



California Council for Environmental and Economic Balance
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April 7, 2023

Liane Randolph, Chair and CARB Board Members
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Submitted to [ACF Regulatory Docket](#) electronically

Re: Advanced Clean Fleets 15-Day Regulatory Language (March 23, 2023 release date)

Chair Randolph and Board Members,

On behalf of the members of the California Council for Environmental and Economic Balance (CCEEB), we appreciate the opportunity to comment on the March 23, 2023 15-Day proposed regulatory Package (Package) for the California Air Resources Board's (CARB) Advanced Clean Fleets (ACF) rule(s). We continue to believe the ACF Rule is one of the most significant and ambitious ever undertaken at CARB. CCEEB continues to believe, as we have stated throughout our comments before and during the rulemaking process, the stakes of 'getting it right' couldn't be higher – to meet federal, state, and regional air quality goals; achieve progress toward the climate goals set out by the legislature; make real-world progress on concerns raised by environmental justice and community stakeholders; maximize opportunities for economic development and innovation; create high-road jobs; and demonstrate that California can build and sustain new markets by providing reasonable, cost-effective compliance paths for regulated entities. Because CCEEB shares CARB's commitment to success, we have been deeply engaged in the rulemaking process over the last several years, offering many specific suggestions for improvement.

CCEEB appreciates the improvements staff has made in the Package, including the addition of the five-day pass; a test fleet exemption; additional government fleet procurement time; limited RNG provisions; additional, more clearly defined terms; the ability for High Priority Fleets to change compliance paths as more information is known; and other clarifications. For this far-reaching regulation to be sustainable, regulated parties need an opportunity to learn from these improvements.

It is CCEEB's understanding that the Package has been presented as the final staff proposal to the Board.¹ Although we acknowledge staff's significant efforts to address stakeholder concerns in the regulatory Package, CCEEB believes that the Package, as a whole, does not achieve the critical goal set at the first board hearing on October 27, 2022: that the rule be implementable. CCEEB believes that additional amendments to the rule are necessary to meet this objective established by the Board.

¹ Syd Vergis testimony to Senate Budget Subcommittee #2 on March 30, 2023.

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We feel it is necessary to make one more plea for a workable rule that meets the State's goals. In the remainder of these comments, CCEEB will present some of the issues that have led us to this position and items that need to be resolved to make this regulation implementable and enforceable, particularly in the near term (2024-2028).

The regulation does not establish clear pathways to compliance and is overly reliant on discretionary decisionmaking.

The Package, as currently constructed, does not allow for clear and predictable compliance pathways for regulated entities. The Package relies on decisions, interpretations, and guidance CARB staff will issue *after the rule is already in place*. These discretionary decisions are coupled with vehicle and infrastructure uncertainties, many of which will be unknown at the time fleet operators need to make multi-million-dollar, decade-committing decisions, including:

- Whether to invest in battery electric vehicles (BEVs), hydrogen fuel cell electric vehicles (FCEVs), or both?
- Which vehicles should be converted to zero-emission vehicles (ZEVs) first?
- Where should limited infrastructure dollars be invested?
 - For statewide fleets, which utility will serve them and in what timeframe?
- Where and when will public refueling infrastructure will be available?
- Should the model year or ZEV milestone compliance pathway be taken? What downstream ramifications does that choice have, and will a fleet be able to change its compliance strategy to meet its future operational needs?
- How should the cost of various pathways be estimated and compared? How do fleets, and the entities who rely on them, budget for the future?

From the beginning of this rulemaking, CCEEB has focused on near-term implementability (2024-2028) of the rules and the long-term signals they provide.² CCEEB has put in significant effort to develop input to provide to CARB to shape a set of rules that includes reasonable compliance paths. However, CARB has produced a set of complicated regulations that couple agency discretion – in the form of ‘executive officer use of good engineering and business judgment’ and third-party viewpoints (vehicle manufacturers and utilities) – with numerous cascading exemptions. A regulation built on such a foundation puts regulated entities at risk for non-compliance driven by decisions and interpretations outside their control, which is neither fair to regulated parties nor a good use of CARB's limited time and resources.

The latest amendments, offered as the final staff proposal, would become effective in *less than 270 days*. We are unsure how CARB will implement, and how regulated parties will comply with, such complex, administratively burdensome regulations based on assumed transition progress and technology development, that rely on agency discretion and complicated exemptions in any sort of straightforward or efficient manner. These concerns are especially acute in the early years of the program.

