

Advanced Clean Fleets Regulation
Proposed Draft Regulation Language

High Priority and Federal 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 95692, 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 95692. High Priority and Federal Fleets Applicability, Definitions, and General Requirements.

- (a) *Scope and Applicability.* This regulation applies to any motor carrier, broker, federal governmental agency, person, or entity that hires affected fleets, or who operates or directs the operation of any vehicles subject to this regulation. Except as provided in section 95692(c), this regulation applies to any of the following entities that own, operate, or direct vehicles, as defined in section 95692(b)(43), in California with a gross vehicle weight rating (GVWR) greater than 8,500 pounds, and meet any of the following criteria as of January 1, 2024 or at any point afterwards:
- (1) Is an entity with \$50 million or more in gross annual revenue in the prior year
 - (2) Is a fleet owner with 50 or more vehicles
 - (3) Is a fleet owner whose fleet in combination with other fleets operated under common ownership and control totals 50 or more vehicles
 - (4) Is a broker or other fleet owner that in combination with other fleets owns, operates, or dispatches vehicles under common ownership and control that totals 50 or more vehicles; or
 - (5) Is any federal government agency that has one or more vehicles that operate in California.
- (b) *Definitions.* The following definitions apply to sections 95692 through 95692.6:
- (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) "Backup vehicle" means a vehicle, excluding yard tractors, that is operated less than 1000 miles per year.
- (3) "Box truck or van" means a single-unit vehicle with an enclosed cargo space and includes step vans, refrigerated vans, and cargo vans. Tank trucks are not included in this definition.
- (4) "Broker" means any person that, as a principal or agent, sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier for compensation. A motor carrier, or person who is an employee or bona fide agent of a carrier, is not a broker when it arranges or offers to arrange the transportation of shipments which it is authorized to transport and which it has accepted and legally bound itself to transport.
- (5) "Bus" means any vehicle designed to carry more than 15 persons including the driver as specified in the California Vehicle Code (CVC) section 233.
- (6) "CARB" means the California Air Resources Board.
- (7) "Class 8" means a vehicle with a GVWR over 33,000 lbs.
- (8) "Common ownership or control" means being owned, dispatched, or managed on a day-to-day basis by the same person or entity. Vehicles managed by the same directors, officers, or managers, or by distinct corporations that are controlled by the same majority stockholders are considered to be under common ownership or control, even if their titles are held by different business entities or they have different taxpayer identification numbers. Furthermore, a vehicle is considered to be under an entity's control if that entity operates the vehicle using that entity's state or federal operating authority or other registration. Vehicles owned by different entities but operated by using common or shared resources to manage the day-to-day operations by using the same motor carrier number, displaying the same name or logo, or contractors who represent the same company are considered to be under common ownership or control. Common ownership or control of a federal government vehicle shall be the primary responsibility of the governmental agency that is directly responsible for the day-to-day operational control of the vehicle.
- (9) "Compliant vehicle" means any one of the following:
 - (A) Any ZEV

- (B) An NZEV with a MY of 2035 or earlier
 - (C) Any vehicle in a fleet that meets or exceeds the ZEV milestone targets as specified in section 95692.1(a)-(d)
 - (D) A vehicle that was in the fleet since January 1, 2024, was operated in California in 2024, and is within its minimum useful life; or
 - (E) A vehicle that is utilizing an exemption as specified in section 95692.2 for the length of its minimum useful life.
- (10) "Controlling party" means the motor carrier, broker, or entity that dispatches, directs or otherwise manages the day-to-day operation of multiple fleets under common ownership or control to serve the customers or clients of the controlling party.
 - (11) "Corporate parent" means a business that possesses the majority of shares in another business, which gives the corporate parent control of the other business' operational procedures.
 - (12) "Custom built vehicle" means a vehicle that is constructed as a ground up build and is not manufactured on an assembly line. It does not include a vehicle that is built on, or is a modification of, a cab and chassis or a modified cab and chassis. It also does not include vehicles commonly available as a complete vehicle from the original manufacturer. An example of a custom built vehicle is a hay squeeze.
 - (13) "Day cab tractor" means a tractor without a berth designed for resting or sleeping at the back of the cab.
 - (14) "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.
 - (15) "Dispatched" means provided direction or instruction for routing a vehicle, whether owned or under contract, to specified destinations for specific purposes, including delivering cargo, passengers, property or goods, or providing a service.
 - (16) "Executive officer" means the Executive Officer of the California Air Resources Board or delegated representative.
 - (17) "Federal fleet" means a fleet of vehicles owned by a department, agency, or instrumentality of the federal government of the United States of America and its departments, divisions, public corporations, or public agencies including the United States Postal Service. With respect to the

Department of Defense and its service branches, federal fleets may be managed regionally, locally, or a combination of regional and local management. There may be multiple federal fleets within a branch of military service or an installation.

