



6075 Kimball Avenue • Chino, CA 91708  
P.O. Box 9020 • Chino Hills, CA 91709  
TEL (909) 993-1600 • FAX (909) 993-1985  
[www.ieua.org](http://www.ieua.org)

October 17, 2022

Electronically submitted to CARB via:

<https://ww2.arb.ca.gov/applications/public-comments>

Clerk of the Board  
California Air Resources Board  
1001 I Street  
Sacramento CA 95814

Re: Proposed Advanced Clean Fleets Regulation Public Hearing

Dear California Air Resources Board,

On behalf of the Inland Empire Utilities Agency (IEUA), I thank the California Air Resources Board (CARB) for the opportunity to comment on the proposed Advanced Clean Fleets Regulation (Regulation). IEUA has followed this issue closely and participated in CARB's workgroup meeting on July 26, 2022, providing written and oral comments detailing our concerns with the draft Regulation. While our Agency fully supports CARB's mandate to achieve zero emissions, there must be an ability to allow exceptions in its implementation that assure the continuation of essential wastewater services, thereby protecting public health. As such, IEUA respectfully and earnestly requests that the Regulation not be adopted until our concerns, as outlined below and in our previous letter, are fully addressed.

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, like IEUA, provide essential sanitation services. Wastewater systems operate continuously and problem conditions can occur at anytime and anywhere in our 242-mile service area. Through mutual aid agreements, IEUA services an even greater system of 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.

### *Water Smart - Thinking in Terms of Tomorrow*

**Steven J. Elie**  
President

**Michael Camacho**  
Vice President

**Marco Tule**  
Secretary/Treasurer

**Jasmin A. Hall**  
Director

**Paul Hofer**  
Director

**Shivaji Deshmukh**  
General Manager

Being able to reliably respond quickly to these situations is critical and required by State regulations<sup>1</sup>. We ask for consideration of the following recommendations, which we believe are reasonable and strike a fair balance in competing public policy imperatives.

### **Expand 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 recommends that the 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".

### **Expand Definition of "Declared Emergency Event"**

The current definition of "Declared Emergency Event" is limited to those events declared by a local governing body, state, Governor, or the President of the United States during emergency conditions described in California Government Code section 8558. The term and definition of "Declared Emergency Event" should 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 conditions described in California Government Code section 8558. Expanding the definition of the declaration rightly acknowledges the emergency nature of the public health risks associated with a delayed response to a wastewater system failure, and we ask CARB staff to update the definition accordingly.

The existing Stationary Air Toxics Control Measure (ATCM) and the Portable ATCM CARB regulations include a definition of "emergency" that can be used within this Regulation to address the narrow scope

---

<sup>1</sup> See: [www.waterboards.ca.gov/water\\_issues/programs/ssw/#general](http://www.waterboards.ca.gov/water_issues/programs/ssw/#general)

of the current definition. These internal combustion engine regulations state that “Emergency” means providing electrical power or mechanical work during any of the following events and subject to a few of the following conditions listed below:

- Failure or loss of electrical power service
- Pumping of sewage to provider mitigate a flood or sewage overflow
- Pumping of water to maintain pressure in the water distribution due to pipe breaks

The above emergencies often fall outside the scope of “declared emergency events” as currently defined in the Regulation and should be included to ensure that the definition of emergency is comprehensive.

#### **Update 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 described in California Government Code 8558 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.

#### **Provide 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 charging infrastructure projects that may be delayed by factors outside the control of a public agency. Recent supply chain disruptions 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 power 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.

#### **Add Definition of "Commercially Available"**

IEUA is concerned that the ZEV Unavailability Exemption frequently references the term "commercially available", which is not formally defined in the Regulation. "Commercially available" is interpreted in CARB's Initial Statement of Reasons staff report released August 30<sup>th</sup> as "available to order or have had at least one model delivered to a customer". The list of potentially available vehicles shared by CARB staff at the July 26<sup>th</sup> Advanced Clean Fleet Workgroup Meeting included vehicles available for pre-order, alluding to the definition of "commercially available" including vehicles available for pre-order. IEUA would not consider vehicles with limited customer deliveries or vehicles available for pre-order "commercially available" as this definition is problematic. Delays between pre-order and delivery can be extensive or indefinite. The recent [semiconductor shortage](#) has exacerbated these delays and is just one example of how a pre-ordered vehicle may not be made available for a prolonged period.

IEUA has further concerns that if vehicles with limited sales or available for pre-order are determined to be "commercially available," public agencies will be forced into vehicle purchases 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 ZEVs, our vehicles must be reliable in order for us to maintain essential public services while ensuring we be fiscally responsible with public funds. For this reason, IEUA suggests a minimum production or delivery number in the double digits at a minimum before a ZEV can be considered "commercially available".

#### **Expand Definition of "Vehicle Configuration"**

While IEUA appreciates the addition of a definition for "configuration" in the Regulation based on our previous comments, the current definition is too limited in scope. The exemption for ZEVs that are not commercially available is based solely on vehicle configuration which is now defined as "the primary intended function for which a vehicle is designed as determined by the body of a complete vehicle or by the equipment integrated into the body that is permanently attached to the chassis". This ties availability to the intended function and body of a vehicle. The body style and function 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. 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.

Additional unique factors must be considered when purchasing a specialized vehicle. For example, the vacuum truck utilized 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 factors 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.

### **Exempt Certain Vehicle Delivery Delays**

Vehicle delivery delays were discussed at the July 26<sup>th</sup> Advanced Clean Fleet Workgroup Meeting, but no language on the topic is currently found in the draft Regulation for public fleets. However, this exemption is found in the High Priority and Federal Fleet Requirements along with the Drayage Fleet Requirements. 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 or distributor, something a public agency has no control over.

IEUA also asks CARB 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 lengthier.

### **Provide Flexibility for 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 requests language be 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. A review or approval process through CARB would be acceptable for this request for an immediate replacement.

### **Provide 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 undue 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 recommends that CARB remove the 75% ZEV fleet conversion requirement from the mutual aid language.

### **Conclusion**

IEUA, like CARB, is a steward of the environment. We recycle all wastewater influent for beneficial reuse. We have invested heavily in ways to protect the environment, including early investments in renewable energy, energy efficiency, and proactively tracking and reducing our Agency's impact on air quality. In support of CARB's goal to reduce medium and heavy-duty fleet emissions to zero, we offer thoughtful options providing sensible balance to competing public policy imperatives.

Should CARB choose not to incorporate the amendments suggested above, IEUA requests an exemption for public wastewater agencies for compliance with section 2013(d) and 2013(i) of the Advanced Clean Fleet Regulation. If no exemption is granted, IEUA requests that the adoption of the Regulation be delayed until the impacts to essential utility operations and the above concerns are addressed. While the end goal of the Regulation is to improve air quality and reduce greenhouse gas emissions is something that IEUA has strongly supported for many years, the implementation of the Regulation cannot come at the detriment to our water and wastewater operations and ultimately the public that we serve. If you have any questions, please contact Ms. Lucia Diaz at [ldiaz@ieua.org](mailto:ldiaz@ieua.org) or (909) 993-1631.

Sincerely,



Shivaji Deshmukh, P.E.  
General Manager