations – Vehicles used solely for emergency operations are exempt from the performance requirements in sections 2449(d), 2449.1, and 2449.2, but still must be labeled, reported, and meet the adding vehicle requirements in accordance with sections 2449(d)(6)(H), 2449(f), and 2449(g). Vehicles used solely for emergency operations need not be included when calculating fleet average indices or target rates, when determining fleet size, or when calculating the required hp for the BACT requirements in section 2449.1(b).

Owners of vehicles brought into California for emergency operations that last longer than three months must report such entry to CARB and request an equipment identification number within three months of entering the State. Vehicles used solely for emergency operations and that stay in California for less than three months do not have to be labeled. For vehicles used both for emergency operations and for other purposes, hours of operation accrued when the vehicle is used for

emergency operations do not need to be included when determining whether the vehicle meets the permanent or year-by-year low-use vehicle definition.

- (4) Special Provisions for Snow Removal Vehicles – Dedicated snow removal vehicles are exempt from the performance requirements in sections 2449(d), 2449.1, and 2449.2, but still must be labeled , reported, and meet the adding vehicle requirements in accordance with sections 2449(d)(6)(H), 2449(f), and 2449(g). Dedicated snow removal vehicles need not be included when calculating fleet average indices or target rates, when determining fleet size, or when calculating the required hp for the BACT requirements in section 2449.1(b). Publicly owned vehicles used exclusively to support snow removal operations, but which do not meet the dedicated snow removal vehicle definition (such as a loader without a special snow removal attachment), are exempt from the performance requirements in sections 2449(d), 2449.1, and 2449.2, but still must be labeled , reported, and meet the adding vehicle requirements in accordance with sections 2449(d)(6)(H), 2449(f), and 2449(g).
- (5) Use of Experimental Diesel Emission Control Strategies – If a fleet owner wishes to use an experimental, or non-verified, diesel emission control strategy, the owner must first obtain approval from the Executive Officer for a compliance extension. To obtain approval, the owner must demonstrate either that (A) a VDECS is not available or not feasible or not safe for their vehicle or application, or (B) that use of the non-verified strategy is needed to generate data to support verification of the strategy. The owner or operator shall keep documentation of this use in records as specified by the Executive Officer. The application must include emissions data and detailed control technology description demonstrating the experimental control achieves at least a Level 2 diesel PM emission reduction. If the application demonstrates that the strategy achieves at least 50 percent reductions in diesel PM, it may be treated like a Level 2 VDECS. If the application demonstrates that the strategy achieves at least 85 percent reductions in diesel PM, it may be treated like a Level 3 VDECS. If the application demonstrates that the strategy achieves a NOx reduction over 15 percent, the NOx reduction may be counted.

Upon approval by the Executive Officer, each vehicle engine with the experimental strategy will be allowed to operate for a specified time period necessary to make a determination that the experimental strategy can achieve the projected emissions reductions. The vehicle equipped

with the experimental strategy will be considered to be in compliance during the specified time period. A fleet owner who participates in an experimental diesel emission control program approved by the Executive Officer may retain carryover BACT credits actually accumulated during the experiment, regardless of whether the experiment achieved the projected emissions reductions or whether the strategy is eventually verified. If a strategy installed in an experimental diesel emission control program approved by the Executive Officer fails to be verified or is removed, it will no longer count in the fleet's fleet average calculations. The fleet owner must bring the fleet into compliance prior to the expiration of the experimental diesel emission control strategy extension.

- (6) Compliance Flexibility for Equipment Manufacturer or Installer Delays – A fleet owner who has purchased new equipment (including VDECS) or vehicles in order to comply with this regulation will be allowed to include the new vehicle in and remove the vehicle they plan to retire from their fleet average calculation, as well as continue operation of the vehicle they plan to retire, even if the vehicle does not meet the Tier phase-out requirements in section 2449.1(c), if the new equipment or vehicles have not been received due to manufacturing or installer delays and all the conditions below are met:
 - (A) The equipment or vehicle was purchased, or the fleet owner and seller had entered into contractual agreement for the purchase, at least 2 months prior to the required compliance date, or – for a VDECS purchased to replace a failed or damaged VDECS – the fleet owner and seller had entered into contractual agreement for the purchase within 60 days of the VDECS failure.
 - (B) Proof of purchase, such as a purchase order or signed contract for the sale, including engine specifications for each applicable piece of equipment or vehicle, must be maintained by the fleet owner and provided to an agent or employee of CARB upon request.
 - (C) The new equipment or vehicles are immediately placed into operation upon receipt, and any replaced vehicles are removed from service within 30 days.
 - (D) Documentation from the manufacturer or the installer that there is a delay, such that the equipment or vehicle will be received or installed after the compliance date.

- (E) The fleet owner must maintain proof of the date that the new vehicles were placed into service and proof of the date that any replaced vehicles were removed from service, and provide that proof to CARB upon request.
- (7) Exemption for Permanent and Year-by-year Low-Use Vehicles – Permanently designated and year-by-year low-use vehicles are exempt from the performance requirements in sections 2449(d)(3) through 2449(d)(5) and 2449(d)(7) through 2449(d)(9), 2449.1, and 2449.2(d), but still must meet the idling limits in section 2449(d)(2), be labeled and reported in accordance with sections 2449(f) and (g), and meet the Tier phase-out requirements in section 2449.1(c)(4). Permanent and year-by-year low-use vehicles need not be included when calculating fleet average indices or target rates, when determining fleet size, or when calculating the required hp for the BACT requirements in section 2449.1(b). The year-by-year low-use option sunsets on January 1, 2024, meaning no vehicle will be considered a year-by-year low-use vehicle on or after January 1, 2024.

Vehicles that formerly met the permanent low-use vehicle definition, but whose use increases to 200 hours per year or greater must meet the adding vehicles requirements in section 2449(d)(6) and be included in the fleet average calculation by the next compliance date. For example, a formerly designated permanent low-use engine that exceeds 200 hours per year between January 1, 2015 and December 31, 2015 must be included in the fleet average indices and target rates reported in 2016, and must also meet the adding vehicle requirements for that year. Vehicles that formerly met the year-by-year low-use vehicle definition, but whose use increases to 200 hours per year or greater do not have to meet the adding vehicles requirements in section 2449(d)(6), but must be included in the fleet average calculations by the next compliance date.

- (8) VDECS That Impairs Safe Operation of Vehicle – A fleet owner may request that the Executive Officer find that a VDECS shall not be considered the highest level VDECS available because (A) it cannot be safely installed or operated in a particular vehicle application, or (B) its use would make compliance with federal or state requirements for safety or health, or an ongoing local air district permit condition, such as for use of a diesel oxidation catalyst, technologically infeasible. If a VDECS manufacturer states that there is no safe or appropriate method of mounting its VDECS on the requesting party's vehicle, then the VDECS will not be considered safe. The Executive Officer shall accept the official findings of the responsible federal or state agency (i.e., the federal or

state agency that promulgates safety requirements) that compliance with the requirements of this regulation would make compliance with the federal and state safety or health requirements technologically infeasible. In the absence of such a declaration by the VDECS manufacturer or official findings of a responsible federal or state agency, the requesting party shall provide other documentation to support its claims. Documentation must include published reports and other findings of federal, state or local government agencies, independent testing laboratories, engine or equipment manufacturers, or other equally reliable sources. The request will only be approved if the requesting party has made a thorough effort to find a safe method for installing and operating the VDECS, including considering the use of mirrors, various locations for VDECS mounting, and use of an actively regenerated VDECS. The Executive Officer shall review the documentation submitted and any other reliable information that he or she wishes to consider and shall make his or her determination based upon the totality of the evidence. Upon finding that a VDECS cannot be installed without violating the safety standards prescribed under federal or state requirements for safety or health, the Executive Officer shall issue a determination that there is no highest level VDECS available. The Executive Officer shall inform the requesting party, in writing, of his or her determination, within 60 days of receipt of the request. Parties may appeal the Executive Officer's determination as described in (A) and (B) below. During the appeal process described in (A) and (B) below, the requesting party may request the administrative law judge to stay compliance until a final decision is issued. If the stay is granted and the Executive Officer denies the requesting party's request, the requesting party has 6 months from the date of the Executive Officer's final written decision to bring his or her fleet back into compliance.

(A) Appeals – Hearing Procedures –

Any party whose request has been denied may request a hearing pursuant to California Code of Regulations, title 17, section 60055.1 et seq.

- (9) Compliance Flexibility for Delays in Availability of Tier 3 or Tier 4 Vehicles – If the Executive Officer finds that there is a delay in availability of vehicles with engines meeting the Tier 3 or Tier 4 interim or final emission standards so that vehicles with Tier 3 or Tier 4 interim or final engines to meet a fleet's needs are not available or not available in sufficient numbers or in a sufficient range of makes, models, and sizes, then the Executive Officer may grant an extension to the fleet from the

requirements in section 2449.1 and the requirements in sections 2449(d)(6)(E) and 2449(d)(6)(F). If such a delay affects a group of fleets, the Executive Officer may issue an extension to all fleets with similar characteristics. Any such delay must be documented based on verifiable information from the fleet regarding its vehicle needs and/or verifiable information from the equipment manufacturer, engine manufacturer, distributor, and/or dealer regarding the unavailability of appropriate vehicles with Tier 3 or Tier 4 interim or final engines.

- (10) Exemption for Vehicles Awaiting Sale – Vehicles in the possession of dealers, financing companies, or other entities who do not intend to operate the vehicle or offer the vehicle for hire, that are operated only to demonstrate functionality to potential buyers, to move short distances while awaiting sale, or for maintenance purposes are exempt from the requirements in sections 2449, 2449.1, and 2449.2, but must meet the sales disclosure requirements in section 2449(l).
- (11) Exemption for Vehicle Used Over Half the Time for Agriculture – A vehicle that is used by its owner for agricultural operations for over half of its annual operating hours but that is not used exclusively for agricultural operations is exempt from the performance requirements in section 2449(d), 2449.1, and 2449.2, but still must be labeled and reported in accordance with sections 2449(f) and (g). Vehicles used exclusively for agricultural operations are completely exempt from the performance, labeling, and reporting requirements. A vehicle that is rented or leased for use by others is exempt only if it is exclusively used for agricultural operations.
- (12) Exemption for Vehicles Used Solely on San Nicolas or San Clemente Islands – Vehicles used solely on San Nicolas or San Clemente Islands are exempt from all requirements in section 2449, 2449.1, and 2449.2. If the land use plans for the islands are changed to allow use by the general public of the islands, this exemption shall no longer be applicable.
- (13) Exemption for Job Corps Vehicles – Vehicles used by the Job Corps nonprofit apprenticeship training program are exempt from the performance requirements in sections 2449(d), 2449.1, and 2449.2 but still must be labeled, reported, meet the adding vehicle requirements, and meet the Tier phase-out requirements in accordance with sections 2449(d)(6)(H), 2449(f), 2449(g), and 2449.1(c)(4).
- (14) Two-Engine Vehicles – For purposes of the rounding provisions in section 2449.1(b)(5), if a two-engine vehicle is subject to this regulation, under

section 2449(b), neither engine in the two-engine vehicle is required to be turned over until the hp required to be turned over under section 2449.1(b) is at least half the sum of the max hp of the primary and auxiliary engine in the two-engine vehicle. For purposes of the Tier phase-out provisions in section 2449.1(c), the vehicle cannot operate in California if either of the vehicle's engines do not comply with the Tier phase-out schedule outlined in section 2449.1(c).

- (15) On-road Registered Vehicles with Off-road Engines – If a workover rig or other on-road registered vehicle subject to this regulation with an off-road engine is repowered and will be registered and driven on-road, it must be repowered with an on-road certified engine of the same model year or newer as the engine being replaced.
- (16) Fleets with 500 hp or less – Fleets with 500 hp or less total max hp may meet the optional compliance schedule listed below in Table 1 instead of the small fleet requirements in 2449.1(a)(2) and 2449.1(b). This percent of engine hp must be met or exceeded, and the rounding provisions in section 2449.1(b)(5) do not apply. For compliance with this section, all vehicles in the fleet must be included; no vehicles qualify for the exemptions listed in section 2449(e).

Table 1 – Optional Compliance Schedule for Fleets with 500 HP or Less

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

Fleets with 500 hp or less may choose to comply with either the above optional compliance schedule or the small fleet requirements. If the fleet alternates from the BACT schedule to the optional compliance path above, the fleet must comply with the most recent past requirements of the optional compliance schedule. For example, a fleet switching to the optional compliance schedule above in 2025 must meet the 2022 requirements of the optional compliance schedule immediately upon switching to the optional compliance schedule. A fleet switching to the fleet average or BACT requirements from the optional compliance

schedule must begin meeting the fleet average or BACT requirements for small fleets on the next compliance date for small fleets. If a fleet grows larger than 500 hp, that fleet must begin meeting the fleet average or BACT requirements for small fleets on the next compliance date for the applicable fleet size category.

