Stericycle®
We protect what matters.

October 17, 2022

Via electronic submission: https://ww2.arb.ca.gov/applications/public-comments

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

RE: Comments of Stericycle, Inc. on proposed Advanced Clean Fleet regulation

Dear Board Members:

Stericycle, Inc. (Stericycle) is a leading provider of compliance-based solutions that protect people, promote health and safeguard the environment. Stericycle specializes in the collection, transportation, treatment and disposal of regulated medical waste (RMW) and, through its Shred-It business, secure information destruction (SID). Stericycle provides essential services to hundreds of facilities across the state that generate RMW, including many of the largest and most critical public and private hospitals, clinics, nursing homes and laboratories. Stericycle appreciates the opportunity to comment on the proposed Advanced Clean Fleet regulation (ACF, or proposed rule).

Stericycle operates a global fleet of approximately 5,900 vehicles and has been following the development of the proposed ACF with the expectation that Stericycle may be considered to operate a High Priority Fleet under the regulation.[1] We appreciate the time that the California Air Resources Board (CARB, or the Board) staff have devoted to meeting with stakeholders during development of the ACF. However, Stericycle has significant concerns with the proposed ACF regulation as published on August 30, 2022.[2] These concerns include issues that were raised multiple times by numerous other stakeholders, such as: the lack of available charging infrastructure in the foreseeable future; the lack of available zero-emission (ZE) trucks that can meet the relevant duty cycle requirements; the still-exorbitant cost of ZE vehicles that are available; the lack of a suitable definition for commercial availability for ZE vehicles; the uncertainty surrounding the development of the list of "unavailable" ZE truck configurations; the extremely narrow exemptions and the overall lack of remedies provided in the proposed regulation if rule requirements cannot be met for any number of valid reasons, including economic infeasibility, inability of manufacturers to timely fill orders, and inability to construct necessary infrastructure. Stericycle is also concerned about the potential impacts of the proposed ACF that are unique to its business and the trucks that it relies upon.

Beyond the concerns specific to the regulatory language, this rule has the potential to significantly and negatively impact the healthcare industry that Stericycle serves. The potential cost of compliance with this rule is enormous, and not accurately represented in the Original Standard Regulatory Impact Assessment.[3] The cost of infrastructure development necessary to support Stericycle's widespread operations, along with the cost to purchase any ZE trucks that can be used as 1-to-1 replacements for the current fleet is in the multi-millions and, with the almost immediate timelines in the proposed regulation, these costs would begin to be incurred as soon as the rule is adopted. This impactful regulation could substantially change Stericycle's operational scope within California and will undoubtedly impact the company's ability to provide essential waste management services to healthcare customers in the state in a cost-effective manner.

[1] For purposes of this letter, we will refer to High Priority Fleet owners and operators simply as "fleet owners."
[2] https://ww2.arb.ca.gov/rulemaking/2022/acf2022?utm_medium=email&utm_source=govdelivery
[3] https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2022/acf22/appc.pdf

The proposed ACF regulation should be revisited in-depth to address the following comments, as well as those of other stakeholders, including those comments raised during the stakeholder workshop process but which do not appear to have been considered before issuance of the proposed rule. Stericycle offers the following specific comments to the ACF and looks forward to future engagement before a final rule is published.

I. Extension of the Comment Period is Warranted

Stericycle strongly urges the Board to extend the time provided for comment on the proposed rule. As previewed above and discussed in more detail below, the proposed ACF regulation is extremely problematic on several fronts. The proposed rule does not appear to contemplate reasonably likely scenarios that would make widespread compliance difficult, if not impossible, including unavailability of ZE trucks that can actually perform the relevant duty cycle, manufacturers' inability to meet placed orders or to accept any orders in the first place, lack of available infrastructure, and economic infeasibility, to name but a few. Moreover, it is clear from comments in the workshops that Stericycle is not the only company who does not have clarity on how CARB is defining "commercial availability." It is also apparent that there are a wide variety of unique, niche vehicles and use cases, including Stericycle's, that are unlikely to have ZE replacements in the near future, and certainly not by the first compliance dates in the proposed ACF regulation.

