



Final ACF Rule Must Protect Grid Reliability and Emergency Response

The Joint POU^s are committed to supporting transportation electrification and to helping CARB craft a durable, implementable Advanced Clean Fleets (ACF) rule that can achieve success in California and serve as a model for other states. However, as indicated in our numerous comment letters, we continue to have serious concerns that the proposed ACF rule, unless amended, will unintentionally restrict POU^s from acquiring the specialty vehicles needed to maintain and operate the grid, including during emergency events.

POUs rely on various types of vehicles to keep the lights on and restore electricity during outages. These include specially constructed and upfitted vehicles like long reach excavation trucks, digger derricks, and hydraulic telescopic boom trucks with cranes, which build, maintain, and repair electric systems. POU^s rely on these vehicles both for routine operations and to respond to emergencies, such as wildfires, extreme weather events, and other natural disasters both within and beyond their service territories. Emergency events require the deployment of utility vehicles for multiple days or even weeks, often in remote areas where recharging is not possible. Lives and property are often at risk during these emergencies, and POU^s need vehicles that are fully dependable to restore service as safely and quickly as possible.

The proposed ACF rule establishes ZEV purchase requirements for POU^s, with the ultimate goal of requiring 100% ZEV purchases starting in 2027. At this time, however, most specialty vehicles used by POU^s do not have comparable ZEV models that are commercially available. While the proposed rule ostensibly includes exemption provisions to address ZEV unavailability and emergency response, the provisions are in many ways impractical and fail to protect POU^s if there is a lack of ZEVs that meet the duty cycles required by electric utilities. The final ACF rule must provide flexibility to POU^s—to the extent ZEVs remain unavailable or unsuitable—in order to protect grid reliability and emergency response.

Key Concerns #1: As Proposed, the ACF May Require POU^s to Purchase Vehicles That Are Not Actually Commercially Available or That Cannot Meet Basic Public Procurement Standards.

Under the proposed ACF rule, if a ZEV is deemed “commercially available” by CARB, the ZEV must be purchased instead of an internal combustion engine (ICE) vehicle. However, as currently drafted, the ACF rule does not include a transparent definition or criteria of what constitutes a commercially available ZEV. Instead, the determination of commercial availability is left solely to CARB’s discretion. An arbitrary and ambiguous standard that fails to consider specific factors that are important to POU operations will jeopardize the ability of POU^s to procure the vehicles needed to protect grid reliability.

To address this issue, the final ACF regulation must include a robust, transparent, and objective set of reasonable criteria for the definition of “commercial availability” that addresses, at minimum, the following questions:

- Is the specific and required ZEV configuration available for purchase and delivery in sufficient quantities?
- Is the ZEV available from multiple established manufacturers as a zero-emission powertrain certified model?
- Is the ZEV retail price no more than 33% greater than of an ICE vehicle of the same configuration?

Additionally, POU's are subject to public procurement processes and established standard operating procedures, including requirements for competitive bidding and sourcing. These requirements are part of a public agency's fiduciary duty to safeguard the use of public funds. Given the *significant value* of public capital funds that will be required for ACF compliance, the ACF rule should recognize the importance of these procurement processes, which include vehicle specifications, specific bid and contract award requirements, standards, warranties (including for pulling a trailer and offroad use), and financial worthiness. Currently, the proposed regulation is silent on these important issues. The ACF should not require the public entity to purchase a particular ZEV if a supplier cannot meet basic public procurement standards. Additionally, if there are no responsive bids from reputable suppliers, the regulation should allow traditional vehicle purchases.

Key Concern #2: As Proposed, the ACF's Provisions on "Emergency Response" Are Arbitrary, Unreasonably Restrictive, Fail to Recognize the Diversity of POU's, and Could Affect Emergency Response Capabilities.

As currently drafted, the proposed ACF rule applies a one-size-fits-all standard for dealing with emergency vehicles. For a POU to purchase a non-ZEV under the emergency response exemption the POU's fleet must already be comprised of 75% ZEVs. It may take over a decade for POU's to get to this 75% ZEV standard, and for smaller POU's with fewer vehicles and financial resources, this standard could pose even greater challenges. The 75% ZEV threshold also means that no more than 25% of a POU's fleet can consist of non-ZEVs. For many POU's, including those in areas that face extreme weather events, wildfires, and earthquake risks, responding to emergencies can require the use of more than 25% of the utility's fleet at any given time. The emergency response exemption, as currently drafted, fails to meaningfully address these scenarios.

Even if a POU meets the 75% ZEV standard, it must then obtain discretionary approval from CARB to purchase a non-ZEV. As part of the approval process, the POU must show that there are no ZEV alternatives that can be charged in the field by a mobile fueling source. CARB can deny approval if, for example, a diesel generator could be used to charge a ZEV battery to 80% within an hour. This is an impractical framework: purchasing diesel generators to charge ZEVs would create additional costs; charging a ZEV during an emergency will take the vehicle out of service; and burning diesel fuel would increase greenhouse gas emissions and air pollution, which is contrary to the main purpose of the ACF rule.

Additionally, as currently drafted, the provisions on emergency response are tied to "mutual aid assistance." It is not clear whether CARB would limit its approval of non-ZEV vehicles to only those it deems necessary for mutual aid assistance or if the broader category of emergency response is eligible. For the benefit of the public's health, safety, and welfare, the rule should be focused more generally on emergency response.

Next Steps

Ensuring that the final ACF rule addresses our key concerns is a top operational priority for the Joint POU's. It is critical that the final ACF rule provides a workable framework for POU's that does not compromise grid reliability or the ability to respond to emergency events. Unfortunately, despite our early, consistent, and extensive engagement on this rulemaking process, the proposed ACF rule still fails to adequately address our key concerns. The Joint POU's strongly urge CARB leadership and other interested policymakers to call on CARB staff to address these significant omissions in the final version. We stand ready to work with CARB staff on a feasible, mutually agreed upon solution to protect the health, safety, and welfare of the communities served by California's POU's.

¹ The Southern California Public Power Authority (SCPPA), Northern California Power Agency (NCPA), and California Municipal Utilities Association (CMUA) are collectively the "Joint POU's," representing the majority of the state's publicly owned electric utilities (POU's).