Fleets with 500 hp or less may meet the Tier 2 phase-out requirements in section 2449.1(c)(5) instead of the small fleet Tier 2 phase-out requirements in section 2449.1(c)(3)(C).

Fleets with 500 hp or less may meet the Tier 4 interim vehicle adding requirements in section 2449(d)(6)(F) instead of the small fleet Tier 4 interim vehicle adding requirements in section 2449(d)(6)(E).

- (17) Public Incentive funds for purchases, repowers, or retrofits – Notwithstanding sections 2449, 2449.1 and 2449.2, the purchase of a replacement vehicle, repower, or a retrofit with public incentive funds shall be counted toward the fleet average or BACT requirements in accordance with funding program guidelines applicable to the particular source of public incentive funds used for the purchase. This may in some cases limit credit to single rather than double credit.

(f) Labeling

- (1) All vehicles with engines subject to this regulation must be labeled with an EIN. Electric and alternative fuel vehicles, stationary or portable systems, and gasoline-powered vehicles used to replace diesel vehicles under section 2449(d)(1) must also be labeled with an CARB-issued EIN. CARB will issue a unique EIN to the fleet owner for each vehicle subject to the regulation in response to the initial reporting described in section 2449(g)(1) and, for vehicles added in the 30 days before the annual reporting date, the annual reporting described in section 2449(g)(2). Vehicles with 2 engines that provide motive power will receive 2 EINs. Vehicles with 2 engines where one provides motive power and the other is an auxiliary engine will receive 1 EIN. All owners of vehicles subject to the regulation must comply with the following labeling requirements.
 - (A) Application for EIN for added vehicle – Notwithstanding the requirements for vehicles used for emergency operations in section 2449(e)(3), if a fleet owner adds a vehicle to his California fleet or brings a vehicle into California from outside the State, the fleet owner has 30 days from the date of purchase or the date the vehicle enters California to apply to CARB for an EIN or, if the

vehicle already has an EIN, to inform CARB of the purchase using forms approved by the Executive Officer for submittal of required reporting information. If the reporting date under section 2449(g)(2) occurs before 30 days after purchase, the annual reporting may serve as the application for an EIN.

Applications for an equipment identification number shall be submitted electronically per the guidelines approved by the Executive Officer for electronic data reporting, or mailed to CARB at the address listed immediately below:

California Air Resources Board

Mobile Source Control Division (In-Use Off-road Diesel)

P.O. Box 2815

Sacramento, CA 95812.

- (B) Affixing Equipment Identification Number – Within 30 days of receipt of the CARB-issued EIN, fleet owners shall permanently affix or paint the EIN(s) on the vehicle in clear view according to the following specification:
1. The EIN shall be white on a red background, unless the vehicle is part of a captive attainment area fleet, in which case the EIN shall be white on a green background.
 2. The EIN shall be located in clear view on both sides of the outside of the vehicle approximately 5 feet above the ground, or, if the vehicle is not 5 feet tall, lower on the vehicle.
 3. Each character shall be at least 3 inches (7.6 centimeters) in height and 1.5 inches (3.8 centimeters) in width.
 4. The EIN shall be maintained in a manner that retains its legibility for the entire life of the vehicle.
 5. Vehicles reported to CARB prior to January 1, 2013, may apply a label to the right (starboard) side of the vehicle only, except that the vehicle must have an identical EIN label placed on the left (port) side of the vehicle before January 1, 2013.

6. Vehicles that are part of a captive attainment area fleet and reported to CARB prior to January 1, 2013, may be labeled with an EIN that is in white on a red background, except that the vehicle must have the EIN label replaced by one displaying white on a green background, on each side of the vehicle, before January 1, 2013.
- (2) Emission Control Label – If a fleet observes that the emission control label is no longer visible or readable for any reason, the fleet must contact the manufacturer within 10 days and request a replacement emission control label be affixed by the manufacturer. If the manufacturer is unable to affix the label within 30 days of the fleet’s request, then the fleet must request a replacement emission control label be sent to the fleet. Once the fleet receives the replacement label, the fleet must immediately affix the label to a location in accordance with title 13, CCR, section 2424(c)(1)(B), (c)(2), or (c)(3), as applicable, and such that the label is readily visible, as defined in title 13, CCR, section 2424(e).
- (g) Reporting
- Reporting is required for each and every fleet. Large and medium fleets may report separately for different divisions or subsidiaries of a given company or agency. Fleet owners may submit reporting information using forms (paper or electronic) approved by the Executive Officer.
- All information and documentation submitted to CARB under section 2449(g) is deemed to be submitted under the penalty of perjury.
- (1) Initial reporting – All fleet owners must submit the information in section 2449(g)(1)(A) through (H) to CARB by their initial reporting date. In the initial reporting, fleet owners must report information regarding each vehicle subject to this regulation that was in their fleet on March 1, 2009. Systems or non-diesel fueled vehicles that are used in place of a vehicle that would be subject to this regulation must also be reported. The initial reporting date for large fleets is April 1, 2009. The initial reporting date for medium fleets is June 1, 2009. The initial reporting date for small fleets is August 1, 2009. Notwithstanding the aforementioned reporting dates, the initial reporting date for two-engine vehicles is March 1, 2012. Reports must include the following information:
 - (A) Fleet Owner –
 1. Fleet owner’s name;

2. Corporate parent name (if applicable);
3. Corporate parent Federal Employer Identification Number (if applicable);
4. Company Federal Employer Identification Number;
5. Address;
6. The Responsible official's name;
7. The Responsible official's job title;
8. Contact name;
9. Contact phone number;
10. Contact email address (if available);
11. Whether the fleet owner is a low population county local municipality fleet;
12. Whether the fleet owner has an approval from the Executive Officer to be treated as if in a low-population county;
13. Whether the fleet owner is a non-profit training center;
14. Whether the fleet has an idling policy documented and available to employees;
15. Whether the fleet is using a fuel-based strategy as an emissions control strategy;
16. Whether the fleet is a captive attainment area fleet.

(B) Vehicle List – A list of each vehicle subject to this regulation along with the following information for each vehicle:

1. Vehicle type;
2. Vehicle manufacturer;
3. Vehicle model;
4. Vehicle model year;

5. Vehicle serial number (i.e., for workover rigs and on-road two-engine vehicles, vehicle identification number);
6. Whether the vehicle is a permanent or year-by-year low-use vehicle;
7. If the vehicle is a permanent or year-by-year low-use vehicle, whether the vehicle was operated outside of California during the previous compliance year;
8. Whether the vehicle is a specialty vehicle;
9. Whether the vehicle is a vehicle used solely for emergency operations;
10. Whether the vehicle is a dedicated snow removal vehicle;
11. Whether the vehicle is used for agricultural operations for over half of its annual operating hours;
12. Whether the vehicle is an electric vehicle that replaced a diesel vehicle;
13. Whether the vehicle has had a VDECS installed, or been repowered, or replaced with Surplus Off-road Opt-in for NOx program funding and, if so, the start and end dates of the contract period;
14. Whether the vehicle has had a VDECS installed, or been repowered, or replaced with Carl Moyer program funding;
15. Whether the vehicle has had a VDECS installed through a demonstration program, and - if so - which program;
16. EIN if it has already been assigned;
17. License plate number, if vehicle has a license plate;
18. Whether the vehicle has a VDECS safety exemption per section 2449(e)(8);
19. Whether the vehicle is exempt from the BACT requirements per section 2449.1(b)(2)(E) for the early installation of a highest level PM VDECS.

- (C) Engines - For each engine that powers a vehicle listed per section 2449(g)(1)(B), or is an auxiliary engine in a two-engine vehicle that is subject to this regulation per section 2449(b), report the following information.
1. Engine manufacturer;
 2. Engine model;
 3. Engine family (if any);
 4. Engine serial number;
 5. Engine model year;
 6. Engine max hp;
 7. Engine displacement;
 8. Whether the engine is a repower and – if so – date repowered;
 9. Whether the engine is a flexibility engine;
 10. Whether the engine is certified to on-road standards, or an engine certified by CARB or U.S. Environmental Protection Agency to a lower emission standard than shown in Appendix A, the emission standard to which the engine is certified and the certification Executive Order or certificate number;
 11. Whether the engine has been rebuilt and – if so – date of rebuild, name of the entity that performed the rebuild, and, if known, the tier or emission level of the replacement engine.
- (D) Verified Diesel Emission Control Strategies – For each VDECS that is installed on an engine listed per section 2449(g)(1)(C) report the following information.
1. VDECS manufacturer;
 2. VDECS family;
 3. Verification level;

4. Verified percent NO_x reduction (if any);
 5. Date installed;
 6. VDECS serial number.
- (E) Non-Diesel Vehicle Used in Place of a Diesel Vehicle – For each electric, zero-emission, alternative fueled, or gasoline fueled vehicle, report the information listed in sections 2449(g)(1)(B)1. through 2449(g)(1)(B)5., section 2449(g)(1)(B)12., and sections 2449(g)(1)(C)1. through 2449(g)(1)(C)6. as well as
1. Date purchased;
 2. If the vehicle replaced a diesel vehicle in the fleet, the hp of the diesel vehicle replaced and the date replaced;
 3. If not electric, the emission factor;
- (F) Stationary or Portable Systems Used in Place of a Diesel Vehicle – For stationary or portable systems that are used in place of a diesel vehicle, report the following information:
1. Description of the system;
 2. Type and number of vehicles that would otherwise be used;
 3. Hp of the vehicle(s) that would otherwise be used;
- (G) Credit for Early Actions – Fleet owners claiming credit for early action must report information required under sections 2449(g)(1)(B)1. through 2449(g)(1)(B)5. and sections 2449(g)(1)(C)1. through 2449(g)(1)(C)6. for each vehicle for which credit is claimed. As appropriate, the following information must also be reported:
1. For each vehicle within the fleet that was repowered with a Tier 1 or newer engine prior to March 1, 2009, the date of repower;
 2. For each vehicle within the fleet that had the highest level PM VDECS installed prior to March 1, 2009, the date of installation and whether Carl Moyer Incentive Program funding was used to pay for the VDECS;

3. Fleet owners claiming early credit for retirement or replacement of any vehicles under section 2449.1(b)(14) or 2449.1(b)(16) must report information on each and every vehicle within the fleet between March 1, 2006, and March 1, 2010, as required under sections 2449(g)(1)(B)1. through 2449(g)(1)(B)5. and sections 2449(g)(1)(C)1. through 2449(g)(1)(C)6. as well as the date of any purchase and/or retirement between March 1, 2006 and March 1, 2010.
- (H) Equipment Purchased, Repowered, Retrofitted, or Otherwise Funded or Partially Funded Using Public Incentive Funds – For owners of equipment or vehicles that were purchased, repowered or retrofitted using public incentive funds, and where funding program guidelines or contracts include criteria that limit funded projects from receiving regulatory benefit or credit, in addition to the information provided in sections 2449(g)(1)(A) through (D), the fleet owner must provide the following information for each vehicle:
1. Date the public incentive funding contract term began;
 2. Date the public incentive funding contract term ends;
 3. Program providing the funding; and
 4. Contract terms specifying the limitations for receiving regulatory benefit or credits for the funded equipment.
- (2) Annual Reporting and Responsible Official Affirmation of Reporting – All fleet owners must review and update the information submitted under section 2449(g)(1) annually, and submit the information in section 2449(g)(2)(A) through (C) to CARB by the reporting date of each subsequent reporting year. The reporting date for all fleets is March 1. Fleet owners must report information regarding each vehicle subject to this regulation as it was on December 31 of the year prior to the reporting year (for example, by March 1, 2018, fleets must report each vehicle as it was at the end of the day on December 31, 2017). Large fleets must report annually each year from 2012 to 2036. Medium fleets must report annually each year 2016 to 2036. Small fleets must report annually each year from 2018 to 2036. Any fleet that fails to meet the fleet average target rate for the final target date in section 2449.1(a) must continue to report annually each year until it does so. Any fleet that

operates permanent or year-by-year low-use vehicles must continue to report annually for each permanent or year-by-year low-use vehicle for as long as the fleet owns or operates the vehicle. Fleets may use forms (paper or electronic) approved by the Executive Officer for submittal of the required reporting information and alterations to any pre-printed information on any form will be invalid and will not be considered to have any effect if submitted.