Stericycle recognizes that CARB has held numerous meetings with stakeholders inviting comments, but CARB has not responded in writing to the hours of commentary and dozens of written comments submitted, and it does not appear that the proposed regulatory language was substantially changed between May and August to reflect these valid comments. These include common concerns shared by the regulated community that remain unaddressed by the proposed rule, as well situations unique to entities who currently have no recourse if they are unable to comply with the proposed rule. Therefore, Stericycle urges the Board to grant additional time for stakeholders to provide comment. We also urge the Board to direct staff to work with stakeholders to revise the existing language to better reflect input from the regulated entities who are, of course, in the best position to provide necessary information and data to inform the ACF rule.

II. Compliance Deadlines Need Built-In Flexibility Beyond What is Proposed

A significant issue that permeates the proposed ACF language, as written, are the rigid, nearly immediate deadlines that provide very little flexibility despite the uncertainty that unique vehicle specification needs can be met within the proposed timeline and the significant infrastructure investments required to support ZE trucks that are or will be available. Therefore, Stericycle requests that the proposed rule language be revised to include a readily available compliance avenue when deadlines, particularly the earlier ones, cannot be met due to circumstances not currently contemplated by the narrow exemptions. These circumstances are discussed in more detail below.

Stericycle also requests that there be flexibility in the compliance deadlines given the substantial up-front costs involved for both the vehicles and the infrastructure, as well as ongoing contractual obligations under existing long-term leases for current fleet vehicles. The compliance timelines should align with feasible infrastructure roll-out, both public and private, as well as a greater understanding of ZE truck commercial availability.

a. Existing Leases and Obligations Should Factor Into Compliance Deadlines and Fleet Reporting

Stericycle's anticipated "California fleet" consists of Class 5, 6, 7 and 8 trucks. Approximately half of these are box trucks, approximately 30 percent are shredder trucks with unique power requirements (as discussed below), and approximately 10 percent are RMW collection trucks which often travel long distances (including out-of-state) in a shift. Just under one-fourth of the fleet is owned by Stericycle; the remainder of the vehicles are leased through long-term lease agreements with an average term of 7-8 years. Fleet purchases have a horizon of years, and it can take 18 to 24 months to receive a truck after it is ordered. Stericycle has already ordered – and entered into leases for – 71 new box trucks, to be delivered in California in 2023 or 2024. These agreements were entered into before the ACF

regulation was even proposed, and Stericycle would be subject to penalties if it were to back out of the leases. Stericycle is likely not alone among the regulated entities in having lease obligations for vehicles that will not be delivered until 2024. Therefore, the proposed ACF regulation should be revised to allow for initial compliance deadlines that take into account existing lease obligations, and the definition of "California fleet" should not include vehicles that were committed to prior to rule adoption but are not delivered until after rule adoption.

b. Infrastructure Availability and Construction is Not Adequately Considered

i. **Stericycle Trucks are Dispatched from Dispersed, Leased Facilities**

The compliance deadlines in the proposed rule do not consider the immense challenges associated with providing sufficient infrastructure for ZE vehicles. Although the existing language provides for a short-term, too-limited Infrastructure Construction Delay exemption, the lack of infrastructure is a massive barrier that the 2024 compliance deadlines simply ignore.

