

## Responses to Specific Comments & Redline

1. *Requirements:* After May 1, 2009, no person who owns, operates or leases a heavy-duty vehicle ~~or who owns, leases or occupies land and has the actual or apparent dominion or control over the operation of a heavy-duty vehicle on such land~~ shall cause, let, permit, suffer, or allow the propulsion engine to idle for a period greater than five consecutive minutes ~~extended idling~~ except as exempt by this rule.

After May 1, 2009, persons owning, leasing or occupying land and engaging in activities involving the use of one or more heavy-duty vehicle(s) on such land shall implement policies, practices, and offer idling alternatives as needed to provide a practical and reasonable expectation for the operator to comply while on such land.

No person who installs a diesel fueled auxiliary power system (APS) on any 2007 or new model year motor vehicle subject to this rule after May 1, 2009 shall operate the APS unless the APS is equipped with a verified level three in-use strategy for particulate matter control or the exhaust is routed directly into the vehicles exhaust pipe, upstream of the diesel particulate after treatment device as specified in Title 13, of the California Code of Regulations, Section 2485(c)(3). A level three in-use particulate matter control device shall reduce particulate matter emissions by at least 85 percent from the baseline emission level, or achieve particulate matter emission levels of 0.01 grams per brake-horsepower-hour (g/bhp-hr) or less as specified in Title 13, of the California Code of Regulations, Section 2708. Any motor vehicle complying with this section shall have a label affixed to the hood identifying it as a “certified clean APS” as specified in Title 13, of the California Code of Regulations, Section 86.001-35(B)4.

- Some stakeholders were concerned about the liability of those owning, leasing or occupying land (property controller). Property controllers are concerned that operators driving vehicles who are not direct employees may choose not to comply in spite of the property controller’s efforts.

EPD Response: EPD has provided alternative language that more directly addresses the property controller’s obligation. In principle, the property controller has an obligation to promote and enable operators to comply. The suggested language requires the property controller to implement policies, practice and offer idling alternatives as needed to provide a practical and reasonable expectation for the operator to comply.

- Some stakeholders suggested adding an exemption to allow the operation of an auxiliary power system (APS) also known as an auxiliary power unit (APU) as an alternative to idling the main engine.

EPD Response: The requirements would only apply to the propulsion engine used for the primary purpose of moving the vehicle. Hence, an APS would not be subject to the idling limits and there is no need for an exemption. However, there are concerns that PM emissions could increase by using an uncontrolled APS compared to the PM emissions from a 2007 or new vehicle equipped with a diesel particulate after treatment device. This issue will be addressed by requiring APS installed after May 1, 2009 to meet California emission standards (CCR 2485(c)(3)). This standard requires a verified level 3 in use

strategy for particulate matter control or exhaust routed directly into the vehicles exhaust pipe upstream of the diesel particulate after treatment device.

- Some stakeholders expressed concern about terminology.

EPD Response: The actual idling time has been incorporated into the applicable requirement to eliminate the term “extended idling.” This change improves clarity and consistency with other state rules.

- Some stakeholders expressed concern that idling less than 5-minutes could cause engine damage or increased maintenance cost nullifying any cost benefits from fuel savings.

EPD Response: No evidence has been found to support this concern. All readily available data supports engines benefit from reduced idle time. A 5-minute idling limit in other states has been common and no engine damage or increase maintenance cost problems have been reported.

- Some stakeholders suggested that idling should be limited to five minutes “in any 60 minute period.”

EPD Response: In principle, this feature would prevent someone from moving every five minutes to circumvent the rule. However, moving every five minutes to circumvent the rule and avoid a citation is expected to be impractical. A 60-consecutive minute feature is anticipated to complicate compliance and enforcement without much benefit. Restricting idling to 5-consecutive minutes is more direct and easy to enforce. This also addresses short delivery trucks with a lot of stops having problems. For example if a short delivery truck made 20 stops in an hour, the truck would be limited to idling no more than 15 seconds per stop on average.

- A stakeholder suggested idling time limit should be 15 minutes within any 60-minute period.

EPD Response: In some instances, more than 5 minutes may be appropriate. The exemptions section has incorporated these instances.

2. *Applicability:* The requirements of this subparagraph shall apply to heavy-duty vehicles powered in-part or entirely by an internal combustion engine including:
  - (i) any motor vehicle with a gross vehicle weight rating more than 10,000 pounds;  
or

- A stakeholder suggested the applicability criteria for on road vehicles should be changed from 10,000 to 14,000 pounds gross weight. Or, the criteria could be limited to vehicles requiring a Commercial Driver License. Another stakeholder suggested the applicability criteria for on road vehicles should be changed from 10,000 to or 26,000 pounds gross weight or more.

