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RE: Comments on Proposed Public Fleets Advanced Clean Fleets Rule

The Southern California Public Power Authority,[1] Northern California Power Agency,[2] and California Municipal Utilities Association[3] (Collectively, the "Joint Public Agencies") appreciate the opportunity to provide comments on the August 2022 45-day regulatory package of the California Air Resource Board's (CARB) Advanced Clean Fleets (ACF) rule for public fleets ("proposed rule"). Our organizations collectively represent the majority of the state's publicly owned electric utilities (POUs), as well as many of the state's public water and wastewater agencies, each of which is governed by a board of local officials and is accountable to the community in which it serves. The Joint Public Agencies are committed to supporting transportation electrification and to helping CARB craft a durable, implementable ACF rule that can both achieve success in California and serve as a model for other states.

As currently written, the Joint Public Agencies are concerned that the proposed rule will unintentionally restrict POUs from maintaining the reliability of the electric grid and would restrict water and wastewater agencies from maintaining safe and reliable service in *all* circumstances. These issues are paramount and foundational to ensuring that the adopted ACF rule does not jeopardize POUs' ability to maintain and operate the safe, reliable electric grid needed to support the state's clean energy goals and transportation electrification infrastructure, or water and wastewater agencies' ability to provide safe, dependable access to clean water. The Joint Public Agencies believe the proposed rule should not be adopted as written due to the potential of not having suitable vehicles available to maintain and operate the grid, and

[1] The Southern California Public Power Authority (SCPPA) is a not-for-profit joint powers agency formed in 1980 to facilitate joint power and transmission projects for its local publicly owned electric utility members. SCPPA consists of eleven municipal utilities and one irrigation district – the cities of Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles, Pasadena, Riverside, and Vernon, and the Imperial Irrigation District – who collectively serve nearly five million people throughout Southern California.

[2] The Northern California Power Agency (NCPA) is a nonprofit California joint powers agency established in 1968 to construct and operate renewable and low-emitting generating facilities and assist in meeting the wholesale energy needs of its 16 members: the Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, Shasta Lake, and Ukiah, Plumas-Sierra Rural Electric Cooperative, Port of Oakland, San Francisco Bay Area Rapid Transit (BART), and Truckee Donner Public Utility District—collectively serving nearly 700,000 electric consumers in Central and Northern California.

[3] The California Municipal Utilities Association is a statewide organization of local public agencies in California that provide electricity, water, and wastewater service to California consumers. CMUA membership includes publicly owned electric utilities that operate electric distribution and transmission systems that provide approximately 25 percent of the electric load in California and water and wastewater agencies that serve approximately 75 percent of California water customers.

provide safe and reliable water and wastewater service, especially during emergency events. With the increasing frequency of extreme climate events, California's POUs and public water and wastewater agencies must prepare for the worst-case scenario as well as day-to-day operations. POUs and public water and wastewater agencies must be able to procure fleet vehicles that will allow them to safely maintain reliable utility services in *all circumstances*. Electricity, water, and wastewater services are critical to public health and safety. Likewise, affordable and reliable electric service are not only essential for safety and wellbeing, but mandatory in order to fulfill the state's clean energy goals. California cannot afford to put clean energy goals at risk by imposing a regulation that could compromise grid reliability and electricity affordability. For these reasons, the Joint Public Agencies have proposed revisions to the proposed ACF rule to incorporate flexibility for public agencies for circumstances when zero-emission vehicles (ZEVs) are unavailable or unsuitable for the purpose of maintaining essential public services; we encourage CARB to ensure that these issues are addressed in the final rule.

While the Joint Public Agencies appreciate the inclusion of exemptions, exemptions will only be effective at protecting against unintended consequences if they are well defined, transparent, and reflect operational realities. As drafted, the exemption language is burdensome, arbitrary, and unrealistic.

Our core recommendations are for CARB to:

- Include a robust, transparent framework to assess ZEV commercial availability *as well as* a separate exemption process when ZEVs suitable for the fleet's operational needs are not accessible to public agencies.
- Reclassify the "mutual aid assistance" exemption as an "emergency response" provision and revise the criteria to reflect the operational realities under which POUs, water agencies, and other essential public service providers operate.

We also offer specific recommendations on other aspects of the proposed rule in sections III-VI of this letter. In the spirit of developing an improved next iteration of the proposed regulatory language, we have spent considerable time developing suggested redline edits to clearly articulate needed changes. The proposed redlines are incorporated within these comments for ease of reference.

COMMENTS

I. The final rule must include a robust, transparent framework for assessing ZEV availability, including:

- **A definition of "commercially available" ZEVs with clear, objective, and realistic criteria;**
- **A separate exemption process to address circumstances in which a ZEV is not actually "commercially available";**
- **A list of *available*, rather than *unavailable*, ZEVs.**

The Joint Public Agencies' member utilities are committed to transitioning their fleets to ZEVs where feasible to further the state's clean energy goals. The current medium- and heavy-duty (MHD) ZEV market, however, is still nascent, and while the ZEV market will continue to advance in both production capacity and technology innovations, many utility applications are not yet available and may not be in the near future. Moreover, public agencies may have less purchasing power than private entities, and are subject to highly scrutinized budgeting and procurement processes. These limitations can make

purchasing ZEV vehicles, which are significantly more costly than traditional ICE vehicles, especially challenging.

Revisions to the proposed rule are necessary to ensure the ZEV unavailability provisions address the actual conditions affecting ZEV availability for public fleets. The proposed rule must also be transparent and consistent, and acknowledge that "commercial availability" cannot fully capture the suitability of a particular ZEV for an individual fleet's needs.

To address the shortcomings in the proposed rule, the Joint Public Agencies offer the recommendations for the ZEV unavailability exemption set forth below:

- Establish robust, objective criteria for the definition of "commercially available". The meaning of "commercially available" is central to the application of the ZEV purchase requirements. However, the term is currently undefined, which could lead to unclear, inconsistent, or arbitrary interpretations by CARB. To be implementable, CARB must adopt clear, objective, and transparent criteria in the proposed rule to subsequently assess the commercial availability of ZEVs and near-zero emission vehicles (NZEVs) for each vehicle configuration in the various weight classes.

  The assessment of "commercially available" ZEVs should include all the following criteria:

  - The vehicle configuration for a given weight class is available as a model from at least three manufacturers and/or upfitters.
    - RATIONALE: This criterion will help ensure competitive bidding, which is a necessary element of public procurement processes to safeguard public funds.

  - The manufacturers and/or upfitters of each of the three models have at least two years' experience selling and maintaining vehicles in California.
    - RATIONALE: This criterion is necessary to help ensure manufacturers and upfitters are established, reputable companies – which is important both for safety purposes and to minimize the risk that public agencies make long-term vehicle purchases from companies that may not have the longevity to service the vehicle or honor the warranty.

  - The manufacturers and/or upfitters of each of the three models have placed into service at least 25 copies of the model, and have vehicles available for sale.
    - RATIONALE: This criterion is necessary to demonstrate that vehicles are, in fact, in production and capable of being delivered to fleet purchasers; this serves as a proxy for availability in the marketplace and ensures that the manufacturer can meet demand.

  - The MSRP of the ZEVs does not exceed 133% of the average price of similar internal combustion engine vehicles (ICEVs) for the specific weight class.
    RATIONALE: This criterion is necessary to protect public agencies and their communities from excessive upfront and total ownership costs, which may divert limited local budgets from other important state and local goals, and to provide a predictable standard of measure for cost comparison.

The Joint Public Agencies understand that CARB estimates MHD ZEVs should result in a net savings with respect to Total Cost of Ownership (TCO) over the life of the vehicles. This may be true in certain cases, particularly as the market matures, but the fact remains that the current costs of ZEVs may start at 20% above their ICEV counterparts but can routinely reach 2-3 times the cost of their ICEV counterparts, as noted in the Standardized Regulatory Impact Assessment (SRIA) for the proposed rule[4]. Furthermore, the point at which the cost of ZEV ownership turns to savings is more than 15 years out, placing a significant burden on utilities in the near future[5].