² <https://www.arb.ca.gov/lists/com-attach/29-acf-comments-ws-UDNUMVUXUGZWMIcl.pdf> (11 pages)
<https://www.arb.ca.gov/lists/com-attach/127-acf-comments-ws-VWcCNAQ3VTcKIgU0.pdf> (18 pages)
<https://www.arb.ca.gov/lists/com-attach/168-acf-comments-ws-ATNRZ1JhVDVWfgAw.pdf> (21 pages)
<https://www.arb.ca.gov/lists/com-attach/224-acf2022-VWdXYVxvBWRReQg5.pdf> (39 pages)

Throughout this regulatory process, staff have continually asserted that the vehicles, and infrastructure to support them, will be available in lock-step with each other, and if not, there would be a straightforward administrative process to resolve these issues. Instead, the Package contains a myriad of decision points that are outside the control of fleet operators, creating unacceptable risks for individual fleet compliance and investment planning. One such example is the ‘Daily Usage Exemption’, which has been repeatedly pointed to as a safety valve for when ZEVs can’t do the daily duty-cycle needed to replace a tradition combustion vehicle. At one point in the process, this exemption was pointed to as the solution for when a 1:1 ICE:ZEV replacement couldn’t occur; however, this allowance wasn’t included in the final Package. As we highlight in **Attachment A – Daily Use Exemption Example**, staff’s proposal is anything but a straightforward exemption and must be completed for each individual vehicle subject to the rule.³

The High Priority Fleets rule alone has no fewer than 25 discretionary decision points retained/reserved for the Executive Officer, each creating opportunities for delay given the time it will take for a fleet to receive approval from staff. Many of these discretionary reviews will be based on “good engineering judgment,” with some based on both “good engineering and business judgment.” No definition is provided for either term, or details regarding what criteria will be used in decision-making, the weighting of the terms (engineering vs. business), nor whose perspective forms the basis of the judgment (e.g. vehicle manufacture vs. fleet operator or utility vs. facility owner vs. fleet operator).⁴

Additionally, the final amendments require “all” of a fleet to be subject to the decision-making process for many exemption requests – a requirement CCEEB believes will be particularly burdensome for larger, multi-locational fleets served by multiple utilities and with diverse vehicle fleet mixes. This discretion-first approach runs counter to the spirit, if not the letter, of the Administrative Procedures Act which requires “clarity” at its core for regulated parties.⁵ Unfortunately, as written, this rule creates numerous instances where fleet compliance will be determined by parties other than the regulated entity.⁶

The 15-Day Package raises critical implementation concerns.

ZEV Availability

A key implementation concern arises in the newly added 15-Day Package language is included in Section 2013.1 State and Local Government Fleet Exemptions and Section 2015.3(e)(1), High Priority and Federal Fleets Exemptions and Extensions, ZEV Purchase Exemption. These additions to the sections state CARB has a full year, *after the initial effective compliance date*, to post the initial list of unavailable ZEV configurations. How are fleet owners supposed to plan for procurement? For public fleets, this procurement window has already begun. If additional time is

³ The exemption can completely change a fleet’s decisions about vehicle purchases and infrastructure development. If the fleet wants all BEVs, and there are none, but FCEVs are available, then they must be purchased, thus shifting infrastructure planning and needs.

⁴ CARB’s specific duties to prepare for these decisions are not outlined. CARB should be monitoring vehicle production, delivery rates, models available, infrastructure progress, etc. in a transparent and publicly available way. All these feed into CARB’s ability to exercise their “good engineering and business judgment” and also monitor the progress of the transition and what adjustments may be necessary.

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[https://govt.westlaw.com/calregs/Document/I7E432EB34C6611EC93A8000D3A7C4BC3?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I7E432EB34C6611EC93A8000D3A7C4BC3?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

⁶ Such as vehicle manufacturers, charging and refueling infrastructure manufacturers, landlords, and utilities.

needed to establish this critical tool, why weren't the compliance dates in the regulation amended to allow for sufficient lead time to understand what is required, determine what is available for purchase, and make purchasing decisions, place orders and receive the ordered vehicles?