EPD Response: Florida’s rule applies to vehicles over 8,500 pounds gross weight. South Carolina’s rule applies to vehicles over 10,000 pounds gross weight. North Carolina is

considered a rule that would apply to vehicles over 10,000 pounds gross weight. Stakeholder generally supported a weight of 10,000 pounds or more to avoid picking up large pickup trucks. The group discussed the possibility of changing the vehicles weight threshold to 14,000 pounds or more. However, justification to exclude trucks between 10,000 to 14,000 pounds was unclear, so no change was made.

- (ii) any subject nonroad vehicle with a brake horsepower (bhp) rating more than 75.
- A suggestion was made at the second stakeholder's meeting to increase the nonroad horsepower threshold to 175 bhp.

EPD Response: EPA provides a list of horsepower ranges for different types of nonroad vehicles. Furthermore, EPA has relied on certain horsepower ranges when regulating nonroad vehicles. An applicability threshold for nonroad vehicles of 75 brake horsepower (bhp) provides consistency with other EPA regulatory efforts while eliminating relatively small non-road equipment. Based on information from EPA, a 75 bhp threshold is anticipated to exclude from the rule airport ground equipment, mowers/turf equipment, motorcycles, ATVs, golf carts, scrubbers, sweepers, rollers, forklifts and agricultural tractors. EPD will consider any other supporting information that would justify an alternative to the currently proposed 75 bhp. However, 175 bhp threshold exempts too many vehicles.

3. *Exemptions:* Provided all reasonable precautions are taken to minimize idling, exemptions shall apply to this rule as follows:

- (i) idling of emergency, law enforcement and military tactical vehicles;
- A stakeholder suggested the exemption for police, fire, ambulance, public safety, military, law enforcement officials, etc... should not apply when idling is for cabin comfort. Another stakeholder suggested the exemption should be for a police, fire, ambulance, public safety, other emergency or law enforcement motor vehicle, or any motor vehicle used in an emergency capacity, which idles while in an emergency or training mode and not for the convenience of the vehicle operator.

EPD Response: This rule is not intended to make vehicle operators or passengers uncomfortable. Hence, there has been a concerted effort to avoid language suggesting one must be uncomfortable to comply. The rule is intended to bring more efficient and cleaner alternatives to fruition. As with all exemptions, "all reasonable precautions must be taken to minimize idling," which should mitigate concerns of abuse by emergency, law enforcement and military.

- (ii) idling necessary for vehicle repair or maintenance;
- A stakeholder suggested that the proposed exemption for vehicle repairs and maintenance should specifically include idling that is necessary for the maintenance or regeneration of any exhaust emission control device.

- A stakeholder suggested adding an exemption when the primary propulsion engine idles for maintenance, servicing, repairing, or diagnostic purposes if idling is necessary for such activity.
- A stakeholder suggested an exemption should be added when the motor vehicle idles due to mechanical difficulties over which the operator has no control.

EPD Response: Efforts have been made to use broad encompassing terms. Repair and maintenance are terms that broadly address the concerns expressed by stakeholder. In the event of an unusual case the Division may authorize idling per exemption iv.

(iii) idling necessary to provide power take off (PTO) for refrigeration of cargo, processing of cargo, pumping, dumping, lifting, hoisting, drilling, mixing, loading, ~~and~~ unloading, compacting, vacuuming, repairing, servicing, installing, constructing, agricultural operations, utility operations, industrial operations, commercial operations, residential operations and any other function as approved by the Division; and

- A stakeholder recommended adding a qualifier so that this exemption does not apply when idling for cabin comfort or to operate non-essential on board equipment.
- A stakeholder recommended expanding this exemption to include the phrase “or to power any other work related mechanical or electrical operations other than propulsion.”
- A stakeholder suggested the language to allow idling of the motor vehicle as required to operate auxiliary equipment to accomplish the intended use of the vehicle (such as loading, unloading, mixing, or processing cargo; controlling cargo temperature; construction operations; lumbering operations; oil or gas well servicing; or farming operations; for electricity generation or hydraulic pressure to power equipment necessary in the restoration, repair, modification or installation of electric utility service), provided that this exemption does not apply when the vehicle is idling solely for cabin comfort or to operate non-essential equipment such as air conditioning, heating, microwave ovens, or televisions.

EPD Response: This rule is not intended to make vehicle operators or passengers uncomfortable. Hence, there has been a concerted effort to avoid language suggesting one must be uncomfortable to comply. The rule is intended to bring more efficient and cleaner alternatives to fruition. Efforts have been made to use broad encompassing terms when describing idling appropriate for PTO. Additional functions have been added per stakeholder’s suggestion. The Division may expand qualifying PTO functions in the event a function is later identified that does not fit into any category already listed.