Higher upfront capital costs are challenging for many POUs, whose budgets are subject to city council or board approval and who must pass the costs through to local ratepayers. While the SRIA suggests that "a combination of declining costs, incentives, and innovative financing models can help defray these upfront investments," there are uncertainties in all these assumptions; whether ZEV costs, particularly for specialized vehicles, will meaningfully decline in the timeframe in which public fleets must purchase these vehicles; whether there *will* be any available incentives to "fund compliance"; and whether any "innovative financing models" will be available to public agencies[5] Moreover, the fact remains that even a 20% increase to a public agency's capital budget to purchase ZEVs is already a significant sum.

Apart from the upfront capital costs, the Joint Public Agencies are concerned the ZEV TCO savings estimated in the SRIA are too speculative and may not be borne out in some cases. The actual maintenance and/or unexpected repair costs are unknown for MHD specialized ZEVs that do not yet exist. Realizing the benefits of the projected fuel savings set forth in the SRIA is contingent on the new technology remaining operational without service issues, which will be a greater concern for more complex, highly specialized vehicles. In addition, many specialized vehicles do not travel extended distances on a regular basis, thus diminishing the cost savings of fuel switching. Further challenging the ability to ensure that the vehicles remain operational is the uncertainty around an available workforce specially trained in maintaining and repairing these specialty vehicles. The SRIA also assumes a Low Carbon Fuel Standard (LCFS) credit price of $200 through 2030, which is significantly different from the credit values today and trajectories for the foreseeable future, which dip as low as $50. The SRIA also incorrectly assumes that fleet owners that own infrastructure will participate in the LCFS program. Not all fleet owners participate in the LCFS, and participation comes with its own costs, and is not always cost effective for small entities.

Given these uncertainties, the Joint Public Agencies urge CARB to build cost protection for public agencies and their communities into the commercial availability criteria. The Joint Public Agencies strongly urge CARB to incorporate a relative price cap addressing capital costs for the reasons noted above; however, should CARB reject this recommendation, the ACF should at minimum incorporate a cap on the TCO payback period for ZEVs based on the individual fleet's specific use case.

[4] SRIA, p100
[5] SRIA, p97

The Joint Public Agencies recommend these criteria be incorporated as a new definition in section 2013 (b) of the draft redlines:

Section 2013 (b)

"Commercially available" vehicle configuration means the following:

(A) The vehicle configuration is available from at least three vehicle manufacturers and/or upfitters as either a complete solution or a chassis with authorized upfit, at least 25 units of each model has been placed into service, and each manufacturer has at least two years' experience selling vehicles in California. If the vehicle configuration requires upfitting, these requirements shall apply to both the manufacturer of the incomplete chassis and the upfitter.

(B) The manufacturer suggested retail price is no more than 33 percent greater than the average manufacturer suggested retail price for ICEVs of the same vehicle configuration.

The Joint Public Agencies recognize that addressing the relative price premium between ZEVs and ICEVs would require CARB staff to collect information about ICEVs. However, the Joint Public Agencies believe the work associated with collecting this information would be significantly mitigated because the premium would be calculated based only on information that is submitted to CARB by manufacturers or other entities, who have an incentive to provide the information. CARB may also have access to much of this information already to support the SRIA analysis. In addition, addressing price premiums within the "commercially available" criteria, rather than solely in a separate exemption process, could reduce the number of exemption applications that would need to be processed.

- Provide case-by-case exemption process for scenarios in which "commercially available" ZEVs are not suitable for a fleet's needs or accessible to a public agency in practice. The Joint Public Agencies appreciate that a set of well-designed, standardized, objective criteria for determining commercial availability can help streamline vehicle purchases for fleets and minimize the exemption workload for both CARB staff and fleets. However, these criteria still cannot address every scenario when ZEVs may not be accessible to the public agency or suitable for a fleet's specialized needs. For example, a particular ZEV's range may be suitable for some applications, such as when a vehicle makes short trips and regularly returns to home base, but not for vehicles that must travel extended distances and/or remain in the field for extended periods, or for vehicles that must work under extreme weather conditions. As such, it is essential for the ZEV unavailability exemption to include a separate exemption process, subject to CARB oversight, to address edge cases and unique scenarios for purposes of mitigating potentially severe operational impacts when public fleets would otherwise purchase a "commercially available" ZEV.

  The Joint Public Agencies recommend the following circumstances be addressed in the separate, case-by-case exemption process:

  - A "commercially available" ZEV does not meet the specific weight or dimension constraints under which the vehicle must operate. This is necessary for some public fleet vehicles that

must navigate roads, alleys, and bridges that have strict weight limits, steep grades, and/or limited space for vehicles to enter and turn.

- A ZEV cannot reliably meet the full duty cycles. To maintain and operate the grid, and provide safe and reliable water and wastewater service, POUs and public water and wastewater agencies rely on diverse vehicles with specific duty cycles and operational requirements. Many utility vehicles perform specialized functions, such as powering auxiliary equipment like aerial lifts, cranes, augers, or vacuum pumps, which may have their own unique specifications. For example, depending on the circumstances, utilities may need bucket trucks with 40', 60', or 80' aerials, respectively. Simplified commercial availability criteria that capture only vehicle configuration and weight class can help streamline the exemption process, but fail to capture operational considerations.

In addition, many utility and water agency fleet vehicles serve more than one duty cycle – performing routine operations on a daily basis but also doubling as emergency response vehicles when called upon. Vehicles must be able to reliably perform both duty cycles, but the relatively infrequent occurrence of emergencies means the latter duty-cycle cannot be captured in the proposed Daily Usage exemption. Particularly during emergencies, some vehicles also must travel extended distances in remote, rugged terrain to access grid infrastructure or generation assets. Others must operate on extended shifts; for example, digger derricks, aerial trucks, and line foreman trucks may be operated as multi-crew vehicles during 24-hour periods. For such vehicles, the range, power capability, and added battery weight of even a "commercially available" ZEV could make it unsuitable for the full duty cycle.

As such, a criterion that can address duty cycle beyond the simplified criteria in the Daily Usage exemption on a case-by-case basis is essential for accurately assessing ZEV availability.

- The public agency does not receive responsive bids for ZEVs from at least three manufacturers. This is necessary to ensure competition for public purchases, as noted above, and to provide a purchase option for public fleets if they do not receive responsive bids for ZEVs. Some of the Joint Public Agencies' members have experienced no-bid public solicitations due to their small transaction size.

- The public agency receives responsive bids for ZEVs, but the delivery time for the ZEV exceeds that of responsive ICEV bids by six months or greater. This condition is necessary to ensure that "available" ZEVs are, in practice, accessible to the public agency and to minimize the impact to fleet operations. It is reasonable for fleets to wait for vehicles to be built and delivered, but unreasonable to have to wait for vehicles to become actually available on the market. For example, for some public fleets, their standard specifications already allow 300 days, on average, for a vehicle to be delivered. A 6-month or longer delay in excess of that would not only significantly affect a fleet's budget and fiscal year planning, but also exceed the life cycle of the older equipment that needs to be replaced.

- The public agency receives responsive bids for ZEVs, but the cost of the ZEV bids exceeds 133% of the ICEV bids. This condition is necessary to protect public agencies and their communities from excessive costs, as noted above.

The Joint Public Agencies recommend incorporating the case-by-case exemption process in a new section 2013.1 (x)(1)(A)-(D):

Section 2013.1 (x)(1)

Notwithstanding section 2013.1 (d)(1)-(5), a fleet owner may apply to the Executive Officer for an exemption to purchase an ICEV instead of a commercially available ZEV or NZEV under any of the following circumstances:

(A) Commercially available ZEVs or NZEVs cannot reliably meet the full duty cycle for which the fleet owner intends to use the vehicle and an ICEV can.

(B) Commercially available ZEVs or NZEVs do not have the required towing capacity of the vehicle and an ICEV does.