- (A) Responsible Official Affirmation of Reporting – Each year that annual reporting is required, a fleet shall submit to CARB an affirmation, signed by a responsible official or a designated official that the information reported is accurate and that the fleet is in compliance with the regulation. The affirmation must be submitted on a form (paper or electronic) approved by the Executive Officer. If a designated official signs the affirmation of reporting, a written statement signed by the responsible official designating the designated official must be attached to the affirmation of reporting and submitted to CARB. This written statement designating the designated official must only be attached the first time a particular designated official signs the affirmation of reporting. If a different designated official is appointed at a later time, another written statement signed by the responsible official designating the new designated official must be submitted. If the fleet is a captive attainment area fleet, the affirmation must certify that the fleet's vehicles did not operate outside the counties listed in 2449(c)(6) in the prior year. If the responsible official or designated official is the same for several fleets or fleet portions, the responsible official or designated official has the option of submitting a single affirmation for all of the fleets or fleet portions, as long as the single affirmation appropriately identifies each fleet covered by the affirmation.
- (B) Changes Since Last Reporting – If any information reported per section 2449(g)(1) has changed since either the initial or last annual report filed with CARB, the fleet owner must, in its next annual report, identify such changes. Such changes include vehicles removed from the fleet, vehicles added to the fleet through purchase or by bringing into California, vehicles newly designated as permanent or year-by-year low-use or specialty vehicles, repowers, VDECS installed, and VDECS removed. If there are no changes, the fleet shall indicate that there have been no changes since the last report.

- (C) Engine Hour Meter Readings – Engine hour meter readings must be reported for each engine in the cases described in sections 2449(g)(2)(C)1., 2449(g)(2)(C)2., 2449(g)(2)(C)3., and 2449(g)(2)(C)4. below. A date stamped photograph of the engine hour meter at the time of the reading being gathered for reporting must be documented and maintained in accordance with the recordkeeping requirements in section 2449(h). If a fleet does not have access to a camera or if security protocols related to military operations prevent the use of a camera, the fleet must create a written log of the reading, which must include the EIN, hour meter reading, signature and date from the day that the hour meter reading was gathered for reporting can be used as documentation in place of a date stamped photograph; said log must also be maintained in accordance with the recordkeeping requirements in section 2449(h).

1. Year-by-Year Low-Use Vehicles Reporting Requirements

- a. For vehicles that fleet owners intend to designate as year-by-year low-use, report two engine hour meter readings, one from on or before January 1 of the prior year and one from on or after December 31 of the prior year, and the dates of reading. If using the three-year rolling average definition of year-by-year low-use, report two hour meter readings, one from on or before January 1 of the first year of the three year period and one from on or after December 31 of the third year.
- b. The year-by-year low-use option sunsets on January 1, 2024 meaning no year-by-year low-use vehicle reporting will be permitted on or after January 1, 2024.

2. Permanent Low-Use Vehicles Reporting Requirements

- a. For vehicles that fleet owners intend to designate as permanent low-use vehicles, report one engine hour meter reading that is taken within 30 days of January 1 of the current year. For each year thereafter, report the engine hour meter reading that is taken within 30 days of December 31 of the prior year. For vehicles for which fleet owners intend to use the three-year

rolling average definition of permanent low-use, fleets must report two hour meter readings: one that is taken within 30 days of January 1 of the first year of the three-year period, and one that is taken within 30 days of December 31 of the third year of the three-year period.

3. Other Low-Use Reporting Requirements

- a. Permanent and year-by-year low-use vehicles used in emergency operations must report the total hours used in emergency operations. Additionally, for vehicles designated as permanent or year-by-year low-use that operate both inside and outside California, the fleet owner shall submit a log that contains the following information.
 - i. Each date the vehicle entered California and the hour meter reading upon entry;
 - ii. Each date the vehicle exited California and the hour meter reading upon exit.
- b. If a vehicle hour meter on a permanent or year-by-year low-use vehicle in a fleet is replaced or altered in any way, the respective fleet must notify CARB of the replacement or changes made during the following engine hour reporting period and must continue to comply with all low-use hour reporting requirements in section 2449(g)(2)(C). Reporting of replacements or changes must include the hour meter replacement and/or change date, the hour meter reading of the replaced meter on the date of replacement before the replacement and/or change, and the hour meter reading of the replacement and/or changed meter at the time of reporting.

4. Agricultural Operations Reporting Requirements

- a. For vehicles that are used in agricultural operations, the fleet owner shall report two engine hour meter readings, one from on or before January 1 of the prior year and one from on or after December 31 of the prior year, and the dates of such readings. Also

the fleet owner shall report the total number of hours the vehicle has been used in non-agricultural use.

- (D) Renewable Diesel Use Reporting –Beginning January 1, 2024, in each year that annual reporting is required, a fleet shall submit to CARB an affirmation signed by its responsible official or designated official that the fleet complied with the performance requirements outlined in section 2449.1(f).
- (3) New Fleet Reporting – New fleets must submit the information in section 2449(g)(1)(A) through (H) to CARB for vehicles subject to the regulation within 30 days of purchase or bringing such vehicles into the State. Beginning the first January 1 that is more than 30 days after the date of purchase or bringing a vehicle into the State, new fleets must comply with the annual reporting requirements in section 2449(g)(2).
- (4) Selling Vehicles – Any person selling a vehicle with an engine subject to this regulation in California must notify CARB within 30 days from the date the vehicle was sold. If the reporting date under section 2449(g)(2) occurs within 30 days of the vehicle being sold, the annual reporting may serve as the notification to CARB that the vehicle was sold.
- (5) Renewable Diesel –
 - (A) Fleets that use the exemption described in section 2449.1(f)(2)(C) must report to CARB the location of the fleet or fleet operations, the 10th percentile minimum ambient air low temperature in January for that location, and the volumes of renewable diesel and volumes of low temperature-specific diesel procured and used during October, November, December, January, and February, including composition, if known, by April 30 after each period the exemption is used. To determine the 10th percentile minimum ambient air low temperature, fleets may use public or private weather station data and may use historical low temperature data from the 10 years prior to the fleet requesting the use of this provision and the 10th percentile is the value below which 10 percent of the data, when sorted, fall. The fleet must submit this report to CARB by mail to CARB at the address listed immediately below, or electronically submitted to the DOORS@arb.ca.gov email address:

California Air Resources Board
Mobile Source Control Division (In-Use Off-Road Diesel)

P.O. Box 2815
Sacramento, CA 95812

- (B) Fleets that use the exemption described in section 2449.1(f)(2)(D) must report to CARB, within two weeks of the end of such use, the location of the fleet or fleet operations, the volumes of renewable diesel and volumes of low temperature-specific diesel, and records of the high and low temperatures for each day the low temperature-specific diesel is used. Records of temperature forecasts must include either a printout or screenshot that includes the date and data source. If the screenshot does not include the date and data source, the screenshot must include metadata. The fleet must submit this report to CARB by mail to CARB at the address listed immediately below or electronically submitted to the DOORS@arb.ca.gov email address:

California Air Resources Board
Mobile Source Control Division (In-Use Off-Road Diesel)
P.O. Box 2815
Sacramento, CA 95812

(h) Record Keeping

Fleet owners must maintain copies of the information reported under section 2449(g), as well as the records described in section 2449(h) below, and provide them to an agent or employee of CARB within five business days upon request. Records must be kept at a location within the State of California.

- (1) Changes Since Last Reporting Period – Documentation of any additions, deletions, or changes to the fleet since the last reporting. Documentation may include bills of sale, purchase orders, or other documentation.
- (2) Vehicles Not Yet Labeled – For newly purchased or acquired vehicles or vehicles recently brought into the State that have not yet been labeled per section 2449(f)(2), records must be kept of the vehicle purchase date or the date the vehicle entered the State.
- (3) Engines Rebuilt to a More Stringent Emissions Configuration – Records of engines that are rebuilt to a more stringent emissions configuration in accordance with Title 40, CFR, Part 89.130 and Part 1068.120 must be kept as long as the engine remains in operation. For a fleet to claim credit for rebuild to a more stringent emissions configuration of a Tier 1 engine rated at or above 37 kW that is exempt from the requirements in Title 40, CFR, Part 89.130 and title 13, CCR, section 2423(l), the Tier 1

engine must be rebuilt in accordance with the rebuild practices of those sections and the fleet must keep the records that would have been required if the engine were not exempt from those requirements.

Records must include the following information:

- (A) The name of the company that performed the rebuild, address, contact name, and contact phone number for that company;
 - (B) An invoice, or proof of purchase of the engine rebuild;
 - (C) The date(s) the engine upgrade was performed;
 - (D) All records required under Title 40, CFR, Part 1068.120 or, for engines exempt from Title 40, CFR, Part 1068.120, the records that would be required if the engine were not exempt;
 - (E) All records required under title 13, CCR, section 2423(l) or, for engines exempt from 13, CCR, section 2423(l), the records that would be required if the engine were not exempt.
- (4) VDECS Failure – Records of any VDECS failure and replacement.
 - (5) VDECS Removal – Records of any VDECS removed from a vehicle, including the date and reason for removal.
 - (6) VDECS Serial Numbers – Records of the serial numbers of the VDECS installed on each vehicle.
 - (7) Manufacturer Delay – For any vehicles or VDECS for which the fleet owner is utilizing the equipment manufacturer delay provision in section 2449(e)(6), proof of purchase, such as a purchase order or signed contract for the sale, including engine specifications for each applicable piece of equipment or vehicle.
 - (8) Records Pertaining to Executive Officer Approval – Records of Executive Officer approval of any of the following:
 - (A) A waiver to allow additional idling in excess of five consecutive minutes;
 - (B) Upon discontinuation of a fuel verified as a diesel emission control strategy, approval for up to two years additional time to come back into compliance with the applicable fleet average requirement;

- (C) A finding that a VDECS shall not be considered the highest level VDECS available due to safety concerns;
 - (D) Approval to use the max hp of a diesel vehicle that serves the same function as an electric vehicle;
 - (E) Approval of an alternative fuel vehicle emission standard;
 - (F) Approval of a vehicle designation as a specialty vehicle;
 - (G) Approval of an experimental diesel control strategy;
 - (H) Approval to grant an extension to the fleet from the requirements when Tier 3 or Tier 4 (interim or final) vehicles are not available;
 - (I) Approval to use a fuel strategy as an emissions control strategy as in section 2449(e)(2);
- (9) Credit for Early Retirement or Replacement – Each fleet owner that claims credit for the retirement or replacement of vehicles from March 1, 2006, to March 1, 2010, under sections 2449.1(b)(14) or 2449.1(b)(16) shall maintain records substantiating the fleet’s claim of previous ownership for those vehicles.
- (10) Renewable Diesel Recordkeeping – Each fleet must maintain documents that demonstrate compliance with the renewable diesel requirements outlined in section 2449.1(f). These documents must show the date and volumes of fuel purchased and could include receipts of fuel purchases, purchase orders, or fueling contracts. Each fleet owner shall maintain the records required under this provision for three calendar years from the date the transaction is completed.
- Fleets must also maintain records in accordance with section 2449.1(f)(3).
- (11) Record Retention – Each fleet owner shall maintain the records for each vehicle subject to the regulation and for the overall fleet as long as the owner has a fleet or until January 1, 2037, whichever is earlier. If vehicle ownership is transferred, the seller shall convey the vehicle records, including vehicle data under section 2449(g)(1)(B), engine data under section 2449(g)(1)(C), and VDECS data under section 2449(g)(1)(D), to the buyer. If fleet ownership is transferred, the seller shall convey the fleet records, including fleet data, under sections 2449(g)(1)(A) through (H) to the buyer. Any person selling a vehicle with an engine subject to this regulation in California must maintain records of the disclosure of

regulation applicability required by section 2449(l) for three years after the sale.

(i) Contracting Requirements

Beginning January 1, 2024, prime contractors and public works awarding bodies are subject to the requirements in section 2449(i)(1) – (4) below.

- (1) For a project involving the use of vehicles subject to this regulation, the prime contractor or public works awarding body, as applicable, must obtain copies of the valid Certificates of Reported Compliance, as described in section 2449(n), for the fleet selected for the contract and their listed subcontractors, if applicable, prior to entering into a new or renewed contract with that fleet.
- (2) No prime contractor or public works awarding body, as applicable, shall enter into a contract with a fleet for which it does not have a valid Certificates of Reported Compliance for the fleet and its listed subcontractors, if applicable, prior to entering into a new or renewed contract with that fleet.
- (3) The Certificates of Reported Compliance received by the prime contractor or public works awarding body, as applicable, for a project must be retained for three years after that project's completion. Upon request by CARB, these records must be provided to CARB within five business days of the request.
- (4) Situations in which prime contractors or public works awarding bodies, as applicable, are contracting for projects that are considered emergency operations, as defined in section 2449(c)(18), are exempt from the requirements in section 2449(i)(1)-(3), but must still retain records verifying vehicles subject to the regulation that are operating on the emergency operations project are actually being operated on the project for emergency operations only. These records must include a description of the emergency, the address or a description of the specific location of the emergency, the dates on which the emergency operations were performed, and an attestation by the fleet that the vehicles are operated on the project for emergency operations only.

