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Current through 1/28/11

Where:

TotVeh_{by group} = the total number of vehicles in an engine model-year group required to be in compliance, as defined in paragraph (5)(B) above,

TotBact_{by group} = the number of vehicles in an engine model-year group that have been brought into compliance since the earliest compliance deadline using the method listed in subsection (b), and

TotRetire_{by group} = the number of vehicles retired in prior years as defined in paragraph (5)(A) above

If a vehicle has left the total fleet for reasons other than retirement, it must not be included in the calculation of TotAddComp_{by group}.

(D) Notwithstanding subsection (C) above, in the 100 percent compliance deadline year for each engine model-year group, the municipality or utility shall bring the remaining vehicles into compliance.

(E) If the TotVeh_{by group} or TotAddComp_{by group} is not equal to a whole number, the municipality or utility shall round up a whole number when the fractional part of TotAddComp_{by group} is equal to or greater than 0.5, and round down if less than 0.5.

(d) Compliance Extensions. A municipality or utility may be granted an extension to a compliance deadline specified in subsection (c) for one of the following reasons:

(1) Compliance Extension Based on Early Implementation. A municipality or utility may be granted an extension based on compliance with one or more of the following early implementation schedules, provided the Executive Officer has received a letter by the applicable early compliance deadline stating the municipality's or utility's intent to comply with one of the following conditions and the municipality or utility meets the requirements set forth in paragraphs (A), (B), (C) or (D).

(A) If a municipality or utility has implemented best available control technology on fifty percent or more of its Group 1 vehicles in its total fleet by December 31, 2007, then the municipality or utility may delay the intermediate and final compliance deadlines for the remaining Group 1 vehicles to July 1, 2012.

(B) If a municipality or utility has implemented best available control technology on fifty percent or more of its Group 2 vehicles in its total fleet by December 31, 2007, then the municipality or utility may delay the intermediate and final compliance deadlines for the remaining Group 2 vehicles to July 1, 2012.

(C) If a municipality or utility has implemented BACT on 100 percent of its Group 1 and Group 2 engines by December 31, 2008, then the municipality or utility may follow the alternate implementation schedule for its Group 3 engines of 20 percent BACT by December 31, 2009, 60 percent BACT by December 31, 2011 and 100 percent BACT by December 31, 2012.

(D) If a municipality or utility employs significant quantities of advanced technology vehicles (for example, hybrid electric vehicles) to meet BACT requirements, then the municipality or utility may apply to the Executive Officer for approval of a longer implementation schedule for its Group 2 and Group 3 vehicles, or approval of credits to be used towards BACT compliance. The longer implementation schedule must be proportionate to the additional emissions benefits from the use of the advanced technology vehicles, and BACT credits cannot exceed the additional emissions benefits. The advanced technology vehicles must meet or exceed model-year 2007 and later

emissions standards and significantly reduce greenhouse gas emissions and petroleum use.

(2) Compliance Extension Based on No Verified Diesel Emission Control Strategy. If the Executive Officer has not verified a diesel emission control strategy, or one is not commercially available, for a particular engine and vehicle combination, an annual extension in compliance may be granted by the Executive Officer under one of the conditions specified below:

(A) Executive Officer Compliance Extension. The Executive Officer shall grant a blanket one-year compliance extension if a diesel emission control strategy is not verified for an engine ten months prior to each compliance deadline specified in subsection (c).

1. For a Group 1 engine for which there is no verified diesel emission control strategy, the Executive Officer shall grant a one-year extension, after which the municipality or utility shall comply with subsection (b). If no diesel emission control strategy for the engine is verified during the extension period, the Executive Officer shall grant an additional one year extension. The Executive Officer may grant one-year extensions until December 31, 2012, (or December 31, 2018 for a municipality or utility located in a low-population county, or granted low-population county status), after which the municipality or utility shall comply with subsection (b).