- A stakeholder suggested adding an exemption for motor vehicle is used as airport ground support equipment, including, but not limited to, motor vehicles operated on the air side of the airport terminal to service or supply aircraft.

EPD Response: Idling would be exempt for PTO to load, unload or service the airplane.

- A stakeholder suggested an exemption for waste and recyclable material haulers.

EPD Response: The waste and recyclable material haulers would be exempt while using PTO. Furthermore, queuing activities would be exempt according to exemption (ix).

(iv) idling for research, ~~and~~ development, performance evaluations or other case specific reason as approved by the Division;

- Some stakeholder suggested an exemption to allow idling solely to prevent a true safety or health emergency. While some stakeholder suggested adding an exemption to allow idling for a vehicle when operating defrosters, heaters, air conditions, or installing other equipment solely to prevent a safety or health emergency. Some stakeholders were concerned that these types of broad safety or health emergency exemption would create loopholes.

EPD Response: Some exemptions already address case specific safety and health concerns. The Division will have the authority to provide exemptions for additional case specific reasons as provided in (iv). For situation not exempt, enforcement discretion may be used to effectively deal with safety or health emergencies.

- Some stakeholders suggested adding an exemption for when outdoor temperature is less than 32 degrees Fahrenheit or greater than 80 degrees Fahrenheit.

EPD Response: There are more efficient and less polluting methods for maintaining comfort than idling the propulsion engine. Exemptions already address specific applications that were identified as a concern. The Director may consider additional case specific reasons why a vehicle should idle.

(v) idling of a vehicle when needed to safely fight or manage a fire;

- A stakeholder suggested adding an exemption for a vehicle used to safely fight or manage a fire because some heavy-duty vehicles used for fighting wildfires may not meet the definition of emergency vehicle such as a bulldozer.

EPD Response: This exemption has been added.

(vi) idling required for a federal, state or municipal inspection;

- Some stakeholder suggested adding an exemption for when a motor vehicle idles as part of a government inspection to verify that all equipment is in good working order, provided idling is required as part of the inspection.

EPD Response: This exemption has been added.

(vii) idling of an armored vehicle when a person remains inside the vehicle to guard contents or while the vehicle is being loaded or unloaded;

- Some stakeholder suggested adding an exemption for an armored vehicle when a person remains inside the vehicle to guard the contents, or while the vehicle is being loaded or unloaded.

EPD Response: This exemption has been added.

(viii) idling of a crane;

- A stakeholder recommended an exemption for cranes because the engines must be kept inherently operating to practically serve its purpose. Holding, lifting and setting large objects on demand requires the cranes to be kept idling in a ready mode.

EPD Response: Idling of a crane has been exempted. Electricity from the utility grid rather than an internal combustion engine generally powers tower cranes, so tower cranes would not be subject. Furthermore, tower cranes are fixed to the ground and are not designed to move across land. Hence, they would not meet the definition of a “subject nonroad vehicle” or “motor vehicle.” Large gantry cranes powered by electricity or on a rail would not be subject to this rule either based on definitions of “propulsion engine”, “subject nonroad vehicle” or “motor vehicle.”

(ix) idling necessary for queuing provided the vehicle’s propulsion engine does not idle for more than fifteen consecutive minutes;

- Some stakeholders suggested providing a reasonable queuing time. One stakeholder suggested a an idling exemption for 45 minutes in any 60 minute period while waiting to weigh, load, or unload cargo or freight, unless the vehicle is in a line of vehicles that regularly and periodically moves forward. A waste hauler stakeholder expressed concern about queuing at transfer stations, landfills and material recovery facilities. Forestry stakeholders and others have also expressed concerns about queuing.

EPD Response: An exemption has been added providing a 15 consecutive minutes idle time before vehicles needed to be incremented in the queuing process. The consecutive minute approach is consistent with the other time limits and simplifies compliance.

(x) idling of a transit bus provided the vehicle’s propulsion engine does not idle for more than fifteen consecutive minutes;

- A stakeholder suggested adding an exemption to allow transit buses to idle for 15 consecutive minutes to provide comfortable and safe air conditioning for passengers and to allow for safety inspections. Another stakeholder suggested allowing buses to idle for 30 minutes in any 60-minute period to maintain passenger comfort while non-driver passengers are on board.

EPD Response: A 15-consecutive minute idling exemption has been added for transit buses. The consecutive minute approach simplifies enforcement and provides consistence.

(xi) idling as needed to accommodate an exceptional child's physical or mental condition;

- A stakeholder recommended adding an exemption for exceptional children to accommodate physical or mental conditions of the children.

EPD Response: An exemption needed to accommodate an exceptional child's physical or mental condition has been added. "Physical or mental condition" has also been defined.

