

Exhibit L - CARB 02-12-24

SPECIAL INSTRUCTIONS – CARB COMPLIANCE

This form to be submitted with bid proposal at due date and time established in bid paperwork.

CALIFORNIA AIR RESOURCES BOARD (CARB)

<https://ww2.arb.ca.gov/>

For any project awarded after January 1, 2024, under the newly added requirements, Public Works Awarding Bodies will now be required to obtain valid **Certificates of Reported Compliance (“CRC”)** from all contractors and listed subcontractors before awarding the project. The Public Works Awarding Body will be required to retain CRCs for three years after the project is complete, and the CRCs are subject to CARB review upon five calendar days' notice.

The Regulations apply to all “Public Works Awarding Bodies,” which is broadly defined as “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.”

Certificates of Reported Compliance (“CRC”) are required at time of bid submittal and must be included with bid proposal by stated due date / time. Proof of bidder and subcontractor certification is to be attached to this page at the time of bid submittal.

The ARB Diesel Off-road Online Reporting System (DOORS) reporting system is where they are able to obtain their Certificates of Reported Compliance: [DOORS \(ca.gov\)](https://ww2.arb.ca.gov/our-work/programs/truckstop-resources/road-zone). There is also an additional website that provides them with more information on the regulation along with FAQs and user guides. The website if the Off-Road Zone <https://ww2.arb.ca.gov/our-work/programs/truckstop-resources/road-zone>

Questions, please call the DOORS Hotline at 877-593-6677 or email <doors@arb.ca.gov>. Please note, at this time DOORS staff has limited access to documents received via mail and fax is unavailable.

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Bidder Acknowledges CARB Compliance _____

Name of Bidder: _____



Fact Sheet: Contracting Requirements

DATE August 29, 2023

CONTACT

DOORS

Email doors@arb.ca.gov

Phone (877) 593-6677 / (877) 59DOORS

CATEGORIES

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

Amendments to the In-Use Off-Road Diesel-Fueled Fleets Regulation

Introduction

The recent amendments, approved by the California Air Resources Board (CARB) in 2022 (2022 amendments) to the In-Use Off-Road Diesel-Fueled Fleets Regulation (Off-Road Regulation or regulation) incorporate new contracting requirements. CARB added the contracting requirements to establish a proactive check at the onset of a project or at contract renewal to encourage fleets to comply with the regulation. Contracting requirements also safeguard against the unfair monetary advantage of noncompliance and thus help level the playing field for all fleets. This fact sheet reviews key elements of the contracting requirements.

Background

Contracting requirements apply to both prime contractors and public works awarding bodies. As described below, some additional requirements solely apply to the prime contractor.

- A prime contractor is the entity that directly holds the project contract for the owner or awarding body. The prime contractor is responsible for overseeing the project or a portion of the project. See section 2449(c)(44) of the 2022 amendments for the full definition. Note that work contracted with a homeowner for their personal residence, not for business, is exempt from the contracting requirements per section 2449(b)(2)(E).
- A public works awarding body is the public agency, such as the state, city, county, or school district, that awards or enters into contract for a project where there are vehicles subject to this regulation are used. These are projects on public lands, such as the construction of a public building or road. A complete definition of public works awarding body is available in section 2449(c)(46) of the regulation.

Contracting Requirements [*Section 2449(i)*]

All contracting obligations start January 1, 2024, for both prime contractors and public works awarding bodies.

- For a project involving the use of vehicles subject to the regulation, the prime contractor or public works awarding body must obtain copies of the valid Certificate of Reported Compliance (Certificate) for the fleets and subcontractors that are listed in the contract.
- Certificates must be obtained prior to awarding or renewing a contract.
- Noncompliant fleets, i.e., those without a valid Certificate, are prohibited from being contracted.
- Copies of the Certificates must be retained for three years after the project is complete.
- Records must be provided to CARB within five business days, upon request.

Exemption for Emergency Operations [Section 2449(i)(4)]

Emergency operations, as defined in section 2449(c)(18), where the prime contractor or public works awarding bodies are contracting for an emergency situation, are exempt from these contracting requirements. However, the exempted vehicle(s) must only be operated in the emergency situation and records of the exempted vehicles must be maintained. Records must include a description of the emergency and the address or location of the emergency; dates when the emergency operations happened; and an attestation that the vehicles were only operated in that emergency situation.