The proposed ACF regulation puts the burden entirely on the fleet owner to be self-sufficient for its charging requirements. The language assumes that trucks return to a centralized home base, that this is a central location where charging infrastructure could be installed, and that the fleet owner has control over infrastructure improvements at that facility.[4]

This is not the case for Stericycle. Stericycle has many dispersed facilities (including some sites that are simple staging areas and not facilities at all) in order to efficiently serve customers throughout the state and avoid making unnecessary long-haul trips back to a central depot. Most of these sites are leased, and Stericycle does not own or control the facilities in a way that would allow it to independently install the type of charging infrastructure needed to support heavy-duty trucks. In many instances these are long-term leases that were entered into before the ACF was proposed, and Stericycle could be put in the position of needing to terminate a lease with a penalty if it must install charging infrastructure due to the ACF, but it is unable to do so in the specific leased area (because it is infeasible, impracticable or simply not permitted by the landlord). This dynamic also has the potential to negatively impact the lessor. For example, one of Stericycle's leased facilities is a portion of a parking lot at a storage facility, where there is not existing infrastructure to support charging, and where seeking to develop charging infrastructure could be problematic and time-consuming from the standpoint of land use controls as well as the lessor/property owner's own prerogatives.

Additionally, some of Stericycle's leased facilities may not be able to support charging infrastructure at all, either because there are no existing grid connections to support new charging infrastructure, or because the staging area is temporary or minimalist, such as an empty lot. Many of Stericycle's facilities are in relatively rural locations, somewhat remote from its customers (there are several reasons for this, including space availability and land use restrictions). These areas often do not have the same connection to, or support from, existing infrastructure that is found closer to urban areas.

ii. **There is Inadequate Public Charging Infrastructure**

Even if sufficient private / "home facility" charging infrastructure could be developed, ZE trucks will often still need access to opportunity charging. There is no consideration in this proposed rule to the development of the necessary

[4] It appeared from some of the comments from staff in the workshops that CARB's assumption is that most fleets return to a home depot. Changing to a central-depot business model is not feasible for Stericycle. It would also exacerbate the serious problem of ensuring that there is adequate range in any ZE trucks that eventually become available.

public charging infrastructure to support the transition to ZE trucks as envisioned by the ACF regulation. Many truck fleets, including Stericycle's, are serving multiple individual businesses in a single day. In Stericycle's case, trucks may be dispatched and travel point-to-point, accumulating significant run-time hours, and will need to avail themselves of opportunity charging. Businesses that depend on the items and services being delivered by trucks to their locations daily, such as hospitals, grocery stores and large retailers, would, ideally, be places where opportunity charging for heavy-duty ZE trucks could take place. However, developing such infrastructure would be subject to the same drawn-out challenges, including permitting and construction, that will be faced by most developers of infrastructure. ZE trucks require charging infrastructure beyond their own home base, but there has been no indication from CARB that a mandate for this type of development is underway on a timeline that parallels (or is ahead of) the ACF regulation. This should be considered by adding increased flexibility throughout the proposed rule, including extended compliance deadlines and a broadening of the Infrastructure Construction Delay exemption (discussed further below).

III. Exemptions Should be Broadened

As CARB staff have heard repeatedly from various stakeholders, there are many different niche applications for which a ZE-equivalent truck does not yet exist. However, the rigid limitations in the Unavailability Exemption make it difficult, if not impossible, to qualify for, and the Infrastructure Construction Delay exemption is likewise too limited when considering the reasonably foreseeable circumstances that could prevent deployment of a ZE vehicle but are not provided for in the proposed regulations. The exemptions are simply too narrow to account for the myriad circumstances that could interfere with meeting fleet targets, particularly during this significant transitional period.