- (18) "Fleet" means one or more vehicles owned by an entity and includes rental or leased vehicles that are considered owned by the fleet owner.
- (19) "Fleet owner" means the person or entity that owns 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 below:
 - (A) For vehicles that are owned by the federal government and not registered in any state or local jurisdiction, the owner shall be the department, agency, branch, or other entity of the United States, including the United States Postal Service, 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 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 state laws for the vehicle 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.
- (20) “Gross annual revenue” means the total revenue, receipts, and sales for a consecutive 12 month period.
- (21) “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).
- (22) “Group 1” means the box trucks or vans, two-axle buses, and yard tractors within a fleet.
- (23) “Group 2” means the work trucks, day cab tractors, and three-axle buses within a fleet.
- (24) “Group 3” means the sleeper cab tractors and specialty vehicles within a fleet.
- (25) “Government agency” means any federal, state, or local public agency, or any other public entity with taxing authority.
- (26) “Heavy front axle” means any front steering axle whose gross weight imposed upon the highway by the wheels is rated to exceed 12,500 pounds pursuant to the CVC, section 35551.5(b).
- (27) “Historical vehicle” means a motor vehicle as defined in CVC section 5004.
- (28) “Lessee” has the same meaning as defined in CVC section 371.
- (29) “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 and 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 on-road vehicles for resale. This does not

include persons who supply parts to the importer or vehicle manufacturer of record.

- (30) "Minimum useful life" means beginning on the effective date of this regulation, the minimum period of time a commercial vehicle, as defined in CVC section 34601, may remain in the California fleet. It is the latter of the dates specified in subsection (A) or (B) below:
 - (A) 13 years commencing from the model year that the original engine and emissions control system in a commercial vehicle was first certified for use by CARB or U.S. EPA; or
 - (B) The date that the commercial vehicle exceeded 800,000 vehicle miles traveled or 18 years from the model year that the original engine and emissions control system of that vehicle was first certified for use by CARB or U.S. EPA (whichever is earlier).
- (31) "Model year" means a designation meeting the definition of "model year" under 17 CCR section 95662(a)(16).
- (32) "Motor carrier" means the same as defined in CVC section 408.
- (33) "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.
- (34) "Notice to proceed" means a written direction to a vehicle manufacturer to commence production of a vehicle as provided in a contract.
- (35) "Responsible official" means one of the following:
 - (A) For a corporation: A president, chief executive officer, chief financial officer, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or a delegate, designee, or any other person who performs similar policy or decision-making functions for the corporation.
 - (B) For a partnership or sole proprietorship: A general partner or the proprietor, or the delegate or designee of the aforementioned, or any other person who performs similar policy or decision-making functions for the business, or the chief executive officer, or the chief financial officer.
 - (C) For a federal government agency: Either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a federal agency includes the chief

executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of the U.S. EPA). For the purposes of the Department of Defense Military Services, a principal executive officer includes a commanding officer of an installation, base, or tenant organization.

- (D) For a controlling party it is the delegate or designee of the controlling entity, or any other person who is authorized to enter into agreements or contracts to provide services where vehicles are needed, or who performs similar policy or decision-making functions for the business, or the chief executive officer, or the chief financial officer.
- (36) "Removed from the fleet" means one of the following:
- (A) Destroyed or scrapped
 - (B) Registered as Planned Non-Operation (PNO) with the California DMV within 60 days before and 90 days after the expiration of the vehicle registration date
 - (C) Filed an Affidavit of Non-Use with the California DMV up to 75 days before the expiration of the vehicle registration date, or;
 - (D) Sold out-of-state or transferred out-of-state.
- (37) "Sleeper cab tractor" means a tractor with a berth designed for resting or sleeping at the back of the cab.
- (38) "Solid waste collection vehicle" means an on-road heavy-duty vehicle with a manufacturer's GVWR of greater than 14,000 pounds and has a vehicle body type that is either a garbage-packer or a garbage-rolloff.
- (39) "Specialty vehicle" is any of the following:
- (A) A Class 8 vehicle with a heavy front axle
 - (B) A vehicle that is a custom built vehicle
 - (C) A Class 8 vehicle that is not designed to carry cargo and its primary function is to perform work that can only be done while the vehicle is stationary and the auxiliary mechanism to perform that work is an integral part of the vehicle design. Examples include vehicles commonly known as vacuum trucks, digger derricks, and concrete pump trucks.