(j) Prime Contractor Requirements

Beginning January 1, 2024, prime contractors are also subject to the requirements described in section 2449(j)(1) – (2) below, in addition to the contracting requirements in section 2449(i).

- (1) Between March 1 and June 1 of each year, a prime contractor must collect new valid Certificates of Reported Compliance for the current compliance year, as defined in section 2449(n), from all fleets that have an ongoing contract with the prime contractor as of March 1 of that year. Prime contractors must not write contracts to evade this requirement.
- (2) Prime contractors shall only allow fleets with valid Certificates of Reported Compliance on the prime contractor's job sites.
- (3) If the prime contractor discovers that any fleet intending to operate vehicles subject to this regulation for the prime contractor does not have a valid Certificate of Reported Compliance, as defined in section 2449(n), or if the prime contractor observes any noncompliant vehicles subject to the regulation on the prime contractor's job site, then the prime contractor must report the following information to CARB at <https://calepacomplaints.secure.force.com/complaints/Complaint>, or email dieselcomplaints@arb.ca.gov, for each fleet without a valid Certificate of Reported Compliance or each noncompliant vehicle, as applicable, within 5 business days of such discovery:
 - (A) The date on which the prime contractor discovered the fleet's lack of a valid Certificate of Reported Compliance or observed the noncompliant vehicle,
 - (B) The fleet's Responsible Party name,
 - (C) The fleet's business address,
 - (D) The fleet's business email, if known,
 - (E) The fleet's business phone number, if known,
 - (F) The DOORS fleet ID number of the fleet, if known,
 - (G) The location of the job site on which the fleet or the noncompliant vehicle is operating or had operated, if applicable, and
 - (H) A statement specifying whether the fleet or vehicle is continuing to operate at the job site, if applicable.
- (4) Upon request by CARB, the prime contractor must immediately disclose to CARB the name and contact information of each responsible party for all vehicles subject to this regulation operating at the job site or for the prime contractor.

- (5) The prime contractor shall prominently display signage for any project where vehicles subject to this regulation will operate for eight calendar days or more. The signage must be posted by the eighth calendar day from which the first vehicle operates. The signage will be in lettering larger than size 14-point type and displayed in a conspicuous place where notices to employees are customarily posted at the job site or where there is employee foot traffic. If one of the above locations is also viewable by the public, it should be posted at that location. An exemption to this posting requirement is permitted if the operational time of a project is seven calendar days or less. The signage must include the following language, verbatim:

(A) "Who does the In-Use Off-Road Regulation Apply to?"

The In-Use Off-Road Diesel-Fueled Fleets Regulation (Off-Road Regulation) applies to all self-propelled off-road diesel vehicles 25 horsepower or greater and most two-engine vehicles (except on-road two-engine sweepers) owned or operated in California. This includes vehicles that are rented or leased (rental or leased fleets)."

(B) "In-Use Off-Road Regulation Requirements

Idling Limit: Vehicles cannot idle longer than 5 minutes. There are exceptions for vehicles that need to idle to perform work.

Labeling: Vehicles must be labeled with a CARB assigned equipment identification number (EIN). The EIN shall be white on a red background, unless the vehicle is part of a captive attainment area fleet, in which case the EIN shall be white on a green background.

The EIN shall be located in clear view on both sides of the outside of the vehicle."

(C) "How to Report Observed Noncompliance

If you have information regarding possible violations of the In-use Off-road Diesel Regulation, fill out a complaint form at <https://calepacomplaints.secure.force.com/complaints/Complaint>, or email dieselcomplaints@arb.ca.gov the following information:

1. The name of the party that is responsible for the vehicle that was observed to be noncompliant;

2. The Business's name;
3. The job site location (including address, city, and Zip, or coordinates);
4. The following information for the vehicle you observed to be noncompliant:
 - a. EIN, if observed,
 - b. A description of the vehicle type if the EIN is unknown, and
 - c. Photos of the vehicle, where possible; and
5. A description of the noncompliance you observed."

(D) "For more information on the Off-Road Regulation, including Fact Sheets, Frequently Asked Questions (FAQs), and DOORS User Guides, please visit the Off-Road Zone at <http://arb.ca.gov/offroadzone>."

(k) Right of Entry

For the purpose of inspecting off-road vehicles and their records to determine compliance with these regulations, an agent or employee of CARB, upon presentation of proper credentials, has the right to enter any facility (with any necessary safety clearances) where off-road vehicles are located or off-road vehicle records are kept.

(l) Disclosure of Regulation Applicability

Any person selling a vehicle with an engine subject to this regulation in California must provide the following disclosure in writing to the buyer on the bill of sale, "When operated in California, any off-road diesel vehicle may be subject to the California Air Resources Board In-Use Off-road Diesel Vehicle Regulation. It therefore could be subject to retrofit or accelerated turnover requirements to reduce emissions of air pollutants. For more information, please visit the California Air Resources Board website at <http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm>."

(m) Penalties

Any person who fails to comply with the performance requirements of this regulation, who fails to submit any information, report, or statement required

by this regulation, or who knowingly submits any false statement or representation in any application, report, statement, or other document filed, maintained, or used for the purposes of compliance with this regulation may be subject to civil or criminal penalties under sections 39674, 39675, 42400, 42400.1, 42400.2, 42400.3.5, 42402, 42402.1, 42402.2, 42402.4, 42403, 43016, 43027, 43028, 43029, and 43030 of the Health and Safety Code. In assessing penalties, the Executive Officer will consider factors, including but not limited to the willfulness of the violation, the length of time of noncompliance, whether the fleet made an attempt to comply, and the magnitude of noncompliance.

(n) CARB Certificate of Reported Compliance

After the initial reporting required by section 2449(g)(1) and the annual reporting and responsible official affirmation of reporting required by section 2449(g)(2) is received by CARB, if the report and affirmation indicates that the fleet is in compliance with the requirements of the Regulation for In-Use Off-Road Diesel-Fueled Fleets, CARB will provide the fleet with a Certificate of Reported Compliance with the Regulation for In-Use Off-Road Diesel-Fueled Fleets.

(o) Severability

If any subsection, paragraph, subparagraph, sentence, clause, phrase, or portion of section 2449, 2449.1, or 2449.2 of this regulation 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 the regulation.

NOTE: Authority cited: section(s) 39002, 39003, 39515, 39516, 39600, 39601, 39602, 39602.5, 39650, 39656, 39658, 39659, 39665, 39667, 39674, 39675, 39730.8(c), 40000, 41511, 42400, 42400.1, 42400.2, 42400.3.5, 42402, 42402.1, 42402.2, 42402.4, 42403, 43000, 43000.5, 43013, 43016, 43018, 43018.2, and 43600, Health and Safety Code; and section 11400.20, Government Code. Reference: section(s) 39000, 39002, 39003, 39515, 39516, 39600, 39601, 39602, 39602.5, 39650, 39656, 39657, 39658, 39659, 39665, 39667, 39674, 39675, 39730.8(c), 40000, 41511, 42400, 42400.1, 42400.2, 42402.2, 43000, 43000.5, 43013, 43016, 43018, 43018.2, 43600, 43865, and 43866, Health and Safety Code; and section 11400.20, Government Code.

§ 2449.1. Performance Requirements.

Each fleet must meet the fleet average requirements in this section before January 1 of each year or demonstrate that it met the BACT requirements as described in section 2449.1(b).

Each fleet must meet all applicable tier phase out requirements described in section 2449.1(c) beginning January 1, 2024, and must meet the renewable diesel requirements described in section 2449.1(f) beginning January 1, 2024.

Captive attainment area fleets, and fleets owned by non-profit training centers or low-population county local municipalities are subject to the small fleet requirements, even if their total max hp exceeds 2,500 hp. Section 2449(d)(3) describes requirements for fleets that change size.

(a) Fleet Average Requirements

For each compliance date, a fleet must demonstrate that its fleet average index was less than or equal to the calculated fleet average target rate.

The equation for calculating fleet average target rate is below:

Fleet average target rate = [SUM of (max hp for each engine in fleet multiplied by the target for each engine in fleet) for all engines in fleet] divided by [SUM of (max hp) for all engines in fleet] where the target in g/bhp-hr is shown in Tables 3 and 4 below. To find the target for each engine, read the value for the appropriate row based on the compliance year and the appropriate column based on the engine's max hp from Table 3 for medium and large fleets, and Table 4 for small fleets.

The equation for calculating fleet average index is below:

Fleet average index = [SUM of (max hp for each engine in fleet multiplied by emission factor multiplied by the VDECS Factor for each engine in fleet) for all engines in fleet] divided by [SUM of (max hp) for all engines in fleet] where emission factor in g/bhp-hr is shown in Appendix A, and the VDECS factor is shown in Table 2 below.

Table 2 – VDECS Factor

VDECS	VDECS Factor
No VDECS Installed or Level 1 VDECS	1
Level 2 PM VDECS, not highest level	0.82
Level 2 PM VDECS, not highest level, with NO _x Reduction	1 Minus (0.18 + (Verified Percent NO _x Reduction Divided by 170))
Highest Level PM VDECS	0.7
Highest Level PM VDECS with NO _x Reduction	1 Minus (0.3 + (Verified Percent NO _x Reduction Divided by 170))
NO _x Reduction only	1 Minus (Verified Percent NO _x Reduction Divided by 170)

- (1) Fleet Average Targets for Large and Medium Fleets – Table 3 shows the targets used to calculate the fleet average target rate for each compliance date for large and medium fleets.

Table 3 – Large and Medium Fleet Targets for Each Max Hp Group For Use in Calculating Fleet Average Target Rates [g/bhp-hr]

Compliance Date: January 1 of Year	25-49 hp	50-74 hp	75-99 hp	100-174 hp	175-299 hp	300-599 hp	600-750 hp	>750 hp
2014 (Large Fleets Only)	5.8	6.5	7.1	6.4	6.2	5.9	6.1	7.2
2015 (Large Fleets Only)	5.6	6.2	6.7	6	5.8	5.5	5.6	6.8
2016 (Large Fleets Only)	5.3	5.8	6.2	5.5	5.3	5.1	5.2	6.5
2017	5.0	5.4	5.5	4.9	4.7	4.5	4.6	6.0
2018	4.7	5.0	4.8	4.3	4.1	4.0	4.0	5.5
2019	4.4	4.6	4.1	3.7	3.5	3.4	3.4	5.0
2020	4.1	4.2	3.4	3.1	2.9	2.8	2.9	4.5
2021	3.8	3.8	2.7	2.5	2.3	2.2	2.3	4.0
2022	3.5	3.4	2.0	1.9	1.7	1.7	1.7	3.5
2023	3.3	3.0	1.4	1.3	1.5	1.5	1.5	3.4

- (2) Fleet Average Targets for Small Fleets – Table 4 shows the targets used to calculate the fleet average target rate for each compliance date for small fleets.

Table 4 – Small Fleet Targets for Each Max Hp Group For Use in Calculating Fleet Average Target Rates [g/bhp-hr]

Compliance Date: January 1 of Year	25-49 hp	50-74 hp	75-99 hp	100-174 hp	175-299 hp	300-599 hp	600-750 hp	>750 hp
2019	5.8	6.5	7.1	6.4	6.2	5.9	6.1	7.2
2020	5.6	6.2	6.7	6.0	5.8	5.5	5.6	6.8
2021	5.3	5.8	6.2	5.5	5.3	5.1	5.2	6.5
2022	5.0	5.4	5.5	4.9	4.7	4.5	4.6	6.0
2023	4.7	5.0	4.8	4.3	4.1	4.0	4.0	5.5
2024	4.4	4.6	4.1	3.7	3.5	3.4	3.4	5.0
2025	4.1	4.2	3.4	3.1	2.9	2.8	2.9	4.5
2026	3.8	3.8	2.7	2.5	2.3	2.2	2.3	4.0
2027	3.5	3.4	2.0	1.9	1.7	1.7	1.7	3.5
2028	3.3	3.0	1.4	1.3	1.5	1.5	1.5	3.5

(b) BACT Requirements

Each year, a fleet must determine if it will be able to meet the fleet average requirements in section 2449.1(a) for the next January 1 compliance date, and if not, it must meet the BACT requirements in section 2449.1(b)(1) below prior to the January 1 compliance date.

A fleet may meet the BACT requirements by performing turnover or installing VDECS as described in section 2449.1(b)(10) below. Vehicles exempt from the performance requirements under section 2449(e) cannot be used to generate BACT credits.