(C) Commercially available ZEVs or NZEVs exceed the weight or dimension constraints for roads and bridges on which the vehicle must operate.

(D) The fleet owner issues a public solicitation and receives responsive bids for ZEVs or NZEVs from fewer than three competitive, financially secure, and reliable sources. A bid with total purchase cost exceeding 133% of the purchase cost of the equivalent ICEV, or exceeding the lead time for responsive ICEVs by more than six months, shall not be considered competitive for this purpose.

- Application Process for Exemption to Purchase ICEV. The Joint Public Agencies recommend allowing fleet owners to receive an exemption to purchase an ICEV, in specific circumstances outside of the defined exemptions set forth in the regulation, by submitting an application to CARB's Executive Officer. The application would explain (i) why a ZEV is not suitable for the fleet's needs or accessible to the fleet owner, (ii) show that an ICEV *is* available and can meet the fleet's needs, and (iii) provide supporting documentation. The Joint Public Agencies note that this concept is similar to the technical infeasibility exemption process employed in the South Coast AQMD's Rule 1196.[6]

  The Joint Public Agencies have proposed the outlines of an exemption process in a new section 2013.1 (x)(1)(E) of the proposed rule and look forward to working with CARB and other stakeholders to flesh out the detail. One critical component, however, is the timeframe for CARB's response, given the limited amount of time for public agencies to act on bids.

[6] Though not applicable to all in-state POUs, SCAQMD Rule 1196 adds to the complexity for many public fleets in California and should be addressed through close coordination of CARB and the SCAQMD.

Section 2013.1 (x)(1)(E)

A fleet owner that experiences the circumstances described in section 2013.1 (x)(1)(A)-(D) may request an exemption to purchase an ICEV instead of a commercially available ZEV or NZEV by submitting a letter signed by the responsible official that explains how one or more of the criteria has been met and includes supporting documentation to substantiate the request.

1. Examples of supporting documentation include, but are not limited to, current and prior bid specifications, bids received, the ICEV configuration or bid that the fleet owner would purchase instead, and photographs.

2. Within 30 days of receipt of the letter, the Executive Officer will grant the exemption if the fleet owner has satisfied the requirements for the exemption or notify the fleet owner that additional information is needed to support the application. In the event that the Executive Officer has not responded to the fleet owner within 30 days of receipt, the exemption is approved.

- Post a ZEV *availability list*, rather than an *unavailability list,* on CARB's website. As currently drafted, the proposed rule would require CARB to maintain a list of *unavailable* ZEV configurations on CARB's website; as configurations are designated as "commercially available," they would be removed from the unavailability list. The Joint Public Agencies are concerned that an unavailability list, in which configurations are mysteriously removed without clear process or documentation, lacks transparency and will be very confusing to regulated entities.

  To address this concern, the Joint Public Agencies recommend that CARB instead provide a list of *available* ZEVs, based on supporting documentation provided by manufacturers or other entities, for each configuration and weight class on its website. CARB would designate each configuration as "commercially available" once the conditions specified above are satisfied.

  The purpose of the availability list is to clearly and transparently demonstrate when the commercially available criteria are satisfied, but not to restrict the ZEVs fleets could purchase. A secondary benefit of an availability list is providing fleets more information on *available* ZEV and NZEV configurations. The Joint Public Agencies do not believe this process would significantly increase the workload of CARB staff, as this information would already be collected to assess commercial availability, and it would provide transparency for fleets and the public alike. Additionally, manufacturers would have an incentive to submit documentation to CARB to help publicize their offerings and demonstrate availability.

  Section 2013.1 (d) of the proposed rule should be revised to specify the ZEV availability list requirements, rather than unavailability. The Joint Public Agencies offer the example table below to help illustrate this concept. Based on the information in the table, public fleets would be required to purchase ZEV pickups (unless they qualify for a separate exemption) because the ZEV pickups are available from at least three manufacturers that are priced within 133% of the average ICEV counterpart. However, public fleets would *not* be required to purchase ZEV water trucks or ZEV digger trucks because those vehicles have not yet achieved commercial availability, due to, respectively, prices exceeding the cap or lack of availability from at least three manufacturers.

Table 1: ZEV Availability List Illustration

Class 2b-3 Pickups ***Commercially available effective X/X/XX****	**Class 6 Water Truck**	**Class 7 Digger Derricks**
Model 1, Manufacturer A, Year/Make Model Model 2, Manufacturer B, Year/Make Model Model 3, Manufacturer C, Year/Make Model Model 4, Manufacturer D, Year/Make Model	Model I, Manufacturer X, Year/Make Model Model II, Manufacturer Y, Year/Make Model (price > cap) Model III, Manufacturer Z, Year/Make Model (price > cap)	Model J, Manufacturer X, Year/Make Model

II. The "mutual aid assistance" exemption must reflect operational needs and not jeopardize the ability of public agencies to respond to emergency situations

It is paramount that California's POUs and public water and wastewater agencies safely maintain reliable service in all circumstances, including when responding to emergency conditions such as storms, earthquakes, and wildfires. The health and safety of Californians, along with the continued success of the state's clean energy goals, require the safe, affordable and reliable delivery of these essential public services. As such, the Joint Public Agencies appreciate the inclusion of a mutual aid exemption in the proposed rule; however, several key revisions are needed to make the exemption workable, and accurately capture and reflect realistic emergency response needs. The Joint Public Agencies urge CARB to think of the exemption in terms of "emergency response," rather than "mutual aid." Utilities rely on specialized fleet vehicles to repair or replace essential electricity or water infrastructure after natural disasters, extreme weather, or other emergency events. As outlined in prior comments, the nature of this work requires vehicles to travel to the jobsite (often in remote and/or challenging terrain), run equipment like aerial booms or digger derricks to repair or replace infrastructure, and then remain onsite and continue this work until the job is completed. In the event of widespread damage, vehicles may need to operate for multiple days, weeks, or longer under constant (24/7) use. Vehicles' ability to operate in challenging conditions and refuel in the field (while continuing to operate) is key to supporting mutual aid and other emergency response efforts.

The Joint Public Agencies understand the purpose of the "mutual aid assistance" exemption is to ensure that the ZEV purchase requirements do not inadvertently hamper a coordinated response to emergencies. However, the current proposed language takes a myopic view of emergencies to which POUs may be expected to respond and imposes arbitrary restrictions.

The Joint Public Agencies remain concerned that requiring 75% of fleet vehicles to have already transitioned to ZEV creates an unreasonably high barrier for use of the "mutual aid assistance" exemption and does not appropriately recognize the principal need to safely and reliably maintain these essential public services. Based on the size and composition of their fleets, it may take some public fleets over 15

years to reach this threshold as they build up their ZEV fleets, but that does not obviate the need to replace a specific ICEV that is needed to support emergency response and mutual aid.

There are a number of potential approaches for how to craft an emergency response exemption within the proposed rule that would ensure utilities are able to respond to local emergency conditions as well as provide mutual aid assistance:

- Include an Emergency Response exemption provision for utilities that provide essential public services. Such an exemption could be narrowly defined to recognize the need for some public agencies to deploy more than 25% of a fleet for emergency response. Such an exemption could potentially be structured as:
    - An Emergency Response exemption that defers to the finding of the public agency's governing body to make a determination based on standard criteria, similar to the exemption within the Innovative Clean Transit regulation section 2023.4 (c)(5).
    - A standalone "Emergency Response" exemption process, separate and in addition to the "Mutual Aid" exemption, that allows a fleet that maintains and operates critical infrastructure to apply to CARB based on standard criteria; or
    - An exception to the ZEV threshold within the Mutual Aid Exemption for fleets meeting certain conditions.

