CalETC
California Electric Transportation Coalition

October 17, 2022

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

RE: SUPPORT: Advanced Clean Fleets Regulation

Dear Chair Randolph & Members of the Board:

The California Electric Transportation Coalition (CalETC) appreciates this opportunity to support the Advanced Clean Fleets (ACF) proposed regulations. The proposed regulations represent an ambitious set of requirements that would ultimately require 100% of new medium- and heavy-duty (MHD) truck sales to be zero-emission vehicles (ZEV) by 2040. The ACF rule is a vital component of the state's efforts to rapidly accelerate the on-road truck fleet to zero-emission. Without a strong ACF Rule to balance the Advanced Clean Trucks Rule (ACT Rule), and vice versa, neither is likely to succeed. These rules must be accompanied by an acceleration in the build out of public and private fueling infrastructure to support zero-emission trucks.

CalETC supports and advocates for the transition to a zero-emission transportation future to spur economic growth, increase fuel diversity and energy independence, contribute to clean air, and combat climate change. CalETC is a non-profit association committed to the successful introduction and large-scale deployment of all forms of electric transportation. Our Board of Directors includes representatives from: Los Angeles Department of Water and Power, Pacific Gas and Electric, Sacramento Municipal Utility District, San Diego Gas and Electric, Southern California Edison, Southern California Public Power Authority, and the Northern California Power Agency. In addition to electric utilities, our membership includes major automakers, manufacturers of zero-emission trucks and buses, electric vehicle charging providers, autonomous electric vehicle fleet operators, and other industry leaders supporting transportation electrification.

CalETC appreciates the intended flexibility in the regulation that is needed to transition the state's fleet to ZE trucks. This flexibility is especially important for small and medium sized public fleets who need their vehicles to perform specialized duty cycles and be versatile enough to serve a wide range of functions, including low frequency but critical deployments such as for emergency response. Public fleets face the additional challenge of ensuring they can maintain vital public services and manage their fleet electrification purchases to comply with public agency procurement processes. The following summarizes CalETC's recommendations, offered in the spirit of further improving the rule to ensure that both the ACF and ACT Rules are a success.

Summary of CalETC's Recommendations:

- ZEV Unavailability Exemption
    - We recommend the ZEV unavailability exemption define "commercial availability" and include objective, reasonable, verifiable criteria that address market availability as well as technical availability.
    - To promote greater clarity and transparency regarding commercially available vehicle configurations, CARB should maintain a list of available ZEVs, based on supporting documentation provided by manufacturers and authorized installers, for each vehicle configuration, weight class, and use case.
- Provide a separate exemption process to address unique scenarios not captured by the simplified criteria in the streamlined exemptions.
- Allow public fleets to opt-in to the ZEV Milestone Pathway in the High Priority Fleet Requirements.
- Incorporate the NZEV Flexibility provision in the High Priority Fleet Requirements into the Public Fleet Requirements.
- Streamline the Daily Usage Exemption by removing the daily usage reports and range calculations. Alternatively, if the daily usage reports are retained, we recommend revising what is required in the reports to include a more statistically valid treatment of the vehicle usage data to report all the vehicle trips, the mean, and the median.
- The Infrastructure Construction Delay Exemption should provide the Executive Officer discretion to consider granting a longer extension based on the fleet showing good cause for their unique situation.

ZEV Unavailability Exemption and Commercial Availability

Throughout the development of the ACF rule, CalETC has recommended that CARB create an annual technology review process. This process would be used by fleets and OEMs to communicate the types of MHD trucks currently available or in development, and the production roadmap for ZEVs not currently on the market. This would also provide CARB with regular information about how the market is developing and whether updates to the suite of MHD regulations and incentive programs are needed. Instead of a technology review process, CARB staff has included the ZEV Unavailability Exemption. We support this in concept, but we believe several key revisions are needed to ensure it can be feasibly and effectively implemented. As proposed, the exemption will create a list of ZEVs and NZEVs that are not commercially available for purchase and allow a fleet to purchase an ICE vehicle instead.

While commercial availability is foundational to the ZEV Unavailability Exemption, the ACF Rule does not provide *any* definition for commercial availability. Without established definitions and criteria, there is no accountability for CARB or for fleets, and no ability to predict how applications to list vehicles as unavailable will be evaluated.

Additionally, based on the documentation requirements, the focus seems to be *technical availability*– in other words – does any single manufacturer produce a vehicle that any one upfitter can install the needed body without violating safety regulations, without any

consideration of *market availability*. Such an approach will be extremely burdensome for fleets and impractical for CARB staff. Moreover, technical feasibility is not the only factor affecting fleets' ability to procure ZEVs. Even if a ZEV can be technically configured, market factors must also be considered, such as adequate supply and the cost must not be prohibitive.

