



September 27, 2021 | Submitted Electronically

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**RE: SCPPA Comments on the Draft ACF Public Fleets Regulatory Language Presented at the September 9, 2021 Workshop**

The Southern California Public Power Authority<sup>1</sup> (SCPPA) appreciates the opportunity to provide comments on the Advanced Clean Fleets (ACF) draft regulatory language for public fleets,<sup>2</sup> as presented at the California Air Resources Board's (CARB) September 9<sup>th</sup> workshop. Each SCPPA Member owns and operates a publicly owned electric utility (POU) that is governed by a local board and is directly accountable to the community it serves. The primary role of each electric POU is to provide affordable, reliable electricity to nearly five million people living and working throughout Southern California. To fulfill this important obligation, our Members deploy fleets of highly specialized vehicles to maintain and operate essential utility infrastructure, including transmission, distribution, and generation assets.<sup>3</sup>

SCPPA supports CARB's goals to reduce emissions in the transportation sector and our Members are facilitating transportation electrification in their local communities. POU's will be key partners in ACF implementation, simultaneously responsible for purchasing many new electric vehicles while also delivering the energy to power them. Ensuring a reliable electricity supply will be the cornerstone of the success of transportation electrification and the ACF rule. However, if the ACF restricts the purchase or use of critical utility service vehicles, especially in the early years of implementation, it will hinder POU's' ability to maintain the electric grid and restore power in outages or after natural disasters, affecting all who depend on electricity in their daily lives.

SCPPA understands that medium- and heavy-duty (MHD) zero-emission vehicle (ZEV) applications should advance significantly in the coming decades. **However, we are concerned that key elements of the draft ACF rule for public fleets fail to account for the possibility that ZEV applications will not be widely available, accessible, and proven for the unique and specialized duty cycles that our Members' fleets need. This lack of recognition could jeopardize POU's' ability to provide reliable electricity and limit their capacity to rapidly respond and repair vital infrastructure following extreme weather events and natural disasters. In the event of widespread and prolonged outages, POU fleet vehicles must have replenishable fuel options that are not solely dependent on the infrastructure being repaired. As currently proposed, these**

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<sup>1</sup> SCPPA is a joint powers agency whose Members include the cities of Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles, Pasadena, Riverside, and Vernon, and the Imperial Irrigation District.

<sup>2</sup> [https://ww2.arb.ca.gov/sites/default/files/2021-08/210909acfdraftpub\\_ADA.pdf](https://ww2.arb.ca.gov/sites/default/files/2021-08/210909acfdraftpub_ADA.pdf)

<sup>3</sup> Many SCPPA Members provide another essential public service – water. While this letter focuses on impacts to POU's as electric utilities, the same concerns regarding feasibility and emergency response capability apply to our Members in their capacity as water utilities.

**elements of the ACF are impracticable and adjustments will be needed to ensure feasible implementation.**

SCPPA has actively participated in CARB's efforts to electrify the MHD on-road sector and submitted comments on the Zero-Emission Fleet Rule as early as March 2020.<sup>4</sup> Since then, we have submitted several comprehensive letters<sup>5</sup> highlighting the unique role of utilities in the economy-wide electrification efforts and the very specialized equipment needed to operate in remote locations and harsh conditions. However, the current draft requirements for public fleets do not sufficiently reflect those realities.

SCPPA Members, along with other electric utilities, will serve an important role in the ACF's success by supplying affordable, reliable electricity to power ZEV fleets and assisting with the significant infrastructure rollout needed to support the electrification of MHD fleets operating in their service areas. Our Members engage in judicious procurement and distribution system planning efforts to ensure they can meet the electricity needs of their communities. Electrification will necessitate upgrades to the distribution system to accommodate the additional electricity demand. The location, scope, timing, and costs of the upgrades will depend on fleet operations and charging needs as well as when utilities are engaged and can incorporate this information into their planning process. The challenges with deploying ZEV charging and fueling infrastructure will be significant, but not insurmountable as long as utilities are engaged early and often in the planning process and have sufficient access to information needed to plan upgrades to their electricity transmission and distribution systems.

SCPPA provides these comments in advance of the recently noticed October 6<sup>th</sup> workgroup meeting<sup>6</sup> to support a robust public discussion and help CARB develop an improved and feasible next iteration of the draft ACF regulation. The comments explain our key concerns and recommend solutions to address them. SCPPA is also open to alternative solutions that would resolve our key concerns and we look forward to discussing with CARB and other stakeholders on October 6<sup>th</sup> and at future workshops. The September 9<sup>th</sup> workshop on the proposed ACF rule was a much-appreciated start, but SCPPA agrees with the myriad of other stakeholders seeking a more robust public discussion on this significant regulatory concept *prior* to the official 45-day regulatory package being released next year.

Key comments on the draft ACF regulation include:

- The ZEV purchase requirements must provide realistic options or accommodations for public fleets if ZEV applications are not available or accessible.
- The ZEV purchase requirements must be compatible with public agency procurement processes.
- The ZEV purchase requirements must include **workable** accommodations for public fleet vehicles that maintain vital infrastructure and restore essential public services.
- Utilities need early access to information on affected fleets operating in their service areas to plan transmission and distribution system upgrades to supply additional electricity for ZEV charging infrastructure.

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<sup>4</sup> Letter submitted directly to staff as there was no public submission docket. It is available upon request.

<sup>5</sup> Refer to SCPPA comments dated April 2, 2021, at <https://www.arb.ca.gov/lists/com-attach/22-acf-comments-ws-UGAFNwAvB2QFMgMt.pdf>; Specialty Vehicle Coalition comments dated April 2, 2021, at <https://www.arb.ca.gov/lists/com-attach/20-acf-comments-ws-VCdRjwNnAjIDbAhp.pdf>; and Specialty Vehicle Coalition comments dated November 10, 2020, at <https://www.arb.ca.gov/lists/com-attach/2-acf-comments-ws-AWJcNIUxAzFSOgZZ.pdf>.

<sup>6</sup> Workgroup bulletin issued September 23, 2021, at <https://content.govdelivery.com/accounts/CARB/bulletins/2f40d4f>.

- The ACF rule must be developed through a robust and transparent public process, with additional public workshops focused on specific issues and additional rounds of informal draft regulations for public review and comment.

Illustrative redlines to the draft ACF public fleets requirements are included in Attachment A of this letter, and several photos illustrating recent significant storm damage to utility infrastructure and restoration efforts are included in Attachment B.

## **I. REGULATIONS MUST BE FEASIBLE FOR POU's, AS PROVIDERS OF AN ESSENTIAL PUBLIC SERVICE, TO IMPLEMENT**

### **A. Public Fleet Purchase Requirements Must Provide Realistic Options if ZEV Applications Are Not Available or Accessible to POU's**

The ACF is an unprecedented, significant rule that seeks to govern the transition of MHD fleets to zero-emission vehicles over the coming years and decades. During this time, in conjunction with implementation of the Advanced Clean Trucks (ACT) regulation, CARB projects that the nascent market for MHD ZEVs will expand to include all applications, body configurations, towing capability, and specialized duty cycles. SCPPA hopes that CARB's projections of widespread technical, commercial, and supply availability will come to fruition. However, even beyond projected availability, it is essential that any vehicles procured for POU fleet operations are proven to reliably perform under the relevant operating conditions and are accessible through public agency procurement processes. The draft regulations must build in sufficient flexibility to allow POU's to purchase vehicles needed for their continuous operations in the event that a corresponding ZEV or near zero-emission vehicle (NZEV) is not proven, available, and accessible on the timeframes required by this rule, especially in the early years – beginning in 2024 – when public fleets must purchase ZEVs to comply.