- Any ZEV threshold requirement must be set at a reasonable level so that the exemption addresses operational needs and ensures that POUs, water, and wastewater agencies are able to provide safe and reliable essential services. The proportion of a fleet that is needed by a state or local agency to respond to emergencies can vary widely based on the services provided by the agency, the size of the fleet, the service territory being served, and specific operational needs. It is paramount for public health and safety, as well as the long-term success of California's clean energy and clean water goals that these providers of essential public service are capable of safely maintaining affordable and reliable electric, water and wastewater services. The following are potential approaches to incorporate a workable ZEV threshold:
    - Reduce the ZEV threshold level, paired with an exemption process for public fleets that need to deploy a higher percentage of vehicles for emergencies.
    - Phase in the ZEV threshold over time to more realistically reflect the timeframes over which public agency fleets will transform to ZEVs, paired with an exemption process for public fleets that need to deploy a higher percentage of vehicles for emergencies.

Imposing an arbitrary restriction on fleet composition for purposes of responding to emergency situations does not reflect the needs of specific POUs and public water and wastewater agencies to procure the equipment needed to respond to all emergency conditions. Smaller utilities may need to dispatch a higher percentage of their fleet simply due to the smaller number of vehicles they have – for example, a smaller POU providing mutual assistance during the Carr Fire dispatched approximately 50% of their MHD fleet. Similarly, utilities that operate in remote, rural areas with extreme weather events, limited access to infrastructure, and/or high wildfire threat zones may reasonably expect to dispatch a higher percentage of their fleet to respond to emergencies. Moreover, mutual aid emergencies require utilities to dispatch crews to areas where charging capabilities are unknown or nonexistent.; and when they do exist, may be nonoperational due to the nature of the emergency event. For example, another POU provided mutual aid to Puerto Rico and the Navajo Nation in the last three years.

The following are two examples of possible regulatory approaches to the Emergency Response exemption process:

Section 2013.1 (e)(5)

(e) Mutual Aid Assistance. Fleet owners may apply for this exemption if they have a mutual aid agreement to send vehicles to assist other entities during a declared emergency event and at least 75 percent of their California fleet is comprised of ZEVs, except as specified in 2013.1 (e)(5).

….

(5) Notwithstanding section 2013.1(e), a fleet owner that provides electric, water, wastewater, or gas service may qualify for this exemption with less than 75 percent of their California fleet comprised of ZEVs if it meets at least one of the following criteria:

(A) Owns 100 vehicles or fewer subject to the ACF rule
(B) Maintains or operates electricity generation, transmission, or distribution equipment in remote, mountainous, and/or high wildfire risk areas, including Tier 2 or 3 wildfire zones and Climate zones 14-16.

Or;

Section 2013.1 (e)(5)

(e) Mutual Aid Assistance. Fleet owners may apply for this exemption if they have a mutual aid agreement to send vehicles to assist other entities during a declared emergency event and at least 75 percent of their California fleet is comprised of ZEVs, except as specified in 2013.1 (e)(5).

….

(5) Notwithstanding section 2013.1(e), a fleet owner that provides electric, water, wastewater, or gas service may qualify for this exemption with less than 75 percent of their California fleet comprised of ZEVs on a temporary basis if the governing body of the public agency finds, via resolution, at a duly noticed public meeting, that a lower threshold is necessary to maintain its emergency response capabilities.

(A) The public agency's governing body must consider the following factors:
    1. Potential emergency exposure based on the public agency's service territory and infrastructure location
    2. Capacity of existing ICEVs in the California fleet to respond to emergencies
(B) The duration of the waiver shall not exceed three years from the date of adoption. The governing body may make more than one finding.

The Joint Public Agencies urge CARB to re-evaluate its approach toward public agencies providing emergency response and essential public services. The following specific recommendations address additional concerns regarding the Mutual Aid Exemption as drafted:

- CARB must remove the 25% cap for emergency response vehicles within section 2013 (m)(5). As stated above, the percentage of vehicles needed by a state or local agency can vary widely based on the services provided by the agency, the size of the fleet, the service territory being served, and

specific operational needs. CARB has no reasonable rationale for limiting the use of technologies necessary for emergency response.

- Rename "mutual aid assistance" exemption to "emergency response" exemption and extend eligibility to electric, gas, water, and wastewater utilities even without a mutual aid agreement. Mutual aid is a critical component of emergency response, but utilities must also respond to emergencies within their own service areas. This exemption should take a more holistic view of emergency response. Renaming the exemption to "emergency response" in section 2013 (m)(5) and allowing electric, water, wastewater, or gas utilities to qualify for the exemption even if they do not have a signed mutual aid agreement in section 2013.1 (e)(1) would recognize the need of these public agencies to respond to emergency conditions locally, within their own service territories, while also enabling them to have resources to provide via mutual aid in response to emergency conditions in other service territories. The Joint Public Agencies also recommend conforming changes throughout the proposed rule to reflect the updated terminology.

Section 2013 (m)(5)

Emergency Response ~~Mutual Aid Assistance~~. Fleet owners may purchase a new ICEV and exclude it from the ZEV addition requirement of section 2013(d) ~~for up to 25 percent of the fleet~~ if the vehicles are needed to provide emergency response services and the conditions described in Emergency Response ~~Mutual Aid Assistance~~ section 2013.1(e) are met.

Section 2013.1 (e)

(e) Emergency Response ~~Mutual Aid Assistance~~. Fleet owners may apply for this exemption if they have a mutual aid agreement to send vehicles to assist other entities during a declared emergency event, or are public agency that provides electricity, water, wastewater, or gas service.

(1) Submit a copy of the mutual aid agreement in effect with other entities to assist with affected vehicles during declared emergency vehicles, or provide documentation that the fleet provides electricity, water, wastewater, or gas service.

- Remove arbitrary exclusions for vehicles with a gross vehicle weight rating (GVWR) of less than 14,000 lbs. and pickups, box trucks, vans, and tractors. Emergency response, and the vehicles needed to support it, will depend on the specific circumstances and the individual fleet. While many emergency response vehicles are heavy duty and/or highly specialized, common utility vehicles like pickups, patrol trucks, gate trucks, tractors (including 3-axle tractors, used to transport equipment over long distances), may also be dispatched for mutual aid.

  In 2019, for example, a member POU sent two pickup trucks and a 4x4 crew truck (all ranging between 9,950-10,200 GVWR) to provide mutual aid during the Carr Fire, along with heavier duty vehicles. These vehicles were deployed roughly 250 miles from their home base for two weeks. Another utility reported dispatching trucks with Ford F-250 service bodies for mutual aid efforts, along with heavier-duty vehicles.

The Joint Public Agencies strongly disagree with the ISOR rationale for excluding vehicles based solely on weight or specific body type from a mutual aid exemption based on the assumed ease of renting such vehicles and the widespread availability of light-duty charging stations. Requiring utilities to go through the process of *renting* vehicles to be able to dispatch in an emergency would hinder emergency response time and capability. Similarly, the assumption that emergency response vehicles can charge at light-duty refueling stations does not recognize that utilities may need to operate in remote, mountainous, or desert areas *without* such infrastructure. Moreover, in the event of widespread damage to electricity infrastructure due to storm, fire, earthquake, or emergencies, the presence of charging infrastructure is immaterial. We recommend that fleets be allowed to determine which vehicles are necessary for responding to emergency situations and providing mutual aid, subject to the exemption conditions.

Section 2013.1 (e)

Emergency Response ~~Mutual Aid Assistance~~. Fleet owners may apply for this exemption if they have a mutual aid agreement to send vehicles to assist other entities during a declared emergency event, or are public agency that provides electricity, water, wastewater, or gas service. ~~and at least 75 percent of their California fleet is comprised of ZEVs.~~ This exemption ~~is limited to replacing vehicles with a GVWR greater than 14,000 lbs. and does not apply to pickups, buses, box trucks, vans, or any tractors and it~~ does not apply to any vehicle configurations that are available as NZEV. The Executive Officer will rely on the information submitted in sections 2013.1(e)(1-4) ~~and their good engineering judgement~~ in determining whether to approve the exemption.