Reliance on Exemptions

Many of the proposed deadlines in the Package are unrealistic and create unnecessary administrative burden. For example, there are more than a dozen "30 calendar days" deadlines that have to be met. These short deadlines are unnecessary, because overall compliance is demonstrated by *annual* certification. A second example is how the 'five-day pass' option will be administered. This accommodation was supported by the Board, and CCEEB has been supportive of the five-day pass as a concept to address transient vehicles and appreciates its inclusion. However, rather than the responsible official reporting and certifying the accommodation as part of the annual report, the rule requires CARB pre-approval prior to a vehicle entering the state as well as proof of the pass being granted. This approach doesn't appear to be workable in real-world situations. The consecutive day requirement also undermines the usefulness of the provision to address the issue of transient vehicles that can provide same-day delivery services from out-of-state.

The Package will likely create thousands of vehicle-by-vehicle exemption requests, at least in the near term, before vehicles and infrastructure are available. This could be a liability for regulated entities, utilities, and ZEV OEMs who have to work together in ways they have not previously to prepare and submit exemption and extension requests to CARB. Furthermore, this structure will create an immense burden for CARB staff that will have to process and rule on each exemption request. How can regulated entities be assured that each exemption request will be considered under the same criteria and the same timelines to assure fairness across all fleets?

The word 'EXEMPTION' appears 129 times in a 64-page document (Appendix A-2). For the High Priority Fleets regulation alone, this will add a significant administrative burden to demonstrate compliance. Overly burdensome exemption criteria include:

- Demonstrating that a fleet is "otherwise fully compliant" with the ZEV Milestone schedule (which can't be known without completion of compliance periods); *and*
- A one-year lead time request; *and*
- "only if the fleet owner **demonstrates** [no guidance provided or standards set] 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" [emphasis added].

For fleets with hundreds to thousands of affected vehicles, linking each and every exemption to the entire fleet will be nearly impossible to demonstrate, let alone for CARB to evaluate. Similar criteria for State and Local Fleets include:

- Limited time to procure replacement vehicle; *and*
- Minimum of 10% ZEV fleet already; *and*
- A prohibition on replacement of a vehicle that is not older than its 13th model year, regardless of the condition or its operability.⁷

⁷ Many State and Local fleet have reliability and safety criteria that require turning over specialty vehicles used for essential public services before their 13th model year. This newly added (and not ISOR included requirement) is very problematic and must be addressed.

There have been significant process issues throughout rule development.

CCEEB believes that a thorough regulatory process is imperative to crafting lasting policy, particularly policies at an economy-wide scale, like ACF. Unfortunately, there have been a number of issues with the ACF regulatory development process. For example, the first informal workshop and the last formal workshop discussed ‘preview drafts.’ In each instance, key concepts were presented and stakeholder input was requested without the benefit of staff slides to refer to in advance in order to prepare productive comments. In both instances, the slides were posted after the conclusion of the workshop. The approach taken did not promote thoughtful and timely stakeholder participation and interaction. In other workshops, there was not enough time for back-and-forth between staff and stakeholders to fully address issues. While we recognize that it is difficult for staff to address every concern in a public meeting, having meaningful back-and-forth in these forums are critical to determining what needs to be improved.

Another significant process concern we wish to flag is that this 15-Day Package is extensive, complex and detailed. CARB should have provided more time than *the minimum required by law*. CCEEB is a member-driven organization consisting of scores of diverse fleet operators. The 15-Day review period for the new and extensive changes proposed simply does not allow sufficient time to offer meaningful comments. **Attachment B: Remaining Regulatory Concerns** to this letter lists most of the remaining CCEEB concerns with the 15-Day amendments. CARB staff has indicated that a Board decision at the April Board Meeting is ‘up/down only’, thus not permitting additional iterative changes. If so, what is the purpose of the 15-Day comment period?

Many of the amendments in the 15-Day changes extend beyond the direction provided by the Board at the first board hearing, and should have been done under the 45-Day initial rulemaking Package. They include substantive changes, heavily edited with revisions and introduce new requirements or prohibitions that were not noticed under the ISOR, including the 13- or 16- year age restriction on when a vehicle replacement can be made.