We recommend that the regulation include a definition of commercial availability with objective, realistic criteria that consider both technical and market factors, and an objective framework for determining availability. Specifically, we recommend that the definition of commercial availability include the following:

1. A requirement that multiple OEMs are producing and delivering a production vehicle that is available for commercial purchase before it is considered commercially available – except for specialty chassis where there are not currently competitors. It is too risky to require fleets to purchase trucks when there is only one OEM making them, because too few OEMs could result in inflated pricing and extended delivery timelines. Having no requirement for a minimum number of OEMs also greatly limits the fleets' ability to comply with their own procurement processes, which require competitive bidding. While we believe this definition will significantly help address ZEV unavailability in many cases, we emphasize that the ACF rule still must include practical provisions to address payload, towing capacity, auxiliary equipment, and other duty-cycle related needs.

2. A consideration of the cost of a new ZEV to that of a comparable ICEV. For example, a ZEV would be commercially available if the OEM suggested retail price is no more than 33% greater than the average OEM suggested retail price for ICEV of the same vehicle configuration, prior to any incentive funding. This is necessary to protect fleet owners from excessive upfront and total ownership costs. While the ISOR assumes that costs will come down, we recommend including protections for fleets if the assumed cost decline does not occur as expected.

3. The OEMs are accepting purchase orders and the ZEV can be delivered in a timeframe that is comparable to the time it takes for an ICE vehicle to be delivered. If all the OEMs are sold out of a particular vehicle or are not accepting purchase orders, then it is unreasonable to say that the vehicles are commercially available for purchase. The rule should not penalize fleets when a ZEV is not commercially available. It is also unreasonable to expect fleets to wait years before a truck is delivered when fleets must make planning and investment decisions on an annual basis and rely on updating their fleet in a timely manner to ensure continued operational reliability of the fleet. The ACF rule would give fleets much more confidence in their ability to meet the regulation's goals by including a definition of commercial availability that has a more robust, transparent, framework with objective and realistic criteria for ZEV commercial availability determinations.

Additional Flexibility for Public Fleets

We have recommended and continue to recommend that Public Fleets will need additional flexibility to meet the requirements of the ACF Rule. We recommend the exemption provisions

address local emergency response needs, mutual aid, daily operational challenges, and unusual use cases of public fleets.

We recommend revising the mutual aid assistance exemption to include all forms of emergency response, including within a public fleet's own service area, and include reasonable, practical eligibility criteria. The current focus of the Mutual Aid Exemption on operations outside of the utility's service area does not recognize the critical role of utility fleets in local emergency response. A reliable electric grid is critical to achieving California's emission reduction goals, and public utilities must be able to procure the vehicles necessary for emergency response without first needing to transition 75% of the fleet to ZEVs, a task that may take many years or even decades. We also recommend removing restrictions on vehicle body type and weight class, as public utilities' emergency response roles may vary based on their size, geography, nature of their operations, and more. Finally, we recommend revising the mobile refueling provisions to ensure that public agencies are only required to report on the commercially available ZEVs and compatible mobile refueling options that respond to a public solicitation, rather than requiring them to exhaustively prove a negative.

We recommend include a separate exemption to address conditions that are not well captured by standardized, streamlined criteria. We believe the ACF regulation can, and should, build in the flexibility to address complex scenarios. Even after a ZEV is established as "commercially available," there are multiple factors affecting whether a public agency can procure it in practice and whether it can meet that fleet's needs. For example, some public agencies must operate vehicles under strict weight limits due to the roads and bridges that they traverse. Others may need specialty vehicles with specifications for the power takeoff equipment – for example, a commercially available bucket truck with a 40-foot aerial cannot perform the job if it is replacing a truck with an 80-foot aerial. However, none of these circumstances would be reflected in either the daily usage or ZEV unavailability exemption. We urge CARB to include a separate exemption process, subject to CARB oversight, to address edge cases and unique scenarios for purposes of mitigating potentially significant operational impacts when public fleets would otherwise purchase a "commercially available" ZEV.

One additional way to build in needed flexibility is to allow public fleets to opt into the ZEV Milestone Pathway similar to the compliance option for Private and Federal fleets (i.e., High Priority Fleet Requirements). Public agency fleets and their circumstances are diverse; the current one-size-fits all compliance approach does not reflect this. The ZEV Milestone Pathway would still require a fleet to rapidly transition to ZE trucks but provide an additional compliance pathway that might be better fit for certain public fleet's planning and procurement processes. The opt-in is a no-risk regulatory approach given that the ZEV Milestone Pathway is already established in the High Priority Fleet Rule for private and federal fleets.