a. Unavailability and Daily Mileage Exemptions are Too Narrow

i. <u>Unavailability Can Be Demonstrated by Additional Means</u>

As explained above, Stericycle's business is comprised of both RMW and SID services. Stericycle's anticipated California fleet consists of Class 5, 6, 7 and 8 trucks (including tractors and box trucks). Stericycle's fleet in California includes trucks with on-truck shredding capability that currently have no available ZE equivalent, contrary to CARB's representation that ZE shredder trucks are available.[5] Shredder trucks used by Stericycle are not box trucks, as CARB's availability table suggests. The shredder trucks use on-board power from the engine to perform their essential function (on-site shredding), and the chassis must be specifically configured for this purpose. Stericycle has already contacted several vendors regarding the availability of ZE shredder trucks and has been informed that this is a niche application, and the chassis manufacturers are focusing their research and development efforts on wider swaths of the potential ZE truck market, primarily local pick-up/delivery and "last mile" applications without substantial on-board power requirements. In Stericycle's case, one vendor reported that they had been in contact with several manufacturers regarding chassis upfitting, and those manufacturers all stated that they have no solution that can handle the necessary power requirements and also no technical support or integration. The vendor noted that they are working with a small company outside of the United States who may eventually have a solution, but that it will not be available until at least 2025 (and even then, it's not clear in what quantities).

Even though this unavailability is related to the lack of development of an appropriate chassis, this circumstance would not fall under the narrow exemptions in the proposed rule as currently drafted. The proposed Unavailability Exemption requires that the chassis manufacturer itself provide a "signed statement" attesting to the unavailability. Stericycle does not have relationships with chassis manufacturers, and it would be difficult to obtain such a statement. Rather, Stericycle works through several vendors and manufacturers knowledgeable in available shredding technologies, who in turn communicate directly with the chassis developers. It is these vendors that have the direct business relationship

[5] See Staff Presentation from July 26, 2022 workshop at p. 55: https://ww2.arb.ca.gov/sites/default/files/2022-07/220726acfpres_ADA_0.pdf.

with the chassis upfitters – and any obtained information may or may not be provided to the end users/fleet operators who would be subject to the proposed rule.

As currently proposed, a fleet owner is required to correspond with manufacturers and chassis upfitters. These entities are likely to be inundated with fleet owner requests for letters or statements as to unavailability and may take a long time to respond or simply not respond at all. Stericycle requests that a provision be included in the ACF regulation to account for a delayed response or no response as to unavailability, as well as allowing for alternative methods of demonstrating that there is no appropriate vehicle, such as a statement from an intermediate party like the vendors with whom Stericycle communicates.

Additionally, the Unavailability Exemption becomes even more burdensome for those fleet owners opting to use the ZE Fleet Milestone option under 2015.2: proposed section 2015.2(e)(5) only allows for use of the Unavailability Exemption (and the exclusion from the fleet of the new ICE vehicle for which there is no ZE equivalent) if other ICE vehicles that do have ZE equivalents have been replaced. That could require a very front-loaded capital expenditure that is even more burdensome than the alternative approach. This provision should be revised so that it does not unfairly preclude those fleet owners pursuing compliance via the milestone option from seeking a valid exemption based on unavailability.

ii. **Economic Feasibility Should be Considered: ZE Trucks Cost Three Times Their ICE Equivalent**

As discussed above, some trucks that Stericycle uses are simply not available at all in a ZE-equivalent, and some trucks that purportedly have ZE equivalents cannot meet the duty cycle requirements, particularly the required range on a single charge. There are some trucks in Stericycle's fleet that do have comparable ZE-equivalents, although in every instance the range is less than could be achieved with their internal combustion engine (ICE) equivalent.

Although Stericycle is preparing to incorporate ZE trucks into its fleet where feasible, the cost of the trucks themselves, as well as the necessary infrastructure development, is substantial. Stericycle's investments could require it to, in turn, raise prices for customers to account for the additional operational costs, thus increasing waste management costs for the healthcare industry in the state. Additionally, Stericycle's ability to provide its services at all to California-based customers may be impacted. CARB's economic analysis does not appear to take the true cost burden on the fleet operators into account– particularly the indirect effects of these massive expenditures.

The cost for ZE-equivalent trucks, where they exist, is still nearly three times the price of a comparable ICE truck, based on quotes Stericycle has received from vendors in the last year. Based on recent conversations with vendors, a box truck for our purposes costs approximately $160,000, while its ZE-equivalent costs approximately $500,000 – a price that is consistent across all vendors Stericycle has contacted. By Stericycle's rough calculations, ZE box truck purchases alone could cost an additional $28 million by 2025, and $51 million by 2028. This does not include the cost to develop infrastructure to support Stericycle's statewide operations, the challenges with which are discussed further below.