- (1) BACT Rate – If a fleet does not meet the fleet average target rate in section 2449.1(a), it must demonstrate that during the calendar year prior to the compliance date, it has earned the amount of BACT credit (in hp) necessary to meet or exceed the minimum BACT requirements specified for that compliance date. The minimum BACT requirements (in hp) for each compliance date equal:

(The BACT rate (percent shown below in (A) through (C) for the compliance date), multiplied by the total max hp of the fleet as reported on the previous reporting date)

For example, if a large fleet does not meet the January 1, 2014, fleet average target rate, the fleet must demonstrate that it had accumulated enough BACT credit between January 1, 2013 and December 31, 2013, to satisfy the BACT requirements for January 1, 2014. The BACT requirements for January 1, 2014, for a large fleet equals the BACT rate for that compliance date (4.8 percent for 2014, as shown below in subsection (A)) multiplied by the fleet's max hp as reported by the previous reporting date, March 1, 2013.

Any carryover BACT credit previously accrued may be applied towards the BACT requirements in a later year as specified in the sections below. The required BACT rate for each compliance date is described below in (A) through (C).

(A) Large fleets –

1. 2014: 4.8 percent
2. 2015 to 2017: 8 percent
3. 2018 to 2023: 10 percent

(B) Medium fleets –

1. 2017: 8 percent
2. 2018 to 2023: 10 percent

(C) Small fleets –

1. 2019 to 2028: 10 percent

- (2) Exemptions from BACT for Medium and Large Fleets – For medium and large fleets, a vehicle is exempt from the BACT requirements of section 2449.1(b)(1) if it qualifies for one or more of the exemptions set forth in section 2449(e) or meets one of the conditions listed in section (A) through (E) below. A fleet that does not meet the fleet average target in section 2449.1(a)(1) must meet the BACT requirements with the vehicles that do not qualify for an exemption under either section 2449(e) or this section, provided that nothing shall require a fleet to apply a VDECS to any vehicle. Where all of the vehicles in a fleet qualify for an exemption

under either this section or section 2449(e), the fleet is exempt from the BACT and fleet average requirements in that year. The exemptions set forth in this section do not lower the total max hp on which the BACT requirements are calculated.

- (A) On the compliance date, the vehicle is less than 10 years old from the date of manufacture.
- (B) The vehicle meets all of the following specialty vehicle criteria:
 - 1. The fleet has turned over all other vehicles first,
 - 2. No repower is available for the specialty vehicle, as demonstrated to the Executive Officer,
 - 3. A used vehicle with a cleaner engine is not available to serve a function and perform the work equivalent to that of the specialty vehicle, as demonstrated to the Executive Officer, and
 - 4. The specialty vehicle has the highest level PM VDECS installed.
- (C) The vehicle had a Level 2 or 3 PM VDECS installed within the last six years and such VDECS was highest level PM VDECS at the time of the installation.
- (D) The vehicle's engine is equipped with an original equipment manufacturer diesel particulate filter that came new with the vehicle, or the vehicle has a Tier 4 interim or Tier 4 final engine.
- (E) The vehicle has the highest level PM VDECS installed prior to January 1, 2013, except that this exemption may be applied to no more than 15 percent of a fleet's total hp as of December 31, 2012.
 - 1. If before January 1, 2013, the fleet has installed the highest level PM VDECS on more than 15 percent of the fleet's December 31, 2012, total hp, the fleet may apply this exemption to any vehicles with the highest level PM VDECS installed, as long as the total hp of those vehicles does not exceed the 15 percent exemption threshold established in section (E) above.

2. The highest level PM VDECS must remain on the vehicle in order to maintain this exemption. If a VDECS fails, the fleet must replace the VDECS in accordance with section 2449(e)(1) to maintain this exemption for the vehicle.
- (3) Exemptions from BACT for Small Fleets – For small fleets, a vehicle is exempt from the BACT requirements of section 2449.1(b)(1) if it qualifies for one or more of the exemptions set forth in section 2449(e) or meets one of the conditions listed in section (A) through (D) below. A fleet that does not meet the fleet average target in section 2449.1(a)(2) must meet the BACT requirements with the vehicles that do not qualify for an exemption under either section 2449(e) or this section, provided that nothing shall require a fleet to apply a VDECS to any vehicle. Where all of the vehicles in a fleet qualify for an exemption under either this section or section 2449(e), the fleet is exempt from the BACT and fleet average requirements in that year. The exemptions set forth in this section do not lower the total max hp on which the BACT requirements are calculated.
 - (A) On the compliance date, the vehicle is less than ten years old from the date of manufacture.
 - (B) The vehicle meets all of the specialty vehicle criteria described above in section 2449.1(b)(2)(B).
 - (C) The vehicle's engine is equipped with an original equipment manufacturer diesel particulate filter that came new with the vehicle, or the vehicle has a Tier 4 interim or Tier 4 final engine.
 - (D) The vehicle's engine has already been retrofitted with a Level 2 or 3 VDECS that was the highest level PM VDECS available at the time of installation. An engine with a Level 2 VDECS that was not the highest level VDECS at the time of installation does not qualify for this exemption.
- (4) Order of BACT Requirements – All Tier 0 and Tier 1 engines in a fleet, except those in vehicles that qualify for an exemption from the BACT requirements, must be turned over before the turnover of any other higher tier engines may be counted toward the BACT requirements in section 2449.1(b)(1) or toward accumulating carryover BACT credit. A fleet may, however, receive carryover BACT credit per section 2449.1(b)(10) and 2449.1(b)(15) for a VDECS installed on an engine, regardless of the engine's tier.

- (5) Rounding – If the hp to meet BACT requirements under section 2449.1(b)(1) is less than half of the max hp of the lowest hp engine in the fleet that is subject to the BACT requirements, the next engine is not required to be turned over or have a VDECS applied to it. However, on the next year's compliance date, any hp not accounted for due to this rounding provision must be added to the BACT requirements under section 2449.1(b)(1). Once the required hp equals or exceeds half of the max hp of the next engine in the fleet that is subject to the BACT requirements, the next engine must be turned over or have a VDECS applied to it.
- (6) Delay Tier 2 Turnover – All vehicles with a Tier 2 or higher engine are exempt from the BACT requirements through January 1, 2015 (i.e., the first turnover of or VDECS installations on Tier 2 or higher engines would be required between January 1, 2015 and December 31, 2015), provided that all Tier 0 and Tier 1 vehicles in the fleet owner's fleet that do not qualify for an exemption under section 2449.1(b)(2) have been turned over.
- (7) Delayed Requirements for Early Compliance – Large fleets are exempt from the January 1, 2014 performance requirements if the sum of the fleet's BACT credits on March 1, 2010 exceeded 8 percent of the fleet's March 1, 2009 hp. To determine eligibility, CARB will take the sum of: "Credit for Early Repowers and Rebuilds to More Stringent Emissions Standards" gained under 2449.1(b)(13) plus "Credit for Early Replacement" gained under 2449.1(b)(14) plus "Double Credit for Early VDECS Installations" gained under 2449.1(b)(15) plus "Credit for Early Reduced Fleet HP" gained under 2449.1(b)(16) plus BACT credit gained for turnover from March 1, 2009, through February 28, 2010, that was not accounted for under sections 2449.1(b)(16). If the sum of these credits exceeds (Total max hp of the fleet on March 1, 2009, multiplied by 0.08), then the fleet will not be required to meet either the January 1, 2014, fleet average or the January 1, 2014, BACT requirements. This provision shall not have the effect of reducing any credit that any fleet would otherwise have the right to receive in 2014 or in any subsequent year, even if such credit provided all or part of the basis for a finding that such fleet had BACT credits on March 1, 2010, in excess of 8 percent of such fleet's hp on March 1, 2009.
- (8) Accumulating Carryover BACT Credit – Beginning on January 1, 2013 for large fleets, on January 1, 2016 for medium fleets, and on January 1, 2018 for small fleets, a fleet will accumulate carryover BACT credit each

year it exceeds the BACT requirements specified in section 2449.1(b)(1). The amount of carryover BACT credit (in hp) accumulated is equal to:

(The amount of BACT credit earned in the calendar year prior to January 1 of the year for which the carryover BACT credit is being calculated) minus (the amount of BACT credit needed to fulfill the BACT requirements on January 1 of the year for which the carryover BACT credit is being calculated).

- (9) Using Carryover BACT Credit – Except as provided in section 2449.1(b)(16), accumulated carryover BACT credit may be applied to meeting the BACT requirements of section 2449.1(b)(1) in a later year. The amount of carryover BACT credit used to meet the BACT requirements in any one year is subtracted from the accumulated carryover BACT credit total, with the remainder being available for use in subsequent years. The amount of BACT credit earned in a calendar year plus the amount of carryover BACT credit used must equal or exceed the minimum BACT requirements described in section 2449.1(b)(1).
- (10) BACT Credit Earned for Turnover, PM VDECS, and NO_x VDECS – Beginning on January 1, 2013 for large fleets, on January 1, 2016 for medium fleets, and on January 1, 2018 for small fleets, BACT credit is earned as follows:
 - (A) For turnover, as specified in section 2449(c)(65), BACT credit (in hp) equals:

(Max hp of the vehicle that was turned over).
 - (B) For a highest level PM VDECS, BACT credit (in hp) equals:

(Max hp of the vehicle to which the highest level PM VDECS was applied).

PM VDECS that are not the highest level PM VDECS receive no BACT credit.
 - (C) For a VDECS verified to reduce NO_x but that is not highest level PM VDECS, BACT credit (in hp) equals:

(Verified Percent NO_x Reduction divided by 60 percent) multiplied by (Max hp of the vehicle to which the NO_x VDECS was applied).

- (D) For a VDECS verified to reduce NO_x and that is also the highest level PM VDECS, or for a VDECS verified to reduce NO_x installed on an engine that also has a highest level PM VDECS that is verified separately, BACT credit (in hp) equals:

(Verified Percent NO_x Reduction divided by 120 percent)
multiplied by (Max hp of the vehicle to which the NO_x VDECS was applied).

This credit is applied in addition to credit for installing the highest level PM VDECS per section 2449.1(b)(10)(B) above.

- (11) Excess PM VDECS Credits Used for Compliance with Off-Road and Truck and Bus Regulations – For the same fleet owner, excess PM VDECS credits granted in The Regulation for In-Use Off-Road Diesel-Fueled Fleets (Off-Road regulation) may be used in the Truck and Bus regulation (title 13, CCR section 2025) and excess PM VDECS credits granted in the Truck and Bus regulation may be used in the Off-Road regulation before January 1, 2017. Starting January 1, 2017, no credits may be transferred between the regulations.

- (A) Off-Road generated credits used to comply with the Truck and Bus regulation – Except for low-use vehicles (as defined in sections 2449(c)(43) and (73)) and vehicles that are exempt under section 2449(e), vehicles subject to the Off-Road regulation that have Level 3 PM VDECS installed on one or more engines may generate excess PM VDECS credits to comply with the Truck and Bus regulation (title 13, CCR, section 2025), as follows:

1. Excess compliance credits under the Off-Road regulation – Beginning January 1, 2013, for large fleets, and on January 1, 2016, for medium fleets, if a fleet earns BACT credit in a calendar year that exceeds the BACT requirements for that year, the excess BACT credit earned (i.e., the amount of BACT credit earned above the BACT requirements for that year, in hp) from the installation of Level 3 PM VDECS may be applied towards compliance with the Truck and Bus regulation per section 2025 as follows:

(Excess PM VDECS credits to apply towards the Truck and Bus regulation = [(Total max hp of excess engines with the

Level 3 PM VDECS installed) divided by 300] truncated to a whole number).

If, in an applicable compliance year, no BACT credit is earned through the installation of Level 3 PM VDECS (for example, if no vehicles are retrofitted with Level 3 devices that calendar year), no excess PM VDECS credit will be earned.

The Excess PM VDECS credit earned above may be applied towards the Truck and Bus regulation each year until the vehicle that generated the excess PM VDECS credit is 1) needed for compliance with sections 2449.1(a) or (b), or 2) is retired, sold, scrapped, or otherwise removed from the California fleet.

If the equation above, before truncation, does not result in a whole number, any remaining hp with Level 3 PM VDECS not used to generate excess PM VDECS credit (i.e., the truncated amount) may be used as carryover BACT credit towards compliance with the Off-Road regulation, or may be accumulated to generate excess PM VDECS credits in future years.

2. Early PM VDECS installations – If any small, medium, or large fleet installs Level 3 PM VDECS by the deadlines shown in section 2449.1(b)(15), the fleet has the option to either (1) accumulate double carryover credit to be used towards the BACT requirements of the Off-Road regulation (per section 2449.1(b)(1)), or (2) to apply single PM VDECS credit towards compliance with the Truck and Bus regulation.
3. Compliance with the Off-Road regulation – Fleet owners that use excess PM VDECS credits towards compliance with the Truck and Bus regulation (as specified in section (11)(A)1. and 2. above) shall not count their Level 3 PM VDECS in the fleet average index calculations in section 2449.1(a) (i.e., the VDECS Factor is 1 for these vehicles or engines with the excess Level 3 PM VDECS), and no BACT credit can be accrued that can be used towards compliance with the Off-Road regulation for those VDECS. Once the excess PM VDECS credit can no longer

be applied to the Truck and Bus regulation, the Level 3 PM VDECS that were used to generate the expired excess PM VDECS credit can be returned to the fleet average index calculations in section 2449.1(a).