As currently proposed, the draft requirements for public fleets fail to build in an adequate contingency for POU fleets. At the September 9<sup>th</sup> workshop, CARB clarified that if a ZEV or NZEV is not available or a public fleet does not receive any responsive bids for them, the only options are to defer the vehicle purchase or to seek to buy a used vehicle. Waiting to replace a utility fleet vehicle that is necessary to maintain or operate electric transmission, generation, or distribution assets, particularly in the event of vehicle failure, is simply not a viable option for POU's. Maintaining equipment past its useful life is neither safe nor in the best interest of the state.

While the draft purchase requirements for public fleets technically only apply to purchases of new motor vehicles (as defined in section 95693 (b)(19)), SCPPA believes it is unlikely that there will be a robust market for used vehicles, particularly for highly specialized utility vehicles. Until ZEV specialty vehicles are widely commercially available and technically proven, fleet owners will have an incentive to retain older vehicles. Moreover, directing public fleet owners to purchase used internal combustion engine (ICE) vehicles when ZEVs are not available encourages reliance on older vehicles rather than implementing the best technology that is available now.

To ensure no adverse unintended consequences to POU's' ability to provide reliable and affordable electric service, SCPPA believes that only MHD ZEVs and NZEVs that are technically and practically available, fully tested and shown to be equivalently capable, and reasonably affordable should be required for purchase. SCPPA's recommendations are further described below.

#### *1:1 Replacement Must Be Core Element of ZEV Purchase Mandate*

CARB has experience with fleet rules before, and these historic mandates were appropriately based on a one-to-one (1:1) replacement of the existing vehicles.<sup>7</sup> While SCPPA appreciates CARB's urgency to reduce emissions through fleet electrification, this fundamental concept of a 1:1

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<sup>7</sup> CARB Truck and Bus Rule.

replacement mandate for POU fleet vehicles cannot simply be discarded. Requiring a vehicle to be replaced with one that cannot perform at the same level is impractical and unreasonable. This will result in utility fleets having multiple redundant vehicles that are underutilized but still subject to maintenance requirements and associated costs. POU fleets are designed to optimize vehicle assignments to specific crews in order to perform the utility's necessary operations.

The draft purchase requirements must allow for an exemption if ZEVs are not technically available to meet the duty cycle of the non-ZEV counterpart. To reduce the administrative burden to both CARB and fleets, SCPPA recommends that CARB annually post information on ZEVs for each duty cycle that are available and in production. SCPPA requests additional public discussion on this process and has included conceptual draft language in section 95693.2 (b)(1), (c), and (c)(1) of Attachment A.

#### *Purchase Requirements Must Reflect Need for Proven Reliability and Warranty Support*

Dependable vehicles are required for SCPPA Members and other POUs to fulfill their core obligation of providing affordable, reliable electricity service. POU fleet vehicles are called upon every day to conduct routine service and cannot afford to have vehicles frequently out of service due to repairs or because they cannot perform up to specifications. Furthermore, those same shift vehicles may be called upon to perform emergency repairs and operate continuously on end, adding further importance to the need for dependable vehicle performance. If a POU needs to replace an aging or failed vehicle, waiting multiple months or years for a proven ZEV drivetrain could significantly impact operations. The draft purchase requirements must include an exemption if available ZEVs have not been proven reliable.

SCPPA recommends that CARB include demonstrated performance data in a commercial fleet environment as a criterion for the list of available ZEVs to be posted on its website and requests that performance data and service reliability requirements be discussed at a future workshop or working group meeting. For utility fleet vehicles, SCPPA suggests that performance data for each ZEV application be based on a minimum of two years' operation and one million miles driven (individually or combined over the same ZEV application being tested in the fleet). To provide a reasonable expectation of service reliability, the performance data should show a 90% vehicle availability, or an availability rate of 325 out of 365 days each year. SCPPA also recommends that manufacturer and parts support be required for any vehicle listed as available on CARB's website. Conceptual draft language is included in section 95693.2 (c)(2) and (3) of Attachment A.

#### *Purchase Requirements Must Recognize Potential Supply Constraints*

Even if a vehicle is technically "available," there are numerous real-world vehicle market dynamics that are outside of a POU's control when purchasing a new vehicle. The dynamics must be considered in the regulation such that replacement vehicles can be secured on a timely basis, regardless of powertrain. The current supply shortage of semiconductors and the ripple effect on the global supply chain is just one example of market dynamics affecting vehicle availability. The ACF may also create significant supply shortages in the near term as local governments and high-priority fleets compete with each other to purchase ZEVs while the market is still developing. In addition, availability may also be affected by dealerships' readiness to transition to ZEV inventory, particularly early in the transition.

Another important market dynamic that will affect POUs is purchasing power. Smaller entities needing a single vehicle will be at a disadvantage to those fleets purchasing scores of vehicles at once. The smaller entity still needs a replacement vehicle. Similarly, public agencies may be at a competitive disadvantage because private companies will likely be able to pay more per unit, purchase upgraded packages, or offer more flexible payment than public fleets. SCPPA recommends that the purchase requirements provide accommodations where ZEVs are technically and commercially available but POUs are unable to purchase them due to market conditions beyond their control, resulting in lead times exceeding one year. Conceptual draft language is included in section 95693.2 (b)(3) of

Attachment A. SCPPA requests additional discussion on this topic at a future workshop or working group meeting.

#### *Purchase Requirements Must Recognize Public Procurement Processes*

POUs as public entities have many purchasing restrictions, including least-cost procurement from “responsive” bids by “responsible” bidders. While specific requirements vary by public agency, “responsive” means the bid meets technical specifications as determined by the utility and “responsible” means the bid meets the agency’s minimum standards for vendors. Even if a ZEV is commercially available, a POU may be unable to purchase the vehicle if it does not receive responsive bids from at least two responsible suppliers. Some of SCPPA’s smaller Members have experienced multiple no-bid RFPs due to their small purchasing size.

The purchase requirements for public fleets must acknowledge how public agency procurement works and provide practical accommodations if the POU does not receive responsive bids from responsible suppliers. Proposed draft language is included in section 95693.2 (b)(3) of Attachment A.

#### *Purchase Requirements Should Recognize Infrastructure Limitations*

SCPPA Members are prepared to assist with infrastructure deployment for their own fleets as well as fleets operating in their service areas. This process will take time, planning, resources, and analysis, as further described in Section II of these comments. Some utilities may not currently have the infrastructure to support the increased volume of electricity needed for the ACF transition to ZEV fleets. Existing facilities (many of which are decades old) will require voltage, amperage, transformer, and wiring upgrades to accommodate new ZEV trucks, but the full extent of upgrades may not yet be clear. Installation projects of this magnitude, across multiple facilities, may not be feasible within the next few years that fleets will begin purchasing ZEVs. SCPPA requests that this topic and any necessary accommodations be discussed at a future workshop or working group meeting.

#### *Purchase Requirements Must Include Ratepayer Protections*

Capital cost increases translate to rate impacts on POU customers regardless of total cost of ownership. POUs are public agencies, whose costs for operation and equipment are passed through directly to ratepayers. Future savings can help mitigate future rate pressures, but the projected increase in capital cost expenditures needs to be paid for in real-time.