- Remove effective penalty for fleets that had to purchase ICEVs when ZEVs were not commercially available. In the proposed rule, the mutual aid assistance exemption can only be used after at least 75% of the fleet has transitioned to ZEVs. CARB staff have clarified that ICEVs purchased using an exemption – such as the ZEV unavailability exemption – do *not* count toward this 75% threshold. This has the effect of penalizing fleets that had to purchase ICEVs because ZEVs were unavailable, since those ICEVs may not have been intended or suitable for emergency response. As a result, it would be even harder for those fleets to reach the 75% ZEV threshold and also effectively lowers the number of specialized fleet vehicles that a fleet owner may need to purchase as ICEVs for their capabilities to support mutual aid or emergency response. The Joint Public Agencies recommend revising section 2013.1 (e) to count vehicles purchased with an exemption or extension toward the 75% ZEV threshold. Allowing this would not increase the number of ICEVs or otherwise incentivize fleets to purchase ICEVs, because they would already have had to successfully undergo the exemption review process.

- Clarify and specify parameters for mobile fueling requirement. To qualify for the mutual aid assistance exemption, the proposed rule includes an unnecessarily complicated process to prove that mobile fueling options are not available that could reach 80% of the ZEV's fueling capacity within one hour of fueling time. The Joint Public Agencies recommend several clarifications:
    - It is not reasonable to require crews to cease work for a period up to an hour when working in emergency conditions. As such, the exemption must stipulate that the "mobile fueling

option" does not require the vehicle to be shut down for more than 15 minutes during refueling.

- The rule must clarify that the public solicitation is for ZEVs of the equivalent configuration and duty cycle of the needed ICE vehicle. The current language states that documentation must be submitted "for each commercially available ZEV or NZEV complete vehicle or incomplete chassis in the same and next higher weight class that is certified for sale in California," rather than focused on the vehicle being purchased.
- Documentation should only be required from manufacturers and mobile fueling providers that respond to a request for bids, rather than an unreasonable requirement to collect documentation from *all* mobile fueling providers. Additionally, the term "mobile fueling provider" is undefined and unclear.
- The requested statements from vehicle manufacturers and/or authorized installer of the needed vehicle body is irrelevant for mobile fueling options, as they are by definition mobile and not installed to the vehicle.
- Any commercially available mobile fueling option must actually be able to get to the site of the emergency, and public fleets must be able to ensure that all the equipment and additional vehicles necessary for the mobile fueling option can actually be dispatched to remote job sites, under extreme weather conditions, and refuel the ZEV for multiple days. Using mobile fueling could double the number of vehicles involved in emergency operations, in situations where time is limited, conditions are unstable, and resources are constrained.
- To appropriately evaluate this policy option, we recommend fully evaluating emissions associated with additional mobile fueling.

Section 2013.1 (e)(2)

For ~~each~~ the commercially available ZEV or NZEV complete vehicle or incomplete chassis in the same and next higher weight class ~~that is certified for sale in California~~ equivalent to the needed ICE vehicle, if any are certified for sale in California, submit the following: documentation from the manufacturer and ~~all~~ mobile fueling providers that respond to the public agency solicitation for ZEVs with compatible mobile fueling options to show the vehicle or chassis cannot be refueled with compatible mobile fueling options that would fuel from 10 to 80 percent of the ZEV's rated energy capacity within ~~1 hour~~ 15 minutes of fueling time. If the duration of the compatible mobile refueling option is not sufficient to refuel the ZEV for multiple days, the fleet owner may submit additional information justifying why it is not sufficient to meet the fleet's needs, such as examples of prior vehicle dispatch. ~~; a signed statement or email from the vehicle manufacturer stating the chassis is not compatible with the applicable configuration and for what reasons; or a signed statement or email from each authorized installer of the needed vehicle body stating that for each available ZEV or NZEV chassis, the installer is unable to configure the body on the chassis without violating safety standards prescribed under title 8, CCR by the California Department of Industrial Relations, Division of Occupational Safety and Health, comparable federal or state health and safety laws where the vehicle operates, or federal highway safety laws. The statement must identify which of these safety laws or standards would be violated and for what reasons;~~

- Revise definition of "California fleet" to clarify it excludes vehicles operated solely in response to emergency events or mutual aid requests. As currently proposed, "California fleet" includes any vehicle operated in-state, even if it is registered (and primarily operates) in another state. The Joint Public Agencies recommend that the definition of "California fleet" be modified to clarify the exclusion of out-of-state vehicles responding to emergency events. This clarification is necessary to ensure there is no adverse consequence for out-of-state entities, including public agencies, that provide mutual assistance for a California emergency. Absent this revision, the ACF runs the risk of constraining California's access to mutual aid in times of need.

> **Section 2013 (b)**
>
> "California fleet" means vehicles operated in California during a calendar year, excluding emergency events and mutual aid requests. If a vehicle is operated in California at any time during a calendar year, it will be considered part of the California fleet for the entire calendar year.

- Clarify definition of "emergency operations." The definition of "emergency operations" should be modified to include operations of an emergency support vehicle at the request of first responders. In addition, "routine operations" should be clarified to mean "planned maintenance or construction" to avoid ambiguity. Public agencies routinely provide emergency response, to both declared emergency events and also to local emergencies at the request of first responders – the routine nature of this important work does not declassify it as an emergency operation.

> **Section 2013 (b)**
>
> "Emergency operations" means operation of an emergency support vehicle to help alleviate an immediate threat to public health or safety in response to ~~a declared~~ an emergency event or request of first responders. Emergency operation includes emergency support vehicle travel to and from ~~a declared~~ an emergency event when dispatched by a local, state, federal, or other responsible emergency management agency. ~~Routine~~ Planned maintenance or construction ~~operation~~ to prevent public health risks does not constitute emergency operations.

III. The purchase requirement start dates must accommodate public agency budgeting cycles and recognize the severe impact of supply chain issues.

The Joint Public Agencies appreciate the importance of transitioning MHD fleets across the state to ZEVs and are supportive of statewide vehicle electrification. However, there are key constraints that the Joint Public Agencies believe warrant revisiting the purchase requirement starting dates. Setting the regulatory start date on January 1, 2024, does not give public fleets sufficient lead time to plan compliance strategies for their fleets, develop new specification and bid documents for a nascent and evolving technology, install needed infrastructure, and budget for ZEVs, which can cost up to 2 to 3 times more than what is currently budgeted.

There have been, and continue to be, severe and unforeseen global impacts to supply chains. Determining whether a vehicle is "commercially available" does not (as proposed) account for adequate supply and practical availability for fleets across the state, particularly as public and high priority fleets compete for the same limited resources. These challenges are further compounded by constraints in the supply and availability of essential parts and equipment needed to maintain the vehicles.

The final rule may not be adopted, approved by the Office of Administrative Law (OAL), and effective until a few months before the ZEV purchase requirements for public agencies begin. This poses unique challenges for public agencies, which budget at least a year in advance for vehicle purchases, and are dependent on public funding.

The Joint Public Agencies offer the following specific recommendations for the ZEV purchase requirement start dates:

- Set the start date for 50% purchase requirement to no sooner than 18 months after the effective date of these regulations. The Joint Public Agencies recommend linking the start date for the 50% purchase requirement to the effective date of the regulations. This is necessary to ensure public fleets have one full budgeting cycle to incorporate higher-cost ZEVs into their budget, even if the CARB Board hearings and/or OAL approval occur later than planned. The Joint Public Agencies also recommend an 18-month window to address the fact that public agencies have different fiscal year budgeting cycles (e.g., calendar year vs. July 1-June 30).

  Section 2013 (d)(1)(A)

  Starting eighteen months after the regulation effective date, ~~January 1, 2024,~~ 50 percent of the total number of vehicle additions to the California fleet in each calendar year must be ZEVs; and …

- Set the 100% purchase requirement start date to 2030. The Joint Public Agencies believe that deferring the 100% purchase requirement start date until 2030 for public fleets, including those in designated low-population counties, would provide a reasonable amount of time to resolve supply chain issues and mature heavier-duty ZEV truck technology. Moving the date would result in a reduced need for exemptions when ZEVs are not technically available or available in practice to public fleets. The early/excess ZEV credit would encourage public fleets to integrate ZEVs into their fleets where feasible. It would also provide time for fleet operators to become familiar with ZEVs and allow for additional workforce training to ensure that there are sufficient maintenance crews able to service and repair and entire fleet of specialized vehicles, which in turn will promote the long-term success of the rule.