- (B) Excess Truck and Bus regulation credits used to comply with the Off-Road regulation – For each vehicle that generates an excess PM VDECS credit per Truck and Bus regulation, a one-time PM VDECS credit may be applied towards compliance with the Off-Road regulation, as follows:

(Excess PM VDECS credit that can be applied towards the Off-Road regulation (i.e., BACT credit, in hp, to apply towards the Off-Road regulation) = (Excess PM VDECS credits from the Truck and Bus regulation) multiplied by 300).

For each additional vehicle that generates a new excess PM VDECS credit, another one-time excess PM VDECS credit can be applied towards the Off-Road regulation. Once it is determined, under the Truck and Bus regulation, that a vehicle can no longer generate excess PM VDECS credits, the BACT credit earned through this provision, if not previously used, will expire and can no longer be used by the fleet towards compliance with the Off-Road regulation.

- (12) Beginning BACT Credit –

All fleets may earn and accumulate BACT credits for taking early actions in accordance with subparagraphs (13) through (18) below, but with the exception of such credits for taking early action, all fleets begin with zero carryover BACT credit on January 1, 2013. To claim credit, fleets must submit to CARB and retain records as described in sections 2449(g) and (h).

- (13) Credit for Early Repowers and Rebuilds to More Stringent Emissions Standards – Credit for early repowers can only be claimed for engines that remain in the fleet on the compliance date that the credit is taken. Fleets that have repowered their vehicles with Tier 1 or higher engines or rebuilt the engine from a lower Tier to a Tier 1 or more stringent emissions standard before March 1, 2009, will accumulate a carryover BACT credit (in hp) equal to:

(the max hp of the vehicles repowered and the engines rebuilt in accordance with the preceding).

Fleets that repower their Tier 0 or Tier 1 vehicles with Tier 2 or higher engines, or rebuild the engines in their Tier 0 or Tier 1 vehicles to a Tier 2 or more stringent emissions standard, prior to the following deadlines, will accumulate a carryover BACT credit (in hp) equal to the max hp of the vehicles repowered and the engines rebuilt in accordance with the preceding:

- (A) Large fleets: January 1, 2013
 - (B) Medium fleets: January 1, 2016
 - (C) Small fleets: January 1, 2018
- (14) Credit for Early Replacement – Fleets that have replaced their Tier 0 vehicles with Tier 1 or higher vehicles at an average rate greater than 8 percent of total max hp per year between March 1, 2006 and March 1, 2009 will accumulate carryover BACT credit (in hp) equal to: [(Total max hp of Tier 0 vehicles retired between March 1, 2006 and March 1, 2009) minus (Total max hp of Tier 0 vehicles added between March 1, 2006 and March 1, 2009) minus (2 times the total “Credit for Early Reduced Hp” claimed under section 2449.1(b)(16) below)] minus [(Total max hp of fleet on March 1, 2007 multiplied by 0.08) plus (Total max hp of fleet on March 1, 2008 multiplied by 0.08) plus (Total max hp of fleet on March 1, 2009 multiplied by 0.08)]. Tier 0 vehicles repowered with newer engines are counted under 2449.1(b)(13) above and shall not be counted under this section.
- (15) Double Credit for Early VDECS Installations – If fleets install a highest level PM VDECS or a VDECS verified to reduce NO_x, prior to January 1, 2013 for large fleets, January 1, 2016 for medium fleets, and January 1, 2018 for small fleets, fleets will accumulate carryover BACT credit as follows:
- (A) For a highest level PM VDECS, BACT credit (in hp) equals:

2 multiplied by the (Max hp of the vehicle to which the highest level PM VDECS was applied).

PM VDECS that are not the highest level PM VDECS receive no BACT credit.
 - (B) For a VDECS verified to reduce NO_x but that is not highest level PM VDECS, BACT credit (in hp) equals:

2 multiplied by (Verified Percent NO_x Reduction divided by 60 percent) multiplied by the (Max hp of the vehicle to which the NO_x VDECS was applied).

- (C) For a VDECS verified to reduce NO_x and that is also the highest level PM VDECS, or for a VDECS verified to reduce NO_x installed on an engine that also has a highest level PM VDECS that is verified separately, BACT credit (in hp) equals:

2 multiplied by the (Verified Percent NO_x Reduction divided by 120 percent) multiplied by (Max hp of the vehicle to which the NO_x VDECS was applied).

This credit is applied in addition to credit for installing the highest level PM VDECS per section 2449.1(b)(15)(A) above.

- (16) Credit for Early Reduced Fleet Hp – Fleets that reduce overall hp from March 1, 2006, to March 1, 2010, accumulate carryover BACT credit (in hp) equal to 0.5 multiplied by the following: [(Total max hp of the fleet on March 1, 2006, including low-use vehicles) minus (Total max hp of the fleet on March 1, 2010, including low-use vehicles)].

In accordance with section 2449.1(b)(9), large fleets may use any such credit to meet the BACT requirements in section 2449.1(b)(1) beginning with the January 1, 2015 BACT requirements, or in any subsequent year. Notwithstanding section 2449.1(b)(9), large fleets may not use credit from this provision to meet the BACT requirements in section 2449.1(b)(1) for the initial compliance year for large fleets, which is the January 1, 2014, compliance deadline. For example, if a fleet accumulated BACT credit by reducing hp from March 1, 2006, to March 1, 2010, and also accumulated BACT credit from repowers during the same period, the fleet could apply the repower credit toward their January 1, 2014, BACT requirements, but could not apply the credit from reduced hp under this provision to their January 1, 2014, BACT requirements. The fleet could apply the credit from reduced hp under this provision to their January 1, 2015, BACT requirements, as well as any future year until such credits are expended.

- (17) Credit for 2010 to 2011 Reduced Fleet Hp – Fleets that reduce their overall hp from March 1, 2010, through February 28, 2011, will accumulate carryover BACT credit (in hp) equal to:

(Total max hp of the fleet on March 1, 2010, including low-use vehicles) minus (Total max hp of the fleet on February 28, 2011, including low-use vehicles).

- (18) Credit for Interim Replacement and Retirement – Fleets that replace or retire over 8 percent of the fleet’s total max hp in Tier 0 and Tier 1 vehicles in any one year during the specified periods below will accumulate carryover BACT credit (in hp) equal to:

(Combined total of max hp of Tier 0 and Tier 1 vehicles retired over the year) minus (Combined total of max hp of Tier 0 or Tier 1 vehicles added over the year) minus [(Total max hp of fleet at the end of the year) multiplied by 0.08].

In each year, the replacement or retirement of vehicles will be summed from January 1 through December 31 of that year, excepting 2011, during which the replacement or retirement will be summed from March 1 through December 31. Fleets shall exclude vehicles repowered or rebuilt to a more stringent emissions standard in each year (that earned BACT credit per section 2449.1(b)(13)), from all such calculations. For the purposes of this provision, Tier 0 and Tier 1 vehicles that are replaced must be replaced with Tier 2 or higher vehicles in order to accumulate BACT credit.

- (A) Large fleets: March 1, 2011 through December 31, 2012
- (B) Medium fleets: March 1, 2011 through December 31, 2015
- (C) Small fleets: March 1, 2011 through December 31, 2017

(c) Tier Phase-Out Requirements

All fleets must comply with the Tier phase-out requirements described in sections 2449.1(c)(1) through (3) below.

Any special provision vehicle, as described in section 2449(e), with an engine that is subject to these Tier phase-outs must be designated as a special provision vehicle by December 31 of the year prior to the Tier phase-out’s effective date for that vehicle and fleet.

- (1) Tier Phase-Out for Large Fleets

- (A) Beginning January 1, 2024, a large fleet shall not operate any vehicle with a Tier 0 engine or a model year 1994 or earlier on-road engine in California.
 - (B) Beginning January 1, 2026, a large fleet shall not operate any vehicle with a Tier 1 engine or a model year 1999 or earlier on-road engine in California.
 - (C) Beginning January 1, 2028, a large fleet shall not operate any vehicle with a Tier 2 engine or a model year 2003 or earlier on-road engine in California.
- (2) Tier Phase-Out for Medium Fleets
- (A) Beginning January 1, 2026, a medium fleet shall not operate any vehicle with a Tier 0 engine or a model year 1994 or earlier on-road engine in California.
 - (B) Beginning January 1, 2028, a medium fleet shall not operate any vehicle with a Tier 1 engine or a model year 1999 or earlier on-road engine in California.
 - (C) Beginning on January 1, 2030, a medium fleet shall not operate a vehicle with a Tier 2 engine or a model year 2003 or earlier on-road engine in California.
- (3) Tier Phase-Out for Small Fleets
- (A) Beginning on January 1, 2028, a small fleet shall not operate a vehicle with a Tier 0 engine or a model year 1994 or earlier on-road engine in California.
 - (B) Beginning on January 1, 2030, a small fleet shall not operate a vehicle with a Tier 1 engine or a model year 1999 or earlier on-road engine in California.
 - (C) Beginning January 1, 2032, a small fleet shall not operate any vehicle with a Tier 2 engine or a model year 2003 or earlier on-road engine in California.
- (4) Tier Phase-Out for Permanent Low-Use Vehicles and Jobs Corps Vehicles
- Beginning on January 1, 2036, a fleet shall not operate a vehicle designated as permanent low-use or as a jobs corps vehicle with a Tier 0 engine or a model year 1994 or earlier on-road engine in California.

(5) Optional Tier 2-Phase Out for Fleets with 500 HP or Less

Fleets that choose to comply with the requirements of 2449(e)(16) are not subject to the small fleet Tier 2 engine phase-out requirements in section 2449.1(c)(3)(C) above. Instead, beginning January 1, 2036, these fleets shall not operate a vehicle with a Tier 2 engine or a model year 2003 or earlier on-road engine in California.

(d) Delay of Tier Phase-Outs for Addition of Zero-Emissions Vehicles

For each zero-emission vehicle a fleet adds to its fleet on or after January 1, 2024, the fleet may delay the Tier phase-out in section 2449.1(c) for one existing vehicle with a Tier 1 or Tier 2 engine in its fleet for two years, if all of the following conditions are met during those two years:

(1) Requirements for zero-emission vehicle:

- (A) The zero-emission vehicle added to the fleet must be operated by the fleet, perform a function and work equivalent to that of a diesel vehicle, and be used for a purpose for which diesel vehicles are predominantly used in the fleet;
- (B) The zero-emission vehicle added to the fleet is used predominately outdoors;
- (C) The zero-emission vehicle added to the fleet has a maximum power rating of 25 hp or greater;
- (D) The zero-emission vehicle added to the fleet is purchased and placed in service prior to the year in which the Tier phase-out for the vehicle with a Tier 1 or Tier 2 engine takes effect, and remains in the fleet for the two years that the Tier 1 or Tier 2 engine is receiving the delay of the Tier phase-out;
- (E) The zero-emission vehicle is labeled in accordance with section 2449(f); and
- (F) The zero-emission vehicle is of similar max power rating to the vehicle with a Tier 1 or Tier 2 engine to which the delay in Tier phase-out will apply, and is within the following categories: 25-174 hp, 175-599 hp, 600 hp and above.

(2) For each zero-emission vehicle, fleets must report the following information to CARB by December 31 of the year prior to the year in

which the Tier phase-out for the fleet's vehicle with a Tier 1 or Tier 2 engine will take effect:

- (A) Vehicle type;
 - (B) Vehicle manufacturer;
 - (C) Vehicle model;
 - (D) Vehicle model year;
 - (E) Vehicle serial number;
 - (F) Motor manufacturer;
 - (G) Motor model;
 - (H) Motor model year;
 - (I) Motor serial number;
 - (J) Max power rating;
 - (K) Purchase date; and
 - (L) Vehicle in-service date.
- (3) Fleets must annually verify that the information in section 2449.1(d)(2) above remains accurate and report any changes to the operation of the zero-emission vehicle, including the date the vehicle leaves the fleet, if applicable, in accordance with the annual reporting requirements in section 2449(g)(2).
- (4) By December 31 of the year prior to the year in which the Tier phase-out for the fleet's vehicle with a Tier 1 or Tier 2 engine will take effect, the fleet must report to CARB the fleet's vehicle with a Tier 1 or Tier 2 engine to which the two-year delay to the Tier phase-out will apply. The vehicle with a Tier 1 or Tier 2 engine must have been reported to CARB as being in the fleet prior to January 1, 2023, to be eligible for the delay of the Tier phase-out.
- (e) Alternate Compliance Pathway through Zero-Emission Technology

A fleet may request to follow the requirements set forth in this section 2449.1(e) instead of the requirements in sections 2449.1(a), (b), and (c). If a fleet requests

to follow this section 2449.1(e) but does not meet any requirement in this section 2449.1(e) at any time, then the fleet must come into compliance with the requirements in sections 2449.1(a), (b), and (c) by January 1 of the subsequent calendar year.