These cost pressures and cash flow concerns are especially acute for smaller utilities. Increased rates may harm affordability and thus dampen the larger policy goal of electrification. The final version of the ACF should have affordability protection mechanisms for POU customers through a cost limitation established through a public process by the POU’s governing board or through a cost-effectiveness standard. Such cost-effectiveness determinations have been standard for decades.<sup>8</sup> SCPPA requests that affordability protections be discussed at a future workshop or working group meeting, and SCPPA has proposed conceptual draft language in section 95693.2 (b)(4) of Attachment A.

#### *Treatment of NZEVs Should Be Generally Consistent for Public Fleets and High-Priority Fleets*

The current draft purchase requirements specify that public fleets may count NZEVs for compliance with the ACF purchase requirement only if they do not receive any responsive bids for ZEVs (section 95693.1 (a)(1)(C)). This is inconsistent with the treatment of NZEVs in the requirements for high-priority fleets, which allow NZEVs with model years of 2035 or earlier to count equal to ZEVs (section 95692 (b)(9)(B)). SCPPA Members see potentially significant value in NZEVs, if they are commercially available and tested, because they could provide flexibility and fuel diversity for vehicles with demanding duty cycles. This is especially important in the early years of the ACF purchase requirements. SCPPA recommends CARB allow NZEVs to count equal to ZEVs through 2035,

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<sup>8</sup> SCAQMD Rule 1196, adopted in 2000, as an example.

consistent with the requirements for high-priority fleets. Proposed language is included in new section 95693.1 (a)(1)(D) of Attachment A.

### *NZEV Definition Should Be Modified to Provide Flexibility for Specialized POU Vehicles*

The current definition of NZEV (section 96593 (b)(18)) requires a minimum number of all-electric miles. At the September 9<sup>th</sup> workshop, CARB staff indicated that they view NZEVs as a bridging technology. However, as was noted in workshop Q&A, there are currently no NZEVs that meet this definition.

To ensure NZEVs can be a bridging technology and to support immediate emissions reductions for specialty vehicles, SCPPA requests that CARB modify the definition of NZEVs specific to public fleet specialty vehicles designated as supporting electricity, water, wastewater, or gas service. The modified definition would apply only until ZEVs or NZEVs are demonstrated, available, and accessible for the specific use case. SCPPA recommends that the modified definition include, at minimum, hybrid vehicles with conventional drivetrains that work in conjunction with electric power takeoff, such as plug-in hybrid aerial devices. These hybrids are commercially available today and can significantly reduce emissions associated with idling for specialty vehicles' onsite work. A modified NZEV definition, applicable under specific circumstances, would also encourage utilities to replace their oldest specialty vehicles without risking impacts to essential public service operations before electric NZEVs or ZEVs are available and demonstrated to be reliable for utility service. Conceptual draft language is included in section 95693 (b)(18) and (b)(18)(A).

### **B. Regulations Must Include Workable Accommodations for Vehicles that Provide Emergency Response**

SCPPA Members and other POUs provide a societally necessary emergency response function as providers of reliable, affordable electricity. These key responsibilities have been detailed in prior comments.<sup>9</sup> When disasters occur, utility fleets can be dispatched to repair vital infrastructure at a moment's notice without returning to their home bases until the job ends. Examples of emergency response functions POUs serve include, but are not limited to, restoring power to communities after catastrophic wildfire events, storms, or earthquakes, addressing and mitigating dangers from damaged infrastructure, and ensuring that first responders, like fire departments, have power for their operations and communications.

While SCPPA appreciates the inclusion of an emergency response exemption within the ACF proposal for public fleets, the draft requirements in section 95693.2 (a) are impracticable and include an unrealistic set of criteria. The criterion in section 95693.2 (a)(1) requiring at least 75% of a particular vehicle body type to be ZEV as a precondition for receiving an exemption is problematic on several fronts.

- It fails to recognize that due to the specialized duty cycle or unique use case, all of certain vehicles may need to be available to be immediately dispatched in an emergency, without needing to recharge. One example is patrol trucks that are designated as first responders to power outages. These patrol trucks are required to be 24/7 capable.
- This high threshold percentage is also not workable for smaller fleets, which may only have a small number of specialty vehicles of a given body type. For example, one SCPPA Member owns three bucket trucks, and would be mathematically precluded from having any non-ZEV bucket trucks as currently proposed.

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<sup>9</sup> <https://www.arb.ca.gov/lists/com-attach/2-acf-comments-ws-AWJcNIUxAzFSOgZZ.pdf> and [https://ww2.arb.ca.gov/sites/default/files/2020-09/200918presentation\\_ADA.pdf](https://ww2.arb.ca.gov/sites/default/files/2020-09/200918presentation_ADA.pdf).

- If a utility is seeking an exemption because the ZEV application for a vehicle is unavailable, there is no way to meet this condition.

Furthermore, the criterion in section 95693.2 (a)(2) requiring POUs demonstrate that ZEV fueling or charging infrastructure is not available in areas served by emergency response does not appear to recognize that POU fleets deployed to repair electricity infrastructure will be operating in an area where electricity is not available to charge the vehicles, regardless of whether charging infrastructure exists. Moreover, many of the areas where utility vehicles are dispatched to respond to outages are remote or rural where there is simply no charging infrastructure. Fuel diversity for electric utilities is an important hedge needed to ensure POUs can respond to any adverse conditions within their own service areas or the service areas of sister utilities with which they have mutual aid agreements.

Just in the last few weeks, one SCPPA Member, the Imperial Irrigation District, was faced with severe back-to-back storms that resulted in significant damage and weekslong work to replace remote transmission lines.<sup>10</sup> Given the remote terrain, there was no fueling or charging infrastructure available, and the area had no electrical power. Mutual aid was provided by several utilities in-state and out-of-state, who deployed fleets and crews that worked without returning to their home bases until the job was done. One SCPPA Member with alternative fueled equipment was unable to participate in mutual aid as there was no alternative fueling capacity. Several photos illustrating examples of the significant damage and around-the-clock restoration efforts are included in Attachment B.

While SCPPA believes CARB's intent is to construct a robust exemption process to minimize loopholes, SCPPA urges CARB to reconsider the overly restrictive proposed criteria, given the ability to repair vital electricity infrastructure is at stake. As the homes and businesses in our communities increasingly rely on electricity for all aspects of their energy needs, being able to quickly respond in emergencies and restore power as soon as possible is vital to a community's resiliency and the state's economy.

To make the emergency response exemption workable for POUs, SCPPA recommends removing the condition that at least 75% of vehicle body type must already be ZEV. Each utility is unique in their operations, fleets, infrastructure, geography, age of fleet, purchasing power, and procurement schedules, among others. Local governing boards, informed by their fleet operators and utility managers, are the best positioned to understand their utility's operational fleet needs to provide reliable electricity service. Any POU fleet vehicle designated as necessary for emergency response by the POU governing board in a public process should be treated equal to emergency vehicles designated in the California Vehicle Code. Proposed draft language is included in section 95693.2 (a) of Attachment A.

### *30-Day Limit Should Be Removed for Out-Of-State Fleets Responding to Emergency Declaration*

Section 95693.5 (c) of the draft requirements for public fleets specifies that any out-of-state vehicle operating in California pursuant to an Executive Order or Emergency Declaration by the state's governor is exempt from the ACF requirements for 30 days only. SCPPA recommends that CARB remove this requirement, as it could have serious ramifications for mutual aid in the event of widespread or significant emergency events. While SCPPA believes CARB's intent is to minimize potential loopholes, the condition that the out-of-state fleets are responding to a disaster or conditions serious enough to warrant action by the governor should be sufficient to prevent any "gaming" of the rule. Proposed draft language is included in section 95693.5 (c) of Attachment A.