2. For a Group 2 engine for which there is no verified diesel emission control strategy, the Executive Officer shall grant a one-year extension, after which the municipality or utility shall comply with subsection (b). If no diesel emission control strategy for the engine is verified during the extension period, the Executive Officer shall grant an additional one-year extension. The Executive Officer may grant one-year extensions until December 31, 2012, (or December 31, 2017 for a municipality or utility located in a low-population county or granted low-population county status), after which the municipality or utility shall comply with subsection (b)

(B) Municipality or Utility Application for Compliance Extension. A municipality or utility may apply to the Executive Officer for a compliance extension pursuant to subsection (d)(2) for an engine no later than July 31 prior to each compliance deadline specified in subsection (c). Before requesting this extension, the municipality or utility shall demonstrate compliance or intent to comply with applicable deadlines for the remaining vehicles in the fleet. The municipality or utility shall meet the following application conditions and documentation requirements by providing the following to the Executive Officer:

1. Identification of each engine, by vehicle identification number; engine manufacturer, model-year, family, and series; and type of vehicle for which no diesel emission control strategy has been verified; or

2. Identification of each engine, by vehicle identification number; engine manufacturer, model-year, family, and series; and type of vehicle for which a specific diesel emission control strategy would void the original engine warranty and a statement from the engine manufacturer or authorized dealer stating the original engine warranty would be voided; or

3. Identification of each engine and vehicle combination, by vehicle identification number; engine manufacturer, modelyear, family, and series; and type of vehicle for which no diesel emission control strategy is commercially available and a list of manufacturers that have been contacted, with the manufacturers' responses to a request to purchase; and

4. A description of the reason for the request for a compliance extension for each engine or engine and fleet-vehicle combination; and

5. A copy of the statement of compliance as required in subsection (f)(1)(K); and

6. The application for compliance extension to be submitted to the Executive Officer no later than July 31 annually beginning 2007.

a. A municipality or utility. For a Group 1 engine, the Executive Officer will accept an annual compliance-extension application until July 31, 2011, after which the municipality or utility shall comply with subsection (b) by December 31, 2012. The Executive Officer will only grant one compliance extension for an engine in Group 1. For a Group 2 engine, the Executive Officer will accept an annual compliance extension application until July 31, 2011, after which the municipality or utility shall comply with subsection (b) by December 31, 2012.

b. A municipality or utility either located in a low-population county, or granted low-population county status. For a Group 1 engine, the Executive Officer will accept an annual compliance extension application until July 31, 2017, after which the municipality or utility shall comply with subsection (b) by December 31, 2018. The Executive Officer will only grant one compliance extension for an engine in Group 1. For a Group 2 engine, the Executive Officer will accept an annual compliance extension application until July 31, 2016, after which the municipality or utility shall comply with subsection (b) by December 31, 2017.

(3) Compliance Extension for a Municipality or Utility that Operates a Dual-Fuel or Bi-Fuel Engine. A municipality or utility may delay implementation of a Group 1 or 2 dual-fuel or bi-fuel engine to the Group 3 compliance deadlines.

(4) Compliance Extension for an Engine Near Retirement. If a municipality or utility has applied best available control technology to all engines as required, and the next engine subject to implementation under subsection (c) is scheduled to be retired from the total fleet within one year of the applicable compliance deadline, then the municipality or utility shall be exempted from applying the best available control technology as defined in subsection (b) to that engine for a maximum of one year, provided documentation of the expected retirement date is kept in records as specified in subsection (f) and the engine is retired by the stated anticipated date.

(5) Use of Experimental Diesel Emission Control Strategy. A municipality or utility may use an experimental diesel emission control strategy provided by, or operated by, the manufacturer in no more than 20 vehicles, or ten percent of its total fleet, whichever is less, for testing and evaluation purposes. The municipality or utility shall keep documentation of this use in records as specified in subsection (f). Each vehicle will be considered to be in compliance for the duration of the experiment to a maximum of two years. The municipality or utility must bring the vehicle into compliance within six months of the end of the testing and evaluation period. No experimental diesel emission control strategy may be used on a vehicle after December 31, 2012.

(6) Accelerated Turnover Option. A municipality or utility either located in a low-population county or granted low-population county status may follow the accelerated turnover option provided in subsection (c)(3), provided the Executive Officer has received a letter by July 31, 2008, stating the municipality's or utility's intent to comply with this option.