It is also not clear that there are sufficient grant monies available to defray the costs; indeed, one vendor indicated that certain California grant monies were no longer available for this year. CARB should not assume, in assessing its financial impacts, that every fleet owner subject to the ACF regulation will be able to defray the costs of vehicles or infrastructure with any grant money.

The cost of ZE vehicles (even if they can perform equivalently, which has not been established) and the effectively self-sufficient infrastructure required by this proposed rule, is extremely high, particularly with compliance deadlines that are virtually immediate from a fleet planning standpoint. The rule should incorporate measures that provide for a

demonstration of economic infeasibility to obtain at least temporary relief from provisions of the ACF rule, including initial and subsequent compliance deadlines.

iii. **Parameters for Commercial Availability Should be Set Forth in the Rule**

Given the already-high cost of ZE trucks, there is a likelihood that a ZE truck deemed "available" by CARB, the cost could be so prohibitive that it could render it essentially unavailable. Establishing criteria for "commercial availability" in the proposed rule would help avoid this significant area of uncertainty. These criteria should include a level of market penetration of the particular truck for the specific application, including any unique requirements such as power take-off. The Ports of Los Angeles and Long Beach have wrestled with this at length in connection with ZE drayage trucks and have set forth comprehensive criteria in their 2021 Draft Drayage Truck Feasibility Assessment.[6] Briefly, the Ports deem a ZE drayage truck commercially available when (1) it is being manufactured in similar quantities and timeframes as the baseline equipment, and (2) it has baseline-equivalent customer support systems for vehicle warranty, maintenance, and parts. A similar approach should be incorporated into the proposed ACF regulation so that the regulated community has a degree of clarity and certainty that is not afforded solely by the "unavailability list" contemplated by the proposed rule.

This is particularly important because ZE heavy duty trucks are an emerging technology that is not in wide use, so there is little data from real world deployment. Stericycle is aware, however, that the manufacturers' stated mileage ranges for a given ZE heavy duty truck are generally optimistic, and that the range would likely be dramatically reduced by a full payload, as well as topography and terrain. Stericycle's tractors haul full payloads of up to 40,000 pounds, and it is unlikely that even the ZE tractors that CARB deems "available" could meet the duty cycle required of Stericycle's ICE trucks.[7] In other words, Stericycle's operations would be substantially hampered, and the company would need additional trucks to complete the same amount of work (so long as the charging infrastructure was available to support them).

The concept of a "living list" of available ZE vehicles makes sense given the rapidly changing technology; however, the standards establishing what should and should not be on the list should be part of the public process of the rule development, receiving the appropriate notice and comment as required. Otherwise, the very definition of "commercially available" – a term used throughout the proposed rule – is left impermissibly vague and undefined.

---

[6] See, e.g., p. 21 et seq. *2021 Update: Feasibility Assessment for Drayage Trucks: "*An emerging ZE or LE fuel-technology drayage truck platform is deemed to be commercially available when (1) it is being manufactured in similar quantities and timeframes as the baseline equipment (Class 8 diesel ICE tractors), and (2) it has baseline-equivalent customer support systems for vehicle warranty, maintenance, and parts. Using additional guidance from the Framework document, specific criteria have been identified to collectively define if these two basic tests are met." (https://kentico.portoflosangeles.org/getmedia/c4ceda78-54d5-44ce-bf4c-68c41f8d3a22/draft-2021-update-drayage-truck-feasibility-assessment-update) The Ports of Long Beach and L.A. have been gathering data on limited ZE drayage truck deployment for years and despite their efforts, only a couple dozen out of the 18,000 trucks at the ports are ZE, and those are largely demonstration projects. The measured tone of their still-ambitious goals reflects the reality that ZE heavy duty trucks are not their ICE equivalent for most applications.