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<sup>10</sup> A video illustrating some of the damage and restoration efforts can be viewed at <https://www.youtube.com/watch?v=omkFESCg3Og>.

### *Manufacturer Sales Requirements Must Align with Emergency Response Exemptions*

Section 95694 (d) of the 2040 100 Percent Sales Requirement<sup>11</sup> for manufacturers requires all MHD vehicles produced and delivered for sale in California to be ZEVs, except for authorized emergency vehicles. The definition of authorized emergency vehicles in section 95694 (c)(1), however, includes only designated vehicles in the California Vehicle Code. This definition fails to recognize utility emergency response vehicles that are exempted from the ACF and must be amended. SCPPA recommends that “authorized emergency vehicle” be revised to include vehicles designated in the California Vehicle Code *and* utility emergency response vehicles that receive an exemption pursuant to section 95693.2 (a).

### **C. Compliance Should be Clear, Straightforward, and Minimize Administrative Burden**

An additional component to feasibility involves ensuring that regulatory requirements are clear and administrative burdens are minimized to the extent possible. SCPPA offers the following additional comments related to compliance with the ACF.

#### *Exemption Process Must Be Robust and Expeditious*

The draft requirements for public fleet exemptions in section 95693.2 (a) do not specify the details to apply for and receive an exemption. SCPPA believes that having clear, specific requirements delineating the timeframes, process, and necessary documentation is essential for a transparent and practical exemption process that provides certainty to all parties. The timeframes associated with Executive Officer review should not impede a POU’s ability to procure a fleet vehicle in a reasonable amount of time, should not place an undue administrative burden on the public fleet owner, and should recognize the expertise and authority of POU’s fleet managers and governing boards in determining what vehicles are needed for emergency response and why; what an appropriate cost limitation may be to protect POU ratepayers; and what bids comport with the POU’s public procurement process, among others.

#### *CARB Must Address Interactions Between ACF and South Coast AQMD Fleet Rules*

Many SCPPA Members are subject to the South Coast Air Quality Management District’s (AQMD) regulations applicable to medium- or heavy-duty fleet vehicles. Under no circumstances should a utility be subject to conflicting procurement standards. SCPPA requests that CARB address the interaction between the proposed ACF rules and other AQMD fleet rules, such as Rule 1196. The ACF must clarify that vehicles allowed or exempted under one rule will be recognized in the other rule without requiring a duplicative, burdensome exemption process.

#### *Reporting Should Focus on MHD Vehicles Purchased During the Prior Calendar Year*

The draft public fleets requirements, as set forth in section 95693.1 (a), are based on a purchase requirement for new MHD vehicles. “Purchase” is defined in section 95693 (b)(29) as the date a public agency has identified, committed, and encumbered funds and executes a “notice to proceed,” or purchase order, for a vehicle. Thus, SCPPA understands compliance with the rule to be based on the number of purchase orders for new MHD vehicles.

However, the reporting requirements in section 95693.3 (c)(2) appear to be focused on fleet composition. SCPPA recommends that CARB clarify the draft requirements for public fleets to specify that reporting, and the associated recordkeeping requirements, apply only to new MHD vehicle purchases under the ACF. Reporting on existing fleet vehicles is not relevant to public fleet compliance with the ACF and should not be required. Proposed draft language is included in section 95693.3 (b) and (c) of Attachment A.

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<sup>11</sup> [https://ww2.arb.ca.gov/sites/default/files/2021-08/210909draft100zev\\_ADA.pdf](https://ww2.arb.ca.gov/sites/default/files/2021-08/210909draft100zev_ADA.pdf)



### *Clarification Needed for Public Fleets that are Subdivisions of a Larger Public Agency*

SCPPA appreciates CARB's clarification at the September 9<sup>th</sup> workshop that a POU owned and operated by a municipality may choose to comply with the fleet rule individually or as part of the larger public agency's fleet. However, the current draft requirements refer both to "fleet owners" and to "public agencies," which is confusing. SCPPA recommends using consistent terminology and clarifying draft regulations to reflect this optionality. Conceptual draft language is included in section 95693 (b)(11) and (b)(11)(A), section 95693.3 (a)(1)(A) and (a)(1)(G), and throughout the draft regulations in Attachment A.

Further, SCPPA recommends that this concept be extended to subdivisions of public fleets that are separately managed and domiciled in low-population counties. The vehicles domiciled in low-population counties should be afforded the same extension as public agencies with sole jurisdiction in low population counties because the same practical barriers apply. Conceptual draft language is included in section 95693.1 (C) of Attachment A.

### *Public Fleets Should Have 10 Days to Provide Records for Audits or Accommodate Inspection Requests*

As currently proposed, records must be available for CARB to audit within 72 hours of a request (section 95693.4 and section 95693.5 (a)(1)). While SCPPA understands the need for CARB to readily access records for auditing purposes, many smaller public fleets have limited staffing and resources. The 72-hour deadline may be impractical or cause an unnecessary burden if the request is made, e.g., on a Friday or over a holiday weekend. SCPPA instead recommends extending the response to provide records to 10 days. Proposed draft language is included in section 95693.4 and 95693.5 (a)(1) of Attachment A.

Similarly, SCPPA recommends that CARB provide 10 days' notice prior to inspecting vehicles or records. Currently, the draft requirements do not specify a timeframe around right of entry (section 95693.5 (a)(2)). Due to limited resources, some smaller public fleets may have difficulty accommodating a same-day inspection or, in some cases, coordinating a visit to inspect a vehicle that is on the job. SCPPA believes that 10-day notice from CARB reasonably balances CARB's ability to inspect records or audits as part of regulation enforcement with the resource and logistics constraints experienced by many smaller fleets. Proposed draft language is included in section 95693.5 (a)(2) of Attachment A.

### *Draft Regulations Should Use Consistent Terminology For Exemptions*

The draft requirements for public fleets use both "exemptions" and "extensions" in section 95693.1 (a)(6) and section 95693.2. For the purposes of clarity, SCPPA recommends CARB use consistent terminology throughout the draft regulations. Proposed language is included in these sections of Appendix A.

### *Compliance is Appropriately Based on Purchase Orders*

SCPPA appreciates that the draft regulations for public fleets assess compliance based on the purchase order date, rather than the vehicle model year. As noted in SCPPA's prior comments, assessing compliance based on vehicle model year would create significant planning challenges because the vehicle model year may not be known at the time the purchase order is issued.

### *Single Reporting Deadline is Reasonable*

SCPPA appreciates that the draft regulations for public fleets do not include an additional requirement to report within 30 days of adding a vehicle to the fleet. As noted in SCPPA's prior comments, the additional 30-day reporting requirement was duplicative and unnecessary.

## **D. Cost Assumptions Must Align with Actual Proposal**

The data and underlying assumptions of the Total Cost of Ownership (TCO) document<sup>12</sup> are based on a 1:1 replacement of vehicles. However, this analysis does not hold if a POU, or any entity, needs to purchase more than one vehicle to complete the duty cycle of the replaced vehicle. Given that these cost calculations are being used to justify the regulation, the 1:1 issues previously raised in this comment letter become even more critical. If it takes more than one ZEV to replace an ICE vehicle or requires significant changes to fleet operations, the cost comparisons provided in the TCO document are no longer relevant.