(1) Requirements for Participation

To utilize the alternate compliance pathway, a fleet must:

- (A) Be in compliance with sections 2449 and 2449.1(a), (b), (c), and (f) of this regulation at the time of requesting the use of this alternate compliance pathway, and
- (B) Continue to maintain compliance with section 2449 and section 2449.1(f) of this regulation, and
- (C) Commit to completing the Zero-Emission Technology Application (ZETA) project as described in section 2449.1(e)(2).

(2) Zero-Emission Technology Application

A fleet that requests to comply using this alternate compliance pathway must submit a complete ZETA to CARB. The ZETA must include the following:

- (A) Fleet name, DOORS fleet ID number, and contact information, including name; email; and telephone number, for correspondence regarding the ZETA.
- (B) A description of what actions the fleet will take in order to achieve zero-emission operations and in what timeframe. At a minimum, the fleet must:
 - 1. Remove from the fleet at least fifteen percent of the fleet's total horsepower or the total horsepower of the vehicles operating at a single facility per section 2449.1(e)(4) and replace it with zero-emission vehicles or technology that creates zero-combustion emissions at the job site by January 1, 2030; and
 - 2. Remove from the fleet at least fifty percent of the fleet's total horsepower or the total horsepower of the vehicles operating at a single facility per section 2449.1(e)(4) and replace it with either zero-emission vehicles or technology

that creates zero combustion emissions at the job site by January 1, 2035.

- (C) A list of all vehicles, including their EINs, that will be removed from operation;
- (D) A list of zero-emission vehicles that the fleet proposes to add to its fleet, including each vehicle's manufacturer and model, if known, or a detailed description of the technology that the fleet proposes to replace the diesel vehicles;
- (E) Attest that it meets and agrees to all eligibility requirements outlined in section 2449.1(e)(1);
- (F) A list of all known entities that the fleet plans to partner with to complete its ZETA project, as well as a description of the role that the entity will have in the fleet's ZETA project;
- (G) A description of the total power need or other fueling needs of the zero-emission vehicles or technology, as necessary, to complete the ZETA project;
- (H) A detailed list of milestones and expected completion dates for implementing the actions the fleet will take in order to achieve zero-emission operations. The list of milestones must include:
 - 1. Identification of all permits necessary to achieve completion of the ZETA, if applicable,
 - 2. Submission of permit applications identified above, if applicable,
 - 3. Approval of permit applications identified above, if applicable,
 - 4. Utility or other fueling infrastructure engagement, including a report on power quality from the utility if the project includes the need for electric vehicle supply equipment,
 - 5. Entering contracts or other agreements with technology providers or other partners,
 - 6. Making vehicle purchase orders,

7. Vehicle deployments,
8. Start of infrastructure installation,
9. Completion of infrastructure installation, and
10. Removal of diesel vehicles from fleet operations; and

(l) A commitment to do the following:

1. Replace all Tier 0, 1, and 2 vehicles by the end of completion of the ZETA project, or by January 1, 2035, whichever occurs first,
2. Submit annual updates to CARB (utilizing the same process described in section 2449.1(e)(3) below) that describe the actions taken to meet each milestone outlined in the ZETA, including which milestones have been completed and a description of any outstanding issues or challenges the fleet may be facing in completing a particular milestone. These updates must be submitted by January 31 of each year for the previous calendar year's information. The updates must include evidence of the actions taken to meet each milestone outlined in the ZETA, which includes, if applicable, written descriptions of actions taken along with dates of those actions, purchase orders, invoices, permitting documents, lease agreements, communications with project partners, cover pages of executed contracts, photographs of deployed vehicles and infrastructure, and sale or disposal receipts of the removed diesel vehicles. CARB shall review these annual updates by April 30 of each year to determine which of the following potential outcomes applies to the fleet:
 - a. If all milestones for that calendar year have been completed, the ZETA project will continue without adjustments,
 - b. If all milestones for that calendar year have not been completed but actions have been taken towards completion of each milestone and are described in the annual update, or at least one milestone from that calendar year has been completed, then CARB

will notify the fleet by April 30 of that year if revisions to the ZETA are needed to ensure the ZETA project is successful, after which the fleet must submit a revised ZETA within 30 days of CARB's notification. CARB will then follow the review and approval process outlined in section 2449.1(e)(3), excluding section 2449.1(e)(3)(B), for the revised ZETA, or

- c. If there is any milestone within that calendar year for which the fleet has taken no actions towards completion, and no milestones for that calendar year have been completed, CARB shall revoke ZETA approval. If the fleet's ZETA approval is revoked, the fleet must come into compliance with the requirements in section 2449.1(a), (b), and (c) by January 1 of the subsequent calendar year.

(3) ZETA Process for Submittal, Review, and Approval

- (A) The ZETA must include all the elements outlined in section 2449.1(e)(2). Only a ZETA including all these elements will be accepted by CARB.
- (B) A fleet must submit its ZETA at least four months prior to the next compliance date for which the fleet is looking to receive compliance flexibility for section 2449.1(a), (b), or (c).
- (C) The fleet shall submit its ZETA to CARB using the following methods:
 - 1. By mail to CARB at the address listed immediately below:

California Air Resources Board
Mobile Source Control Division (In-Use Off-Road Diesel)
P.O. Box 2815
Sacramento, CA 95812, or
 - 2. Electronically submitted to the DOORS@arb.ca.gov email address.
- (D) CARB shall review the ZETA within 60 days of submittal by the fleet.

(E) If the fleet meets the requirements outlined in section 2449.1(e)(1) and 2449.1(e)(2), then CARB's Executive Officer will issue a letter approving the ZETA that includes the following:

1. A statement that if the fleet continuously adheres to section 2449.1(e), then the fleet will not be subject to the requirements outlined in sections 2449.1(a), (b), and (c) of this regulation. If the fleet submits an application for vehicles operating at a single facility per section 2449.1(e)(4), then this statement will only include an exemption for those vehicles operating at that facility,
2. A schedule for annual updates consistent with section 2449.1(e)(2)(l)2.,
3. A statement that if the approved ZETA's milestones are not met, CARB will follow the process outlined in section 2449.1(e)(2)(l)2., and
4. A statement that if the approved ZETA's milestones are not met and CARB revokes the ZETA approval, then the fleet must come into compliance with the requirements in sections 2449.1(a), (b), and (c) of this regulation by January 1 of the subsequent calendar year.

(4) Participation for Vehicles Operating at a Single Facility

A fleet may also request to follow the requirements of section 2449.1(e) for all of the fleet's vehicles that operate at a single facility. The vehicles operating at the single facility will be subject to the requirements of section 2449.1(e) instead of the requirements in sections 2449.1(a), (b), and (c). All vehicles that are not operating at the single facility will be subject to the requirements in sections 2449.1(a), (b), and (c). The vehicles operating at the single facility are not included when calculating fleet average indices or target rates in 2449.1(a), or when calculating the required hp for the BACT requirements in section 2449.1(b).

(A) Additional Reporting

For a fleet that requests to use 2449.1(e) for vehicles operating at a single facility, the fleet must also provide the following information:

1. Location of the facility, including physical and mailing address, as part of the ZETA;
2. A list of all vehicles, including EINs, operating at the facility at the time of ZETA submittal, as part of the ZETA; and
3. An updated list of all vehicles, including EIN's, operating at the facility at the time of the annual updates submitted to comply with 2449.1(e)(2)(I).

(f) Renewable Diesel Requirements

- (1) Beginning January 1, 2024, all fleets subject to this regulation are required to procure R99 or R100 renewable diesel and use this fuel in all vehicles subject to this regulation, including rental equipment, when operating them in California, subject to the exemptions provided in section 2449.1(f)(2) below.
- (2) The following are exempt from the renewable diesel requirements in section 2449.1(f)(1):
 - (A) Any fleet or fleet portion that is designated as a captive attainment area fleet, as described in section 2449(c)(6); or any vehicle while it is operating in one of the counties listed under the definition of a captive attainment area fleet in section 2449(c)(6);
 - (B) Any fleet or fleet portion that is comprised entirely of vehicles with Tier 4 final engines, model year 2010 or newer on-road engines, or zero-emission vehicles;
 - (C) Any fleet, fleet portion, or vehicle that is located or operated in a location where the 10th percentile minimum ambient air low temperature in January drops below 20 degrees Fahrenheit (20° F) is exempt from the renewable diesel requirements in section 2449.1(f)(1) solely for the months of November, December, January, and February. These fleets or vehicles may use a low temperature-specific diesel fuel while that fleet or vehicle is located or operating in that location. Fleets utilizing this exemption may procure low temperature-specific diesel fuel from October 15 through the end of February and may continue to use excess low temperature-specific diesel procured during this time period. Fleets may not continue to procure low temperature-specific diesel fuel after the end of February through

October 14. All fleets utilizing this exemption must report to CARB in accordance with section 2449(g)(5)(A); and

- (D) Any fleet, fleet portion, or vehicle that is located or operated in a location where the temperature drops below 20° F or a commercial or government provided local weather forecast predicts temperatures to drop below 20° F may use and procure low temperature-specific diesel fuel for the period of days in which the low temperature condition(s) occurs. The temperature forecast must occur within 14 days from the first day in which the low temperature condition(s) occurs. After the low temperature condition(s) end, the fleet may use the remaining excess low temperature-specific diesel in the vehicle until the next refueling of the vehicle. All fleets utilizing this exemption must report to CARB in accordance with section 2449(g)(5)(B).
- (3) If a portion of a fleet is unable to procure R99 or R100 renewable diesel through its normal refueling methods, where a fleet's preference for a specific distributor or a specific brand is not considered a necessary component of its normal refueling method, those vehicles for which R99 or R100 renewable diesel could not be procured are not required to comply with Section 2449.1(f)(1) if the fleet maintains documentation, in accordance with the record keeping requirements described in section 2449(h), that includes:
- (A) A description of the fleet's normal refueling methods, taking into account factors such as the location of the job site, storage site, and retail station refueling;
 - (B) A description of the fleet's attempts to obtain R99 or R100 renewable diesel and continued attempts to obtain R99 or R100 renewable diesel, at a minimum, on a quarterly basis or when vehicles move to a new job site; and
 - (C) Documentation showing the inability to procure R99 or R100 renewable diesel, such as communications from fuel providers, contract bids, or maps of refueling stations near a job site.
- (4) Fleets that provide for rent vehicles subject to this regulation to other entities must include language in their rental contract that the recipient of the rented vehicle (renter) must comply with the renewable diesel requirements in section 2449.1(f). Rental fleets that include such language in their rental contracts will not be held liable if a rented vehicle

under their ownership is not compliant with section 2449.1(f). If CARB requests information from a rental fleet to verify compliance with the renewable diesel requirements in section 2449.1(f), then the rental fleet must disclose the relevant renter's company name and business contact information to CARB within 5 days of CARB's request.

NOTE: Authority cited: section(s) 39002, 39003, 39515, 39516, 39600, 39601, 39602, 39602.5, 39730.8(c), 40000, 41511, 43000, 43000.5, 43013, 43016, 43018, 43018.2, and 43600, Health and Safety Code. Reference: section(s) 39000, 39002, 39003, 39515, 39516, 39600, 39601, 39602, 39602.5, 39650, 39656, 39657, 39658, 39659, 39665, 39667, 39730.8(c), 43000, 43000.5, 43013, 43016, 43018, 43018.2, 43600, 43865, and 43866, Health and Safety Code.

§ 2449.2. Surplus Off-Road Opt-In for NOx (SOON) Program.

(a) Purpose

The purpose of this section is to achieve additional reductions of oxides of nitrogen (NOx) emissions from vehicles subject to this regulation in California. The reductions must be surplus to those that would otherwise be achieved through implementation of title 13, California Code of Regulations, sections 2449, and 2449.1, Regulation for In-Use Off-Road Diesel-Fueled Fleets (Off-Road regulation).

(b) Applicability

- (1) District Applicability – Section 2449.2 applies to any air quality management district or air pollution control district (jointly referred to hereafter as air district) whose governing board elects to opt into the provisions of this section as set forth in section 2449.2(f) below.
- (2) Fleet Applicability – Section 2449.2 applies to a fleet that:
 - (A) Operates individual vehicles within the air district;
 - (B) As of January 1, 2008, on a statewide level, consisted of more than 40 percent Tier 0 and Tier 1 vehicles, and;
 - (C) Has a statewide fleet with maximum power (max hp) greater than 20,000 horsepower (hp), excluding the hp from engines in two-engine vehicles and the hp from single engine cranes formerly subject to the Cargo Handling Equipment Regulation.