[7] CARB itself has acknowledged, in connection with the Advanced Clean Trucks rule, that heavy-duty ZE trucks face challenges related to costs and equivalency with ICE vehicles: "At this time, both Class 2b-3 and Class 7-8 tractors have more focused concerns about payload, range, towing, charging/refueling infrastructure, and model availability than other vehicles. These issues will present more challenges in identifying suitable applications for their deployment in the early market. Increasing the number of ZEV sales further also increases the likelihood that manufacturers would need to produce more costly long-range vehicles, and that vehicles may need to be placed in applications where they may not be fully suitable." *Advanced Clean Trucks Regulation, Final Statement of Reasons,* March 2021, at p. 99 (https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2019/act2019/fsor.pdf).

Stericycle
We protect what matters.

Providing for a reasonable and robust definition of "commercial availability" would also make the process of listing vehicles clearer and easier to administer.

With respect to the list, Stericycle echoes other stakeholder comments that it makes more sense to provide a "ZE availability" list rather than an "unavailability" list. Fleet owners are already doing extensive research within their unique sectors to determine what, exactly, is available as a ZE-equivalent to existing trucks – including the unique needs of their duty cycles. The universe of commercially available heavy duty ZE trucks is likely to be much smaller than the universe of trucks that have no ZE equivalent yet (like Stericycle's shredder trucks). Stericycle is actively engaged with the entities who will be on the front lines of the eventual development of ZE shredder trucks, and so Stericycle will be the first to know when they are available and can share this information with CARB accordingly in conjunction with its compliance reporting. Conversely, requiring fleet owners to provide, up-front, the entire universe of niche vehicles with unique duty cycles for which a ZE equivalent is not available is burdensome on both the fleet owner (particularly during the initial transition years, when fleet owners are likely to be duplicating one another's efforts given the short timeline to comply or seek an exemption) and on CARB, given that CARB is not necessarily in a position to become an expert on every niche trucking application.

With the establishment of parameters for "commercially available," there should also be a verifiable process by which parties can establish that a vehicle is or is not commercially available for purposes of adding to or removing from the list. Fleet owners and other stakeholders should have sufficient opportunity to weigh in with their own "good engineering judgment" because they are the experts in their own respective fields and will be able to provide information and parameters that CARB may not otherwise be aware of.

CARB's preference for an "unavailability" list may stem from a misconception that most trucks have ZE equivalents that any given fleet can use.[8] That assumption is erroneous and fails to consider unique applications and requirements like Stericycle's shredder trucks. In sum, providing a "ZE Availability" list, rather than an "Unavailability" list, is a much more streamlined approach that other regulated entities have also voiced support for.

b. The Infrastructure Construction Delay Should be Expanded

Stericycle echoes comments made by other stakeholders that the 12-month allowance for delays in constructing necessary ZE charging infrastructure should have increased flexibility. If the current compliance deadlines remain in place, then fleet owners will need to have sufficient infrastructure ready in time for the early ZE vehicles to arrive in 2024 or 2025. However, it is not only possible but likely that sufficient infrastructure cannot be built in time to sustain newly acquired ZE trucks. Moreover, it is the nature of development projects, complex or not, that small delays compound into larger delays, and so there are many factors that could contribute to a delay beyond one year. The rule should incorporate flexibility to account for these types of circumstances.

As explained above, Stericycle's trucks are dispatched primarily from rural, dispersed, leased facilities where the ability to install substantial charging infrastructure may be extremely limited. For Stericycle and similarly situated entities, the initial step in determining where infrastructure can even be installed requires a close review of operations, leases, and grid support in the area. Because Stericycle does not have a centralized home depot, the company will be required to assess operations and prioritize where infrastructure could be developed. Stericycle may need to (re)negotiate leases. These planning steps alone can take significant time.

