



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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Emergency Regulations and Limited Enforcement Discretion for Advanced Clean Trucks Regulations October 18, 2024

To Medium- and Heavy-Duty Vehicle Manufacturers and Other Stakeholders:

This is to advise you that the Massachusetts Department of Environmental Protection (MassDEP) plans to file emergency regulations, which will be effective on filing, to delay implementation of the Heavy-Duty Omnibus (HDO) regulation until Model Year (MY) 2026 and will exercise enforcement discretion to exempt vehicles purchased by state and local agencies for snowplowing and snow removal purposes (e.g., dump trucks, salt and sand spreaders, front end loaders) and street sweepers from Advanced Clean Trucks (ACT) for MY 2025 and MY 2026.

Background

MassDEP adopted California's HDO and ACT regulations in 310 CMR 7.40 in December 2021. HDO contains more stringent exhaust emission standards and other emission-related requirements for new on-road heavy-duty engines and vehicles starting in MY 2025, and ACT requires manufacturers of on-road medium- and heavy-duty vehicles to produce and deliver for sale an increasing percentage of zero emission vehicles (ZEVs) starting in MY 2025 through MY 2035.

Emergency Regulations

To provide certainty to all stakeholders and because the U.S. Environmental Protection Agency has not granted a waiver to California under the federal Clean Air Act, MassDEP plans to file emergency regulations in the near future that move the effective model year of HDO from MY 2025 to MY 2026. These emergency regulations will also include adoption of California's 2024 amendments to its HDO legacy engine provisions and exemptions for transit buses, emergency vehicles, and military tactical vehicles from vehicle emissions standards.

Limited Enforcement Discretion

Because manufacturers are limiting internal combustion engine (ICE) truck sales as a means to ensure their compliance with ACT sales requirements, state and local agencies

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are facing difficulties in purchasing new ICE vehicles for use in snowplowing and snow removal, as well as street sweeping vehicles, which are used in storm response, which could adversely affect their ability to ensure public safety during snow and other storm events.

Therefore, MassDEP will exercise enforcement discretion regarding manufacturers subject to ACT zero-emission sales requirements for MYs 2025 and 2026 to allow for purchases of trucks by state and local agencies designated for snowplowing, snow removal, and street sweeping. For purposes of ACT compliance, all ICE truck sales completed as the result of this enforcement discretion should be excluded from "total Massachusetts sales" when determining ACT deficit generation and compliance. This enforcement discretion applies to new truck purchases by authorized executive officers of Massachusetts state and local agencies designated for snowplowing, snow removal, and street sweeping.

Massachusetts state and local agencies should make written requests to manufacturers or their authorized dealerships detailing the make, model, model year, and number of vehicles to be purchased. These requests should also be sent to MassDEP's Ngoc Hoang at Ngoc.Hoang@mass.gov with the subject line "Enforcement Discretion Purchases." MassDEP will make a determination whether the proposed purchase is subject to this enforcement discretion and will communicate its decision to the requesting agency and the manufacturer.

Disclaimer: This enforcement discretion directive does not constitute "final agency action" and is not a "regulation" as that term is used in M.G.L. c.30A. It may not be relied upon to create rights, duties, obligations or defenses, implied or otherwise, enforceable by any party in any administrative proceeding with the Commonwealth. In addition, this enforcement discretion directive does not exempt any person from complying with the other requirements in 310 CMR 7.40 or any other applicable local, state or federal law or regulation.

If you have any questions about this enforcement discretion, please contact Sharon Weber at Sharon.Weber@mass.gov.