(7) Light Heavy-Duty Engine Extension. A municipality or utility may apply for a one year extension from the 2009 compliance deadline for light heavy-duty engines if after counting light heavy-duty engines as a part of the total fleet prevents the fleet from complying with the 2009 intermediate BACT compliance requirements in section 2022.1(c)(1). A municipality or utility must:

(A) Submit a letter to the Executive Officer by December 31, 2009 requesting the light heavy-duty engine extension;

(B) Submit documentation to demonstrate it cannot comply with the 2009 intermediate BACT compliance requirements in section 2022(c)(1) after adding light heavy-duty engines as a part of the total fleet size. Documentation shall include, but is not limited to, proof of financial hardship, budgeting schedules, etc. Documentation of financial hardship shall include an analysis of cost of compliance, sources of available funds and shortfall between funds available and cost of compliance; and

(C) Meet the record-keeping requirements under section 2022.1(f).

(8) Privately-Owned Utility Extension. A utility may be granted an extension for Group 2 and Group 3 intermediate and final compliance deadlines as required in section 2022.1(c)(1) by two years, provided that thirty (30) percent of its fleet vehicles meet the 2010 model year NOx emissions equivalent as defined a section 2025(d), and twenty (20) percent of its fleet vehicles meet the 2007 model year NOx emissions equivalent as defined in section 2025(d) by December 31, 2013. A privately-owned utility must:

(A) submit a letter to the Executive Officer by December 31, 2009 stating the utility's intent to comply with this section,

(B) submit records by December 31, 2009 required by section 2022.1(f)(1),

(C) label each vehicle in its fleet according section 2022.1(f)(3)(G),

(D) submit by December 31, 2011 records required by section 2022.1(f)(1), and

(E) submit by December 31, 2013 records required by section 2022.1(f)(1) and documentation, such as but not limited to percent of fleet calculations and purchase records, demonstrating the utility's compliance with the above conditions.

(e) Diesel Emission Control Strategy Special Circumstances. A municipality or utility shall maintain the original level of best available control technology on each engine once that engine is in compliance, and will not be required to upgrade to a higher level of best available control technology, except under specified special circumstances, as follows:

(1) Fuel Strategy Diesel Emission Control Strategy.

(A) If a municipality or utility determines that the highest level diesel emission control strategy for a small percentage of its fleet would be a Level 2 fuel-based strategy, and implementation of this diesel emission control strategy would require installation of a dedicated storage tank, then the municipality or utility shall request prior approval from the Executive Officer to allow use of a lower level diesel emission control strategy; or

(B) If a municipality or utility elects to use a fuel-based diesel emission control strategy across its fleet, and some vehicles can use a Level 3 hardware diesel emission control strategy, then the municipality or utility shall request prior approval from the Executive Officer to allow use of a lower level diesel emission control strategy. This provision is only available if a minimum Level 2 diesel emission control strategy is used.

(2) *Diesel Emission Control Strategy Failure or Damage*. In the event of a failure or damage of a diesel emission control strategy, the following conditions apply:

(A) *Failure or Damage During the Warranty Period*. If a diesel emission control strategy fails or is damaged within its warranty period and the diesel emission control strategy manufacturer or authorized dealer determines it cannot be repaired, the municipality or utility shall replace the diesel emission control strategy with either the

same level diesel emission control strategy or another best available control technology as defined in subsection (b).

(B) *Failure or Damage Outside of Warranty Period.* If a diesel emission control strategy fails or is damaged outside of its warranty period, and it cannot be repaired, the municipality or utility shall apply the best available control technology at the time of replacement, as defined in subsection (b).

(3) *Discontinuation of Fuel Verified as a Diesel Emission Control Strategy.* If a municipality or utility discontinues use of a fuel verified as a diesel emission control strategy, the municipality or utility shall apply best available control technology within 30 days of the date of discontinuation or submit a compliance plan to the Executive Officer no later than 30 days after discontinuation that demonstrates how the municipality or utility will bring the vehicles into compliance within six months of the date of discontinuation.

(4) *Limited Use of Level 1 Diesel Emission Control Strategy.* If a Level 1 diesel emission control strategy is identified as the best available control technology pursuant to subsection (b), a municipality or utility is subject to the following limitations:

(A) Group 1

1. A municipality or utility may not use a Level 1 diesel emission control strategy on any Group 1 engine.

2. *Exception for low-population counties.* The limitation in (A)1. does not apply to a vehicle owned or operated by a municipality or utility located in a low-population county (Table 2), or to a vehicle owned or operated by a municipality or utility that has been granted low-population county status.

(B) Group 2

1. *Ten year limit.* A municipality or utility may use a Level 1 diesel emission control strategy in a Group 2 engine for up to ten years. The municipality or utility shall then replace the Level 1 diesel emission control strategy with the best available control technology from subsection (b). The replacement cannot be a Level 1 diesel emission control strategy.

