



**Miller Industries, Inc.**

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December 6, 2024

Ms. Liane Randolph  
Chair, California Air Resources Board  
1001 I Street, St. 2828  
Sacramento, California 95814

RE: Second Notice of Public Availability of Modified Text Advanced Clean Trucks  
Regulation and the Zero-Emission Powertrain Certification Test Procedure

Dear Chair Randolph,

To reiterate, Miller Industries, Inc. appreciates the CARB Board deferring the May vote on the Clean Truck Partnership amendments and directing staff to investigate the concerns that we have been raising since November 2023. It was clear a year ago that the regulations were not acting as intended and would create severe shortages of truck chassis in 2024 and beyond. The memorandum to the Board by Executive Officer Dr. Steve Cliff dated 9/25/2024 provides further details of the staff investigation of the shortages, including impacts from the Heavy-Duty Omnibus regulation.

The notice of public availability also refers to "... several vehicle body upfitters and dealers..." that raised the issues to CARB at that time. However, nothing in either draft of the regulation allows these upfitters or dealers to participate in the credit market, thus leaving them in a position completely reliant on the manufacturers and their willingness to trade credits under the ACT. As CARB noted, there were very limited credit transactions in 2024 that has left industries without chassis necessary to meet the upgrade needs of California businesses.

From the outset Miller Industries, Inc. has sought to ensure that California based assemblers and distributors can continue to operate, and their employees can continue to be employed in California. These will be the same individuals that will assemble and sell zero emission tow and recovery trucks when the technology can meet the intense power demands required of roadway safety equipment. Avoiding the loss of these skilled

employees and these small businesses should be the top priority of the amendments to the ACT and the proposed non-enforcement of certain provisions of the Omnibus regulation.

A shortage of tow and recovery trucks jeopardizes roadway safety for the motoring public and first responders. The longer an accident is on the roadway the longer first responders must remain and increases the likelihood of additional accidents. UC Berkeley has also documented the fuel savings and emissions reductions from timely removal of vehicles from the roadways. The Freeway Service Patrol provides free services to over 650,000 incidents annually in 16 metro areas. The FPS resulted in fuel savings to consumers of over 16.5 million gallons, reduced time on roadways by over 9.6 million hours, reduced carbon dioxide creation by over 145.7 million kilograms and resulted in 1,153.6 kilograms less of nitrogen oxides.

There is no argument that California is pushing the technology for reducing the emissions in the transportation sector. However, CARB has also recognized that technological development in some sectors will take additional time. Hence CARB exempting government owned tow and recovery vehicles from these and other regulations. We have made repeated suggestions that CARB grant the Executive Officer the ability to create lists of certain vehicles or vehicle applications that are exempt until the technology is viable for those purposes – like the authority the EO has under the Advanced Clean Fleets (ACF) rule to not count certain vehicles towards the fleet requirements. Extending this same flexibility under the ACT and Omnibus rules would provide discretion to the EO to alleviate shortages of engines and chassis for important applications of vehicles such as roadway safety.

In fact, other Section 177 states have announced that because they must fully adopt the California rule, but it is jeopardizing their ability to obtain chassis, that they will delay the implementation of the rule or expand on provisions that will not be enforced. In simple terms, CARB's unwillingness to modify the rules sufficiently to address key use cases, is driving other blue states to reconsider the implementation of the rules. The other states are closely following CARB's actions and are realizing that roadway safety and jobs and air emission reductions are being protected by allowing the sale of new, lower emission trucks to replace older higher emission trucks. And the rules strangling of new truck sales by dealers and upfitters simply means older, used higher emission trucks will start being imported into their states – which is ironically complete acceptable under the CARB rules.

CARB has spent the better part of a year researching the issues as the impacts have grown more significant. The small businesses that assemble and sell the newest, lowest emission tow and recovery trucks in California are now out of or will be out of inventory by the end of the year. If lack of amendments in the Second 15-Day comment period to even address the issues raised at the October Board Meeting and the actions by other states to delay and expand non-enforcement demonstrate that the changes are insufficient. And although CARB staff have argued they may suggest additional changes later in 2025 if the current

changes are insufficient, California's small businesses and their employees likely won't be around to see what additional incremental change may be proposed.

It is important to note that the rules are creating a perverse impact that is in many ways defeating the emissions reductions goals of California and support for environmental justice communities. While Miller Industries, Inc. is seeking access to engines that were compliant with California standards in 2023 (in the absence of 2024 compliant engines), we note these engines are mandated to pay a mitigation fee that is typically \$9,000 or greater per engine. This funding is used to support projects to mitigate pollution impacts in environmental justice communities. If engines or chassis are not available, the CARB regulations allow used trucks to be brought into California. Used trucks are not required to pay the mitigation fee and may have higher emissions than the new trucks that would be assembled and sold by California employees and businesses. Clearly missing from Dr. Cliff's memo is information for the CARB Board to understand the impacts of funding to these programs and California jobs. This remains missing in any analysis of the Second 15-Day changes.

