



Regulatory Advisory

September 2014



Mail-Out #MSC 14-13

Truck and Bus Regulation Economic Hardship, Cattle Trucks, and Agricultural Opt-in Period

The Air Resources Board (ARB or Board) approved amendments to the Truck and Bus Regulation (regulation) at its April 24-25, 2014 meeting. The approved amendments are intended to better ensure that the air quality benefits originally envisioned by the regulation will be achieved by providing additional compliance flexibility to vehicle owners, including changes for the cattle livestock trucks and a new economic hardship extension for fleets that cannot afford to comply. This advisory provides access to compliance options for agricultural vehicles and owners that may be eligible for the economic hardship extension. To use these options, owners must report and submit complete information by January 31, 2015.

Background

The regulation requires diesel truck and bus owners to take steps to reduce their engine emissions. The regulation is a critical 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 toxic emission exposures can be high. 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.

All heavier trucks and buses with a gross vehicle weight rating greater than 26,000 pounds were required to have a particulate matter (PM) filter by January 1, 2014 if they have 1996 model year or newer engines. There are certain exceptions to these requirements for owners that have reported to use flexibility options allowed under the regulation. These include, but are not limited to, certain agricultural and low-mileage work trucks, low-use vehicles, and vehicles operated in certain rural areas. Additional information about the regulation is at: <http://www.arb.ca.gov/msprog/onrdiesel/documents/FSRegSum.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 is available at: <http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm>.

The Executive Officer previously issued an advisory (Mail-Out #MSC 13-28) that provided additional time, until July 1, 2014, for owners that made a good faith effort to comply with the January 1, 2014, PM filter requirements. The advisory is available at: <http://www.arb.ca.gov/msprog/mailouts/msc1328/msc1328.pdf>. A subsequent advisory, Mail-

Out #MSC 14-08, provided early access to regulatory amendments and identified the steps that owners who previously claimed good faith efforts were required to take. The advisory also gave more time, until October 1, 2014, for owners that reported they were previously denied a loan while regulatory amendments for the new economic hardship extension were being finalized. The advisory is available at:

<http://www.arb.ca.gov/msprog/mailouts/msc1408/msc1408.pdf>.

Economic Hardship Extension

The Board approved a new flexibility option that would defer compliance with the PM filter requirements for heavier vehicles until January 1, 2017. The new economic hardship extension is limited to three heavier vehicles in the fleet that were owned on or before January 1, 2012, and are subject to the January 1, 2014, PM filter requirements of one of the following compliance options:

- Engine Model Year Schedule of section 2025(g)
- Small Fleet Option of section 2025(h)
- PM Filter Phase-in Option of section 2025(i)

This means the extension is available for 1996 model year and newer engines in all fleets, but is only available for older engines in fleets that reported their good faith efforts to comply with the Small Fleet Option or the PM Filter Phase-in Option as specified in Mail-Out #MSC 13-28.

The economic hardship extension cannot be used by owners who increased the number of heavier vehicles in the California fleet since January 1, 2012, after the PM filter requirements were in effect.

The extension also cannot be used for:

- Heavier vehicles that were able to delay compliance by using other exemptions or extensions, such as the three-day pass, the NOx exempt area extension¹, the low-use exemption, or other mileage-based exemptions in any year prior to July 31, 2014, because these vehicles did not need a PM filter to comply.
- Owners that were approved for financing after January 1, 2014, and did not use it to bring additional vehicles into compliance are not eligible to claim the economic hardship extension even if another lender has denied a subsequent loan application.

For vehicles registered outside of California, owners must provide documentation to show they operated in California in 2012 and from January 1, 2014 to July 1, 2014, to demonstrate they were subject to PM filter requirements.

Owners Must Demonstrate They Are Still Financially Unable to Comply

All owners that want to claim the economic hardship extension, including those that previously reported they were denied for a loan under Mail-Out #MSC 13-28, will need to prove that they are still financially unable to bring another vehicle into compliance to

¹ Vehicles may be eligible if they were operated in areas that did not need to meet the 2014 PM filter requirements per Mail-Out #MSC 13-28 if the areas were not designated as NOx exempt by the Board.

use the new option. Owners will need to take the following steps between July 1, 2014 and December 31, 2014 before they can apply:

- 1) Report information about all heavier vehicles in the fleet that operated in California since January 1, 2012 in The Truck Regulation Upload, Compliance, and Reporting System (TRUCRS) at: https://ssl.arb.ca.gov/ssltrucrsto/trucrs_reporting/reporting.php.
- 2) Identify a vehicle in the fleet that was required to have a PM filter by January 1, 2014, and obtain three price quotes for the following actions that could be used to bring the vehicle into compliance:
 - a) A quote from an authorized PM filter installer for the purchase and installation of a PM filter retrofit that is suitable for the vehicle engine. A list of authorized installers is at <http://www.arb.ca.gov/msprog/decsinstall/onroadinstallerlist.pdf>.
 - b) A quote from a vehicle dealer for a suitable replacement cab and chassis or replacement vehicle that has the same configuration and body type as the existing vehicle. The replacement vehicle must have a 1996 model year or newer engine with a PM filter.
 - c) A quote from a leasing entity for a one to three year vehicle lease for a replacement vehicle with the same configuration and body type as the existing vehicle and has a 1996 model year or newer engine with a PM filter. In the case of specialized vehicles that are not available for lease, the owner must provide a picture of the existing vehicle with an explanation of why leased vehicles are not available.
- 3) Complete an ARB approved Truck and Bus Economic Harship Extension Form 162 at: <http://www.arb.ca.gov/msprog/onrdiesel/reportinginfo.htm> about the existing vehicle that is required to have a PM filter with the following information:
 - a) Key information about the three price quotes that could bring the vehicle into compliance.
 - b) The owner's annual financial information for 2012, 2013, and 2014 including years in business, gross revenue, net income, debt, total net worth from filed tax returns, profit and loss statements and other documents. (Owners that have not filed 2014 financial documents must provide the financial documents by January 31, 2015 for the extension to remain valid in 2015.)
 - c) The owner must sign a statement under penalty of perjury that affirms the owner does not have any financial means to complete any of the three actions without a loan.
- 4) Apply for financing from a California Capital Access Program (CalCAP)² lender and provide the lender with the completed paper form, copies of three price quotes and all of the financial information the lender requires to determine if the vehicle owner qualifies for financing. If the owner is denied a loan, the lender will need to complete the bottom portion of the Truck and Bus Economic Harship Extension Form 162 with following information:

² Owners should apply to a CalCAP lender whether or not the owner qualifies for the CalCAP program. A list of CalCAP lenders is at <http://www.treasurer.ca.gov/cpcf/calcap/arb/lenders.pdf>. There are participating CalCAP lenders in nearly every state; however, in cases where the owner does not have a CalCAP lender in their region, the owner must explain the reasons that a CalCAP lender could not be used and must apply to other state or federally chartered financial institutions.

- a) Which of the three price quotes are commonly financed by the lender and which are not offered by the lender.
- b) Confirmation that the subject vehicle (or another asset worth an equal or higher value) would be used as collateral for the loan or the vehicle would be sold as part of the loan agreement for each of the three options.
- c) Confirmation that the lender was presented with all of the owner's financial information necessary to conclude that the owner is financially unable to qualify for financing from the lender for each of the options the lender offers financing.
- d) Confirmation of the credit score, credit report date and source that was used by the lender in evaluating loan options.
- e) The lender must sign the form under penalty of perjury that confirms the information on the form is consistent with the information considered in the loan application.
- f) The owner must obtain a copy of the credit report that was used by the lender and a copy of the loan denial letter.

If the lender does not commonly provide loans for each of the three options, the owner must present the same information to another state or federally chartered financial institution to seek financing for each of the three options on a separate form. If the owner is approved for financing for any one of the three quotes from any source, the owner must take the appropriate action to bring the vehicle into compliance and may not claim the economic hardship extension.

Loan applications that do not meet the criteria specified here cannot be used to support a hardship extension claim. Similarly, other types of financing, like lines of credit, real estate loans, or loan denials because of incomplete information will not be accepted.

How to Apply For the Economic Hardship Extension

To apply for the Economic Hardship extension, the owner must report information in TRUCRS about all of the heavier vehicles in the fleet since January 1, 2012 and must submit a complete package of all of the following documents by mail:

- Completed ARB form with appropriate signatures with the following supporting documents:
 - Quotes for a PM filter, replacement vehicle, and vehicle lease
 - The loan denial letter(s) received from the lender(s)
- Proof of registration or ownership on or before January 1, 2012 for up to three vehicles that would use the extension (the documents must show the VIN and owner name)
- Owners of out-of-State vehicles that did not report good faith efforts to comply, must provide proof of operation in California from January 1, 2014 to July 1, 2014

Do not send tax returns, profit and loss statements, or any other sensitive financial information with the application. These records must be kept by the vehicle owner and made available to ARB in the event of an audit.

Owners may submit a complete application for the economic hardship extension before January 1, 2015, without their financial information for 2014. Upon submittal, receipt, and review, ARB staff will temporarily approve the extension until the end of 2014. The owner will

be able to print a compliance certificate that is valid until the end of 2014 if the extension brings the fleet into compliance. These owners will need to provide their 2014 financial information at the beginning of 2015 for the extension to be granted until the end of 2015, and will need to report subsequent year information to continue the extension through 2016. Incomplete applications will not be processed and may be returned. Mail all documents to:

Confidential Truck and Bus Hardship Request
California Air Resources Board
P.O. Box 2815
Sacramento, California 95812

All information received will be treated in a confidential manner consistent with State law. The economic hardship extension will be approved in TRUCRS based on the information presented and on the statements signed by the lender and vehicle owner.