[8] Statement from CARB staff that "when we look at the data that we did receive, most ZEVs that are available are going to fit within fleet applications. They won't do every duty cycle, or the fringe one, per se, but based on information we received, most of the ones that are available are going to fit within what a fleet can use…."CARB working group meeting, July 26 2022, 2:29:03 (https://youtu.be/N0cDTVp-m8Q?t=8943). Although CARB had somewhat limited data on which to develop this proposed rule, Stericycle's hope is that the input from stakeholders over the past several months will allow CARB to go back to the rule with additional crucial context.

Stericycle
We protect what matters.

Once Stericycle has identified potential sites where infrastructure could be installed (and the necessary capital expenditures have been approved), the process of project planning and permitting will begin. Permitting can often take a year or more, depending on the scale of the construction. For this reason, the proposed rule should incorporate a time period by which applications for infrastructure projects should be submitted to the relevant oversight agency, and that construction deadlines will not begin until all relevant government approvals have been granted.

Additionally, coordinating with the utility can take additional time, particularly when one can anticipate that the utilities will have competing obligations to other fleet owners also installing infrastructure to meet the ACF deadlines. The rule should allow for delays beyond 12 months if the delay is attributable to circumstances beyond the reasonable control of the fleet owner, including a utility that is not timely proceeding with its role in the infrastructure project.

Stericycle understands that grant funding may be available as incentives for constructing infrastructure projects and purchasing ZE vehicles. Delays related to grant application review and disbursements of funds may likewise be outside of the control of the fleet owner.

With the roll-out of new technology, particularly with questionable grid stability as discussed below, it would behoove CARB to contemplate that available charging infrastructure may not increase on a linear trajectory, but could have ups and downs. For example, public and private infrastructure may not be *consistently* available given grid stability or availability of infrastructure after it is commissioned, because it may go down for equipment failure, software failure, or power availability. These problems have been encountered on the light-duty vehicle side already. The proposed rule should provide for allowances, perhaps by authorizing non-California fleet ICE to serve as temporary ZE vehicle substitutes, or an extension of a compliance deadline, when the limited public or private infrastructure becomes unavailable.

IV. "California Fleet" Definition Should be Narrowed

The proposed rule's expansive definition of "California Fleet" could have the effect of including vehicles within a California fleet for a year even when they have only visited the state for one day. This is problematic for companies like Stericycle, who may have vehicles domiciled outside of California, but which may occasionally make trips to or through California during long-haul routes. There is insufficient infrastructure within California, and certainly outside of California, to support ZE long-haul trucks. Therefore, where vehicles are domiciled outside of CA and need to enter CA during long-haul trips, it is inappropriate to count them as part of a CA fleet.

Stericycle's RMW trucks, in particular, are often engaged in long-haul trips because California rules require that certain RMW be treated by incineration but there are no RMW incineration facilities within the state. A portion of Stericycle's trucks are long-haul trucks that have no ZE equivalent yet, either within or outside of California. Whether these trucks are domiciled in or out of the state, they should not be considered part of the California fleet unless and until ZE equivalents exist.

Including the occasional out-of-state vehicle into a fleet owner's California fleet could encourage fleet owners to consolidate fleets outside of California to the extent they are able to. We request that CARB remain mindful of SB 1020's mandate that, in implementing clean energy policies, CARB employ measures to avoid greenhouse gas "leakage," that is, increases in greenhouse gas emissions elsewhere.[9]

[9] Newly amended Public Utilities Code section 454.53. (a).

Stericycle®
We protect what matters.

Relatedly, it does not appear based on observations of the workshops that there has been meaningful agency consultation and input on the far-reaching implications of this regulation with other federal and state regulators, including the California Department of Health, Caltrans, and the U.S. Department of Transportation.[10]

V. Sufficient Grid Stability is Uncertain

Throughout the rulemaking process, stakeholders have raised the concern that the grid may not be sufficiently stable and efficient to support an exponential increase in ZE charging infrastructure on the timeline mandated by the rule. CARB has not directly responded to these concerns, and has not demonstrated that the grid can, indeed, withstand the anticipated demand to support these fleet transitions.