In addition, as a revenue source to offset TCO, the Low Carbon Fuel Standard (LCFS) credit price is projected to be at \$200 until 2030. However, actual average LCFS credit price has fallen under \$200 since April 2021.<sup>13</sup> In addition, there is increasing downward pressure due to: 1) increased credit supply from electrification and other renewable fuel adoption in multiple transportation applications; 2) decreased credit demand, due to higher carbon allowance values that drive up diesel and gasoline prices, and various clean transportation regulations that will start by mid-decade. In addition, the LCFS regulation is scheduled for its periodic update of underlying models and CARB staff have already indicated a stringency adjustment to the program after 2030. Therefore, SCPPA recommends the TCO calculations assume a more conservative estimate of for LCFS credits, rather than an assumption that credits will remain near the ceiling price.

Furthermore, as there are currently no commercially available ZEV MHD specialty vehicles today that have an operational and maintenance history, SCPPA believes that CARB should use more conservative values when assigning data to ZEV specialty vehicles. This data is projected, but the reality could look much different, and much more expensive. As POUs are zero-profit public agencies, equipment costs are “pass through” expenses for POUs and added costs translate into higher costs to ratepayers.

## **II. CARB MUST RECOGNIZE AND SUPPORT UTILITY PLANNING NEEDS IN ZEV INFRASTRUCTURE ROLLOUT**

Deploying the ZEV charging and fueling infrastructure to support fleet electrification timelines and without impacting reliable electricity service will be critical to the success of the ACF rule. However, the costs and timeframes associated with utility infrastructure upgrades to support ZEV fleets will depend significantly on when utilities have access to information on fleets that can be included in their planning processes. Early and ongoing communication between fleets and utilities will be needed to ensure ZEV infrastructure can be deployed cost-efficiently and in a timely manner. SCPPA recommends CARB consider modifications to the draft ACF requirements to facilitate necessary communication. However, given the long lead times for utility planning and the fact that the regulations will not be adopted until the end of next year at the earliest, SCPPA also believes that CARB sharing the ACT Large Entity Reporting Data with utilities is a necessary first step in a successful infrastructure planning process.

Supporting infrastructure for ZEV fleets could take months to years to deploy, depending on the specific fleet duty cycle, size, location, and operations. As fleets move toward electrification and require new load, the circuits, distribution lines and substations that are nearing capacity will become stressed and require distribution system upgrades to sustain the increased load. Even lines that may have significant available capacity now will see that reduced as transportation and other sectors of the

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<sup>12</sup> [https://ww2.arb.ca.gov/sites/default/files/2021-08/210909costdoc\\_ADA.pdf](https://ww2.arb.ca.gov/sites/default/files/2021-08/210909costdoc_ADA.pdf)

<sup>13</sup> See CARB's Weekly LCFS Credit Transfer Activity report at <https://ww3.arb.ca.gov/fuels/lcfs/credit/lrtweeklycreditreports.htm>; Neste's California LCFS Credit Price at <https://www.neste.com/investors/market-data/lcfs-credit-price>.

economy electrify in coming years. For relatively minor distribution upgrades, lead times may be on the order of six months to two years. Upgrades like undergrounding lines could take 2-3 years, and lead times to upgrade substations could take up to 10 years. Furthermore, for transmission-constrained utilities with limited land for additional local resources, impacts to peak load from MHD charging could necessitate transmission upgrades, which require even longer planning horizons.

Given that the timeframes associated with major distribution system upgrades are roughly commensurate with the fleet electrification timelines under the ACF, it is essential that utilities have information on fleets as early as possible. Information on fleet size, duty cycles, expected charging needs and charging locations will be needed to determine what distribution system upgrades are needed at a site-specific level. In addition, aggregate information on fleets operating within a utility's service area will be needed to assess peak load impacts for substation and potential transmission level planning.

Early access to fleet information is also important for minimizing costs to fleets as well as to utilities and their ratepayers. Knowing the necessary future infrastructure buildout well in advance allows utilities to incorporate it into their distribution system planning and more optimally carry out nearer-term upgrades – for example, adding conduits during undergrounding projects to make transportation electrification upgrades that are needed down the line. Furthermore, this information will allow utilities to efficiently plan for the entire fleet's future charging needs, rather than making one-off upgrades for incremental capacity at higher cost.

### **III. ROBUST, TRANSPARENT PUBLIC PROCESS NEEDED TO DEVELOP SUCCESSFUL RULE**

The ACF is a landmark opportunity for the state to reduce emissions in the transportation sector, but it comes with significant and wide-ranging impacts and risks. To ensure the rule can be successful, the ACF must be developed through a robust, transparent public process to minimize the potential unintended consequences.

SCPPA appreciates CARB's recent announcement of public workgroup meetings to discuss the ACF, including an October 6<sup>th</sup> workgroup meeting on requirements for public fleets. At the September 9<sup>th</sup> workshop, there were hundreds of participants and nearly 400 questions asked, showing significant public desire to provide input on this rule, and SCPPA anticipates there will be many comments submitted as well. Furthermore, as explained above, key elements of the current proposal for public fleets could pose significant risks to Members' ability to provide affordable, reliable, and resilient electricity service. Critical additional work is needed to vet the proposal and make needed changes before CARB advances to the rulemaking stage of the proceeding. Additional rounds of draft regulations and additional public workshops are needed between now and the start of the formal rulemaking process next summer.

SCPPA believes this regulation will be more implementable with, at minimum, another round of draft regulations that address the fundamental issues highlighted in these comments, as well as stakeholder-engaged working group meetings on cost assumptions, specialty vehicles, infrastructure planning needs, and emergency response criteria. To facilitate transparency and accessibility, SCPPA requests these additional workgroups be recorded or transcribed and made available to the public.

### **III. Conclusion**

SCPPA appreciates CARB staff's stated willingness to discuss and to understand the needs of different stakeholders, including POU's, and we look forward to working collaboratively with staff, management and the CARB Board Members to ensure that the proposed rule is workable and

positioned for success without risking consequences to electricity reliability and affordability. Please do not hesitate to contact me at (916) 839-8542 or [katharine.larson@scppa.org](mailto:katharine.larson@scppa.org) if you have any questions.

Respectfully submitted,

A handwritten signature in cursive script that reads "Katharine Larson".

Katharine Larson  
Government Affairs Manager  
Southern California Public Power Authority

## Attachment A: Redline to Draft Requirements for Public Fleets

Note: Recommended additions are shown in **bold underline** and deletions shown ~~bold strikethrough~~.

### Section 95693. Public Fleets Applicability, Definitions, and General Requirements.

(a) *Scope and Applicability.* Section 95693 applies to any public agency that owns, leases, or operates a vehicle with manufacturer's gross vehicle weight rating (GVWR) greater than 8,500 pounds as defined in section 95693(b)(26). This section does not apply to federal fleets nor vehicles described in section 95693(c).

(b) *Definitions.* For the purposes of this regulation, the following definitions apply:

(1) "Authorized dealer" means an independent sales, service, or repair facility that is recognized by a motor vehicle manufacturer as a sales representative or is authorized and capable of performing repairs to factory specifications, including warranty repair work.

(2) "CARB" means the California Air Resources Board.

(3) "Class 2b-3" means a vehicle with a GVWR that is 8,501 pounds up to 14,000 pounds.

(4) "Class 4-6" means a vehicle with a GVWR that is 14,001 pounds up to 26,000 pounds.

(5) "Class 7-8" means a vehicle with a GVWR that is 26,001 pounds and higher.

