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From: Anne McQueen (AMcQueen@YorkeEngr.com)
Sent: Friday, March 31, 2023 11:26 AM
To: ARB ZEV Fleet
Cc: callie.bracewell@arb.ca.gov
Subject: Question about ARB ACF HPF rule 15-day package dated March 23, 2023

To CARB ACT Staff,

Please see the attached request for clarification on 2015.3(b) and (e) and other sections, also submitted to the website for comments on the 15-day package. Please let me know if you have any questions.

Thank you.

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Advanced Clean Fleet Rule Questions/Comments, March 31, 2023:

The daily usage and ZEV purchase exemption language (2015.3(b) and (e)) needs to be modified to address the situation under the ZEV Milestones option. As currently written, the exemption language for these two exemptions has no benefit under the ZEV milestones option (and only benefits the Model Year option). This creates an **inequity** between the two compliance options and benefits certain facilities that fall under the Model Year option.

Here is the question about 2015.3(b) & (e) (and 2015.2 (f)(2) & (f)(5)): Is the language in these two exemptions correct as written or should the language be changed to read the same as 2015.2(f)(3):
“Fleet owners may request an exemption to count an ICE vehicle being replaced as a ZEV when determining compliance with the ZEV Milestone calculation specified in 2015.2(b).”

For a facility that successfully secures a 1-year exemption under the ZEV Milestones option (for either of these two exemptions), the benefit of the exemption **should be** that the ZEV purchase is delayed until the ZEV unit becomes available one year later. **There should be no diesel vehicle purchase required to qualify for the exemption for a fleet under the ZEV milestones option.**

To qualify for the exemption under the ZEV Milestones option, the entire fleet that has not yet been converted to ZEV must fall under the criteria in the exemption (daily usage not met or ZEV not available for purchase). In other words, under the ZEV milestones option, the fleet can only apply for the exemption if there are no other vehicles that they can convert to ZEV instead and meet the upcoming ZEV percent milestone. Therefore, this criterion is extremely stringent and greatly limits the exemptions available under the ZEV Milestones option even before checking exemption details.

Essentially, under the ZEV Milestones option, the exemption **should work** as follows:

- The facility has a milestone deadline coming up, and submits the exemption application at least one year in advance of the deadline, stating that the vehicle available either does not meet the daily usage (daily usage exemption) or a vehicle is not available for purchase satisfying the configuration requirements (ZEV purchase exemption), and providing all the required supporting documentation for the exemption application.
- To be able to apply for an exemption, as explained above, the fleet must have no other vehicles that can be replaced to meet the ZEV milestone.
- If the exemption is granted, **the fleet should be allowed to continue to operate the existing diesel vehicle until the ZEV becomes available to replace the vehicle.**

From a GHG perspective, it is better for both the facility **and for ARB** that the facility wait one year and then replace the vehicle with a ZEV that becomes available then, NOT that the facility purchase another diesel truck, which will then start a multi-year clock for diesel truck useful life.

The bottom line is that, if a ZEV is not available meeting the daily usage or satisfying the vehicle configuration requirements, and the facility has to purchase a non-responsive ZEV to meet the ZEV milestone, then the facility operation is hampered and efficiency and productivity are reduced.

Conversely, if ZEVs are widely available meeting daily mileage and vehicle configuration requirements as ARB is so confident of, then there will be no case to be made in an exemption application, so either way ARB comes out ahead.

Also, for 2015.3(e)(2)(B) and (e)(2)(E), please be consistent in insisting that two manufacturers must be available to consider a ZEV configuration to be available, “to ensure there is some competition in the nascent market”, as stated in the 15-day package document.

- (5) Fleet owners utilizing this section must report fleet and vehicle information as specified in sections 2015.4(c)(1)(J) and keep records as specified in section 2015.5(m).
- (6) ZEV Milestone Calculation Adjustment. For vehicles that meet the criteria, each year the count of eligible waste and wastewater fleet vehicles in Milestone Group 1 will be subtracted from the count of vehicles in Milestone Group 1 and added to Milestone Group 3, and the count of eligible waste and wastewater fleet vehicles in Milestone Group 2 will be subtracted from the count of vehicles in Milestone Group 2 and added to Milestone Group 3, as specified in section 2015.2(e). No adjustment will be made for eligible waste and wastewater vehicles that already are designated in Milestone Group 3.

