



Enforcement Division

Advisory

To: Owners, Operators, Renters
or Lessees of In-Use Off-
Road Vehicles in California

Number 377

June 2008

NEW IDLING LIMITS FOR OWNERS, OPERATORS, RENTERS OR LESSEES OF IN-USE OFF-ROAD DIESEL VEHICLES EFFECTIVE 6/15/08

The Air Resources Board (ARB) has adopted a regulation for In-Use Off-Road Diesel Vehicles, which became effective under California law on June 15, 2008. This regulation is designed to reduce harmful emissions from diesel powered construction and mining vehicles operating in California. Fleet owners are subject to retrofit or accelerated replacement/repower requirements for which ARB must obtain authorization prior to enforcement from the United States Environmental Protection Agency under the federal Clean Air Act. However, this regulation also imposes idling limitations on owners, operators, renters or lessees of off-road diesel vehicles, which the ARB is authorized to enforce.

The idling limits are effective and enforceable as of June 15, 2008. The regulation requires an operator of applicable off-road vehicles (self-propelled diesel-fueled vehicles 25 horsepower and up that were not designed to be driven on-road) to limit idling to no more than five minutes. These requirements are specified in title 13, California Code of Regulations as follows:

§2449(d)(3) Idling

The Idling limits in Section 2449(d)(3) 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 vehicles or engines subject to this regulation may idle for more than 5 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 should 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 5 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 5 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.*

Therefore, waivers will be handled on a case by case basis.

§2449(i) 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 ARB, 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.

Non-Compliance: Health and Safety Code, Section 39674 (a) authorizes civil penalties for the violation of the programs for the regulation of toxic air contaminants not to exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

Health and Safety Code, Section 39674 (b) authorizes civil penalties for the violation of the programs for the regulation of toxic air contaminants not to exceed ten thousand dollars (\$10,000) for each day in which the violation occurs.

As a matter of policy, each first time violation of the idling requirements will be assessed a minimum civil penalty of \$300. Subsequent penalties can be up to \$1,000 to \$10,000. The standard for assessing penalties is one of strict liability. The owner, renter or lessee will be responsible for the penalty.

ARB will assess daily penalties for each idling vehicle found to be in violation. While ARB enforcement inspectors are not intending to begin unilateral field inspections for idling violations until after September 15 of this year, they will pursue idling complaints received from the public after June 15, 2008. "Idling inspections" will be conducted by our field staff by observing off-road vehicles at construction sites, mines or any other location where such vehicles operate. In case a vehicle is observed idling for more than five minutes, the operator and the site supervisor will be contacted to determine the reason for the idling and, if the reason for idling is not exempted by the rule, a \$300 per day of violation citation will be issued to the owner, renter or lessee of the vehicle for a first time violation.

For further information about the In-Use Off-Road Diesel Vehicle regulation, please visit our website at: <http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm>. Fact sheets are available at <http://www.arb.ca.gov/msprog/ordiesel/factsheets.htm>, and the full text of the regulation is available at <http://www.arb.ca.gov/regact/2007/ordiesl07/frooal.pdf>

For questions regarding enforcement of the In-Use Off-Road Vehicle regulation, please contact Mr. Tajinder Gill at (626) 459-4304 or tgill@arb.ca.gov.

If you have questions about the regulation or our outreach efforts, please contact Ms. Elizabeth White (916-324-1704 or eiwhite@arb.ca.gov), or Ms. Kim Heroy Rogalski (916-327-2200 or kheroyro@arb.ca.gov).