(6) "Common ownership or control" for a public fleet means being owned, dispatched, or managed day-to-day by the same person or entity. Vehicles managed by the same directors, officers, or managers, are considered to be under common ownership or control even if their title is held by different entities or they have different taxpayer identification numbers. Common ownership or control of a government vehicle shall be the primary responsibility of the governmental agency that is directly responsible for its day-to-day operational control.

(7) "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.

(8) "Designated low population counties" means the counties of Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, Glenn, Humboldt, Inyo, Lake, Lassen, Mariposa, Mendocino, Modoc, Mono, Nevada, Plumas, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Tuolumne, and Yuba.

(9) "Executive Officer" means the Executive Officer of the California Air Resources Board or delegated representative.

(10) "Fleet" means one or more vehicles owned by **a public fleet owner** ~~an entity~~ and includes rental or leased vehicles that are considered owned by the fleet owner.

(11) **"Public fleet owner"** ~~"Fleet owner"~~ means the person or entity that is the owner of the vehicles comprising the fleet. The owner shall be presumed to be either the person registered with the California Department of Motor Vehicles (DMV) as the owner or lessee of a vehicle, or its equivalent in another state, province, or country; vehicle ownership is based on the vehicle registration document or the vehicle title, except as specified in (A) and (B) below:

**(A) For vehicles that are owned by a public agency, the public fleet owner shall be either the public agency or the department, branch, or other entity of the public agency to which vehicles in the fleet are assigned. The public fleet owner shall notify CARB of this determination in writing within 180 days of the effective date of these regulations.**

## Attachment A: Redline to Draft Requirements for Public Fleets

**(B)(A) Except as specified in subparagraph (A), for** ~~For~~ vehicles that are owned by the government, the owner shall be the department, agency, branch, or other entity of the government to which the vehicles in the fleet are assigned or which has responsibility for maintenance of the vehicles.

**(C)(B)** For vehicles that are rented or leased from a business that is regularly engaged in the trade or business of renting or leasing motor vehicles without drivers:

1. The owner shall be presumed to be the rental or leasing entity for purposes of compliance with section 95693.1, if:

a. The rental or lease agreement for the vehicle is for a period of less than one year; or

b. The rental or lease agreement for the vehicle is for a period of one year or longer, unless the terms of the rental or lease agreement or other equally reliable evidence identifies the party responsible for compliance with vehicular state laws to be the renting operator or lessee of the vehicle.

(C) For purpose of enforcement, if the vehicle is inspected and cited for noncompliance with this regulation and neither the operator of the vehicle nor the rental or leasing entity can produce evidence of the party responsible for compliance with state laws, the owner shall be presumed to be both the rental or leasing entity and the renting operator or lessee of the vehicle.

(D) A financing company or a person that only provides financing to a third party in the form of "finance leases," as defined in California Uniform Commercial Code Section 10103(a)(7), is not considered to "own" the vehicles that are financed. Similarly, a financing company or a person that only provides financing to a third party for powertrain retrofits is not considered to be the owner of the vehicle.

(12) "Gross vehicle weight rating" or "GVWR" means the same as CVC section 350, as indicated by the characters in the 4-8 positions in a standard 17-character Vehicle Identification Number (VIN).

(13) "Government agency" means any state or local public agency, or any other public entity with taxing authority. For the purposes of this regulation, this does not include federal government agencies.

(14) "Historical vehicle" means a motor vehicle as defined in CVC section 5004.

(15) "Lessee" means the same as defined in CVC section 371.

(16) "Lessor" means the same as defined in CVC section 372.

(17) "Manufacturer" means any entity or person who manufactures or assembles new on-road motor vehicles or yard tractors, or imports such vehicles for resale, or who acts for an entity or is under the control of any such person in connection with the distribution of new motor vehicles, but shall not include any dealer with respect to new motor vehicles received in commerce. In general, the term manufacturer includes any person who manufactures or assembles an on-road vehicle, a cab and chassis, or other incomplete on-road vehicle for sale in California or otherwise introduces a new on-road motor vehicle into commerce in California. This includes importers who import vehicles for resale. This does not include persons who supply parts to the importer or vehicle manufacturer of record.

(18) "Near-zero-emissions vehicle" or "NZEV" means a vehicle as defined in title 13, CCR section 1963(c)(16), **except as specified in (A) below**. It is a vehicle that is capable of operating like a ZEV for a minimum number of miles.

## Attachment A: Redline to Draft Requirements for Public Fleets

**(A) For public fleet vehicles that meet the definition of specialty vehicles in section 95692 (b)(39) and support electricity, natural gas, water, wastewater or wastewater service in California or in other states, “NZEV” shall include hybrid vehicles with internal combustion engines and electric power takeoff if the public fleet owner does not receive responsive bids for at least two vehicles as defined in title 13, CCR section 1963 (c)(16) and subject to the availability criteria of section 95693.2 (c).**

- (19) “New motor vehicle” means a motor vehicle, the equitable or legal title to which has never been transferred to an ultimate purchaser.
- (20) “Notice to proceed” means a written direction to a vehicle manufacturer to commence production of a motor vehicle as provided in a contract.
- (21) “Public agency” means a city, county, public utility, special district, or a public agency of the State of California, and any department, division, public corporation, or public agency of the State of California.
- (22) “Responsible official” means either a principal executive officer, elected official, or delegated representative of the public agency.
- (23) “Standard rounding convention” means if the calculated value is not equal to a whole number, the value shall round up to the nearest whole number when the fractional part is equal to or greater than 0.5, and round down to the nearest whole number if less than 0.5.
- (24) “Tractor” means an on-road vehicle meeting one of the following:
- (A) The definition of “tractor” in title 17, CCR section 95662(a)(23), or
  - (B) The definition of “vocational tractor” in title 17, CCR section 95662(a)(27).
- (25) “Used zero-emissions vehicle” means a zero-emissions vehicle that is not a new motor vehicle.
- (26) “Vehicle” or “motor vehicle” means self-propelled equipment that meets either of the following criteria:
- (A) Has a GVWR of 8,501 pounds or more and is intended for use on highways, and meets the definition set forth in title 17 CCR section 95662(a)(26); or
  - (B) Is an off-road yard tractor
- (27) “Vehicle body type” means commonly used vehicle body descriptions to be used when reporting to CARB including the following: beverage truck, boom/bucket, box reefer, box dry van, two-axle bus, three-axle bus, car carrier, concrete mixer, concrete pump, crane, drill rig, dump, flatbed, stake bed, garbage packer, garbage roll-off, other, pickup bed, service or utility body, sweeper, tank, tractor day cab, tractor sleeper cab, tow, vacuum, water, van-cargo, van-step, van\_passenger, yard tractor.
- (28) “Vehicle model year” means a designation meeting the definition of “model year” under title 17, CCR section 95662(a)(16).
- (29) “Vehicle purchase” or “purchase” means the agency has identified, committed and encumbered funds and executes one of the following for immediate delivery:
- (A) A written “notice to proceed” executed by a fleet to a vehicle manufacturer to begin production of a vehicle either:
    1. Under a previously-entered purchase contract; or

## Attachment A: Redline to Draft Requirements for Public Fleets

2. To execute a contract option;

(B) If no notice to proceed is issued, a written purchase agreement between a fleet and a vehicle manufacturer that specifies the date when the vehicle manufacturer is to proceed with the work to manufacture the vehicle; or

(C) A signed written lease agreement between a fleet owner and a vehicle manufacturer or sales representatives for a new motor vehicle to be placed in service for a contract term of one year or more.