The Board concurred with the need to address a very specific set of bullets in this amendment Package, and requested feedback on a number of other items (100% sales date, fleet size applicability, shifting certain vehicle types into other of ZEV milestone categories). Direction was clearly given to CARB staff throughout the rulemaking process to resolve the SB 1383 policy conflicts related to Renewable Natural Gas, among other items. This rulemaking Package addresses some of the direction given by the CARB Board, does not address others, and includes components that CCEEB doesn’t believe the record shows were directed by the Board.⁸ Without a Board Resolution based on the first board hearing, the direction to staff is ambiguous at best – unfortunately, situations such these have become frequent in CARB rulemaking processes.

With the amendment Package coming out for comment so close to the second board hearing, staff has not allowed for adequate stakeholder or Board review or the ability to make additional changes as necessary. We acknowledge staff’s hard work to develop this regulation, but without providing the ability to make additional, necessary, and iterative changes, staff’s first and only 15-Day Package would need to achieve perfection – which is rarely achieved.

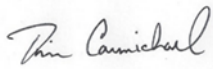
⁸ <https://ww2.arb.ca.gov/sites/default/files/barcu/board/mt/2022/mt102722.pdf>

Looking forward, CCEEB believes an implementation working group is needed.

CCEEB does not support the approach of ‘adopt it now, fix it later’ that relies on guidance, enforcement discretion, or undefined future rulemaking. This approach places regulated entities in the position of trying to comply with a moving target. However, given the extent of the aforementioned issues, and the likelihood of yet unknown challenges, CARB will likely need to issue substantial compliance guidance. **CCEEB encourages CARB to implement the ACF in a transparent manner, including publicly noticed clarifications, guidance, and interpretations that will result from such a complex and far-reaching set of regulations. To do so, CCEEB suggests CARB create an Implementation Working Group that holds regular public listening sessions with regulated stakeholders to inform ACF implementation, enforcement, and regulatory amendments.**

CCEEB appreciates the enormous lift ahead needed to reach the emissions reductions outlined in the 2022 State Strategy for the State Implementation Plan, as well as the role ACF plays in meeting our carbon neutrality goals and reducing local exposure to diesel particulate matter. As stated at the outset of our letter, the consequences of success are significant. So too are the consequences of failure – continued non-attainment of health-based federal air quality standards; impacts to the electrical grid; interruptions to emergency response; and risks to international supply chains that have economic ripple effects across the state. Be it issues related to capital investment, operating and energy costs, vehicle technology advancement trajectories or the necessary grid upgrades to enable sufficient charging and hydrogen fueling infrastructure, the current ACF proposal is based on the idea that ‘if we regulate, it will occur.’. Neither CARB, the CEC, nor any other state agency has demonstrated that the energy and transportation sectors are capable of meeting the objectives proposed in this regulatory Package. This 15-Day Package does not adequately address these concerns, particularly in the early implementation years.

We thank staff and the Board for considering our comments toward an implementable regulation and look forward to continuing to work together on the road ahead. Should you wish to follow-up with CCEEB, please contact Christine Wolfe at christinew@cceeb.org or (415) 940-0501.



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Attachment A

Daily Use Exemption: An example of the complexity and burden of proof required for *each and every* request.

Excerpt from October Board Staff Presentation – “The daily usage exemption would address situations where a zero-emission vehicle is available but cannot meet the fleet's operational needs. The fleet owner would need to provide daily usage information to claim the exemption and purchase internal combustion engine vehicles.”⁹

ISOR – “Daily Usage Exemption. Fleet owners may receive a one-year exemption to purchase a new ICE vehicle if a comparable ZEV is available but cannot be placed anywhere in the California fleet while meeting the daily usage needs of any existing ICE vehicle.”¹⁰

Reality –

1. Request for *each vehicle* must be/include:
 - a. For a new replacement vehicle only
 - b. Same configuration
 - c. 1-year in advance of a next compliance milestone
 - i. Model Year – “request exemption”
 - ii. ZEV milestone – “request and obtain exemption”
 - d. Demonstrate to Executive Officer that “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.” [emphasis added] (ZEV Milestone Path)
2. Limitations written into the provisions
 - a. Vehicles to be replaced must be 16 years old or 700,000 miles (Model year)
 - b. Vehicles to be replaced must be 13 years old (State and Local Gov’t)
 - c. Cannot be approved until 10% of fleet is already ZEV
 - d. No NZEVs as replacement vehicles
 - e. No used replacement vehicles
 - f. No Class 2b or 3 BEV with a rated energy capacity of at least 150 kilowatt-hours
 - g. No Class 7 or 8 BEV tractor or BEV 3-axle bus with a rated energy capacity of at least 1,000 kilowatt-hours
 - h. No Class 4 through 6 BEV with a rated energy capacity of at least 325 kilowatt-hours;
 - i. No Class 7 or 8 BEV that is not a tractor or 3-axle bus with a rated energy capacity of at least 450 kilowatt-hours.
3. Replacement vehicle must be ordered with 180 days (1-year for Gov’t)
4. Justification must include (Gov’t example):
 - a. The make, model, weight class, configuration, and photograph of the ICE vehicle to be replaced.