2. *Exception for low-population counties.* The limitation in (B)1. does not apply to a vehicle owned or operated by a municipality or utility located in a low-population county (Table 2) or to a vehicle owned or operated by a municipality or utility that has been granted low-population county status.

(C) Group 3 and 4

1. *Five year limit.* A municipality or utility may use a Level 1 diesel emission control strategy in a Group 3 and 4 engines for up to five years. The municipality or utility shall then replace the Level 1 diesel emission control strategy with the best available control technology from subsection (b). The replacement cannot be a Level 1 diesel emission control strategy.

2. *Exception for low-population counties.* The limitation in (C)1. does not apply to a vehicle owned or operated by a municipality or utility located in a low-population county (Table 2) or to a vehicle owned or operated by a municipality or utility that has been granted low-population county status.

(f) *Record-Keeping Requirement.* A municipality or utility shall maintain the following records. The municipality or utility shall provide the following records upon request to an agent or employee of the Air Resources Board for all vehicles in its total fleet subject to compliance with this regulation.

(1) Records to be Kept For Inspection. Beginning December 31, 2007, the municipality or utility shall keep the following records either in hard-copy format or as computer records:

(A) A list by vehicle identification number of vehicles, identifying each vehicle type; engine manufacturer, model-year, family, and series; and status as a total fleet or low usage vehicle; and

(B) Correlated to each vehicle, the installed diesel emission control strategy family name, its serial number, manufacturer, installation date, and if using a Level 1 or Level 2 verified diesel emission control strategy, the reason for the choice; and

(C) Records of maintenance for each installed diesel emission control strategy; and

(D) For fuel or fuel additives used as a diesel emission control strategy, the most recent two years' worth of records of purchase that demonstrate usage; and

(E) For each low usage vehicle, or low-population county low usage vehicle, its mileage or engine hours as of December 31 of each year beginning 2007, and records to document its five-year mileage or engine hours, as of December 31 of each year beginning 2007, correlated to the vehicle identification information in paragraph (1)(A) above; and

(F) If a municipality or utility is located in a low-population county or has been granted low-population county status, documentation affirming that the vehicle is not operated at any time in a metropolitan statistical area as defined by the U.S. Census Bureau; and

(G) For each engine for which a municipality or utility is claiming an extension pursuant to paragraph (d)(4), the retirement date correlated to the vehicle identification information in paragraph (1)(A) above; and

(H) For each engine for which a municipality or utility is claiming an extension pursuant to paragraph (d)(5), the records of the test plan, including start and end dates of the experiment; diesel emission control strategy manufacturer name and contact information (representative, address, and phone number); name and type of experimental diesel particulate matter emission control strategy; and targeted data to be generated by experiment and correlated to the vehicle identification information in paragraph (1)(A) above; and

(I) For each engine for which a municipality or utility located in a low-population county is following the accelerated turnover path in Table 3, the date of each engine repower correlated to the vehicle identification information in paragraph (1)(A) above; and

(J) Records to document the retirement of a vehicle. For each vehicle or engine to be retired, list the vehicle identification number, engine manufacturer, model-year, family, and series. For each vehicle that will be transferred to another fleet in California, include also the information required by sections 2022.1(f)(1)(B) and a statement of compliance that the vehicle meets the provisions of section 2022.1(b). For each vehicle or engine to be retired, provide the date of retirement, and written confirmation from the recipient of the retired vehicle or engine that the destination of the vehicle or its engine meets the requirements of the definition of "retirement" or "retire" in section 2022(b).

(K) Vehicles sold outside of the State of California. For a vehicle to qualify for retirement, a municipality or utility must:

1. Submit to the Executive Officer a completed VIN Stop application, which includes: vehicle license plate number, vehicle identification number, vehicle model-year, vehicle make, vehicle model, engine manufacturer, engine serial number, and engine model year;

2. Receive and maintain VIN Stop submittal to Department of Motor Vehicles in municipality's or utility's records; and

3. Obtain and maintain out-of-state buyer's contact information, such as name, address and phone number for the vehicle sold outside of the State of California and acknowledgement of the vehicle's operational status.