Moreover, with the expansive proposed definition of "California fleet," where any truck coming into California is deemed part of the California fleet, grids in other states likewise need to be sufficiently stable. For example, Texas' grid and electrical demands have proven to be unreliable. A "California fleet" that must also operate in Texas could be at a disadvantage if it cannot be assured of grid stability in the states through which it travels. There is no indication that this larger, interconnected grid issue has been considered by CARB in the context of the expansive California fleet definition.

VI. Remedies Should Be Made Clear in the Regulation

Despite earlier comments from stakeholders on this topic, the proposed rule contains little in the way of remedies when a particular requirement cannot be met or cannot be met in precisely the method dictated by the regulation. Given the input from the regulated entities to date, one can anticipate now that there will be challenges with issues already raised by stakeholders, including on the topics above, that the proposed rule does not contemplate. Therefore, the ACF rule should provide a process for regulated entities to seek relief from the requirements when such circumstances arise. Such relief could be temporary, such as extensions of the existing compliance deadlines, but it should be available via a procedure specified in the regulation.

For example, in addition to the circumstances discussed above, the Manufacturer Cancellation exemption provides no recourse if a fleet owner is unable to secure a replacement agreement within 90 days or later. If manufacturers are cancelling placed orders, there may be a widespread reason involved (such as the vehicle microchip shortage we saw in the last year), and the fleet owner may be unable to secure another contract. Additionally, even if a contract can be secured, whether within 90 days or later, it may be that the contract is for a later model year vehicle. The rule is unclear what would occur in this circumstance, and whether the fleet owner could claim credit for the renewed-but-later order for the compliance year it was originally seeking.

Understandably, staff cannot be aware of the entire universe of challenges that could face the diverse types of businesses and fleets that are affected by the proposed rule. But the regulated community has indicated that there will certainly be instances where compliance is not possible, and the regulation provides no recourse or clarity. The result is that regulated entities unable to comply could be faced with time-consuming and expensive enforcement actions, leading to settlement agreements with ad hoc, negotiated compliance pathways. This is a concerning prospect.

[10] For example, if there is a ZE truck that needs to travel long-haul and there happens to be available charging infrastructure along the route, does charging time count towards a driver's working hours under DOT rules? How will this impact existing routing and business planning? For large trucks hauling waste in particular, is it in the public interest to have them constantly coming off the highway to park at a particular location to charge the vehicle? Although not all of these types of questions are within CARB's direct purview, it is incumbent upon CARB to consult with other agencies when proposing such an impactful rule that will fundamentally change transport operations in and outside the state.

Stericycle®
We protect what matters.

Therefore, Stericycle urges staff to provide remedies within the rule itself so that it is clear from the outset to all fleet owner and operators what remedies are available, rather than having to appeal to CARB on an ad hoc, case-by-case basis which could yield inconsistent applications of legal principles. This could be in the form of a written appeal process, with timelines and standards for review of circumstances not covered in the regulation itself.

VII. Conclusion

In conclusion, the proposed ACF is well intentioned but, as it is written, includes significant barriers to compliance, which undermines the purpose of the rule and the larger goals of reducing direct vehicle emissions. We are optimistic, however, that when stakeholder comments are considered in revisions to the proposed rule (and we hope that more comments will be forthcoming during an extended comment period) that the ACF will ultimately be an ambitious but workable framework for achieving significant vehicle emissions reductions with limited interruption to the essential services that Californians rely upon every day.

We thank CARB staff and the Board for their efforts to develop this rule with the input of stakeholders and look forward to engaging in further dialogue so that we can work together towards achieving California's climate goals. If you have any questions, please do not hesitate to contact me at csimaga@stericycle.com. Thank you for your consideration of these comments.

Sincerely,

Cara Simaga
Sr. Director – Regulatory Affairs
Stericycle, Inc.