Section 2013 (d)(1)(B)

Starting January 1, 2030, ~~January 1, 2027,~~ 100 percent of the total number of vehicle additions to the California fleet in each calendar year must be ZEVs.

Section 2013 (d)(2)(A)

Starting January 1, 2030 ~~January 1, 2027~~, 100 percent of the vehicle additions to the California fleet in each calendar year must be ZEVs.

- CARB should consider deferring the purchase requirement specifically for specialty and heavy-duty vehicles until 2030. As the ISOR for the High-Priority Fleets rule states, "These vehicles present the most challenges for electrification …. Specialty vehicles are produced in small volumes, often on custom chassis, and may have significant power needs while stationary which can significantly increase the need for energy storage. Recognizing these issues, the proposed regulation delays the phase-in start date for these vehicles to 2030." (Appendix H-2-53) Requiring the purchase of ZEV specialty vehicles by public agencies as early as 2024 will inevitably lead to the use of the Unavailability Exemption and/or Daily Use Exemption, whereas a delay would reduce the administrative burden on both CARB and the fleets.

IV. Daily Usage Exemption

The Joint Public Agencies appreciate the inclusion of the Daily Usage Exemption in the proposed rule, as it acknowledges that the demands of certain duty cycles may not be met by the ZEVs available at the time of purchase. However, the current design of the Daily Usage Exemption is overly cumbersome to implement.

The Joint Public Agencies offer the following specific recommendations to revise and clarify the exemption:

- Streamline and simplify the exemption by removing the sections that require range calculations and daily usage reports. Both requirements are burdensome and unnecessary when determining whether a fleet could purchase a ZEV that meets its daily usage needs. In addition, some public fleets do not have the equipment necessary to outfit fleet vehicles to collect the necessary telemetry.

- The daily usage exemption should not require the purchase of a ZEV for the energy usage calculations. The calculation of needed rated energy capacity for vehicles that operate truck mounted or integrated equipment while stationary should not require the purchase of a ZEV just to measure energy usage during similar daily assignments, as specified in section 2013.1 (b)(3) and (b)(6). An exemption process for purchasing a ZEV should not require the purchase of a ZEV.

Section 2013.1 (b)

(6) Optionally submit measured ~~ZEV~~ energy use data to substantiate their exemption request from ~~ZEVs~~ vehicles of the same configuration ~~already~~ operated on similar daily assignments in the fleet's service. This optional information must include vehicle loading and weight data, towing capability, route grade, average ambient daily temperature, and a measurement of the fuel used during the hours of use~~, state of charge at the beginning and end of the daily shift~~, to show ~~typical~~ energy usage over one month of regular service.

- The calculations for daily usage should not exclude the three highest values. Utility vehicles must be able to operate in extreme conditions, not just in "average" conditions. There are no reasonable statistical or operational justifications for excluding these values.

Section 2013.1 (b)

(4) Submit a daily usage report for a period of at least 30 consecutive workdays from within the last 12 months using telemetry data, odometer readings, ~~or other industry accepted data collection method~~ for all ICE vehicles of the same weight class, ~~and~~ configuration, and duty cycle of the vehicle to be replaced. The report must include the daily miles traveled for each vehicle. ~~Identify the lowest mileage reading for each day and exclude the three highest readings.~~ For the exemption to be granted, the highest remaining mileage number must be greater than the range calculated in 2013.1(b)(3).

- Remove the requirement for at least 10 percent of the fleet to be comprised of ZEVs or NZEVs. The composition of the fleet has no bearing on whether a ZEV is currently available that meets the fleet's daily usage needs. Additionally, the 10 percent threshold creates an unnecessary barrier to the exemption when it might be needed the most: when the needed ZEV technology may still be under development. The daily usage exemption should not tack on erroneous criteria to ensure progress is being made to transition to ZEVs – the proposed rule already requires that public fleets transition to ZEVs.

- Remove the arbitrary exclusions for vehicles with a GVWR of less than 14,000 lbs. Class 2b and 3 vehicles that do not meet the daily usage needs of a fleet should not be excluded from the exemption. The existence of publicly available refueling networks for these vehicles does not address the energy usage needs of utility fleet vehicles in the field, often in use during a power outage and in remote areas distant from charging infrastructure.

- Remove the arbitrary exclusions for vehicles for specific body types and energy capacities. The ISOR claims that the listed excluded vehicle types are "commercially available with rated energy capacities that would meet most fleet needs." (Appendix H-1-40). But the vital importance of the daily usage exemption is to address those use cases that are not currently addressed by the market, which may include duty cycles that aren't used by "most fleets." The exemptions must be drafted to handle the unique and the unexpected.

Section 2013.1 (b)

Daily Usage Exemption. Fleet owners may apply for an exemption to purchase an ICEV if the commercially available ZEVs and NZEVs do not meet the daily usage needs of the vehicle being replaced ~~replace vehicles with a GVWR greater than 14,000 lbs. if at least 10 percent of their California fleet is comprised of ZEVs or NZEVs~~. ~~Fleet owners may not apply for a vehicle configuration that is commercially available as: an NZEV; a hydrogen fuel cell ZEV; a Class 7 or 8 ZEV tractor or ZEV three-axle bus with a rated energy capacity of at least 1,000 kilowatt-hours; a Class 4 through 6 ZEV with a rated energy capacity of at least 325 kilowatt-hours; or a Class 7 or 8 ZEV that is not a tractor or three-axle bus with a rated energy capacity of at least 450 kilowatt-hours.~~ The Executive Officer will approve the exemption based on their good engineering judgement in determining that the criteria specified in section 2013.1(b) have been met. The fleet owner must submit all of the following by email to TRUCRS@arb.ca.gov to apply:

V. The proposed rule should collect the information necessary to verify compliance while minimizing the reporting burden on public fleets, including requiring only one report submission per year.

The Joint Public Agencies recognize the need for CARB staff to collect information about a public agency's MHD vehicle purchases and overall fleet composition to verify compliance with the ACF and eligibility for certain exemptions. As currently proposed, however, the reporting requirement would be extremely burdensome and may also fail to provide CARB with the information it needs to verify compliance.

The Joint Public Agencies urge CARB to prioritize efficient, streamlined reporting requirements to mitigate unnecessary burdens on public agency resources. The costs of compiling and providing data to agencies are borne by public agencies and their communities. As local governments, many POUs and water agencies have limited budgets and staffing, and unnecessary or duplicative reporting requirements divert finite resources away from action and toward administration. ACF reporting requirements should be limited to information necessary to assess fleet compliance with the rule and should avoid duplicative or redundant reporting

The Joint Public Agencies offer the following specific recommendations on the draft reporting requirements:

- Require a single, comprehensive annual report in lieu of individual reports on fleet changes. As currently proposed, public fleets must submit an annual report each April 1 *and* report certain fleet additions or changes within 30 days of occurrence. This repeated, staggered, and duplicative reporting may be very resource intensive for public fleets, especially if vehicles are purchased or arrive at separate times throughout the year. Moreover, public fleets' compliance with the proposed rule is based on the total purchases made during the prior calendar year, so immediate reporting after purchases, vehicle delivery, fleet changes, or odometer reads are immaterial to compliance.

The Joint Public Agencies urge CARB to remove the 30-day reporting requirements and specify that all reporting be submitted in the single, comprehensive annual report.

Section 2013.2 (e)

Changes to an Existing Fleet. Fleet owners must comply with the following reporting requirements when adding or removing vehicles:

(1) Vehicles placed in service in ~~added to~~ the California fleet must be reported in the annual report due April 1 in accordance with section 2013.2 (c) ~~within 30 calendar days of being added to the fleet~~.

