

# **APPENDIX A**

## **PROPOSED REGULATION ORDER**

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Add the following sections to title 13, California Code of Regulations, to read as set forth on the following pages:

|                |                                                                          |
|----------------|--------------------------------------------------------------------------|
| Section 2024   | School Buses Operated in the South Coast Air Quality Management District |
| Section 2024.1 | Determining Compliance for School Buses                                  |

**Note:** The entire text of sections 2024 and 2024.1 set forth below is new language proposed to be added to the California Code of Regulations. Subsection headings are shown in italics and should be italicized in Barclays Code of Regulations.

## PROPOSED REGULATION ORDER

Adopt new sections 2024 and 2024.1, title 13, California Code of Regulations, to read:

### **§ 2024. School Buses Operated in the South Coast Air Quality Management District**

- (a) *Purpose.* To reduce air toxic and criteria pollutant emissions, this regulation requires public and private school bus fleet operators and owners to acquire less-polluting school buses when purchasing or leasing these vehicles for operation in the South Coast Air Quality Management District.
- (b) *Applicability.* Sections 2024 and 2024.1 apply to public and private school bus fleets that operate within the jurisdiction of the South Coast Air Quality Management District (District). The public or private school bus fleet owner/operator shall comply with the requirements of section 2024.1 for a school bus fleet of 15 or more medium- and/or heavy-duty school buses. Compliance with the requirements of section 2024.1 is contingent on the availability of grant funding or external sources of funding beyond that of the public school district's or private school transportation company's fiscal budget as authorized under Education Code title 1, division 1, part 10.8, section 17920 et seq.
- (c) *Definitions.* The definitions in section 2020 shall apply to sections 2024 and 2024.1. In addition, the following definitions apply to section 2024 and 2024.1.
  - (1) "Executive Officer" means the Executive Officer of the South Coast Air Quality Management District, unless otherwise specified.
  - (2) "Heavy-duty school bus" means any school bus having a gross vehicle weight rating greater than 14,000 pounds.
  - (3) "Low-emission vehicle" or "LEV" means any vehicle certified to low-emission standards set forth in sections 1960.1(h)(2) and 1961(a)(1), title 13, California Code of Regulations.
  - (4) "Medium-duty school bus" means any school bus having a gross vehicle weight rating of more than 6,000 pounds and up to 14,000 pounds.
  - (5) "Public or private school bus fleet operator" means a person who owns, leases, or operates school buses or is responsible for administering and managing school bus transportation services.

- (6) "Repowered school bus" means an existing, pre-owned school bus that has been converted to run on an alternative fuel or repowered with a new alternative-fueled engine.
- (7) "School bus" means any vehicle used for the express purpose of transporting students through Grade 12 from home to school and to any school sponsored activities as defined in California Vehicle Code section 545.
- (8) "Ultra-low-emission vehicle" or "ULEV" means any vehicle certified to ultra-low-emission standards set forth sections 1960.1(h)(2) and 1961(a)(1), title 13, California Code of Regulations.

NOTE: Authority cited: Sections 39600, 39601, 39658, 43013 and 43018, Health and Safety Code.  
Reference: Sections 39002, 39003, 39658, 38667, 43000, 43010, 43013, 43018, 43101, 43102, 43104, 43105 and 43700, Health and Safety Code.

### **§ 2024.1. Determining Compliance for School Buses**

- (a) *Purchase and Lease Requirements for School Buses in the South Coast Air Quality Management District.*
  - (1) When adding to or replacing heavy-duty school buses in an existing fleet, public or private operators with 15 or more school buses shall purchase, lease, or contract for new school buses equipped with engines meeting the best engine selection/technology (BEST) requirements as follows:
    - (A) A California-certified engine that meets the applicable criterion specified in subsection (a)(2), or
    - (B) A California-certified engine with a verified diesel emission control strategy that reduces emissions of NO<sub>x</sub> and PM to the applicable criterion specified in subsection (a)(2) as determined by the verified performance of the strategy and engine combination.
  - (2) *BEST criteria for heavy-duty engines.* The best engine selection/technology for heavy-duty engines is defined by the following criteria:
    - (A) *2005-2006 Model-Year Engines:* An engine certified to the optional NO<sub>x</sub> plus NMHC standard of 1.8 g/bhp-hr or lower and to the optional PM standard of 0.03 g/bhp-hr as specified in title 13, CCR, section 1956.8 (a)(2)(A).
    - (B) *2007-2009 Model-Year Engines:* An engine certified to the 2007 and subsequent standards specified in title 13, CCR, section 1956.8(a)(2)(A),

provided the declared NOx FEL of the engine does not exceed 0.2 g/bhp-hr.

(C) *2010 and Subsequent Model-Year Engines*: An engine certified to the standards specified in title 13, CCR, section 1956.8(a)(2)(A).

(3) *BEST criteria for medium-duty engines*. When adding to or replacing medium-duty school buses in an existing fleet, public or private operators with 15 or more school buses shall purchase, lease, or contract for new medium-duty school buses meeting BEST requirements as follows:

(A) *2005-2009 Model Year Engines*: A new medium-duty school bus shall be equipped with a non-diesel engine certified as ULEV or cleaner.