(xii) idling of a heavy-duty vehicle with an occupied sleeper berth until January 1, 2012;

- A stakeholder recommended adding an exemption for a motor vehicle that has a sleeping berth, when the operator is occupying the vehicle during a rest or sleep period and idling of the vehicle is required to operate air conditioning or heating.

EPD Response: Stakeholders generally agreed that five years should provide sufficient lead-time to install necessary infrastructure for alternative technologies as needed for sleeper berth trucks to comply. However, achieving emission reductions by January 1, 2012 is strategically important to EPD's planning efforts to meet federal mandates. Hence, this date has been incorporated into the proposed language.

(xiii) idling of a motor vehicle meeting the optional NOx idling emission standard in lieu of using an engine shutdown system in accordance with Title 13, of the California Code of Regulations, Section 1956.8(a)(6) provided such motor vehicle has the required "clean idle engine" decal displayed on the hood as specified by Title 13, of the California Code of Regulations, Section 86.001-35(B)4;

- Some stakeholder suggested an exemption to encourage the upgrade to new engine technology by accepting CARB's low NOx idle engines. Note that all 2010 and later models will inherently meet the low-NOx idling standard.

EPD Response: Language has been added to accommodate the comment.

(xiv) idling of a heavy-duty vehicle while remaining motionless due to traffic conditions, official traffic control devices or signals, congestion, or at the direction of a law enforcement official provided that such idling is not for the purpose of queuing;

- Some stakeholders suggested adding an exemption if the motor vehicle idles while forced to remain motionless because of on-highway traffic, an official traffic control device or signal, or at the direction of a law-enforcement official.

EPD Response: An exemption has been added to address traffic. Originally, this issue was taken care of by defining “extended” idling. However, the term “extended” has now been removed to avoid confusion and enhance consistencies with other states.

4. *Definitions:* For the purpose of this subsection, the following definitions shall apply:
- (i) “emergency vehicle” means any vehicle that is legally authorized by a governmental authority to exceed the speed limit to transport people and equipment to and from situations in which speed is required to save lives or property, such as a rescue vehicle, fire truck, or ambulance.;
  - (ii) ~~“extended-idle (idling)” shall mean the operation of a vehicle’s propulsion engine while the vehicle is stationary, for a period greater than five consecutive minutes at a time while the propulsion engine is not engaged in gear excluding routine stoppage due to traffic movement or congestion. Routine stoppage due to traffic movement or congestions shall not include queuing.~~
  - (iii) “gross vehicle weight rating” means the weight specified by the manufacturer as the loaded weight of a single vehicle.
  - (iv) “heavy-duty vehicle” shall mean any vehicle powered in-part or entirely by an internal combustion engine, which is a motor vehicle with a gross vehicle weight rating more than 10,000 pounds or any subject nonroad vehicle with a brake horsepower (bhp) rating more than 75.
  - (v) “law enforcement vehicle” means any vehicle that is primarily operated by a civilian or military police officer or sheriff or enforcement agencies of the federal government, by state highway patrols, municipal law enforcement, or by other similar law enforcement agencies and which is used for the purpose of law enforcement activities including, but not limited to, chase, apprehension, surveillance, or patrol of people engaged or potentially engaged in unlawful activities.
  - (vi) “military tactical vehicle” means a motor vehicle or equipment owned by the U.S. Department of Defense and/or the U.S. military services and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.
  - (vii) “motor vehicle” means any self-propelled vehicle that is used or intended to be used for transporting persons or commodities on public roads.
  - (viii) “person” means any individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States, or any other entity, and includes any office, agent, or employee of any of the above.
  - (ix) “Physical or mental condition” means any physiological or mental disorder resulting in an impairment covered by the Americans with Disabilities Act (ADA).
  - ~~(ix)(x)~~ “propulsion engine” shall mean an internal combustion engine used for the primary purposes of moving the vehicle.
  - ~~(x)(xi)~~ “queuing” means keeping a vehicle in line for the purpose of an orderly receipt or delivery of items, services or people.
  - ~~(xi)(xii)~~ “subject nonroad vehicle” shall mean any non-rail vehicle that is designed to move across land and does not meet the definition of a Motor Vehicle. Examples of subject nonroad vehicles include, but is not limited to, tractors, dozers, loaders, backhoes, lifts, graders, combines, feller-

bunchers, skidders and trucks. Subject Nonroad Vehicles exclude locomotives, ships, boats and planes.

(xiii) “transit bus” means any bus owned or operated by a publicly owned or operated transit system, or operated under contract with a publicly owned or operated transit system, and used to provide to the general public, regularly scheduled transportation for which a fare is charged. A general public paratransit vehicle is not a transit bus.

- A stakeholder suggested that EPD should have a plan to reduce idling from rail and marine vehicles.

EPD Response: EPD will continue to evaluate all strategies to improve air quality.