⁹ <https://ww2.arb.ca.gov/sites/default/files/barcu/board/mt/2022/mt102722.pdf> (page 31)

¹⁰ <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2022/acf22/isor2.pdf> (pages 14, 18)

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- b. Identify the BEV that is available to purchase in the same weight class and configuration with the highest rated energy capacity available. Submit the make, model, weight class, configuration, and rated energy capacity of the identified BEV.
- c. Calculate the range of the vehicle identified in miles by dividing the rated energy capacity of the identified BEV by the following factors: for Class 2b through 3 vehicles, 0.6 kilowatt-hours per mile; for Class 4 through 6 vehicles, 1.3 kilowatt-hours per mile; for Class 7 and 8 vehicles that are not tractors, 1.8 kilowatt-hours per mile; for Class 7 and 8 tractors, 2.1 kilowatt-hours per mile. For vehicles that operate truck mounted or integrated equipment while stationary, in lieu of calculating the needed rated energy capacity based on vehicle miles travelled, the needed rated energy capacity is the same as the measured BEV energy use specified in section 2013.1(b)(3)(A). Submit the calculation and results.
- d. In lieu of calculating range as specified in section 2013.1(b)(3), fleet owners may instead submit measured BEV energy use data from BEVs of the same configuration already operated on similar daily assignments to substantiate their exemption request. **Information must include vehicle loading and weight data, route grade, average ambient daily temperature, vehicle miles travelled per day, energy used to drive, and state of charge at the beginning and end of the daily shift to show typical daily energy usage for the BEV, over five consecutive business days.** For vehicles that operate truck mounted or integrated equipment while stationary the information must also include the energy used while stationary and number of hours such truck mounted or integrated equipment is operated each day,
- e. Submit a daily usage report for a period of at least 30 consecutive workdays from within the last 12 months using telemetry data or other data collection system that tracks daily mileage and energy use, and hours of vehicle operation if applicable, for all ICE vehicles of the same weight class and configuration of the vehicle to be replaced. Fleet owners that have a mutual aid agreement to send vehicles to assist other entities during a declared emergency event may alternatively submit this report from within the last 60 months. The report must include the daily miles traveled and energy used to drive for each ICE vehicle of the same weight class and configuration of the vehicle to be replaced. Identify the lowest mileage reading for each day and exclude the 3 highest readings.¹¹ For the exemption to be granted, the highest remaining mileage or energy use number must be greater than the range calculated in 2013.1(b)(3) or the energy use data submitted per section 2013.1(b)(3)(A).
- f. For vehicles that operate truck mounted or integrated equipment while stationary, the daily usage report must include the energy used while stationary and number of hours such truck mounted or integrated equipment is operated each day, for at least 30 consecutive workdays from within the last 12 months.
- g. **Submit a description of the daily assignments or routes used by existing vehicle configurations with an explanation of why all BEVs available to purchase of the same weight class and configuration cannot be charged or fueled during the workday at the depot, within one mile of the routes, or**

¹¹ Data should not be manipulated. If there are data outliers, CARB can seek clarifications the time of the request.

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where ZEV fueling infrastructure is available. **The explanation must include a description of why charging could not be managed during driver rest periods or breaks during the workday.**

- h. 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 specified in section 2013.1(b).