If the extension requested by the owner does not bring the fleet into compliance, the owner must sell or scrap all remaining non-compliant vehicles before the extension will be granted. If any substantive information in the application is incorrect, the extension will not be valid. Owners must keep records of all information that is used to support the claim and make them available to ARB upon request.

Compliance Determination

An approved economic hardship extension for a given vehicle excuses the vehicle from meeting the immediate PM filter requirements, but does not delay compliance for other vehicles in the fleet. Although the vehicle is excused from meeting the applicable PM filter requirement, it will be considered the same as any other vehicle that does not have a PM filter when determining compliance with fleetwide compliance options. If ARB determines in a fleet audit that the owner was financially able to comply, any approved extension will be deemed invalid and the owner will be subject to penalty.

Owners with vehicles that are using the economic hardship extension can only add vehicles to the fleet that have 1996 or newer engines and are equipped with a PM filter. If such a vehicle is added, a vehicle that is using the economic hardship extension must immediately be sold or scrapped. If these conditions are not met, the claim of economic hardship for all vehicles in the fleet will not remain valid.

Low-Mileage Agricultural Vehicle Extension

Owners may now report to retroactively opt-in to the low-mileage agricultural vehicle extension if their vehicles met the mileage and eligibility requirements of the extension since January 1, 2011. Owners will need to report information about all of the heavier vehicles in their California fleet as it existed on January 1, 2011, including annual odometer readings to show the mileage limits were met each year. Owners that use the agricultural vehicle extension for lighter trucks must report all lighter trucks in the fleet. The number of agricultural vehicle extensions in 2011 cannot be higher than the number of trucks in the fleet on January 1, 2009, and cannot increase in subsequent years.

Affected owners may need to report information about vehicles that are no longer part of the current fleet to establish the 2009 baseline. Prior to January 1, 2015 owners are advised to report the truck information online or to use 2014 reporting form at: https://ssl.arb.ca.gov/ssltrucrsto/trucrs_reporting/reporting.php. The opt-in period ends January 31, 2015. Owners must label the vehicles that are approved for the agricultural mileage extension with the letters "AG" as specified in the regulation.

Agricultural Extension for Cattle Livestock Trucks

The Board approved amendments to allow cattle livestock trucks to use the existing specialty agricultural truck extension and recognized a spring and fall cattle season. Cattle truck owners may now report to take advantage of the extension until the opt-in period closes January 31, 2015. Under this advisory, the fall cattle season will be effective October 1, 2014 through November 15, 2014. Owners may increase the number of agricultural vehicle extensions when adding eligible cattle livestock trucks as long as the total number of agricultural vehicle extensions does not exceed the number of vehicles owned on January 1, 2009. Owners that violate any of the operating criteria of the extension will immediately forfeit the exemption. The criteria to operate under the extension applies as follows:

- For-hire cattle livestock truck owners that use the extension may only operate in California solely for the specified cattle seasons each year.
- Owners of cattle livestock trucks that are exclusively operated not-for-hire can operate statewide under this extension all year except that outside the specified spring and fall cattle seasons, they can only haul the brand of the livestock that are registered to the hauler, and must keep a copy of the brand certificate in the trucks in a place known to the driver.
- Up to 20 specialty agricultural truck extensions are allocated for cab-over trucks with an attached livestock module that exclusively haul cattle without seasonal restrictions whether they operate for-hire or not-for-hire. Trucks that are identified as cab-over cattle trucks will be approved for a temporary extension that expires at the end of 2014. The extension will automatically continue only if there are 20 or fewer claimed by the time the opt-in period closes on January 31, 2015. In the event that there are requests for more than 20 extensions, the Executive Officer will issue one specialty agricultural truck extension per fleet by random selection until all 20 are taken. Any trucks that are not approved after January 1, 2015, must comply like other trucks, and must remove the "AG" label.

All qualifying cattle livestock trucks must be reported in TRUCRS and labeled on both doors with white letters on a 3 inch by 5 inch black background before the extension is used.

- For-hire cattle livestock trucks that are limited to operating in the cattle livestock seasons must be labeled with the letters "CS"
- Not-for-hire cattle livestock trucks and the approved cab-over trucks must be labeled with the letters "AG"

Log Truck Phase-in Option

Owners that are using the log truck phase-in option and elect to switch to the amended NOx Exempt Area extension can make the change between December 1, 2014 and January 31, 2015. The number of log trucks reported to use the option cannot be changed after January 31, 2015.

Reporting to Use Options Available through 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 or by mail on or before January 31, 2015.

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 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.

Vehicle owners must keep copies of purchase orders, receipts, contracts, financial documents or correspondence from dealers or financial institutions at their place of business. Records that document economic hardship claims must be kept until 2018 and may be subject to audit.

Failure to Comply

Vehicle owners that are noncompliant 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.

Contacts for Additional Information

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