

Transit Agency Diesel-Fueled Bus and Engine Exemption Request Guidance Document

January 25, 2022

Background

On-road heavy-duty vehicles are significant contributors of criteria pollutant, toxic air contaminant, and greenhouse gas (GHG) emissions. Heavy-duty vehicles are the largest contributors of nitrogen oxides (NO_x), emitting nearly a third of all NO_x emissions in California. Reducing tailpipe emissions is essential to meet the federal National Ambient Air Quality Standards, especially the federal health-based air quality standards for ozone in the South Coast and the San Joaquin Valley air basins by 2031, as well as fine particulate matter (PM_{2.5}) in the next decade. On September 9, 2021, the California Air Resources Board (CARB) adopted the Heavy-Duty Engine and Vehicle Omnibus Regulation (Omnibus Regulation) to drastically reduce NO_x emissions from conventionally fueled medium heavy-duty and heavy heavy-duty engines.

The Omnibus Regulation will significantly increase the stringency of NO_x emissions standards and will also lengthen the useful life and emissions warranty of heavy-duty diesel engines for use in vehicles with a gross vehicle weight rating (GVWR) greater than 10,000 pounds. The more stringent NO_x emission standards begin with the 2024 model year engines and become more stringent with 2027 and subsequent model year engines.

The only manufacturer of diesel-fueled heavy duty urban bus engines announced before CARB's August 2020 Board meeting that it will no longer produce these types of engines to be certified in California, beginning with the 2024 model year. The same manufacturer also announced that it plans to increase the price of the diesel fueled urban bus engines starting with the 2022 model year, due to the lengthened warranty requirements adopted in a previous rulemaking. This creates a potential obstacle for transit agencies that are currently working diligently to comply with the Innovative Clean Transit (ICT) regulation and could deter the deployment of zero emission buses. The ICT regulation requires transit agencies to begin the purchase of zero emission (ZE) buses, with the goal of transitioning all transit buses to ZE technology by 2040.

CARB recognizes the existence of potential hardships for transit agencies. Transit service may be adversely affected without the flexibility offered by the Omnibus Regulation. The Board directed the staff to provide a case-by-case review addressing the concerns. Therefore, the Transit Agency Diesel Fueled Bus and Engine Exemption Request (Exemption Request) was added to the Heavy-Duty Engine and Vehicle Omnibus Regulation (1956.8(a)(2)(F)) per the Board decision in Resolution 20 23. This exemption will help support transit agencies to smoothly transition to 100 percent zero-emission fleets.

This guidance document provides summaries and examples about the Exemption Request and includes conditions, requirements, and procedures. It is written in a question-and-answer format, with 15 questions listed below. This guidance document does not replace the adopted regulatory text, which controls in all instances. For questions regarding interpretation, please see the [Omnibus Regulation regulatory text](#).

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Q1: What is the Exemption Request and what does the exemption intend to do?

The ICT regulation gradually phases in the purchase of zero-emission buses (ZEBs) and allows a transit agency to purchase conventional buses with internal combustion engines to maintain its service level, before 2029. Such a phase-in schedule will help transit agencies gain the necessary pilot experience of ZEB operation and is invaluable to ensure a smooth transition.

However, the exit of a dominant diesel transit bus engine manufacturer out of the California market is going to impact transit operations. It may force transit agencies to operate diesel buses for a longer period of time or require the transit agency to accelerate the purchase of diesel buses. CARB has therefore included provisions of the Exemption Request in the Omnibus Regulation to mitigate the potential adverse impact.