(c) Definitions

The definitions in title 13, CCR, section 2449(c) apply, along with the following definitions:

- (1) “Contract period” means the period of time in which the vehicle participates in the program and is under contract to the air district to achieve additional emission reductions.
- (2) “Operated within the district” means a vehicle that currently operates within the boundaries of the air district and, during the three years immediately prior to the solicitation deadline, operated at least one hundred hours per year and operated more hours within the boundaries of the air district than in any other district.

- (3) "Project" means actions on one vehicle to reduce NOx emissions, such as retrofit, repower, or vehicle replacement, for which funding is requested.
 - (4) "Solicitation" means a public announcement by the air district, requesting that fleets submit grant applications to the air district to participate in emission reduction incentive programs under this section.
 - (5) "Solicitation deadline" means the last day, as provided in the solicitation, that an application may be physically received by the air district.
- (d) Requirements
- (1) If an air district, having held a public hearing and opted into the SOON program and made the program mandatory per section 2449.2(e)(9), issues a solicitation for applications for funding under the SOON program, and if the solicitation so requires, a fleet that meets the applicability criteria of subsection (b) on the date of the solicitation must, before the solicitation deadline, do the following:
 - (A) Report to District and ARB – File a report, in a format approved by the Executive Officer, of all information required under section 2449(g) with the air district and ARB on its statewide fleet and that part of the fleet that has operated within the air district, as defined in section (c)(2) above. If the solicitation deadline is before April 1, 2009, the fleet must provide information regarding the fleet as it existed on January 1, 2008. If the solicitation deadline is on or after April 1, 2009, the fleet must provide the information that was reported to ARB on the most recent March 1 reporting date.
 - (B) Calculate fleet average index – Determine the fleet average index for vehicles that operated within the air district for the year in which the solicitation deadline occurs according to the formula in section 2449.1(a).
 - (C) Calculate SOON fleet average target rate – Determine the SOON fleet average target rate for vehicles that operated within the air district for the year in which the solicitation deadline occurs according to the formula in section 2449.1(a), and using the SOON targets set forth in Table 5 below. If there is no SOON fleet average target rate for the year in which the solicitation deadline occurs, the nearest future target rate shall be used. In years subsequent to 2023, the 2023 target rate shall be used.

Table 5 – SOON Targets for Each Max Hp Group
For Use in Calculating SOON Fleet Average Target Rates [g/bhp-hr]

Compliance Date: January 1 of Year	25-49 hp	50-74 hp	75-99 hp	100-174 hp	175-299 hp	300-599 hp	600-750 hp	>750 hp
2011	5.6	6.2	6.7	6.0	5.4	5.1	5.3	6.4
2014	5.8	6.5	7.1	6.4	3.9	3.7	3.7	5.3
2017	5.0	5.4	5.5	4.9	2.2	2.2	2.2	4.3
2020	4.1	4.2	3.4	3.1	1.4	1.3	1.4	3.4
2023	3.3	3.0	1.4	1.3	0.7	0.7	0.7	2.7

- (D) Apply for funding – Except as provided in section 2449.2(d)(2) and 2449.2(e)(3) below, a fleet for which the fleet average index, as calculated in section 2449.2(d)(1)(B), is greater than the SOON fleet average target rate, as calculated in section 2449.2(d)(1)(C), must apply for SOON funding. The application submitted must be completed according to the guidelines and conditions established under the solicitation and, if the necessary NOx retrofits, repower, or vehicle replacements are available, must indicate how NOx retrofits, repowers, or vehicle replacements for which funding is requested will bring the fleet average index for vehicles that operated within the air district from where it would have been under compliance with section 2449.1 to less than or equal to the SOON fleet average target rate calculated in section 2449.2(d)(1)(C). The application must also indicate whether the fleet wants the application to be given high priority for SOON program funding by the district. The funding priority shall be determined under the air district guidelines developed per section 2449.2(f)(2).
- (E) Achieve NOx reductions – Fleets that receive SOON program funding must complete the actions for which they were funded per the conditions of the solicitation. Fleets that do not receive requested SOON program funding are not required to take actions beyond compliance with Off-Road regulation, as specified in sections 2449 and 2449.1.

- (2) Fleets not meeting the applicability provisions – A fleet that operates individual vehicles within the air district, but does not meet the applicability provisions of sections 2449.2(b)(2)(B) and 2449.2(b)(2)(C), are not required to file a report with the ARB or the air district under section 2449.2(d)(1). It is also not required to apply for funding under subsection (d)(1)(D), but may file a report with ARB or the air district under section 2449.2(d)(1) and apply for funding if the fleet average index calculated for its fleet operating within the air district exceeds the SOON fleet average target rate, and the fleet would like to qualify for funding. If the air district approves the fleet’s application for funding, the fleet must achieve the NO_x reductions as set forth in subsection (d)(1)(E). Participating in the SOON program in one year does not obligate the fleet to participate in subsequent years.
 - (3) Air districts that opt into the SOON program – Districts must prioritize requested projects based on the optimum NO_x cost-effectiveness and on whether the fleet requesting the SOON program funding has requested high priority for SOON program funding. Air districts must report to ARB, in a format approved by the Executive Officer, all projects funded under the SOON program, including the equipment identification number of all vehicles funded.
- (e) Special Provisions –
- (1) Accounting for the Off-Road regulation –
 - (A) Reductions achieved through the SOON program must be surplus, over the entire contract period, to those required by the Off-Road regulation, sections 2449 and 2449.1 above.
 - (B) During the contract period, vehicles equipped with NO_x retrofits, repowered with new engines, or that have been replaced using SOON program funding, cannot use this lower emission rate to calculate the fleet average index and target rate, and BACT credit under section 2449.1. Instead, for the purposes of calculating the fleet average index and target rate, and BACT credit under section 2449.1, these vehicles must be reflected as if the actions taken under the SOON program did not occur. Actions taken using SOON program funding may be used for determining compliance under section 2449.1 after the completion of the SOON program project contract period for that vehicle. For example, if a Tier 0 vehicle is repowered with a Tier 3 engine with SOON program funds, for purposes of compliance with section

2449.1, that vehicle is still treated as if it were a Tier 0 until the end of the contract period for the SOON program project.

- (C) If a fleet pays for a VDECS that is installed concurrently with a repower or vehicle replacement funded with SOON program funding, the fleet may count the VDECS toward determining compliance under section 2449.1. If a fleet's vehicle is repowered using SOON program funding with a Tier 4 engine that comes with an original engine manufacturer diesel particulate filter, and if the fleet pays a portion of the repower costs such that it offsets the cost of an equivalent VDECS, the fleet may count the original engine manufacturer diesel particulate filter towards determining compliance under section 2449.1.
- (2) Turnover in section 2449.1 - A fleet may apply to the Executive Officer for an extension from the requirements in section 2449.1(b) if, using the accounting provisions in section 2449.2(e)(1), section 2449.1(b) would require, prior to January 1, 2014, a fleet to turn over vehicles that are Tier 2 or better. The exemptions in sections 2449.1(b)(2), (b)(3), and (b)(6) for vehicles less than 10 years old and Tier 2 vehicles do not apply to the SOON program.
- (3) Compliance plans – In addition to a SOON program application, a fleet applying for SOON program funding must prepare and submit to the air district a compliance plan, in the format described in the district guidelines, laying out the actions it is required to take under section 2449.1 and the actions for which it is applying for funding under section 2449.2. Compliance plans must demonstrate that in the absence of any actions taken to satisfy section 2449.2, the fleet will be able to meet the requirements of section 2449.1 through the remaining actions set forth in the plan.
- (4) Surplus – Participation in the SOON program does not reduce the actions required for any fleet to comply with any requirements in the Off-Road regulation under section 2449.1.
- (5) Tracking devices – An air district may require any vehicle repowered, retrofitted, or replaced with incentive money through the SOON program to be equipped with a vehicle location device (per the air district's guidelines and conditions for receiving funding) to ensure that the vehicle is used in the air district for the required percent of operating hours.

- (6) Particulate Matter Retrofits –
 - (A) If a fleet has a vehicle that has been retrofitted within the last six years with a Level 2 or 3 VDECS, which was the highest level VDECS at the time of retrofit, the fleet may but is not required to apply for SOON funding for that vehicle.
 - (B) A fleet that receives SOON funding to repower or replace a vehicle is not required to install the highest level VDECS along with the repower or replacement.
- (7) Funding Guidelines – Projects funded under the SOON program with Carl Moyer program money must be administered consistent with applicable Carl Moyer program guidelines, except as noted in section 2449.2(e)(6)(B). If a project is funded from other sources, the SOON program must be administered consistent with any applicable guidelines. The air district shall develop guidelines for administration of the SOON program, as provided in section 2449.2(f)(2).
- (8) Vehicles Scheduled to Leave District – A fleet that has operated within the air district as defined in section 2449.2(c)(2) but that is planning to move vehicles out of the air district such that the vehicles will not operate enough hours in the air district to qualify for SOON funding may leave such vehicles out of the fleet average index calculation in section 2449.2(d)(1)(B), the SOON fleet average target rate calculation in section 2449.2(d)(1)(C), and the application for funding in section 2449.2(d)(1)(D). The fleet must submit a statement under penalty of perjury to the district for each such vehicle stating its intent to move each such vehicle out of the district.
- (9) Voluntary or Mandatory Nature of SOON – An air district, having held a public hearing and opted into this regulation, may issue a solicitation for applications for funding under the SOON program.
 - (A) For fleets in the South Coast Air Quality Management District and San Joaquin Valley Air Pollution Control District, solicitations with a deadline before April 2, 2009, shall be voluntary. For solicitations with a deadline on or after April 2, 2009, the South Coast Air Quality Management District and San Joaquin Valley Air Pollution Control District may elect to make participation by fleets voluntary or mandatory.
 - (B) In any district other than the South Coast Air Quality Management District or San Joaquin Valley Air Pollution Control District, for

solicitations with a deadline before April 2, 2010, participation by fleets is voluntary. For solicitations with a deadline on or after April 2, 2010, the district may choose to make participation by fleets voluntary or mandatory.

- (C) The solicitation shall announce the air district's decision regarding voluntary or mandatory participation.

(f) Local Air District Opt-In

- (1) To participate in the SOON program, an air district's governing board must hold a formally noticed public hearing, where public comment is taken, and, by majority vote, elect to opt into the program. As part of this hearing, for years when section 2449.2(e)(9) gives the district a choice between a voluntary and mandatory SOON program, the air district's governing board must decide whether participation by fleets is voluntary or mandatory.
- (2) District Guidelines – An air district opting into section 2449.2 must develop, through a public process including a duly noticed public workshop and formally noticed public hearing, additional administrative provisions necessary to implement this section, including, but not limited to, funding guidelines (as required under section 2449.2(e)(7)), compliance planning requirements, and reporting and monitoring requirements. Funding guidelines may include limitations on the cost-effectiveness of projects that may be funded and must include the method used for prioritizing projects based on cost-effectiveness and whether applying fleets requested high priority for SOON program funding, and a description of any requirements on fleets that receive SOON funding to pay part of the SOON project cost. Compliance planning guidelines must indicate the format and length of compliance plans. Air district guidelines may include a pre-application process that collects vehicle data (model year, hp, hours of use) and then requires full SOON project applications only for vehicles likely to receive funding.
- (3) ARB Approval of District Guidelines – Before any guidelines, including administrative or funding guidelines, approved by an air district take effect, they must be approved by the Executive Officer. Air district staff shall submit proposed guidelines to the Executive Officer before they are acted on by the district's governing board. The Executive Officer will respond within 30 days with a description of any required changes to the proposed guidelines necessary for Executive Officer approval. In evaluating proposed air district guidelines, the Executive Officer shall

consider, among other factors, the adequacy of cost-effectiveness criteria, whether fleet requests for high priority for SOON funding are given preference, and uniformity of district guidelines between air districts. After guidelines are adopted by a district's governing board, air district staff shall submit the adopted guidelines to the Executive Officer. The Executive Officer will respond within 30 days with approval or a description of any required changes to the guidelines.

- (4) ARB Authority – ARB has sole authority to enforce the requirements of section 2449.2. The Executive Officer retains the authority to review any district's administration of section 2449.2 and to address any unforeseen circumstances or events.

NOTE: Authority cited: section(s) 39002, 39515, 39516, 39600, 39601, 39602, 43000, 43000.5, 43013, 43016, and 43018, Health and Safety Code. Reference: section(s) 39002, 39515, 39516, 39600, 39601, 39602, 39650, 39656, 39657, 39658, 39659, 39665, 39667, 43000, 43000.5, 43013, 43016, and 43018, Health and Safety Code.