2015.2

- (f) Exemptions and Extensions. Fleet owners complying with the ZEV Milestones Option specified in section 2015.2 may utilize the following exemptions and extensions if the specified criteria are met:

- (1) Backup Vehicle Exemption. Fleet owners may exclude designated backup vehicles from the vehicle count for each Milestone Group when determining the ZEV Milestone Calculation specified in section 2015.2(b) if it is designated as a backup vehicle as specified in section 2015.3(a).

- BAD (2) Daily Usage Exemption. Fleet owners may request an exemption to purchase a new ICE vehicle and exclude it from the ZEV Fleet Milestone Calculation specified in section 2015.2(b). Fleet owners must request and obtain this exemption pursuant to the criteria specified in section 2015.3(b) no later than 1 year before the next applicable upcoming ZEV Fleet Milestone compliance date specified in section 2015.2(a). The Executive Officer will grant this exemption only if the fleet owner demonstrates their next applicable upcoming ZEV Fleet Milestone cannot be reached without exemptions by requesting and obtaining exemptions for all other ICE vehicles in their California fleet.

- GOOD (3) ZEV Infrastructure Delay Extension. Fleet owners may request an extension to count an ICE vehicle being replaced as a ZEV when determining compliance with the ZEV Milestone Calculation specified in section 2015.2(b). The fleet owner must request and obtain the extension pursuant to the applicable criteria specified in section 2015.3(c) no later than 45 calendar days before the next applicable upcoming ZEV Fleet Milestone compliance date specified in section 2015.2(a).

- (4) Vehicle Delivery Delay Extension. Fleet owners may request an extension to count an ICE vehicle as a ZEV when determining compliance with the ZEV

Milestone Calculation specified in section 2015.2(b). Fleet owners must request and obtain this extension pursuant to the criteria specified in section 2015.3(d). Fleet owner must request this extension no later than February 1 of the same calendar year as the next applicable ZEV Fleet Milestone compliance date specified in section 2015.2(a). The fleet owner may transfer the extension to another vehicle in the fleet if the criteria specified in section 2015.3(d)(2) are met.

2015.2(f)

- (5) ZEV Purchase Exemption. Fleet owners must use the exemption in section 2015.3(e)(1) or request the exemption in section 2015.3(e)(2) no later than one year before the next applicable upcoming ZEV Fleet Milestone compliance date specified in section 2015.2(a). The Executive Officer will grant the following exemptions only if the fleet owner demonstrates their next applicable upcoming ZEV Fleet Milestone cannot be reached without exemptions by requesting and obtaining exemptions for all other ICE vehicles in their California fleet:

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- (A) ZEV Purchase Exemption List. Fleet owners shall receive an exemption to purchase a new ICE vehicle and exclude it from the ZEV Milestone Calculation specified in section 2015.2(b) pursuant to the criteria specified in section 2015.3(e)(1).
- (B) ZEV Purchase Exemption Application. Fleet owners may request and obtain an exemption to purchase a new ICE vehicle and exclude it from the ZEV Milestone Calculation specified in section 2015.2(b) pursuant to the criteria specified in section 2015.3(e)(2).
- (6) Declared Emergency Response. Fleet owners may exclude vehicles that are performing emergency operations from the ZEV Milestones Option requirements specified in section 2015.2 during declared emergency events pursuant to the criteria specified in section 2015.3(f)(1).
- (7) Mutual Aid Assistance. Fleet owners may request an exemption to purchase new ICE vehicles and exclude them from the ZEV Milestone Calculations specified in section 2015.2(b). Fleet owners must request and obtain this exemption pursuant to the criteria specified in section 2015.3(f)(2). ICE vehicles purchased pursuant to a granted exemption may operate as part of the regular California fleet and are not restricted solely to mutual aid functions.
- (8) Five-day Pass. Fleet owners may report to claim a five-day pass to exclude any vehicle from the California fleet for five consecutive days once per calendar year per vehicle in their fleet pursuant to the criteria specified in section 2015.3(g).

- (9) Intermittent Snow Removal Vehicles. Fleet owners shall receive an exemption to exclude designated intermittent snow removal vehicles from the ZEV Milestone Calculation specified in section 2015.2(b) until January 1, 2030, if the Executive Officer designates the vehicle as an intermittent snow removal vehicle pursuant to the criteria in section 2015.4(m).

Note: Authority cited: Sections 38505, 38510, 38560, 38566, 39010, 39500, 39600, 39601, 39602.5, 39650, 39658, 39659, 39666, 39667, 43013, 43018, 43100, 43101, 43102, and 43104, Health and Safety Code. Reference: 38501, 38505, 38510, 38560, 38566, 38580, 39000, 39003, 39010, 39500, 39600, 39601, 39602.5, 39650, 39658, 39659, 39666, 39667, 39674, 39675, 43000, 43000.5, 42400, 42400.1, 42400.2, 42402.2, 42410, 43013, 43016, 43018, 43023, 43100, 43101, 43102, 43104, 43105, 43106, 43153, 43154, 43211, 43212, and 43214, Health and Safety Code.