For 2022 and subsequent models of diesel-fueled medium heavy-duty or heavy heavy-duty engines used in urban buses, the Executive Officer of CARB (Executive Officer) will issue an Executive Exemption Approval Letter (Approval Letter) if all conditions and requirements are met. The conditions and requirements, as listed in Q2 & Q3 below, will be used to determine whether the transit agency will be granted an exemption. If granted, an Exemption Request will allow a transit agency to purchase, rent, or lease exempt buses, contract for service with bus service providers to operate exempt buses, or re-power buses with engines that are certified to both the federal emission standards for 2010 and later model year diesel-fueled medium heavy duty or heavy heavy-duty engines and vehicles (title 13, CCR, section 1956.8(a)(2)(F)).

Q2: Who can apply for an Exemption Request?

The Exemption Request is only applicable to transit agencies that are subject to the ICT regulation. The intent of the Exemption Request is to ensure that transit service is not adversely affected.

- 1) A transit agency is a public entity responsible for administering and managing transit activities and services. Public transit agencies can directly operate transit service or contract out for all, or part of the total transit service provided (title 13, CCR, section 2020(b)).
- 2) A transit agency that owns, operates, leases, rents, or contracts with other entities to operate buses in California, is subject to the ICT regulation (title 13, CCR, section 2023).
 - a) The ICT regulation does not apply to the following entities: Caltrans, Caltrain, Amtrak, school districts, correctional facilities, airports, colleges, universities, national parks, tour bus service providers, or an entity that provides shuttle services solely for patrons of its organization.

Q3: What are the conditions to be eligible for the Exemption Request?

To be eligible, transit agencies must meet all of the following requirements to submit an Exemption Request (title 13, CCR, sections 1956.8(a)(2)(F).1):

- 1) The transit agency has fulfilled the reporting requirements of the ICT regulation (title 13, CCR section 2023.8) for the year submitting the Exemption Request.
 - a) The annual ICT reporting is due March 31st of each year, beginning in the year 2021 and continuing to 2050.
 - b) A transit agency may utilize the [ICT reporting tool guidance document](#) to complete the reporting.
- 2) The transit agency has purchased the required number of ZEBs as required by title 13, CCR section 2023.1, or has received an exemption for the purchase of ZEBs (title 13, section CCR 2023.4) in the immediately preceding year.
- 3) If a transit agency has compressed natural gas (CNG) buses in its fleet, this transit agency must consider expanding its CNG bus fleet to utilize low NOx engines before the submission of the Exemption Request. If an Exemption Request is still submitted, the following must be included in the Exemption Request:
 - a) A statement from the transit agency with supporting explanation to why it is cost prohibitive for the transit agency to procure more CNG fueled bus(es), or to fuel and support additional CNG-fueled bus(es) from any established fueling facility.
 - b) If the transit agency has authority or agreement to access an established CNG fueling facility, the transit agency must also submit documentation that contains information about the fueling capacity of its established CNG fueling facility and how the transit agency has fully utilized this option.
- 4) If the transit agency has previously received an exemption through this process (title 13, CCR section 1956.8(a)(2)(F).3), the transit agency must complete the reporting requirement (title 13, CCR section 1956.8(a)(2)(F).5), before it can submit a new request.

Q4: What are the requirements and the procedures to apply for the Exemption Request?

Once all of the conditions identified in Q3 have been met, the applicant can move forward with the application process. An eligible transit agency must submit an Exemption Request to the Executive Officer, any time before May 1st of the first calendar year in which the exemption is requested. The request must include:

- 1) A copy of the contract if the Exemption Request involves an existing contract.
- 2) The transit agency needs to identify the number of buses it is requesting an exemption for, along with the corresponding bus types. The transit agency will need to identify the quantity of exempt buses it requests for each calendar year, in the triennial period. CARB will only issue a triennial quota, since the Exemption Request covers three calendar years, starting from the year in which the request is submitted. All approved buses must be

delivered by the end of year three. There is no requirement on the quantity of buses that can be delivered each year, as long as the quota is not exceeded at the end of year three. Also, the number of buses that operate outside of the NOx exempt areas will need to be identified by bus type (title 13, CCR, section 1956.8(a)(2)(F).2). The requested number of exempt engines or buses for each calendar year must demonstrate compliance with the ICT regulations' zero emission bus purchase requirements (title 13, CCR section 2023.1), including any approved purchase Exemption Requests (title 13, CCR section 2023.4).

