

Advanced Clean Fleets Regulation
Proposed Draft Regulation Language

Public Fleet Requirements

California Air Resources Board

Advanced Clean Fleets Workshop

September 9, 2021

POTENTIAL DRAFT REGULATORY LANGUAGE FOR STAKEHOLDER REVIEW: This document provides potential draft regulatory language for the Advanced Clean Fleets rulemaking. This document is only intended to encourage public feedback and should not be construed as a formal regulatory proposal.

DRAFT PROPOSED REGULATION ORDER

Advanced Clean Fleets Regulation

Adopt new section 95693, title 17, California Code of Regulations (CCR) to read as follows:

[The text set forth below is new language in “normal type” proposed to be added to the California Code of Regulations.]

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 an entity and includes rental or leased vehicles that are considered owned by the fleet owner.
- (11) “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 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.
 - (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). It is a vehicle that is capable of operating like a ZEV for a minimum number of miles.

- (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
 - 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 agency must comply with the following requirements:
 - (1) *ZEV purchase requirements.* In any given calendar year, public agencies must purchase ZEVs as specified by the following schedules:
 - (A) For a 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
 - 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 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) 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 fleet owner cancels a notice to proceed or other executed purchase or leasing contract 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 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 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 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 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 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
 - (3) The 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 agency must keep records of the letter signed by the governing body and make it available to CARB staff upon request.

The Executive Officer will grant the 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 extension will be designated as using the “emergency response” vehicle extension when they are reported.

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 fleet must annually submit a compliance report to the Executive Officer showing the fleet composition as of January 1 of each year. The initial report must be submitted by March 1, 2024.
- (c) *Fleet Reporting.* Fleet owners must report the following information about the fleet owner and all vehicles in the fleet.
 - (1) Public agency information
 - (A) Public agency name
 - (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 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.
- (2) *Vehicle Information.* A fleet must report the following information to CARB for each vehicle that has been placed in service and operates in California:
 - (A) Vehicle Identification Number (VIN)
 - (B) Vehicle make and model
 - (C) Vehicle model year
 - (D) Vehicle license plate
 - (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

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 72 hours of an official written or oral request:

- (a) Beginning January 1, 2024, the public agency shall keep the following records :
 - (1) A list of vehicles in the fleet 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.

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 fleet owner is subject to the following:
- (1) *Audit of Records.* Within 72 hours of a request by CARB, a 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, 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.