



April 7, 2023

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

RE: **Support with Amendments:** 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 regulations (ACF Rule) and offer important recommendations. We have worked closely with CARB staff and board members throughout this process and we greatly appreciate your willingness to take our concerns seriously and incorporate many of our recommendations into the 15-day change language. 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 2036. 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. CalETC appreciates the inclusion of the ZEV milestones compliance option for both public and high-priority fleets, which, depending on an individual fleet's specific circumstances, can offer key compliance flexibility. However, public fleets are highly diverse, and the ZEV milestones option alone does not

address the flexibility that small and medium sized public fleets need. 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:

- In the Public Fleet Rule, remove or reduce the 13th model year requirement to access certain exemptions. This is critical to ensure publicly owned utilities can maintain a working fleet necessary to provide essential public services.
- Remove the "exclude the three highest readings" from the Daily Usage Exemption, or create an emergency vehicle exemption in the Public Fleet Rule that takes into account all usage. This will ensure that real-world fleet needs are accounted for.
- The definition of "common ownership and control" should only apply to contractors that do work for one year or more, to eliminate confusion about short term or one-off contractors.
- The Non-Repairable Vehicle Exemption should include breakdown of the engine "or" vehicle, and new and used vehicles should be allowed to replace broken vehicles.
- The ZEV Purchase Exemption Application process should include an opportunity for fleets to respond to CARB's determination.

Remove or Reduce the 13th Model Year Restriction

It is critical to remove the 13th model year restriction to qualifying for the Daily Usage, ZEV Purchase, and Infrastructure Delay Exemptions. A municipal utility's specialty vehicle has a useful life span of 7-10 years, although it ultimately depends on usage. These vehicles are turned over at a faster rate to ensure that they can perform necessary functions and not leave the utility without functioning vehicles during critical periods, for example when restoring electrical service from an outage or performing under a mutual aid agreement. Under the current language of the ACF rule, if a municipal utility has a specialty vehicle that must be replaced but is less than 13 years old, that vehicle must be replaced by a ZEV even if the utility can show there is no ZEV available for purchase or capable of meeting the utility's needs because the utility cannot apply for an exemption. Therefore, we recommend removing or reducing the 13th model year restriction so that public fleets can replace vehicles in a timely manner to maintain necessary public services.

Remove the "exclusion of the 3 highest daily energy ratings" from the Daily Usage Exemption

We are very pleased that CARB staff expanded the lookback for the Daily Usage Exemption from 1 year to 5 years for vehicles used to fulfil mutual aid agreements and respond to emergencies. However, we believe it is critical that the Daily Usage Exemption not exclude the three highest daily energy use readings, since utility fleets must be prepared to respond during the worst-case scenarios as opposed to the average day. This is particularly important as we see utilities responding to impacts from more frequent and extreme climate events. Utility fleets need their vehicles to perform at the extremes of their use cases, and excluding the 3 highest readings excludes the real needs of the fleets. Therefore, we are recommending that the Board simply strike the "exclude the three highest readings" from the Daily Usage Exemption. Alternatively, we recommend a separate emergency vehicle exemption in the Public Fleet Rule to provide a calculation that includes all usage data.

Common Ownership and Control Definition

We recommend adding language to the definition of “common ownership and control” so that it only applies to contractors that do work for one year or more. This limitation will eliminate any confusion about short-term or one-off contractors, which is important to ensure that fleets who hire contractors are not responsible for the contractor’s compliance with ACF when the fleet sets no requirements for the vehicles being utilized for the work performed that is of a temporary nature. As currently drafted the rule defines common ownership and control to include “contractors whose services are under the day-to-day control of the hiring entity.” We request that this requirement be specific to relationships that are for a period of one year or longer. Otherwise, we are concerned that fleets would need to account for even single purpose requests, like delivering food or equipment to a job site, like porta potties, lights, or generators. By making clear that common ownership or control includes relationships where the controlling party has the “exclusive right” for a period of one year or longer” to direct control of the vehicle – we believe this situation can be avoided.

Additionally, the common ownership and control language would require a fleet owner involved in construction activities to track vehicle information for every vehicle used by third parties that is not a part of short-term construction contractors, trades, and hired fleet services. The hiring entity would need to obtain a whole host of information from the contractor, including Vehicle Identification Number (VIN), date vehicle purchase was made, date vehicle was added to or removed from the California fleet, whether the vehicle will be designated under or was purchased pursuant to an exemption. This list is just four of the thirteen items that would need to be reported. (For the complete list see Section 2015.4(c)(2).) Restricting the definition of common ownership and control would correctly eliminate this burden for fleets hiring contractors to complete short-term or one-off contracts.

Non-Repairable Vehicle Exemption

Again, we are very pleased that a mechanical failure was included in the Non-Repairable Vehicle Exemption along with the accident provision. This will be critical for fleets if one of their trucks breaks down and it cannot be replaced with a ZEV. This exemption is also necessary because of the 13th model year vehicle restriction on certain exemptions. It appears the rule is set up to require fleets to wear out their vehicles to the point of being non-repairable before replacing them, which is not industry practice and sets a dangerous precedent for public fleets that rely on their vehicles to perform essential services. A fleet that would like to replace a vehicle that does not have a comparable ZEV that is commercially available to purchase, must wait until the vehicle gets to 13 years or breaks down to be replaced.

We are recommending two small changes to the Non-Repairable Vehicle Exemption. It currently requires that both the engine and vehicle breakdown, and we recommend that it be the engine “or” the vehicle. There will be situations where other parts of the vehicle are damaged that do not include the engine, but would require the vehicle to be replaced, for example a transmission or drive shaft or combination of other expensive components that would constitute the vehicle being non-repairable.

Also, the rule limits the replacement vehicle to only used vehicles, however, in the case of specialized vehicles the used market will not be adequate to rely on replacing such vehicles. In the instance where there are no used vehicles or comparable ZEV to replace a broken vehicle, a fleet would be without any options. Therefore, fleets should be allowed to purchase new or used vehicles to replace a non-repairable vehicle.

Provide an Opportunity for Fleets to Respond in the Purchase Exemption Application Process

We recommend that fleets be given an opportunity to respond after the Executive Officer makes a determination on whether a ZEV with the fleet's necessary configuration is available for sale. There should be minimum requirements for the documentation that is considered as part of the exemption application, such information that the truck will meet the needed specifications, be delivered in a timely manner, and provide access to parts and service. We also have concerns about fleets being stuck having to buy a vehicle from one manufacturer and not being able to satisfy the competitive bidding process requirements. Therefore, we recommend that the fleets be given an opportunity to respond to CARB after the Executive Officer makes a determination in the ZEV Purchase Exemption Application process.

Thank you very much for your consideration and CalETC looks forward to continuing our work with CARB Board Members and staff on this important regulation.

Regards,

A handwritten signature in black ink, appearing to be 'LR', with a long horizontal line extending to the right.

Laura Renger, Executive Director
California Electric Transportation Coalition