Additional Prime Contractor Obligations [Section 2449(i)]

Prime contractors have additional obligations beyond the contracting requirements described above, these additional requirements do not apply to public works awarding bodies, as described further below:

- Prime contractors must collect new valid Certificates for fleets with ongoing contracts as of March 1 of each year.
 - Certificates must be collected between March 1 and June 1 of each year.
 - New contracts may not be written to evade this requirement.
- Prime contractors must only allow fleets with valid Certificates on the job site.
- The prime contractor must immediately disclose to CARB, upon request, the name and contact information of any fleet or vehicle owner on their job site; this requirement only applies to fleets or vehicles that are subject to the regulation.

- If the prime contractor discovers a fleet intending to operate vehicles at the job site does not have a valid Certificate or observes noncompliant fleets or vehicles operating on their job site, they must report it to CARB within five business days

at: <https://calepacomplaints.secure.force.com/complaints/Complaint>, or at email: dieselcomplaints@arb.ca.gov.

Reports must include:

- The date on which the violation was discovered or observed;
 - name and business address of the responsible party;
 - email and phone number of the responsible party, if known; the DOORS fleet ID number of the fleet, if known;
 - the location of the job site on which the noncompliant fleet or vehicle was operating, if applicable; and
 - statement specifying whether the fleet or vehicle is continuing to operate at the job site, if applicable.
- The prime contractor must prominently display a sign that provides key information about the regulation and how to report noncompliance. The sign must be posted where vehicles subject to this regulation will operate for eight or more calendar days; the sign must be posted by the eighth calendar day from when the first vehicle operates. Section 2449(j)(5) provides the exact language that must be on the signage, verbatim, along with other very specific directions about how and where to post it. The signage lettering must be larger than size 14-point type and must be displayed in a conspicuous place where employee notices are typically posted or where there is employee foot traffic. CARB has provided an example sign for contractors to use or reference at the following link and attached it below. For more information, see section 2449(j)(5) of the regulation.



In-Use Off-Road Diesel-Fueled Fleets Regulation

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).

In-Use Off-Road Regulation Requirements

Idling Limit

Vehicles cannot idle longer than five 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.

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 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.

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 arb.ca.gov/offroadzone.

Source URL: *<https://ww2.arb.ca.gov/resources/fact-sheets/fact-sheet-contracting-requirements>*

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CARB Restrictions have changed the way we purchase and operate diesel vehicles over past several years. New CARB Regulation went into effect January 1, 2024 that impact public works bids, as well as equipment rentals.

For any project awarded after January 1, 2024, under the newly added requirements, Public Works Awarding Bodies will now be required to obtain valid Certificates of Reported Compliance ("CRC") from all contractors and listed subcontractors before awarding the project. The Public Works Awarding Body will be required to retain CRCs for three years after the project is complete, and the CRCs are subject to CARB review upon five calendar days' notice.

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Although the statute requires that the CRCs be submitted before award, there is concern that a post-bid submission requirement could be problematic and lead to protests. Specifically, if the low bidder or any of its listed subcontractors fails to provide its CRC (or perhaps does not have compliant CRC), the public agency will be unable to award the project to the low bidder. The agency would be forced to reject the low bid or wait for the low bidder to become CARB compliant before award. As a result, **it is recommended that the documentation be submitted with the Contractor's bid so that the responsiveness of the bid can be immediately evaluated.** The additional requirement to submit the Contractor's CRC should not be a particularly onerous task. Since all "fleets" operating on any project in California must be CARB compliant, it is a matter of requiring submission of a document that a Contractor should readily have on hand for submission with its bid.

When asked about existing contracts signed prior to January 1, 2024, CARB responded:

The amendments went into effect January 1, 2024. Public works awarding bodies are required to obtain Certificates of Reported Compliance before awarding a contract. If there is currently an ongoing contract that was awarded in 2023 with a completion date in 2024 obtaining the certificates would not be required. However, if the project gets extended in 2024 at that time you would be required to obtain the certificates. This would also be the case for multi year contracts.

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