Adopt Section 2015.3 of title 13, California Code of Regulations, to read as follows:

Section 2015.3 High Priority and Federal Fleets Exemptions and Extensions

Fleet owners may request the following exemptions or extensions if their California fleets comply with all applicable requirements. Fleet owners requesting or utilizing any exemptions or extensions must meet applicable reporting and recordkeeping requirements for each exemption or extension as specified in sections 2015.4 and 2015.5. Any exemptions or extensions granted to a fleet owner are not transferrable to another fleet owner. The Executive Officer will respond to exemption or extension requests as specified in section 2015.4(k).

- (a) Backup Vehicle Exemption. Fleet owners may designate vehicles as backup vehicles during the January reporting period as specified in section 2015.4(b) and renew such designations annually only if the following criteria are satisfied:
- (1) The vehicle is operated less than 1,000 miles per year excluding any mileage travelled under contract while performing emergency operations in support of a declared emergency event.
 - (2) The fleet owner must report the vehicle as a backup vehicle and must submit odometer readings as specified in section 2015.4(f).
 - (3) Backup vehicles that no longer meet the criteria specified in section 2015.3(a) cannot be operated in California and must be removed from the California fleet if the vehicle is out of compliance with section 2015.1, or the fleet is out of compliance with section 2015.2.
- (b) Daily Usage Exemption. Fleet owners may request an exemption as specified in sections 2015.1(c)(2) and 2015.2(f)(2) to purchase a new ICE vehicle of the same configuration as

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2015.3

(c) (2) (B)

Good

Number of Vehicle Extensions. A fleet owner may request an extension for the number of ZEVs for which, based on information submitted in section 2015.3(c)(2)(C), the utility cannot supply sufficient power. The fleet owner must deploy the maximum number of ZEVs needed to meet its compliance obligations and that can be supported by the utility, and must deploy any additional ZEVs that can be supported by utility upgrades to the site's electrical capacity each calendar year during the delay until the project is complete to maintain the extension.

(C) The fleet owner must submit all of the following information by email to TRUCRS@arb.ca.gov to request this extension:

1. A copy of the application submitted to the utility requesting site electrification that is consistent with the number of ZEVs the fleet owner must deploy each calendar year to meet their compliance requirements during the requested extension period;
2. The utility's response showing that the project will take longer than a year, and the executed utility contract. If a utility is unable or unwilling to execute a contract, a fleet owner must submit the initial contract or application requesting site electrification to the utility, and a signed attestation from the utility stating they will proceed with the project;
3. Documentation indicating the reason for the delay, an estimate provided by the utility of the available electrical capacity in kilowatts the utility can supply to the site within one year of the extension request, and for each year of the requested delay, and estimated project completion date;
4. Information about the ZEV fueling infrastructure equipment that can be installed consistent with the utility's capacity estimate and the associated number, configuration, and weight class of the ZEVs that can be supported by such equipment within one year of the extension request, and for each year of the requested extension. The information must include:

3. The purchase agreement shows the new ZEV was ordered at least one year prior to the next upcoming ZEV Fleet Milestone if using the ZEV Milestones Option specified in section 2015.2, or ICE vehicle removal date for a vehicle that must be removed from the California fleet per the Model Year Schedule section 2015.1(b). If the order was placed before January 1, 2024, the purchase agreement must show the order was placed on or before [INSERT EFFECTIVE DATE].

(2) Manufacturer Cancellation. If a vehicle manufacturer cancels a purchase agreement for ZEVs used to qualify for this extension due to circumstances beyond the control of the fleet owner, the fleet owner must secure another purchase agreement for ZEVs within 180 calendar days of the cancellation, except for government fleet owners who must secure another purchase agreement within 1 year of the cancellation. Fleet owners must submit a copy of the manufacturer cancellation notice within 30 calendar days of the cancellation and must submit the new ZEV purchase agreement within 30 calendar days of placing the order to TRUCRS@arb.ca.gov to maintain the extension. If no ZEV is available to purchase, the fleet owner may request the ZEV Purchase Exemption specified in section 2015.3(e).

(3) Fleet Owner Cancellation. If a fleet owner cancels a purchase agreement used to qualify for this extension, the claim for the extension will be treated as invalid and the agreement will be treated as if it were never executed.