Miller Industries, Inc. reiterates that the CARB Board should direct staff to provide a complete analysis to the CARB Board of the impacts to California based jobs and businesses and the environmental justice programs from the replacement of newly manufactured and registered vehicles with imported used vehicles not subject to the mitigation fee. Further, Miller Industries, Inc. encourages the CARB Board to direct staff to create authority for the Executive Officer to provide additional relief to ensure critical vehicle types or applications are not impacted by shortages of engines or chassis.

Sincerely,

*Joshua Lovelace*

Joshua Lovelace  
District Sales Manager - Western Region

Attachment: Comments on Second 15-Day Amendments to ACT

## Second 15-Day Comment Period December 6, 2024

Section 1963.2 (e). Based on various factors, including Dr. Cliff's memorandum to the CARB Board, "upfitters" should be added as an eligible entity to "... trade, sell, purchase, or otherwise transfer ZEV and NZEV credits with manufacturers."

1. Miller Industries, Inc. facilitates the acquisition of engines and chassis for their distributors in California. It is unclear that Miller would meet the definition of a secondary vehicle manufacturer for the purposes of the regulation in California.
2. It is not clear that the assembly of a tow body onto a chassis meets the definition of a "secondary vehicle manufacturer" under 40 CFR section 1037.801. Note that the CFR states: For the purpose of this definition, "modifying" generally does not include making changes that do not remove a vehicle from its original certified configuration. See also definitions of "complete" and "incomplete" vehicle.
3. Dr. Cliff's memorandum refers to upfitters and does not reference secondary vehicle manufacturers. Indicating that upfitters are experiencing shortages that need to be addressed through the regulation changes.
4. CARB is placing significant market risk on secondary manufacturers to attempt to develop an understanding of the ACT ZEV credit market.
  - a. CARB acknowledged in discussions that only two transactions occurred in 2024. There is no liquidity in the market creating increased price competition in a scarce marketplace. CARB is creating a market with no rules on transparency or how the market operates.
  - b. There is no transparency for secondary manufacturers or others into the credit market, placing undue risk on entities not experienced in credit trading.
  - c. Secondary manufacturers may only need partial credits to fulfill orders. The changes do not make it clear that partial credits can be traded.
5. There is no requirement that a manufacturer accept a ZEV or NZEV credit purchased from another manufacturer by a secondary manufacturer and release appropriate inventory.
6. There is no requirement that a manufacturer accept the credit at its "value" for inventory under the rule. This means a secondary manufacturer may have to buy a credit and then trade it to a manufacturer for less than its full value of inventory. This creates a lose-lose for a secondary manufacturer and increases the cost of inventory.

7. Under section 1963.3 (d) CARB restricts the use of NZEV credits to 50% of the deficit of a manufacturer. If a secondary manufacturer attempts to use a NZEV credit to acquire inventory, how will CARB ensure that the credit will be accepted if a manufacturer cannot use the NZEV credit against their deficit?
8. In some cases, manufacturers may need to relabel inventory to make vehicles available to secondary manufacturers.
9. ZEV vehicles are sold at a premium meaning a ZEV credit is likely to create a significant cost increase that would make a California assembled vehicle uneconomical when the regulations allow for used vehicles to be imported and avoid the ZEV credit cost and mitigation fee imposed on pre-2024 compliant engines.

Section 1963.2 (g).

1. CARB does not indicate an appropriate label for a vehicle that is exempt from the rule (such as those under CVC 165).
2. What is the process for relabeling a vehicle if a secondary manufacturer indicates it has credits available to purchase inventory from a manufacturer?

1963.3(b) and (d). A secondary manufacturer should not be limited from buying credits from any manufacturer even if their deficit is above 30%. This artificially restricts the supply of credits in the market creating additional scarcity and increases costs.

Credits, including NZEV credits, acquired by a secondary manufacturer should be allowed to be applied against any deficit of a manufacturer even if it exceeds 50%. Restricting the use of a credit attempting to be used by a secondary manufacturer may decrease or eliminate the value of that credit and not provide the benefits desired or liquidity in the market.

1963.4 does not provide clarification when a vehicle not for sale in California, is delivered to California for upfitting and then sold or delivered outside of California. CARB needs to clarify that manufacturers may deliver trucks not for sale in California for upfitting or secondary manufacturing if they will be delivered, sold or transferred to an owner that will not make the first registration of the vehicle in California.