(L) A statement of compliance, prepared beginning December 31, 2007, and renewed each December 31, thereafter until December 31, 2012, with low-population counties continuing until December 31, 2018, certifying that the municipality's or utility's engines are in compliance as required, including the following:

1. "The [insert name of municipality or utility] vehicles at terminal [insert terminal identification number or address] are in compliance with title 13, California Code of Regulations, section 2022.1"; and

2. The municipality's or utility's name, address, and business telephone; and the signature of the municipality's or utility's agent and the date signed.

(2) Inspection of Records at the Terminal. Beginning December 31, 2007, the municipality or utility shall provide to any ARB representative any records required to be maintained by the municipality or utility pursuant to subsection (f)(1), by appointment, at the terminal where a vehicle normally resides.

(3) Records Kept in the Vehicle. For each vehicle, beginning December 31, 2007, the municipality or utility shall keep the following information in the form of a legible and durable label affixed to the driver's side door jamb, or another readily accessible location known to the driver of each vehicle:

(A) For each installed diesel emission control strategy, the diesel emission control strategy family name as specified in title 13, California Code of Regulations, section 2706(g)(2), and the installation date; or

(B) Engine model-year and planned compliance date, and a statement that the vehicle is following the accelerated turnover option, if applicable; or

(C) Designation as a low usage vehicle or low-population county low usage vehicle (as applicable) and the vehicle's mileage or hours as of December 31 of each year beginning December 31, 2007; or

(D) Engine model-year and terminal where the vehicle is permanently housed if the municipality or utility is located in a low-population county or has been granted low-population county status; or

(E) Engine model-year and retirement date for an engine for which a municipality or utility is claiming an extension pursuant to paragraph (d)(4); or

(F) Engine model-year and the beginning and the ending dates for the test plan of an engine for which a municipality or utility is claiming an extension pursuant to paragraph (d)(5); or

(G) Engine model-year and planned compliance date, and a statement that the vehicle is following the private utility extension, if applicable.

(4) Each municipality or utility shall maintain these records for each vehicle until it is sold outside of the State of California or is no longer owned or operated by the municipality or utility. If ownership is transferred, the seller shall convey these records to the buyer, or a third-party sales representative.

(g) Contractor Compliance Requirement. In any contract for services that a municipality or utility enters that has an effective date of December 31, 2007, or later, the municipality or utility shall include language requiring the contractor to be in compliance with all federal, state, and local air pollution control laws and regulations applicable to the contractor.

(h) Third Party Vehicle Seller Contract Requirement. In any contract with a third party vehicle seller for the sale of a vehicle outside of the State of California to satisfy retirement, a municipality or utility must:

(1) Include in the contract that it is the third party vehicle seller's responsibility to:

(A) Ensure that the vehicle is sold outside of the State of California, or if sold to an intermediate buyer in state, inform the intermediate buyer in writing that the vehicle cannot be sold or operated within California unless the vehicle is in compliance with section 2022.1(b);

(B) Inform the buyer in writing that the vehicle cannot be registered in California unless the vehicle is in compliance with section 2022.1(b); and

(C) Notify the buyer in writing to inform future buyers that the vehicle cannot be registered/operated in California unless the vehicle is in compliance with section 2022.1(b).

(2) Obtain a written statement from the third party vehicle seller with the buyer's contact information, such as name, address, and phone number; obtain acknowledgement of the requirements in subparagraph 2022.1(h)(1); and provide original copy to public agency or utility.

(i) Non-Compliance. Any violations of this section may carry civil penalties as specified in state law and regulations, including, but not limited to, Health and Safety Code Section 39674.

(1) A municipality or utility that fails to maintain the required records in paragraph (f)(1) may be subject to civil penalties of not less than \$100 per day for every day past the required record-keeping date.

(2) A municipality or utility that fails to maintain the required records in the vehicle as specified in paragraph (f)(3) may be subject to civil penalties of not less than \$100 per day per vehicle for every day past the required record-keeping date.

² "By group" means all vehicles in an engine model-year group as described in Table 1 under (c)(1).

Note: Authority cited: Sections 39600, 39601 and 39658, Health and Safety Code. Reference: Sections 39002, 39003, 39655, 39656, 39657, 39658, 39659, 39660, 39661, 39662, 39664, 39665, 39667, 39674, 39675, 43000, 43013, 43018, 43101, 43102, 43104, 43105 and 43700, Health and Safety Code.