

Appendix I

Regulatory Advisory (Mail-Out #MSC 13-28)

Regulatory Advisory

November 2013



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Truck and Bus Regulation ARB Will Recognize Good Faith Efforts to Comply and Provide Early Access to Expected Regulatory Changes

This advisory describes steps the Air Resources Board (ARB or Board) is taking to assist vehicle owners with the transition to the upcoming January 1, 2014, particulate matter (PM) filter compliance deadline under the Truck and Bus regulation (regulation). The overall goal of these actions is to:

- Provide additional time for owners to complete their good faith compliance efforts
- Provide additional flexibility for many lower use vehicles and vehicles that operate solely in certain areas of the State

To qualify and use the compliance options described in this Advisory, truck owners must report specific information to ARB through the Truck Regulations Upload and Compliance Reporting System (TRUCRS) by January 31, 2014, as described below.

ARB recognizes that many fleets are taking actions to comply with the January 1, 2014, deadline but may not be able to complete them on time. For such fleets, ARB is providing guidance to truck owners that are compliant for 2013 and have made good faith efforts to comply with the January 1, 2014, deadline to give assurance that they will not be subject to enforcement action for non-compliance prior to July 1, 2014.

In addition, at its October 24, 2013, meeting, the Board directed ARB staff to examine several potential changes to the regulation that could provide owners additional compliance flexibility. In developing these changes, staff will evaluate them to ensure that emission levels remain similar to what would be expected under the current regulation, and do not jeopardize a region's ability to meet health based federal air quality standards. Potential changes include increasing low-use vehicle thresholds, allowing owners to newly opt-in to a number of existing flexibility provisions, providing adjustments to the "NOx exempt" vehicle provisions, and granting additional time for fleets in certain areas to meet the PM filter requirements. Because the Board will not formally consider these changes until April 2014, this advisory allows truck owners to report and take advantage of applicable anticipated regulatory changes.

Background

The regulation requires diesel truck and bus owners to take steps to reduce their engine emissions. The regulation is a part of the State's plan to meet federal ambient air quality standards and to protect public health, particularly near roadways and distribution centers where exposures frequently reach unhealthy levels. Nearly all trucks and buses with a manufacturer's gross vehicle weight rating greater than 14,000 pounds that operate in California are required to be upgraded between 2012 and 2023 to reduce exhaust emissions.

Most heavier trucks and buses (with a gross vehicle weight rating greater than 26,000 pounds) are required to have a PM filter by January 1, 2014. There are certain exceptions to these requirements for truck owners that have reported to use flexibility options allowed under the regulation. These include, but are not limited to, certain agricultural and limited-use construction trucks, low-use vehicles, and vehicles that operate in certain areas of the State. Additional information about the regulation is at: <http://www.arb.ca.gov/msprog/onrdiesel/documents/FSReqSum.pdf>.

To comply with the PM filter requirements, owners can upgrade existing engines by installing PM filters that are Verified Diesel Emission Control Strategies approved by ARB, or by upgrading to cleaner engines or vehicles. A list of Verified Diesel Emission Control Strategies that have been approved by ARB can be found at: <http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm>.

Recognizing Good Faith Efforts to Comply

While the January 1, 2014, compliance date remains unchanged for most fleets, ARB will recognize good faith efforts of vehicle owners to comply with the deadline. Specifically, fleets of any size that demonstrate they took one of the following actions prior to January 1, 2014, and report into TRUCRS, will not be subject to enforcement action during the period through July 1, 2014, on any truck for which they:

- Entered into an agreement with an authorized retrofit installer for a PM filter retrofit
- Signed a purchase contract and ordered a replacement truck that is equipped with a PM filter (2007 model year engine or newer)
- Were approved or denied a loan or other financing for a retrofit PM filter or for a replacement truck that is equipped with a PM filter

Additionally, for owners with one to three trucks that meet all of the eligibility requirements for the Proposition 1B: Goods Movement Emission Reduction Program (Program) and report into TRUCRS, the owner will be recognized for good faith efforts provided the owner does all of the following: applies for grant funding from the Program by the December 12, 2013, close of the second solicitation to replace an existing truck with a truck meeting 2010 or later emissions standards; and replaces the truck per the requirements and schedule in the grant contract. Eligibility requirements include but are not limited to: demonstrating 75 percent operation within California for the past two years, using the vehicle to move goods as part of a sales transaction, committing to at least 50 percent travel within the four California trade corridors, and meeting minimum mileage

requirements. Program requirements and participating air districts can be found at: <http://www.arb.ca.gov/gmbond>.

Loans from a national or state chartered financial institution or a licensed California finance lender can be used to demonstrate good faith efforts. Contractual purchase agreements used to demonstrate good faith efforts must be a written and legally binding contract signed on or before January 1, 2014, for immediate delivery and cannot be modified or cancelled by the owner after January 1, 2014.

Vehicle owners must keep copies of purchase orders, receipts, contracts, or correspondence from dealers or financial institutions at their place of business and in the vehicle at a location known to the driver. Records that document good faith efforts must be kept for two years and may be subject to audit. Vehicle owners that made good faith efforts before January 1, 2014, and are still unable to meet the compliance requirements of the regulation should contact ARB at the number below before July 1, 2014, in order to discuss alternative compliance options and penalties.