(4) *Exemptions from BEST for purchases of new school buses*. An operator of public or private school buses may apply to the Executive Officer for an exemption from the provisions of subsections (a)(1) and (a)(3) for the following reasons:

(A) *Lack of funding for the incremental cost of BEST*.

1. *Purchases of heavy-duty school buses*. A public or private school bus fleet operator may purchase a heavy-duty school bus that does not meet BEST requirements under subsection (a)(1) of this rule, if grant funding or external sources of funding beyond that of the school bus fleet operator's fiscal budget is not available for either purchase option provided in subsection (a)(1) to fully offset the differential purchase cost {including costs of warranties comparable to base warranties for a comparable school bus purchase not meeting the requirements of subsection (a)(1)} of either of the BEST school bus purchase options as provided in subsection (a)(1) compared to the cost of a comparable school bus not meeting the requirements of subsection (a)(1), provided the bus purchased is equipped with a California-certified engine meeting a PM standard of 0.01 g/bhp-hr as specified in title 13, CCR, section 1956.8 (a)(2)(A), except as provided in subsection (a)(4)(E).
2. *Purchases of medium-duty school buses*. A public or private school bus fleet operator may purchase a medium-duty school bus that does not meet BEST requirements under subsection (a)(3), if grant funding or external sources of funding beyond that of the school bus fleet operator's fiscal budget is not available to fully offset the differential purchase cost {including costs of warranties comparable to base warranties for a comparable school bus purchase not meeting the requirements of subsection (a)(3)} of the BEST school bus compared to the cost of a comparable school bus not meeting the requirements of

subsection (a)(3), provided the bus purchased is equipped with a California-certified engine meeting a PM standard of 0.01 g/bhp-hr as specified in title 13, CCR, section 1956.8 (a)(2)(A), except as provided in subsection (a)(4)(E).

- (B) *Lack of available infrastructure.* Upon demonstration to the Executive Officer that an alternative-fuel refueling station for an alternative-fueled BEST school bus is not available within five miles of the vehicle storage or maintenance yards, and the public or private school bus fleet operator has not received external funding (beyond the school bus fleet operator's fiscal budget) of at least \$13,000 for each alternative-fueled BEST school bus purchased or leased to build a new alternative-fuel refueling station or expand an existing refueling station, a public or private school bus fleet operator may purchase school buses that are not alternative-fueled BEST school buses. This exemption does not apply provided the external funding received by the school bus fleet operator for the purchase of the alternative-fueled BEST school bus is at least \$13,000 more than the incremental capital cost of the BEST bus, plus up to an additional \$4,000 more to cover necessary maintenance facility upgrades, plus funding to cover additional reasonable operating and maintenance costs.
- (C) *Lack of funding for maintenance facility upgrades.* If the BEST school bus is an alternative fuel bus, and if a public or private school bus fleet operator does not receive external funding beyond the school bus fleet operator's fiscal budget of up to \$4,000 per BEST bus to upgrade an existing maintenance facility to meet the required standards to handle alternative-fuel bus technology, the school bus operator may purchase a diesel-powered school bus equipped with a California-certified engine meeting a PM standard of 0.01 g/bhp-hr as specified in title 13, CCR, section 1956.8 (a)(2)(A), except as provided in subsection (a)(4)(E). This exemption does not apply provided the external funding received by the school bus fleet operator for the purchase of the alternative-fueled BEST school bus is at least \$13,000 more than the incremental capital cost of the BEST bus, plus up to an additional \$4,000 more to cover necessary maintenance facility upgrades, plus funding to cover additional reasonable operating and maintenance costs.
- (D) *Lack of available engine/chassis/body configuration.* Upon demonstration to the Executive Officer that a BEST school bus is not available in a specific bus size or could not be used on a specific fixed bus route, a school bus that does not meet the requirements of subsections (a)(1) or (a)(3), but which is equipped with a California-certified engine meeting a PM standard of 0.01 g/bhp-hr as specified in title 13, CCR, section 1956.8 (a)(2)(A), may be purchased in that specific bus size or as needed for the specific fixed bus route, except as provided in subsection (a)(4)(E).

(E) *Lack of funding for a California-certified engine meeting an optional PM standard.* For the 2005 - 2006 model years, a public or private school bus fleet operator may purchase a school bus equipped with a diesel-powered engine that does not meet an optional PM standard of 0.01 g/bhp-hr as specified in title 13, CCR, section 1956.8 (a)(2)(A), provided external funding beyond a school bus fleet operator's fiscal budget is not available for the incremental cost of the engine meeting the optional PM standard.