There is also a discrepancy in the rule regarding the use of the NZEV Flexibility that is provided until 2035. As written, public fleets must comply with the ZEV Unavailability Exemption before they can purchase an NZEV, however the High Priority Fleets can purchase NZEVs without restriction. We strongly recommend that NZEVs are allowed to be purchased without restriction by both public

and high priority fleets through 2035 in recognition of their role as a bridging technology between ICE vehicles and ZEVs, particularly early in the transition.

Daily Usage Exemption

CalETC appreciates the inclusion of the Daily Usage Exemption in the ACF Rule because it acknowledges that at this time, the demands of certain duty cycles will not be able to be met by ZE trucks. While an exemption that addresses duty cycle needs is necessary—the way it is currently designed is overly cumbersome to implement. We recommend streamlining this exemption so that it is less burdensome and still narrowly tailored to only allow for exemptions when there are no ZEV vehicles that can meet the duty cycle requirements.

We recommend simplifying the Daily Usage exemption by removing the sections that require range calculations and daily usage reports. Both requirements are burdensome and unnecessary to determine whether a fleet could purchase a ZE truck that meets their daily usage needs. Without these two requirements, the exemption still requires: (1) Information about the ICE vehicle to be replaced, (2) The closest comparable ZEV with the highest rated energy capacity, and (3) A description of the ICE vehicle's duty cycle and an explanation of why the commercially available ZEV cannot meet these duty cycles, including an explanation why charging will not alleviate the issue. These three facts are enough to confirm whether a fleet's particular circumstances necessitate an exemption.

Alternatively, if the daily usage reports are retained, we recommend revising what is required in the reports. Specifically, excluding the three longest trips for a vehicle is not a fair treatment of the usage of fleet vehicles. A more statistically valid treatment of the vehicle usage data would be to report all the trips, the mean, and the median. CARB must recognize that that fleets need their vehicles to operate in all circumstances shown by this data – not just in 'typical' conditions. While the daily usage is unable to capture the full range of mileage or PTO demands under emergency conditions due to their infrequency, there is no reasonable justification for requiring fleets to purchase vehicles that have been demonstrated not to be capable of satisfying the range of conditions that may occur in a given month.

We recommend the removing the daily usage restriction on pickups, vehicles with a GVWR less than 14,000 lbs., and specified energy capacities. The Initial Statement of Reasons (ISOR) explains that the daily usage exemption is needed because "[f]leets operate on different business models and have different operational needs, so not every commercially available ZEV will meet the need of every fleet." However, the ISOR then makes assumptions about how fleets will use ZEVs. The importance of this exemption is addressing the routine but less common uses cases that aren't well reflected in the market. Adding these restrictions undermines that value. We recommend removing them and allowing fleet owners to demonstrate if a commercially available ZEV is not suitable for their duty cycle.

Infrastructure Construction Delay Exemption

Limiting the Infrastructure Construction Delay Exemption to a one-year extension is unrealistic and fleets will be unable to meet this requirement, often for reasons outside of their control. We

recommend that the exemption provide the Executive Officer discretion to consider granting a longer extension based on the fleet showing good cause for their unique situation. There are several reasons why infrastructure may be delayed for longer than a year, beyond the executed contract/application date, including supply chain shortages, complex utility infrastructure upgrades, local jurisdictional permitting and agency land reviews, ADA compliance, and environmental remediation. For example, if an artifact is found during the construction process, it could take more than a year to remediate it and complete the construction or if a utility encounters another agency or utility's infrastructure because it was not recorded properly, the project may require a redesign or lengthy permitting process.

The utilities are taking steps to ensure the grid is ready to support ACF by working with our regulators. For example, the investor-owned utilities (IOUs) recently obtained approval from the Public Utilities Commission to use policy-based forward-looking forecasts in their distribution planning processes that importantly include the impacts of the ACF Rule. While this allows IOUs to assess the system needs for supporting charging on the grid – utilities also need data from fleets to inform those planning activities with more certainty around where, when, and how the charging will occur. Additionally, utilities are working hard to streamline and improve the interconnection process. We engaged with GoBiz earlier this year to coordinate stakeholders and evaluate the process to find ways to improve. Also, we are closely engaged with the West Coast Clean Transit Corridor Initiative that is working on strategies to install medium- and heavy-duty charging infrastructure throughout California, Oregon, Washington, and British Colombia. And these are just a couple of the efforts being made by the utilities to meet the needs of this transition. Our recommendation to allow a longer exemption, subject to the fleet having shown good cause, is born from the extensive, real-world experience of installing electrical infrastructure and recognizing that there will need to be a way to address the real timelines and unexpected delays for these projects.

Thank you for your consideration and CalETC looks forward to working with the CARB staff and Board on this important regulation.

Regards,

Laura Renger, Executive Director
California Electric Transportation Coalition