Owners that placed orders for equipment prior to September 1, 2013, and qualify to use the manufacturer delay extension, have until July 1, 2014, to bring the vehicle into compliance and to claim credits as specified in the regulation. For details see: <http://www.arb.ca.gov/msprog/mailouts/msc1315/msc1315.pdf>.

Utilizing Anticipated Regulatory Changes

Because the proposed amendments to the regulation being developed by ARB staff will not be completed until after the January 1, 2014, compliance deadline, owners are allowed to report into TRUCRS to take advantage of the following anticipated regulatory changes for all vehicles (except school buses) prior to the Board's April 2014 public hearing:

- The opt-in period will be reopened for vehicles to newly register for the existing low mileage agricultural vehicle extension
- The opt-in period will be reopened for vehicles to newly register for the existing low mileage construction truck extension
- The opt-in period will be reopened for vehicles to newly register for the existing PM phase-in requirements
- The thresholds for the low-use exemption will be increased for all trucks that are operated a total of less than 5,000 miles per year, and for trucks that are designed to perform work while stationary, the limit will be increased to 200 hours per year
- The definition of "NOx exempt" areas will be expanded to include regions designated in Attachment A to this Advisory

The PM filter requirements for vehicles operated exclusively in the existing and newly proposed "NOx exempt" areas, as well as the cross-hatched areas as shown in Attachment A, will be delayed one year until January 1, 2015. This one year delay is intended to provide the Board an opportunity to consider the timeline to deploy PM filters on all trucks operated in these areas. Additional detailed maps of these areas are provided at: <http://www.arb.ca.gov/msprog/onrdiesel/regulation.htm>. Before staff finalizes the proposed amendments, they will evaluate these regions for needed future NOx emission reductions and localized risk impacts on sensitive populations that a delay in PM filters may have.

Please be advised that while ARB staff anticipates proposing amendments similar to these administrative changes at the Board's regularly scheduled April 2014 meeting, the changes will not be finalized until approved by the Board. As such, the final scope and applicability of the proposed amendments may change as ARB staff assesses their emission, risk, and economic impacts and conducts public workshops at various locations throughout the State. In the event that the proposed amendments differ from those identified above and impact a fleet's ability to comply with the regulation, ARB staff will provide fleets that have reported their intent to use these options additional time beyond the Board's April 2014 meeting to come into compliance.

Reporting Compliance Actions Taken Under this Advisory

To qualify and use the compliance options described in this Advisory, an affected owner must report, under penalty of perjury, specific information to ARB through TRUCRS by January 31, 2014.

Information on TRUCRS, including how to report, either electronically or with paper forms, can be found at: <http://www.arb.ca.gov/msprog/onrdiesel/reportinginfo.htm>. To complete the reporting process, vehicle owners should be prepared to provide information about their company, the specific good faith efforts undertaken or the anticipated regulatory changes being claimed, the location where applicable records will be kept, and information about all of the heavier diesel trucks that operate in California within that fleet. Vehicle owners will be able to print a confirmation of reported compliance that can be used by brokers, motor carriers, or others who need to verify compliance of the individual vehicle owners or fleets they hire.

Failure to Comply

Vehicle owners that are noncompliant and fail to demonstrate their good faith efforts to comply with the regulation or their intent to use the anticipated regulatory changes being considered, may be subject to penalties and possible Department of Motor Vehicle (DMV) registration holds. Vehicles operating without current DMV registration are subject to enforcement actions by law enforcement which may include vehicle impoundment. Vehicle owners that make good faith efforts before January 1, 2014, but do not comply by July 1, 2014, will be subject to penalties and enforcement action.

Contacts for Additional Information

For further information about ARB's diesel regulations, please visit www.arb.ca.gov/truckstop or call 1-866-6DIESEL (866-634-3735), or email us at 8666diesel@arb.ca.gov.

Attachment

Attachment A
Areas That Do Not Need to Meet the 2014 PM Deadline
of the Truck and Bus Regulation

The darker areas are already defined as NOx exempt areas and the lightly shaded areas represent the proposed added regions.

The crosshatched areas are additional areas that do not need to meet the January 1, 2014 PM compliance date.

Affected Counties:

Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Del Norte, Glenn, Humboldt, Inyo, Eastern Kern, Lake, Lassen, Mariposa, Mendocino, Modoc, Mono, Monterey, Nevada, Plumas, Eastern Riverside, San Benito, Northeastern San Bernardino, San Luis Obispo, Santa Barbara, Santa Cruz, Shasta, Sierra, Siskiyou, Eastern Solano, Northern Sonoma, Sutter, Tehama, Trinity, Tuolumne, Yolo, and Yuba.

Note: Except for the current "NOx Exempt Areas" in the regulation, the above proposed regions may change based on the actions taken by the Board at its April 2014 hearing.

Description of the Portions of Partial Counties

Eastern Kern: That portion of Kern County within the Eastern Kern Air Pollution Control District.

Eastern Riverside: That portion of Riverside County within the Mojave Desert Air Quality Management District.

Eastern San Bernardino: That portion of San Bernardino County within the Mojave Desert Air Quality Management District.

Eastern Solano: That portion of Solano County within the Yolo-Solano Air Quality Management District.

Northern Sonoma: The northern portion of Sonoma County within the Northern Sonoma Air Pollution Control District.