- 3) The requesting transit agency must evaluate if the requested exempt buses cannot be replaced with ZEBs, even if the entire ZEB purchase incremental cost can be offset with state incentive funding. If a transit agency can identify the reasons listed in title 13, CCR section 2023.4(c) that prevents it from purchasing ZEBs, the transit agency must then provide an explanation and supporting documents.

Example 1: Transit A plans to purchase 50, 60 and 70 diesel buses, that will be delivered in 2022, 2023, and 2024. Transit Agency A already has an existing contract for 50 buses that will be delivered in 2022. Transit A also has existing CNG buses in its fleet. Can Transit A apply for an Exemption Request, even though they have an existing contract and what is the procedure for that?

Yes, Transit A may still request a triennial exemption. Transit A will need to disclose the information for the 50 buses, in year one, that are covered in an existing contract.

- 1) Transit A needs to complete the 2022 ICT reporting for the 2021 data year, by the March 31st, 2022, deadline.
- 2) If Transit A has submitted its 2022 ICT reporting with its reporting data showing compliance in 2021, then Transit A may submit the Exemption Request any time in 2022 before May 1st to the Executive Officer.
- 3) The Exemption Request package must include the following:
 - a) A copy of the existing bus purchase contract.
 - b) An explanation of why increasing the number of low NOx CNG engines is not feasible, given that Transit A has existing CNG buses in its fleet (e.g., Transit A can explain why their fueling facilities cannot support additional CNG buses).
 - c) The number of exempt buses and corresponding bus types that are planned to be purchased and delivered for each of the three calendar years, starting with the year 2022 (Table 1). Also, for each type of the requested exempt buses, identify how many of them will operate outside of NOx-exempt areas (Table 2).

Table 1: The Number of Exempt Buses Requested for the Exemption Request

Year	Bus Type	Number of Exempt Buses Requested by Bus Type
2022	Standard	50
2023	Articulated	20

Year	Bus Type	Number of Exempt Buses Requested by Bus Type
2023	Standard	40
2024	Cutaway	10
2024	Standard	60

Table 2: The Number of Buses That will Operate Outside of NOx-Exempt Areas

Bus Type	Number of Exempt Buses Planned to Operate Outside of NOx Exempt Areas
Standard	5
Articulated	10
Cutaway	3

Q5: How does a transit agency proceed with purchasing exempt buses or engines, after approval of the exemption is granted?

After a transit agency receives the Approval Letter, it may proceed with engine repower or exempt bus purchase, lease, rental, or service contracts. The transit agency must provide a copy of the Approval Letter to the engine and bus dealer(s), bus manufacturer(s), and engine manufacturer(s) involved with delivering the exempt buses or engines to the transit agency.

Example 2: Transit A, in example 1, meets all the conditions and requirements specified in Q3 and Q4, and is issued an Approval Letter. The letter approves the purchase of a triennial quota of 180 federal certified diesel engines. Transit A will have to work with its selected bus original equipment manufacturer (OEM) to ensure that all of the 180 buses are delivered by the end of 2024.

Q6: Is there a cap on the number of exempt buses that a transit agency can request, when applying for the Exemption Request?

No, there is no limit on the number of exempt buses a transit agency can request when applying for the Exemption Request. The transit agency can make a triennial request based on the transit agency’s proposal or need. However, the Omnibus Regulation requires a transit agency to consider purchasing ZEBs: when the full incremental cost can be offset by

state incentive funding; or purchase low NO_x CNG engines if resources are available. In the case a transit agency is unable to do either, it has to provide eligible reasons for an explanation as stated in title 13, CCR section 2023.4(c).

Q7: Will the unused approved exemption quota expire?

