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Sent via email to: zevfleet@arb.ca.gov

California Air Resources Board
1001 I Street
Sacramento CA 95814

Re: Proposed Advanced Clean Fleets Regulation Provisions Workgroup Comments

Dear California Air Resources Board Staff,

On behalf of the Inland Empire Utilities Agency (IEUA), we thank the California Air Resources Board (CARB) for the opportunity to provide feedback at the workgroup meeting held on July 26th to improve the draft provisions to the exemptions and extensions of the Advanced Clean Fleets Regulation (Regulation), specifically on the public fleet requirements.

IEUA is a regional public wastewater treatment agency and wholesale distributor of imported water that serves approximately 875,000 people over 242 square miles in western San Bernardino County. As a regional wastewater treatment agency, IEUA provides sewage utility services to seven contracting agencies: the cities of Chino, Chino Hills, Fontana, Montclair, Ontario, and Upland, and the Cucamonga Valley Water District (CVWD) in the city of Rancho Cucamonga.

Wastewater utilities through organizations like IEUA, provide an essential public service. In order to protect the public and the environment, IEUA operates 24/7, including emergency responses. Through mutual aid agreements, IEUA is on call to not just serve our region but our neighbors as well. This includes maintaining a system of large diameter pipelines and pump stations. When they get clogged, damaged, or need servicing, we must respond immediately with heavy-duty vehicles like vacuum trucks, water trucks, and dump trucks to evacuate sludge, run temporary bypass piping, and clean/repair the pipes to prevent and mitigate sewer overflows.

IEUA has invested heavily in ways to protect the environment, including early investments in renewable energy, energy efficiency, regional wastewater recycling, and proactively tracking and reducing our agency's impact on air quality. Through this perspective, as an essential public service that believes in CARB's goal to reduce medium and heavy-duty fleet emissions to zero, we offer the suggestions below to the draft Regulation language that reflect the water and wastewater industry's needs in order to maintain the public and environmental health of our communities.

Water Smart - Thinking in Terms of Tomorrow

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Definition of "Emergency Vehicles"

The current definition of "Emergency Vehicles" in the draft Regulation references California Vehicle Code (CVC) 165. CVC 165 defines "Emergency Vehicles" as those vehicles used for fighting fires, towing, caring for the injured, law enforcement, and repairing damaged lighting or electrical equipment. The CVC definition acknowledges that utility response vehicles can be classified as emergency vehicles but fails to include critical emergency response vehicles for utilities outside of electricity, including those used in water and wastewater.

IEUA suggests that the draft Regulation definition of "Emergency Vehicles" be expanded to include vehicles directly supporting critical infrastructure for public health and safety purposes, including water and wastewater repair response vehicles. Just like vehicles used to repair electrical equipment, vehicles used by water and wastewater agencies like IEUA are activated to protect public and environmental health during an emergency. Damaged or clogged pipes can pose an imminent risk to the environment, public health, and public safety. In these situations, IEUA must respond with a vacuum truck and other heavy-duty vehicles immediately to remedy the situation and ensure continuing utility operations. For these reasons, it is crucial that the exemption of emergency vehicles be expanded to include not just vehicles used by electrical utilities but vehicles used by water and wastewater utilities for critical responses that do not fall under the existing definition of a "Declared Emergency Event".

Definition of "Declared Emergency Event"

The current definition of "Declared Emergency Event" is limited to those events declared by the Executive Officer. IEUA suggests that the term and definition of "Declared Emergency Event" be expanded to include responses that affect public health and safety or are governed by other regulatory orders, such as the Statewide Sanitary Sewer Systems General Order, which requires wastewater agencies immediately respond to and mitigate sewer overflows. Public agencies are mandated to respond to emergency events by varying orders, resolutions, and laws, which do not typically fall under declarations by an Executive Officer. The lack of such a declaration does not diminish the risk and response necessary for an emergency, and we ask CARB staff to update the definition to reflect this reality.