(F) *Field trips.* For the purpose of transporting passengers on field trips outside of the jurisdiction of the District and when the remainder of the fleet consists of school buses that meet the requirements of subsections (a)(1) and (a)(3), public and private school bus fleets shall only contain school buses that do not meet the requirements of subsections (a)(1) and (a)(3), in accordance with the table below. The Executive Officer may consider a higher number on a case-by-case basis, if the public or private school bus fleet can demonstrate, based on three (3) years of bus dispatch logs, that a higher number of field trip buses is necessary.

| Fleet Size<br>(School Buses) | Maximum # of<br>Field Trip Buses |
|------------------------------|----------------------------------|
| ≥ 100                        | 10% of fleet                     |
| 51 < 100                     | 10                               |
| ≤ 50                         | 5                                |

(G) *Unforeseen circumstances.* If during the year that the school is in session, a public or private school bus fleet operator needs additional school buses due to unforeseen circumstances to operate during that school year, the operator may lease or contract for the needed quantity of school buses that do not comply with the provisions of subsections (a)(1) and (a)(3) for the months necessary to purchase or lease school buses compliant to sections (a)(1) and (a)(3), not to exceed the remaining portion of the school year, if a demonstration is made that the rule-compliant school bus cannot be deployed by the school bus fleet operator within one month from the date of order.

(H) *Mergers.* For purposes of this rule, a private school bus fleet operator is not deemed to have purchased, leased, added to, or formed a new fleet if the private school bus fleet operator, as part of a purchase or merger with another private school bus fleet operator that provides contracted school bus transportation services, transfers ownership of school buses that are already operating in the District at the time of purchase or merger.

(5) *Purchases of pre-owned school buses.*

- (A) *Pre-owned heavy-duty school buses.* Public or private operators with 15 or more school buses shall purchase, lease, or contract for a school bus repowered with a new engine meeting the BEST emission standard criteria specified in subsection (a)(2), when adding to or replacing heavy-duty school buses in an existing fleet.
  - (B) *Pre-owned medium-duty school buses.* Public or private operators with 15 or more school buses shall purchase or lease a school bus equipped with an engine certified as LEV or cleaner.
- (6) *Exemptions for purchases of pre-owned school buses.* An operator of public or private school buses may apply to the Executive Officer for an exemption from the provisions of subsection (a)(5) for the following reason:
- (A) A public or private school bus fleet operator may purchase a pre-owned school bus that does not meet the requirements of subsection (a)(5) if the oldest school bus in the operator's existing school bus fleet is scrapped or otherwise removed permanently from operation. Eligible pre-owned school buses shall be equipped with a verified diesel emission control strategy, if external funding beyond a school bus fleet operator's fiscal budget is available for the incremental cost of a verified diesel emission control strategy.
- (b) *Diesel Emission Control Strategies for School Buses in the South Coast Air Quality Management District.*
- (1) To reduce emissions from in-use diesel school buses, public or private operators that own or lease 15 or more school buses shall install on at least 25 percent of the eligible school buses on an annual basis beginning January 1, 2006, the highest level verified diesel emission control strategy per title 13, California Code of Regulations, section 2702(f), Table 1, that is verified for a specific engine, and which the diesel emission control strategy manufacturer or authorized dealer agrees can be used on a specific engine and school bus combination, without jeopardizing the original engine warranty in effect at the time of installation.
  - (2) If using a fuel-based verified strategy to meet the requirements of (b)(1), the fleet operator must continue that strategy for the life of the school bus, or upon discontinuing the fuel-based strategy, apply to the District for approval to install or employ a different verified strategy for the life of the school bus.
- (c) *Compliance Auditing and Enforcement.*



- (1) The fleet operator shall provide, at the request of the District, any files and/or records created to comply with subdivisions (a) and (b), including fleet-specific information, such as a list of official Department Motor Vehicle registrations, principal vehicle location, manufacturer, model-year, model, and fuel type of each school bus in an operator's fleet. This provision shall not apply for records that have been in existence for more than one (1) year.
  - (2) Any school bus fleet operator seeking an exemption under subsections (a)(4) and (a)(6) shall supply proof that vehicle or fleet is exempted from the requirements of this rule upon request by the District.
  - (3) Any school bus fleet operator seeking an exemption under the provisions of subsections (a)(4) and (a)(6)) that pertain to external funding availability shall apply for external funding or to external funding sources, identified annually by and with the assistance of the Executive Officer and demonstrate that funding is not available prior to the purchase or lease of school buses as allowed under subsections (a)(4) and (a)(6).
  - (4) Any school bus fleet operator using fuel or fuel additives as a diesel emission control strategy under the provisions of subdivision b, shall retain all records of purchase for the most recent 5 years that demonstrate usage, and provide to the District upon request.
  - (5) Circumvention of this rule is prohibited, including artificially creating fleets under common ownership of smaller than 15 vehicles, without sufficient business justification.
- (d) *Non-Compliance.* The Executive Officer may bring an action for civil penalties as specified in state law and regulations, including, but not limited to, Health and Safety Code Section 39674, for any violation of this section.
- (e) *Severability.* Each provision of this section is severable, and in the event any provision is held invalid, the remainder shall remain in full force and effect.

NOTE: Authority cited: Sections 39600, 39601, 39658, 43013 and 43018, Health and Safety Code. Reference: Sections 39002, 39003, 39658, 38667, 43000, 43010, 43013, 43018, 43101, 43102, 43104, 43105 and 43700, Health and Safety Code.