(30) "Yard tractor" means an on-road or off-road vehicle that has a movable fifth wheel that can be elevated and is used in moving and spotting trailers and containers at a location or facility. Yard tractors are also commonly known as yard goats, hostlers, yard dogs, trailer spotters, or jockeys.

(31) "Zero-emissions vehicle" or "ZEV" means an vehicle with a drivetrain that produces zero exhaust emissions of any criteria pollutant (or precursor pollutant) or greenhouse gas under any possible operational modes or conditions.

(c) Exemptions. This regulation does not apply to the following:

(1) Emergency vehicles as defined in CVC section 165

(2) Dedicated snow-removal vehicles as defined in section 95693(b)(7)

(3) Historic vehicles as defined in section 95693(b)(14)

(4) Military tactical vehicles as defined in title 13, CCR section 1905

(5) School buses as defined in California Vehicle Code 545(a); or

(6) Transit vehicles subject to the Innovative Clean Transit regulation commencing with title 13, CCR section 2023.

NOTE: Authority cited: Sections 38501, 38510, 38560, 38566, 39500, 39600, 39601, 39650, 39658, 39659, 39666, 39667, 43013, 43018, 43100, 43101, 43102, 43104 Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38560, 38580, 39000, 39003, 39650, 39655, 43000, 43000.5, 43013, 43016, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43205, 43205.5 Health and Safety Code.

### Section 95693.1 Public Fleets ZEV Purchase Requirements

Regulated entities must comply with the following requirements:

(a) General requirements. Beginning with the applicable effective dates, a **public fleet owner public agency** must comply with the following requirements:

(1) ZEV purchase requirements. In any given calendar year, **public fleet owners public agencies** must purchase ZEVs as specified by the following schedules:

(A) For a **public fleet owner public agency** whose jurisdiction is not solely in a designated low population county:

1. Starting January 1, 2024, 50 percent of the total number of new motor vehicle purchases in each calendar year must be ZEVs; and



## Attachment A: Redline to Draft Requirements for Public Fleets

2. Starting January 1, 2027, 100 percent of the total number of new motor vehicle purchases in each calendar year must be ZEVs.

(B) For a **public fleet owner** ~~public agency~~ whose jurisdiction is solely in a designated low population county:

1. Starting January 1, 2027, 100 percent of the total number of new motor vehicle purchases in each calendar year must be ZEVs.

**(C) Notwithstanding subparagraph (A), for a public fleet owner that operates multiple fleets, including fleets domiciled solely in a designated low population county:**

**1. Starting January 1, 2024, 50 percent of the total number of new motor vehicle purchases in each calendar year must be ZEVs. This requirement shall not apply to the public fleet owner's fleets domiciled in a designated low population county.**

**2. Starting January 1, 2027, 100 percent of the total number of new motor vehicle purchases in each calendar year must be ZEVs.**

**(D)(C) Until January 1, 2035, NZEV purchases will be counted the same as a ZEV purchase ~~if a public bid is issued to purchase ZEVs and NZEVs, but no responsive bids for ZEVs were received for that bid.~~**

(2) Rounding. If the calculated required minimum number of ZEV or NZEV purchases as set forth in section 95693.1(a)(1) does not result in a whole number, then use the standard rounding convention as defined in section 95693(b)(23).

(3) ZEV accounting. The required minimum number of ZEV or NZEV purchases each calendar year can be met with any combination of new ZEV or NZEV purchases and any ZEV additions to the fleet, including a used or retrofitted ZEV. Each ZEV or NZEV may be counted only once **as long as the vehicle remains in the fleet to count** towards compliance with the purchase requirement for a given compliance year.

(4) Order cancellations. If a **public fleet owner** ~~fleet owner~~ cancels a notice to proceed or other executed purchase or leasing contract **without cause** at any time before the vehicle is delivered, the purchase will be considered invalid and will not count towards required total new motor vehicle purchases.

(5) Compliance date. Annual compliance with the ZEV purchase requirements is determined as of January 1 of each calendar year.

(6) Exemptions or extensions. Qualifying **public fleet owners** ~~fleet owners~~ may use exemptions specified in section 95693.2.

(7) Reporting requirements. Annual reporting is required by March 1 each year as specified in section 95693.3.

(8) Recordkeeping requirements. Records must be kept as specified in section 95693.4.

(9) Requirement to remain in compliance. The regulated entity must remain in compliance with this regulation at all times while operating in California.

NOTE: Authority cited: Sections 38501, 38510, 38560, 38566, 39500, 39600, 39601, 39650, 39658, 39659, 39666, 39667, 43013, 43018, 43100, 43101, 43102, 43104 Health and Safety Code. Reference: Sections

## Attachment A: Redline to Draft Requirements for Public Fleets

38501, 38505, 38510, 38560, 38580, 39000, 39003, 39650, 39655, 43000, 43000.5, 43013, 43016, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43205, 43205.5 Health and Safety Code.

### Section 95693.2 Public Fleet Exemptions

(a) Exemption for Emergency Response. ~~Public fleet owners~~ ~~Public agencies~~ can apply for an exemption from ZEV or NZEV purchase requirements if the vehicles will be designated to provide emergency response in supporting electricity, natural gas, water, or wastewater services across California or in other states. A ~~public fleet owner~~ ~~public agency~~ may receive an exemption from the ZEV purchase requirements set forth in section 95693.1 if the following conditions are met:

~~(1) More than 75 percent of that body type in the fleet are already ZEVs~~

(2) The ~~public fleet owner~~ ~~has obtained a letter from the governing body that explains~~ ~~agency is able to demonstrate~~ that the necessary publicly accessible charging or hydrogen fueling infrastructure or mobile fueling options are not ~~readily~~ available in the areas to be served in emergency response ~~or expected to be accessible during an emergency response event~~

(3) The ~~public fleet owner~~ ~~agency~~ has obtained a letter from the governing body that lists the number of vehicles to be purchased for emergency response with details about the vehicle type, and what areas of the country are typically served, and a statement that explains why available ZEVs are not suitable to be dispatched to serve those areas in emergency response; and

(4) The ~~public fleet owner~~ ~~agency~~ must keep records of the letter(s) signed by the governing body and make it available to CARB staff upon request ~~in accordance with section 95693.4.~~

The Executive Officer will grant the ~~exemption extension~~ if the conditions of this section have been met, ~~provided no more than 25 percent of the total vehicles in the fleet would be using extensions.~~ Vehicles approved for the ~~exemption extension~~ will be designated as using the “emergency response” vehicle extension when they are reported.

**(b) Circumstances Outside of a Public Fleet’s Control. Public fleet owners can apply for an exemption from ZEV or NZEV purchase requirements if any of the following conditions are satisfied:**

**(1) There are fewer than two ZEVs or NZEVs for the vehicle duty cycle listed on CARB’s website in accordance with section 95693.2 (c) for the year the public fleet owner issues a public bid to purchase a vehicle meeting that duty cycle.**

**(2) The public fleet owner does not receive bids for ZEVs or NZEVs from at least two suppliers considered “responsive” and “responsible” in accordance with the public fleet owner’s procurement guidelines.**

**(3) The manufacturer is unable to supply the ZEV or NZEV within one year of the purchase order date.**

**(4) The bids received for ZEVs or NZEVs do not meet the cost-effectiveness standard or the cost limitation established by the public fleet’s governing board through a public process to protect against rate affordability impacts. (c) ZEV and NZEV Availability. By January 1 of each year, CARB shall post a list of available ZEV and NZEVs for each vehicle duty cycle. Criteria for “available” shall include, but are not limited to:**

**(1) The ZEV or NZEV is in production and readily available for purchase on the market. Vehicles that are available for preorder only shall not be deemed “available.”**

## Attachment A: Redline to Draft Requirements for Public Fleets

### (2) The OEM has certified the reliable service availability of the ZEV or NZEV application.

(A) For public fleet vehicles that support electricity, gas, water, or wastewater service certification of reliable service available shall include demonstrated performance data for the ZEV or NZEV operating in a commercial fleet environment for a minimum of two years and a combined one million miles. ZEVs or NZEVs demonstrated to have an availability rate of 325 out of 365 days for a specific application shall be certified as having reliable service availability.