Yes, the triennial quota expires at the end of the third calendar year of the triennial period, starting from the calendar year in which the exemption is requested.

Example 3: If Transit A, in example 1, has only 140 diesel buses delivered between 2022 and 2024, the unused quota of 40 diesel buses or engines cannot be carried over to 2025 or beyond.

Q8: Will an unused quota from a previous Exemption Request affect a future Exemption Request?

No, the unused quota will not have any negative impact on a future Exemption Request. A future Exemption Request is considered a new submission and will be reviewed accordingly.

Q9: What does the Diesel-Fueled Bus and Engine Exemption reporting include?

A transit agency with an approved Exemption Request shall report for the exempt buses under the Omnibus Regulation. The following information is reported for the prior calendar year, annually by March 31st.

- 1) Reporting needs to include engine or vehicle purchase contract information, rental, or contract for service agreement. Purchase contract refers to Notice to Proceed, a written purchase agreement or a signed written lease agreement, as identified in ICT's title 13, CCR Section 2023(b)(7).
- 2) A copy of the certificate of conformity for each engine family and the model year included in the purchase, lease, rental, or service contract agreement (40 CFR, section 86.007-30).
- 3) The number of exempt engines and buses delivered to the transit agency or transit service contractor with the bus type(s).
- 4) For each exempt engine, provide the engine make, model, engine serial number (ESN) and vehicle identification number (VIN).
- 5) For each exempt bus, provide the engine make, model, ESN, and VIN.
- 6) The documentation of dates of bus delivery and in service.

Q10: Where can I report?

The annual reporting deadline for the Omnibus Regulation's exempt bus aligns with the ICT regulation's annual reporting deadline. Therefore, a transit agency that is subject to both regulations' reporting can simply use the Innovative Clean Transit reporting tool (ICTRT) for reporting.

Q11: I want to apply for the Exemption Request in the year 2022, what deadlines should I pay attention to?

You need to complete the 2022 ICT reporting for the 2021 data year, by the March 31st, 2022, deadline. Once the transit agency is in compliance with the reporting requirements, the Exemption Request package can be submitted anytime to the Executive Officer, as long it is before the May 1st, 2022, deadline.

Q12: Will a granted exemption be revoked if a transit agency fails to meet the requirement?

The Executive Officer may revoke a previously granted Exemption Request, if any previously submitted information is found not meeting the requirements, conditions, or criteria set forth in title 13, CCR sections 1956.8(a)(2)(F) 1.c. and 2.

Q13: I am a charter bus fleet owner and operate my buses for various events, tours, and occasionally transit agencies. Am I eligible for this Exemption Request?

To be eligible for the Exemption Request you must be a public transit agency that meets the criteria stated in Q2. Only a transit agency can submit such requests.

Q14: My transit agency plans to purchase diesel buses in 2022, 2023, 2024, and 2025. Do I need to submit Exemption Requests for all these four years?

No, one Exemption Request covers three calendar years, starting from the year in which the Exemption Request is submitted. In this case, if the Exemption Request is submitted in 2022, then it will cover 2022, 2023 & 2024. Another Exemption Request will need to be submitted in 2025 for the buses that the transit agency plans to purchase in 2025. Alternatively, this transit may opt to purchase ARB certified engines for model years 2022 and 2023; and only apply for exemptions for model years 2024 and 2025. The enhanced warranty takes effect in 2022, but ARB certified engines will still be available in 2022 and 2023. These engines may cost a little more, but it is up to the transit agency to exercise this flexibility. Starting in 2024, the ARB certified diesel-fueled bus engines will no longer be available. In order to be able to purchase federal certified diesel engines, transit agencies must have an approved Exemption Request.

Q15: Where can I find more information?

If you wish to learn more about the [Omnibus Regulation](#), please visit its webpage.

For any further questions regarding the Exemption Request or this Guidance Document, please contact CARB staff at ict@arb.ca.gov.