(2) Vehicles that are permanently removed from the California fleet must be reported in the annual report due April 1 ~~within 30 calendar days of removal~~. The report must include the date of removal;

(3) If a backup vehicle exceeds the allowable mileage limit the change must be reported in the annual report due April 1 ~~within 30 calendar days of the date the mileage limit was exceeded~~; and

(4) ZEV Repowers or Conversions. Vehicles repowered with zero-emission powertrains must report the vehicle's new fuel type in the annual report due April 1 ~~within 30 calendar days of being repowered or converted~~.

Section 2013.2 (f)

Odometer Reading Reporting. This section applies to fleet owners that have backup vehicles. Fleet owners that have backup vehicles must comply with the following reporting requirements in the annual report submitted each April 1:

[…]

(2) Odometer Replacement. In the event that the odometer is replaced, report the following ~~within 30 calendar days of the original odometer failure~~: the original odometer's final reading, the new odometer's initial reading, and the date of replacement; and

- Clarify that public fleets must report vehicle additions for the prior calendar year. To verify public fleets' compliance with the ZEV purchase requirement, CARB staff must collect information on purchases made during the prior calendar year. The Joint Public Agencies believe the current proposal is unclear on the information that CARB staff will use to verify compliance. The Joint Public Agencies recommend specifying a reporting section on "Additions to the California Fleet" that identifies the information public fleets must submit for purposes of verifying compliance with the ZEV purchase requirement for the prior year.

Section 2013.2 (c)(3)

Additions to California Fleet. Fleet owners must report the following information to CARB for each vehicle purchase made for the California fleet during the prior calendar year:

(A) Vehicle GVWR (Greater than 8,500 lbs. and equal to or less than 14,000 lbs., greater than 14,000 lbs. and equal to or less than 26,000 lbs., or greater than 26,000 lbs.)

(B) Vehicle body type

(C) Fuel and powertrain type

(D) Date vehicle purchase was made

(E) Whether the vehicle will be designated under or was purchased pursuant to any exemption or extension provision of section 2013.1, the exemption type, and the date the exemption was granted, if applicable

- Clarify that, after the first annual report, fleet owners must only report changes to their existing fleets that occurred during the prior calendar year. The Joint Public Agencies urge CARB to make this change to minimize duplicative reporting requirements.

Section 2013.2 (c)(2)

Vehicle Information. The fleet owner must report the following information for each vehicle in the California fleet. After the initial report, fleet owners must only report changes to the below information that occurred during the prior calendar year:

- Clarify that fleet owners may fulfill the ACF reporting requirements by providing existing reports that are submitted to CARB for other programs, if those reports contain the requisite information. As noted at the May 4 workshop, public fleets will already be reporting information to CARB for many of their heavy-duty vehicles as part of the Heavy-Duty Vehicle Inspection and Maintenance (HD I/M) Program. The Joint Public Agencies recommend that CARB clarify that reports submitted for the HD I/M Program may be used to fulfill reporting requirements under the ACF. In the alternative, CARB should look to develop a single, uniform reporting template addressing all the various program reporting needs.

Section 2013.2 (a)

Method of Reporting. Reports submitted to comply with sections 2013 through 2013.4 must be submitted online through CARB's Advanced Clean Fleets webpage. The information contained in the annual report may be combined with other existing reports that contain the same information and are supplied to CARB for other programs, such as the Heavy-Duty Vehicle Inspection and Maintenance Program. If the annual report refers to information provided to CARB through existing reports, the annual report shall reference the information by identifying the name and submittal date of the existing report.

- Clarify vehicle addition vs. in-service dates and specify that both dates must be reported only for vehicles purchased after the ZEV purchase requirement start date or as part of the early action incentives. As currently proposed, public agencies are required to report both the vehicle purchase date (section 2013.2 (c)(2)(H)) and vehicle "added or removed" date (section 2013.2 (c)(2)(I)). The Joint Public Agencies recommend changing "added" to "in-service" for clarity, because vehicle additions are defined synonymously with purchases in the proposed rule. The Joint Public Agencies also recommend clarifying that reporting on the purchase date and in-service date is required only for vehicles purchased after the regulation start date or to substantiate an early action claim, as fleet owners may not have this information available for older vehicles in the fleet.

Section 2013.2 (c)(2)

(H) Date vehicle purchase was made for vehicles added to the fleet pursuant to section 2013 (d) or section 2013 (h)

(I) Date vehicle was ~~added to~~ placed in service or removed from the California fleet for vehicles added to the fleet pursuant to section 2013 (d) or section 2013 (h)

- Revise start dates for annual reporting and recordkeeping requirements. As currently proposed, the purchase requirement would start for most public agencies in 2024 and for public agencies in low-population counties in 2027, meaning the first compliance determinations would be based on reports submitted in 2025 and 2028, respectively. There is no justification provided for why annual reporting starts a year earlier than the mandate, as the necessary information will be reported the following year. The Joint Public Agencies recommend that CARB defer the annual reporting start date to be one year after the purchase requirement begins.

Section 2013. 2 (b)

…The initial report must be submitted by April 1, 2025~~2024~~, for Agencies in Non-Designated Counties, or April 1, 2028, for Agencies in Designated Counties.

VI. Additional Recommendations for Proposed Rule

The Joint Public Agencies offer the following additional recommendations in the spirit of clarifying or otherwise improving the proposed ACF rule.

- Remove the six-month restriction for replacing orders cancelled by the manufacturer. The purchase of a ZEV necessary to replace and order a ZEV that is delayed due to a manufacturer cancellation may take longer than six months, as the bidding and approval processes may need to be restarted. As long as an initial purchase of a ZEV was made and cancelled through no fault of the fleet, the replacement purchase for the same vehicle configuration should retain the original purchase date for compliance purposes.

> **Section 2013 (k)**
>
> If a fleet owner cancels a notice to proceed, a purchase agreement, or a leasing contract at any time before the vehicle is delivered, the purchase will be considered invalid and will not count towards required ZEV additions to the California fleet. If a manufacturer cancels any of the above, the fleet owner ~~has six months to~~ may replace it with another ZEV order for the same vehicle class, size, and configuration and retain the original purchase date. ~~After six months, the purchase will be considered invalid and will not count towards required ZEV additions to the California fleet~~

- Allow public fleets to opt into a ZEV milestone compliance pathway that is parallel to the pathway and associated exemptions in the High Priority Fleets rule. POUs and water agencies vary widely in terms of their size, resources, service territory, and operational needs. While the Joint Public Agencies support a ZEV purchase requirement as the most appropriate compliance mechanism for public fleets, we recognize that some individual agencies, based on their specific needs and circumstances, may have fleet acquisition and turnover schedules that align more closely with the ZEV milestone requirements for high-priority fleets. The Joint Public Agencies recommend that CARB provide a mechanism in new section 2013 (q) of the proposed rule that allows individual public agencies to make a binding election to comply with a ZEV milestone schedule as an alternative to the ZEV purchase requirements. This election would also allow those public agencies to access the same exemptions available to fleets using the ZEV milestone compliance pathway in the High Priority Fleets rule, including the daily mileage exemption and the vehicle delivery delay. Additional proposed redlines showing conforming changes associated with this pathway are addressed in Appendix B.

> **Section 2013 (q)**
>
> (q) A fleet owner that is a public agency must comply with the requirements of this section 2013 unless it voluntarily elects to comply with the alternative compliance requirements of section 2013.X. A public agency fleet owner may make such election by written notice signed by the responsible official and delivered to the Executive Officer within 180 days of the effective date of this regulation.