### (3) The ZEV or NZEV manufacturer or dealer has certified the availability of manufacturer and parts support for the specific ZEV or NZEV application.

NOTE: Authority cited: Sections 38501, 38510, 38560, 38566, 39500, 39600, 39601, 39650, 39658, 39659, 39666, 39667, 43013, 43018, 43100, 43101, 43102, 43104 Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38560, 38580, 39000, 39003, 39650, 39655, 43000, 43000.5, 43013, 43016, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43205, 43205.5 Health and Safety Code.

### Section 95693.3 Public Fleets Reporting

(a) Method of Reporting. Reports submitted to comply with sections 95693 through 95693.5 must be submitted online through CARB's Advanced Clean Fleets webpage.

(b) Reporting Deadline and End Date. No later than March 1 of each year until March 1, 2045, each **public fleet owner fleet** must annually submit a compliance report to the Executive Officer showing the **public fleet owner's new motor vehicle purchases for the prior calendar year fleet composition as of January 1 of each year**. The initial report must be submitted by March 1, ~~2024~~ **2025**.

(c) Fleet Reporting. **Public fleet owners Fleet owners** must report the following information about the **public fleet owner fleet owner** and all **new motor vehicle purchases for the prior calendar year vehicles in the fleet**.

#### (1) Public fleet owner information ~~Public agency information~~

(A) Public agency name and the department, agency, branch, or other entity of the public agency to which vehicles are assigned.

(B) Primary physical address where records will be kept

(C) Designated contact mailing address

(D) Designated contact person name

(E) Designated contact person phone number

(F) Designated contact person email

(G) Identify the **public fleet** jurisdiction (state, county name, city name or other local governments)

(H) If the fleet being reported is managed by someone other than the primary agency report the CARB issued ID of the primary agency; and

(I) Name of the responsible official.

## Attachment A: Redline to Draft Requirements for Public Fleets

(2) **New Motor Vehicle Purchase Information** ~~Vehicle Information~~. A fleet must report the following information to CARB for each **new motor vehicle purchase for the prior calendar year**; ~~vehicle that has been placed in service and operates in California:~~

- (A) Vehicle Identification Number (VIN), **if available**
- (B) Vehicle make and model
- (C) Vehicle model year, **if available**
- (D) Vehicle license plate, **if available**
- (E) Vehicle weight class category (8,501-14,000; 14,001-26,000; 26,001 and up)
- (F) Vehicle body type
- (G) Fuel and drivetrain type
- (H) Date bid awarded
- (I) Date vehicle purchase was made; and
- (J) Date vehicle was placed in service, **if available**

(3) **New Motor Vehicle Information**. A fleet must report the following information to CARB for **each new motor vehicle placed into service during the prior calendar year, if the information was not available at the time the new motor vehicle purchase was reported to CARB:**

- (A) Vehicle Identification Number (VIN)**
- (B) Vehicle model year**
- (C) Vehicle license plate**
- (D) Date vehicle was placed into service**

NOTE: Authority cited: Sections 38501, 38510, 38560, 38566, 39500, 39600, 39601, 39650, 39658, 39659, 39666, 39667, 43013, 43018, 43100, 43101, 43102, 43104 Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38560, 38580, 39000, 39003, 39650, 39655, 43000, 43000.5, 43013, 43016, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43205, 43205.5 Health and Safety Code.

### Section 95693.4 Public Fleets Recordkeeping

General requirement. Affected fleets must ensure that the followings forms of documentation are available upon request or be made available to CARB staff within **10 business days**~~72 hours~~ of an official written or oral request:

(a) Beginning January 1, 2024, the **public fleet owner** ~~public agency~~ shall keep the following records:

(1) A list of vehicles in the fleet **purchased in accordance with this subdivision** including the vehicle identification number, license plate, vehicle type, vehicle model year, fuel and drivetrain type, vehicle registration information, purchase orders, and public bid contracts. If using exemptions, the fleet owner must keep records used to qualify for the exemptions.

(b) Retention of Records. Records of reported information required in section 95693.3 and documentation must be kept by fleets for CARB to audit for a period of eight years after the information is initially reported to CARB and at least three years after the vehicle is retired from the fleet.

## Attachment A: Redline to Draft Requirements for Public Fleets

NOTE: Authority cited: Sections 38501, 38510, 38560, 38566, 39500, 39600, 39601, 39650, 39658, 39659, 39666, 39667, 43013, 43018, 43100, 43101, 43102, 43104 Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38560, 38580, 39000, 39003, 39650, 39655, 43000, 43000.5, 43013, 43016, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43205, 43205.5 Health and Safety Code.

### Section 95693.5 Public Fleets Enforcement

(a) Enforcement of Requirements. A **public fleet owner** ~~fleet-owner~~ is subject to the following:

(1) Audit of Records. Within **10 business days** ~~72 hours~~ of a request by CARB, a **public fleet owner** ~~fleet~~ must make all records required to be kept per sections 95693 through 95693.5 available to the Executive Officer for audit to verify compliance and the accuracy of the reported information.

(2) Right of Entry. For the purpose of inspecting vehicles and records subject to this regulation and to determine compliance with this regulation, an agent or employee of CARB, upon presentation of proper credentials **and with at least 10 business days' notice to the public fleet owner**, has the right to enter any facility (with any necessary safety clearances) where vehicles are located or vehicle records are kept.

(b) Severability. If any subsection, paragraph, subparagraph, sentence, clause, phrase, or portion of this regulation is, for any reason, held invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of the regulation.

(c) Exemptions Pursuant to Declared Emergency. Any out-of-state vehicle operating pursuant to an Executive Order or Emergency Declaration by the Governor of California, shall be exempt from the requirements of this regulation **for 30 days from the first day of operation**. Drivers operating vehicles under these emergency orders shall keep in the vehicle copies of dispatch records and/or contracts verifying support of emergency operations. The driver and/or fleet owner shall make the records available to California Air Resources Board staff or appropriate California official, such as a California Highway Patrol officer within 72 hours upon request.

NOTE: Authority cited: Sections 38501, 38510, 38560, 38566, 39500, 39600, 39601, 39650, 39658, 39659, 39666, 39667, 43013, 43018, 43100, 43101, 43102, 43104 Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38560, 38580, 39000, 39003, 39650, 39655, 43000, 43000.5, 43013, 43016, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43205, 43205.5, 43212 Health and Safety Code.

**Attachment B: Examples Illustrating Damage and Restoration Efforts to Imperial Irrigation District Transmission and Distribution Poles from August 2021 Storms**

**Figures 1-3: Storm Damage**  
(Photo Credits: Imperial Irrigation District)



**Attachment B: Examples Illustrating Damage and Restoration Efforts to Imperial Irrigation District Transmission and Distribution Poles from August 2021 Storms**

**Figure 4-6: Mutual Aid and Around-the-Clock Restoration Work**  
(Photo Credits: Imperial Irrigation District)