Definition of "Backup Vehicle"

The Advanced Clean Fleet Regulation draft language defines "backup vehicles" as those driven less than 1,000 miles per year. IEUA suggests updating this definition for "backup vehicles" to 2,000 miles per year, given the large area some public agencies, including IEUA, which covers a 242 square mile area, must serve.

Additionally, the current narrow definition of "declared emergency event" dramatically limits the number of emergency response events that do not count towards the backup vehicle's mileage limit due to the provision that mileage driven during a declared emergency response can be excluded from the yearly limit. As written, declared emergencies are limited to events issued by the Executive Officer and excludes other required emergency response actions such as those governed by the Statewide Sanitary Sewer

System General Order. Emergency response events that fall outside the current definition of "declared emergency event" may require backup vehicles to be utilized in situations where 1,000 miles per year may not be sufficient to provide the appropriate emergency response action required by our agency. Increasing the limit to 2,000 miles allows backup vehicles to be used in emergency scenarios that fall outside the current scope of what the Regulation defines as a "declared emergency event" and ensures that we can continue to provide mutual aid services to our regional partners in need.

Outside of a blanket mileage limit increase, IEUA sees the potential for alternative solutions, including having a tiered mileage limit based upon agency service area size.

Infrastructure Construction Delay Extension

The current draft Regulation language includes a one-year maximum delay on compliance with section 2013(d) due to infrastructure construction delays. IEUA suggests removing the one-year maximum and replacing it with a provisional delay that lasts for as long as the agency can provide documentation to CARB staff that the delay is outside of the agency's control. The conversion to ZEV vehicles will require infrastructure projects dependent on materials, work, and permits that are outside the control of a public agency. Recent supply chain issues have highlighted the volatility in supplies, costs, and labor which have considerably delayed construction projects. Further complications include the spike in requests for upgraded electrical infrastructure to supply public agencies with the power required to install and charge ZEV refueling stations. Delays in the construction of utility infrastructure to support ZEV charging stations is not something Public Agencies have control over and thus should not be limited to a one-year time frame.

Definition of "Commercially Available"

IEUA is concerned that the ZEV Unavailability Exemption definition of "commercially available" is ambiguous in the draft Regulation, which leads to uncertainty about how the exemption will be implemented. IEUA recommends providing clarification on the use of this term in the draft language to detail how CARB interprets and plans to implement "commercially available." The list of potentially available vehicles shared by CARB staff at the July 26th Advanced Clean Fleet Workgroup Meeting included vehicles available for pre-order. IEUA would not consider vehicles available for pre-order "commercially available" as delays between pre-order and delivery can be extensive or indefinite. The recent [semiconductor shortage](#) has exacerbated these delays and is one example of how a pre-ordered vehicle may not be made available for a prolonged period.

IEUA has further concerns that if pre-order vehicles are determined to be "commercially available," public agencies will be forced to purchase vehicles that have yet to be tested under real-world stresses. ZEV startups have already experienced software and battery problems after launch, and it is expected that new ZEVs will face similar early model production problems common in first-year vehicle production. While IEUA is supportive of ZEV, our vehicles must be reliable in order for us to maintain essential public services. For this reason, IEUA suggests a minimum production or delivery number before a ZEV can be considered "commercially available."

Defining "commercially available" vehicles as those vehicles currently on the market and available for purchase, not pre-order, will help clarify the Regulation, remove uncertainty from ZEV purchases, and protect public funds from being tied up in ZEVs that may not be viable in application.

Definition of "Vehicle Configuration"

While IEUA appreciates the exemption for ZEVs that are not "commercially available," there are concerns that the current unavailability exemption is based solely on vehicle configuration, which is not currently defined. At the July 26th Advanced Clean Fleet Workgroup Meeting, it was alluded to that "vehicle configuration" was tied to the body style and end use of the vehicle. The body style and end use of a vehicle are essential requirements for a ZEV purchase, but other factors must also be considered for a ZEV to be a like-for-like replacement and a commercially available replacement. A ZEV's ability to drive on unpaved roads via 4x4 drive, ground clearance, gross vehicle weight rating, refuel/recharge speed, operating run time, and power take-off features are just a few factors that must also be considered.