Attachment B

Remaining Regulatory Concerns

- ACF does not take into consideration other ZEV rules for infrastructure planning. Exemptions approvals are limited to ACF compliance only and do not allow for a more holistic view of the infrastructure needs of the entire facility – ZEV forklifts, cargo handling equipment, off-road ZEVs, and/or building electrification.
- Clarity needed on State and Local fleets opting into ZEV milestone given differing exemption criteria now.
- Mandatory purchasing of whatever vehicle is available will severely impact fleet homogeneity. Rather than having a focused set of brands and models the rule will most definitely result in forced and rushed purchases of many different brands and models. This will impact supply lines, costs, delivery/availability (parts), training (mechanics/operators), accident rates, operating schedules, operating limitations, and many other issues and items that will surface later. It can also be expected that a number of sub-par vehicles will be forcefully purchased which has its own set of issues.
- Definitions
 - Configuration –is overly broad and doesn't reflect the nuances of various configurations
 - Declared emergency event – new language of 'or degrees of emergency' **Out of Scope**
 - Test Fleet- should be expanded to address fuels and lubricant research and development¹²
 - Waste fleet – narrowly defined, doesn't address Boards SB 1383 concerns
 - ZEV fueling infrastructure – is it right, especially for hydrogen?

¹² **Basis for proposed ACF language change:** Petrochemical and lubricant industries will maintain a specialized fleet of vehicles to support research and development of fuels, fuel additives, and lubricants, and should fall under a definition of "test fleet". These test vehicles are not used to transport goods or provide service and represent a comparatively small number of vehicles. These test vehicles are typically operated on a chassis dynamometer and, when appropriately registered and licensed, will occasionally operate on the roadway to conduct real-world testing. The research is critical to enable the reliable supply of our products globally, including renewable fuels and hydrogen. Fuel additives developed at research centers are used to meet or exceed minimum EPA and CARB fuel requirements. Please consider modifying the definition of "test fleet" to be more inclusive of all research test vehicles to maintain innovation across the state.

Recommended language modifications to proposed ACF language

"Test fleet" means vehicles owned and operated by a manufacturer or a laboratory under the North American Industry Classification System (NAICS) 541715 research and development in the physical, engineering, and life Sciences that are not used for commercial purposes. Rather, "test fleet" vehicle use is appropriate: to demonstrate functionality to buyers; to test durability; ~~or~~ to gather data for engine or vehicle certification or-research; ~~and~~ for vehicles operating under a CARB-issued experimental permit as authorized by California Health and Safety Code section 43014; and for vehicles operating to test fuels, fuel additives, lubricants or other technical qualification for research or certification.

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- BEV vs. ZEV vs. Hydrogen consistency
- The rule has no direct pathway for hydrogen ZEVs. Companies will be forced into purchasing BEVs and the associated infrastructure, and then will need to invest more later to switch to hydrogen if that is their ultimate goal.
- Corporate joint compliance language related to failure at joint level, switching to individual compliance. Compliance trap? Multiplier effect? How does this work?
- Vehicles ordered in advance provision doesn't apply to drayage fleets. Operators testified they already bought Low NOx trucks that won't be delivered by 1/1/24 creating a stranded asset.
- Non-repairable vehicle, should be body or engine damaged
- ZEV milestone
 - Garbage truck configurations limited
 - Daily use exemption clause:
 - 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.
 - What is the bar for this demonstration? Not a clear standard.
 - No capacity to choose H2 over BEV
- ZEV purchase exemption
 - Initial list not out until 2025
 - Use of engineering and business judgment - see main comments
- ZEV purchase exemption application
- Late reporting
 - Single, separate violations can be excessive
- Enforcement
 - Citing and individual vehicle for 'non-compliance'. Not clear if its only applicable to rental fleets
- Transition time frame is too condensed
- Rule has little to no implementation strategy beyond vehicle class type:
 - Transition by vehicle function such as targeting goods movement first, work trucks second, specialty vehicles third (or some other strategy) would be more focused and effective vs. the current non-focused approach
 - No prioritization for disadvantaged community areas
 - No prioritization for urban areas
 - No prioritization for non-attainment areas
- It appears that safety/emergency response and essential public services are secondary to putting ZEVs on the road and reducing emissions. ZEVs used for these purposes must be proven and able to meet higher standards before they are required for use in these critical functions. Instead, ZEVs are being forced into these roles regardless of their abilities and the status of the needed infrastructure. CARB's perspective on Safety/emergency response and essential public services is backwards and borderline irresponsible.
- **Emergency Response**