- Address interaction with local air quality management districts' (AQMD) fleet rules, such as South Coast AQMD's Rule 1196. The Joint Public Agencies remain deeply concerned about the lack of alignment between the proposed rule and local AQMD fleet rules and the significant challenges that could pose for vehicle procurement. For example, public agencies under the South Coast AQMD's jurisdiction are subject to Rule 1196, which precludes public agencies from purchasing diesel vehicles without a technical infeasibility exemption. The Joint Public Agencies believe that, absent alignment of compliance and exemptions between local and state rules, public fleets could be subject to more complex and unwieldy procurement process, resulting in needless complications and requiring additional resource expenditures. For example: adding the Rule 1196 technical infeasibility exemption on top of the ACF purchase and exemption could significantly extend budgeting and procurement timelines, which could result in public fleets missing manufacturer cutoff dates. The Joint Public Agencies urge CARB to prioritize working with local AQMDs to support rules that are aligned and do not create additional barriers for public agencies.

- Clarify requirements for the infrastructure construction delay exemption. The proposed rule appears to contemplate that any infrastructure delay would be the result of a single, discrete event, which is largely not likely to be the case. In order to render the provision workable, the Joint Public Agencies recommend several revisions to the infrastructure construction delay exemption for public fleets, as well as minor clarifications:
    - Revise the delivery extension period to match the length of the expected delay, which could be either shorter or longer than one year.

Section 2013.1 (c)

… The Executive Officer will grant ~~a single~~ an extension ~~per~~ for a project to delay the vehicle delivery to coincide with the estimated infrastructure completion date ~~for one year~~ if they determine the fleet owner satisfies the criteria for the delay, based on the information submitted below ~~and the exercise of good engineering judgment~~.

    - Revise the requirement for a construction start date that is at least one year before the next applicable compliance period date. Public fleets are not subject to the High Priority Fleet's rules compliance dates for fleet milestone requirements, so this requirement does not appear to be relevant, except for those that may be allowed to opt into the high priority fleet. The Joint Public Agencies recommend instead that the contract must have an effective date at least three months prior to the requested vehicle delivery date.

Section 2013.1 (c)(1)

Documentation showing the executed contract for the infrastructure installation with an effective date at least three months prior to the requested vehicle delivery date. ~~with a construction project start date at least one year prior to the next immediately applicable compliance date for the purchased vehicle~~

    - Expand the list of "circumstances beyond the fleet owner's control" to include circumstances that may materially affect construction projects. Supply chain and labor shortage issues are currently resulting in delays to many construction projects.

Section 2013.1 (c)(2)

Submit documentation showing the delay is a result of any of the following circumstances beyond the fleet owner's reasonable control after obtaining construction permits: change of a general contractor; delays obtaining power from a utility; delays due to material supply chain shortages; delays in qualified workers at standard rates; delays due to unexpected safety issues; discovery of archeological, historical, or tribal cultural resources described in the California Environmental Quality Act Public Resources Code Division 13; or natural disasters.

- Use consistent and clear terminology for the General Requirements in section 2013 (d). The proposed rule states that a certain percentage of "vehicle additions" in each calendar year must be ZEVs, but the term "vehicle additions" is not defined and unclear. The rule should either use different terminology, such as "vehicles purchase," or define "vehicle additions" to clarify that compliance is based on the purchase year, not the year a vehicle is placed in service.

Near-Zero Emission Vehicles

- Define NZEVs to include ICEVs that are capable of zero-emission power takeoff or any vehicle eligible as part of California's Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP). The Joint Public Agencies recommend that the definition of NZEV in section 2013 (b) be expanded to include ICEVs with electrified functions. This would help ensure that fleets can still purchase a commercially available vehicle that achieves significant emissions reductions if a ZEV is not available.

Section 2013 (b)

"Near-zero-emissions vehicle" or "NZEV" means:

(A) A vehicle as defined in title 13, CCR section 1963(c)(16) that is capable of operating like a ZEV using electricity stored on-board the vehicle for a minimum number of miles, or "all-electric range," as specified and tested in accordance with section 1037.150p(2)(ii) of "California Greenhouse Gas Exhaust Emission Standards and Test Procedures for 2014 and Subsequent Model Heavy-Duty Vehicles," as last amended September 9, 2021, which is incorporated by reference herein. requirements of title 17, CCR section 95663(d); or

(B) A vehicle that is capable of zero-emission power takeoff operations needed to support the primary intended function of the vehicle; or

(C) A vehicle that is eligible under the Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP).

- Public agencies should be able to procure NZEVs without restriction through 2035, with the same flexibility afforded to High Priority Fleets. NZEVs play an important role as a bridging technology, particularly early in the transition to ZEVs. Section 2013 (e) should be amended to be consistent with the High Priority Fleet provisions in 2015 (e).

Dedicated Snow Removal Vehicles

- Define "dedicated snow removal vehicles" to also include multifunctional utility vehicles that are needed to remove snow to inspect, maintain, or repair critical infrastructure. The Joint Public Agencies appreciate the proposed rule's recognition that snow removal vehicles have unique operational challenges and thus may not be suitable as ZEVs. However, the proposed definition of "dedicated snow removal vehicles" fails to recognize that for some smaller fleets, *every* vehicle must be multifunctional due to the fleet size or operational needs. The same vehicles needed to remove snow for purposes of accessing, maintaining, or repairing utility infrastructure must also serve other functions and therefore do not have permanently affixed snow removal equipment. This does not, however, obviate their critical snow removal role. The Joint Public Agencies recommend CARB revise the definition of "dedicated snow removal vehicle" to recognize the role of multifunctional vehicles in smaller utility fleets.

> **Section 2013 (b)**
>
> "Dedicated snow removal vehicle" means a vehicle that has permanently affixed snow removal equipment such as a snow blower or auger and is operated exclusively to remove snow from public roads, private roads, or other paths to allow on-road vehicle access, or a vehicle used by the public agency to remove snow for purposes of accessing, inspecting, maintaining, or repairing or otherwise making safe, critical infrastructure.

Recordkeeping and Enforcement

- Provide 10 business days for right of entry and audit requests. As currently proposed, a public fleet would have 72 hours to respond to audit requests by CARB and would need to provide immediate right of entry to CARB staff seeking to inspect vehicles or records. These timeframes are unrealistic and unreasonable, particularly if a request is made on a Friday, and may create an undue burden on smaller public agencies with limited resources and staffing hours. Some smaller public agencies staff their offices only certain days of the week, for example. The Joint Public Agencies recommend modifying section 2013.3 of the regulation to provide public fleets 10 business days to respond to audit and right of entry requests.

Section 2013.3

Fleet owners must keep for the duration in section 2013.3, subsection (i) and provide the following forms of documentation in an electronic or paper format upon request or make them available to the Executive Officer within 10 business days ~~72 hours~~ of a written request:

Section 2013.4 (c)

Right of Entry. An agent or employee of CARB, upon presentation of proper credentials, has the right to enter, after providing ten business days' notice to the fleet owner, any motor carrier, broker, or hiring entity facility (with any necessary safety clearances) …

- Remove unrelated and unnecessary "operator documentation" recordkeeping requirement. Section 2013.3 (b) of the proposed rule specifies that public agency fleet owners must retain documentation regarding responsibilities for paying drivers and cargo origin and destination information. This information is unrelated to public fleets' compliance obligations under the proposed rule and the Joint Public Agencies recommend striking this requirement.

Section 2013.3 (b)

~~Operator Documentation. Fleet owners must keep and provide documentation that identifies the entity that is responsible to pay the driver who is not a public agency employee and any applicable shipping documentation or other documentation that identifies the origin and destination of the cargo and the pick up and termination destination of the cargo.~~

Conclusion

The Joint Public Agencies reiterate our appreciation of CARB staff's work to develop this proposal, but critical issues remain. Ensuring POUs and water agencies have access to the vehicles they need to reliably maintain and repair infrastructure for essential public services, without burdening their communities with excessive costs, must be a key focus as CARB prepares the next iteration of the proposed rule. We thank you for your consideration of these comments, and we hope they are received in the constructive manner in which they were proposed. The Joint Public Agencies look forward to working closely with CARB staff and board members to ensure the ACF is developed into a successful, practical regulation that can support the state's fleet electrification goals without adverse impacts to essential public services.