Also, unique factors must be considered when purchasing a specialized vehicle. For example, the vacuum truck used by IEUA is evaluated based on how many yards the debris tank can hold, the capacity of the powered front mount, the flow rate of the vacuum pump, and hose length, to name a few. A ZEV truck that is commercially available with a vacuum configuration may not be a viable option for our agency if the factors listed above or others are not adequate.

Given the expansive end uses of vehicles and subsequent factors that need to be considered, IEUA does not believe it is feasible for CARB staff to track all factors that may play into a purchasing decision. Instead, IEUA suggests that the Regulation be expanded to allow public agencies to submit documented proof for CARB staff review that a ZEV is not commercially available based on any factor deemed necessary by that public agency. Expanding the commercially available exemption will allow for a complete analysis of what is available while saving CARB staff the resources to track an uncountable number of purchasing factors.

Vehicle Delivery Delay

Vehicle delivery delays were discussed at the July 26th Advanced Clean Fleet Workgroup Meeting, but no language on the topic is currently found in the draft Regulation. IEUA would request that language be added to the Regulation that specifies that manufacture delivery delays be allowed as an exemption to compliance with section 2013(d), so long as the public agency can provide documented proof of the delivery delay. This update will ensure that public agencies are not found out of compliance due to delays caused by the ZEV manufacture, something a public agency has no control over.

IEUA would also like CARB staff to consider more flexible replacement options with ICEV alternatives should a ZEV delivery take over one year as there may be situations where agencies may not be able to wait indefinitely on certain vehicles to be acquired. When this regulation becomes finalized it is expected that increased demand will lead to an even greater backlog of ZEV purchases, making delivery times much more lengthier.

Immediate Replacement

Current lead times for ZEVs are much longer than ICEV counterparts. In many situations, public agencies can plan for this extended lead time based on the remaining useful life of the current ICEV. However, vehicles can be taken out of operation suddenly and without warning. For these situations, IEUA would like to see language added to the Regulation to address the need for the replacement of vehicles that, due to an automotive accident, mechanical failure, or other unforeseen circumstance, needs to be replaced immediately.

Mutual Aid Exemption

IEUA is a party to a mutual aid agreement, and while mutual aid events are not an everyday occurrence, they do pose unique requirements to respond to situations that should be reflected in the draft Mutual Aid Exemption language of the Regulation. The current draft Mutual Aid Exemption provision requires 75% of a public agency's fleet to have been converted to ZEV to qualify for the exemption. This requirement puts undo stress onto fleets to replace vehicles in the first few years of the Regulation in order to utilize the mutual aid exemption. The language is most impactful to smaller fleets, who may only replace up to one vehicle a year, and, to comply with section 2013(d), will have to purchase ZEVs solely. This current Regulation language does not allow smaller fleets the opportunity to pursue an ICEV for vehicles used in mutual aid. The provisions of this exemption are very narrow in scope as it only exempts vehicles used for mutual aid that are over 14,000 lbs. Therefore, IEUA does not see the inherent need for such restrictions to the fleet and recommends that CARB staff remove the 75% ZEV fleet conversion requirement from the mutual aid language.

We appreciate your consideration of these comments and the opportunity to collaborate with CARB staff to draft a Regulation that will help improve the air quality, something IEUA has been passionate about for many years. IEUA would like to extend an invitation to CARB staff to visit IEUA's facilities and see how our critical heavy-duty vehicles are used and operated. If you have any questions, please contact Ms. Lucia Diaz at ldiaz@ieua.org or (909) 993-1631.

Sincerely,

INLAND EMPIRE UTILITIES AGENCY



Shivaji Deshmukh, P.E.
General Manager