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- The rule addresses only two scenarios, “business as usual” and declared emergencies with nothing in between. Providers of Essential Public services face a wealth of situations in this between area and yet have minimal flexibility under the rule. Depending on the situation and many factors, ZEVs may or may not be able to perform as demanded. The regulation should error on the side of public safety and provide some flexibility to PEPS. This has been stated multiple times and still has not been addressed.
- The rule does not address emergency response ICE vehicles being used for drills, training and other such activities which are not "declared emergencies"? Do these activity hours come out of the 1000 hr. annual limit for a back-up vehicle?
- CARB’s position on the emergency response sections is not in line with public safety and public welfare. It appears CARB is trying to remove every ICE out of emergency response even if it compromises our ability to respond to a given emergency. Safety and the ability to respond to emergency situations does not appear to be the top priority.
- Another issue is with familiarity with a vehicle and its equipment. Relying on back-up vehicles is a high-risk system. Vehicles must be ready to operate when needed and operators need to know the vehicle & equipment. Learning about a rarely used vehicles and different equipment/add-ons during an emergency, is not acceptable and puts employees and the public in a compromised position. Each vehicle and its equipment operate differently and those differences can be critical in an emergency situation; vehicles and their equipment are not simply interchangeable.
- **Mutual Aid**
 - Mutual aid section is about having vehicles to provide mutual aid. What about receiving mutual aid from "out-of-state" partners that only have ICE vehicles? The 5-day pass, would not be workable here.
 - The fleet proportion requirement (*at least 25 percent until January 1, 2032; 50 percent until January 1, 2035; and 75 percent*) makes it so an applicant has to be ahead of compliance schedule by 1 year. Why, and why the need to add additional complexity?
 - No vehicle types should be excluded from the mutual aid exemption. Just because NZEVs are available for pickup trucks, buses, box trucks, vans, tractors, or other does not mean they are able to perform the necessary emergency response function.
 - 2015.3(f)(2)(C) [mobile fueling requirement for mutual aid]: What ZEV are they talking about recharging in this requirement? Above section is about 25% mutual aid exemption and not a ZEV. Also any mobile recharger requirement should only apply to "within-state" mutual agreements, not any "out-of-state" agreements where there certainly will be no or extremely limited abilities to charge a mobile re-charging vehicle or any BZEVs.

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- Mutual Aid and Emergency response could be combined. 25% (or more if proven) should be the first tier. The second tier for additional resources when needed would be exempt usage of the secondary "back-up" fleet.
- Where did the 25% ICE cap come from? What studies and what facts say 25% of a fleet being ICE is sufficient to provide the necessary flexibility to meet all mutual aid requirements and obligations
- **Five Day Pass**
 - What about large out of state companies doing projects in CA? Are they going to have to buy and customize a ZEV fleet for a project which may only last a few months?
 - What about large CA companies doing business in other states; no or very limited infrastructure for their ZEV vehicles in other states. Will they need to maintain an ICE fleet outside of the state for periodic out-of-state projects?
 - Unnecessarily limited to consecutive days
- Changes that could fall into the category of “**Out of Scope**” from what the Board directed staff in October
 - Applicability now includes subsidiaries and foreign receipts.
 - Merger timeline of 1 -year, workable?
 - Sales disclosure of ‘subject vehicles’. If you are selling it, it may not be subject to ACF.
 - Daily use exemption
 - 16th model year -HP
 - 13th model year -Gov’t
 - ZEV purchase exemption
 - 16th model year
- ZEV milestone
 - Limit opt-in to 2030 **Out of Scope**

CCEEB reiterates our earlier concerns with the general structure of this regulation and overall ability of the state to achieve its intended medium- and heavy-duty zero emission goals in a cost-effective and strategic manner. Those concerns include:

- Significant initial capital costs and constraints to comply with the ACF regulation
- Operationally required changes that cannot satisfy the 1:1 replacement concept
- Actual vehicle availability and supply chain disruption impacts
- No compliance relief associated with excessive cost
- Lack of Grid readiness
 - Early on in the rulemaking, CCEEB proposed to link ACF implementation with the readiness of the grid
- Lack of public fueling infrastructure for both battery and hydrogen vehicles
- Lack of transparent interagency coordination
- Interactions with other ZEV rules which require capital and electrical power and infrastructure
- Interactions with other CARB MHD non-ZEV vehicle rules
- Need for coordination with existing air district fleet rules