(4) In granting or denying the exemption request, the Executive Officer will rely on the information submitted by the applicant and utilize their good engineering judgement to determine whether the information meets the criteria in section 2015.3(d).

2015-3

(e)

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ZEV Purchase Exemption. Fleet owners may request exemptions as specified in sections 2015.1(c)(5) and 2015.2(f)(5) to purchase a new ICE vehicle if a needed configuration is not available to purchase as a ZEV or NZEV under either the ZEV Purchase Exemption List of 2015.3(e)(1) or the ZEV Purchase Exemption Application of 2015.3(e)(2).

1. Make, model, weight class, configuration, whether the vehicle has a: crew cab; cabover; or all-wheel drive; and clear and legible photographs of the entire left and right sides of the vehicle with doors closed showing the vehicle's body configuration, for an existing ICE vehicle being replaced in the fleet;
2. A list of any frame attachments other than the body itself necessary to support or perform the primary intended function of the vehicle. Examples of frame attachments include rail wheels and stabilizing outriggers; and
3. The make and model of the body equipped on the vehicle, if applicable.

2015.3(e)(2)

Good (B)

Fleet owners must also submit documentation from two or more manufacturers that offer ZEV or NZEV chassis, or complete ZEVs or NZEVs, that states the manufacturer does not offer for sale ZEV or NZEV chassis, or complete ZEVs or NZEVs, of the needed configuration submitted in section 2015.3(e)(2)(A). If there are no manufacturers offering ZEV chassis, the statements can come from other vehicle manufacturers.

- (C) After receiving a complete submission, the Executive Officer shall rely on information gathered from fleet owners or manufacturers, including information gathered to comply with other CARB-administered programs, manufacturer websites, manufacturer documentation, authorized dealers, CARB-issued Executive Orders, and their good engineering and business judgement to determine whether the configuration is available for purchase as a ZEV or NZEV from any manufacturer, and whether the identified body submitted in section 2015.3(e)(2)(A)(3.) or a body from another manufacturer that can perform the same primary intended function can be installed on the offered ZEV or NZEV. If the Executive Officer does not have sufficient information to make the determination, they shall solicit the information submitted by the fleet owner specified in section 2015.3(e)(2)(A) for public feedback from vehicle manufacturers and authorized dealers on the CARB Advanced Clean Fleets webpage, available at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>, to assist in making the determination.
- (D) The Executive Officer shall consider an offered ZEV or NZEV available to purchase if all of the following criteria are met:

1. If applicable, the manufacturer has certified the ZEV's powertrain with CARB in accordance with the "California Standards and Test Procedures for New 2021 and Subsequent Model Heavy-Duty Zero-Emission Powertrains," as adopted June 27, 2019, which is incorporated by reference herein;
2. ZEVs or NZEVs offered have a model year 18 months or less from the date the fleet owner submitted the complete exemption request;
3. ZEV or NZEV configuration is not solely for demonstration, test, or experimental purposes;
4. ZEVs or NZEVs are not offered as a temporary placeholder for a vehicle that may or may not be offered for sale in the future; and
5. ZEVs or NZEVs do not conflict with safety standards that the fleet owner is subject to, if applicable, as prescribed under title 8, CCR by the California Department of Industrial Relations, Division of Occupational Safety and Health, comparable federal or state health and safety laws where the vehicle operates, or federal highway safety laws. The fleet owner must submit which of these safety laws or standards would be in conflict and for what reasons in their application.

2015.3(e)(2)

BAD - FIX
as shown

(E) If the Executive Officer identifies ^{TWO} any ^S manufacturer or authorized dealer ^S that offers for sale a ZEV or NZEV chassis, or complete ZEV or NZEV in the same or next higher weight class, except for Class 8 vehicles which must only be in the same weight class, in the needed configuration, with the needed frame attachments, and on which the identified body submitted in section 2015.3(e)(2)(A) or an equivalent body from another manufacturer or authorized dealer that can perform the same primary intended function can be installed, the Executive Officer will supply the names of manufacturers or authorized dealers to the fleet owner applicant, deny the exemption request, and remove the vehicle configuration from the ZEV Purchase Exemption List pursuant to section 2015.3(e)(2)(G). Otherwise, the Executive Officer will rely on the information specified in sections 2015.3(e)(2)(A) through (G) and their good engineering and business judgement to determine if the information established that the criteria specified in sections 2015.3(e)(2)(C) through (G) are met, and the exemption will be approved.