- (40) "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.
- (41) "Subsidiary" means an entity controlled by another entity.
- (42) "Tractor" means an on-road vehicle meeting one of the following:
 - (A) The definition of "tractor" in title 17, CCR section 95662(a)(23).
 - (B) The definition of "vocational tractor" in title 17, CCR section 95662(a)(27).
- (43) "Vehicle" or "motor vehicle" means self-propelled equipment that meet either of the following criteria:
 - (A) Equipment that has a GVWR that is 8,501 pounds and above, is intended for use on highways, and meets the definition set forth in 17 CCR section 95662(a)(26); or
 - (B) Is an off-road yard tractor.
- (44) "Vehicle awaiting sale" means a vehicle in the possession of a dealer, financing company, a private party, or other entity that does not intend to operate the vehicle in California or offer the vehicle for hire for operation in California, and it is operated only to demonstrate functionality to potential buyers, to move short distances to make repairs, or for maintenance or storage.
- (45) "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.
- (46) "Vehicle purchase" or "purchase" means the fleet owner has placed an order of a vehicle for immediate delivery and has already paid for or has entered into a binding agreement with the authorized dealer, or manufacturer to pay for a new vehicle. For a federal fleet, a purchase includes where the agency has identified, committed and encumbered funds and executed any one of the following:

- (A) A written notice to proceed executed by a fleet to a manufacturer to begin production of the vehicle either:
 - 1. Under a previously-entered purchase contract.
 - 2. To execute a contract option.
 - (B) A written purchase agreement between a fleet and the 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 and the manufacturer or authorized dealer for a new vehicle to be placed in service for a contract term of one year or more.
- (47) "Work truck" means a vehicle with a GVWR above 8,500 lbs and is not a box truck or van as defined in 95692(b)(3), is not a bus as defined in 95692(b)(5), is not a day cab tractor as defined in 95692(b)(13), is not a sleeper cab tractor as defined in 95692(b)(37), and is not a specialty vehicle as defined in 95692(b)(39).
- (48) "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.
- (49) "Zero-emissions vehicle" or "ZEV" means a vehicle with a drivetrain that produces zero exhaust emission of any criteria pollutant (or precursor pollutant) or greenhouse gas under any possible operational modes or conditions.
- (c) *Exemptions.* The following entities and vehicles are exempt from the requirements of sections 95692 through 95692.6:
- (1) School buses as defined in CVC section 545(a)
 - (2) Military tactical vehicles as described in title 13, CCR section 1905
 - (3) Vehicles awaiting sale as defined in section 95692(b)(44)
 - (4) Emergency vehicles as defined in CVC section 165
 - (5) Transit vehicles subject to the Innovative Clean Transit regulation commencing with title 13, CCR section 2023

- (6) Vehicles subject to the regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards commencing with title 13, CCR section 2479
 - (7) Historical vehicles as defined in 95692(b)(27)
 - (8) Dedicated snow removal vehicles as defined in 95692(b)(14); and
 - (9) Public entities and vehicles owned by entities subject to title 17, CCR section 95693
 - (10) Any on-road vehicle subject to title 13, CCR section 2449; and
 - (11) Heavy cranes as defined in title 13, CCR section 2021(b)(16).
- (d) *General Requirements.* Except as provided in section 95692.2, fleet owners must meet the ZEV phase-in milestone requirements of section 95692.1 by adding ZEVs or NZEVs to their fleet and by managing the fleet of vehicles that operates in California and must additionally comply with specified reporting and record keeping requirements. For the purposes of this regulation, the controlling party must meet the same requirements as the fleet owner.
- (e) *Newly Formed Fleet.* Any fleet that is newly formed after January 1, 2024, and meets any of the criteria specified in section 95692(a), must immediately comply with the requirements of section 95692.1.
- (f) *Newly Affected Fleet.* Any fleet that existed prior to January 1, 2024, and expands in size such that it meets the criteria specified in section 95692(a) at any point after January 1, 2024 must do all of the following:
- (1) Meet the reporting requirements specified in section 95692.4 within 30 days of the change.
 - (2) Notify CARB of the month and year that the fleet newly became subject to the regulation within 30 days of the change.
 - (3) Within 2 years of becoming subject to the regulation, the fleet must meet the requirements of this regulation.
- (g) *Fleets no longer affected.* Any fleet subject to the regulation that no longer meets any of the scope and applicability criteria specified in section 95692(a) for two consecutive calendar years shall no longer be subject to the regulation requirements, until such time as the fleet again meets the scope and applicability criteria per section 95692(f).

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 95692.1 High Priority and Federal Fleets ZEV Phase-in Requirements

Regulated entities must comply with the following requirements:

- (a) *ZEV Fleet Milestones.* Beginning January 1, 2025 and each year afterwards on January 1, regulated entities must continuously meet or exceed the ZEV milestone percentage requirements set forth below in Table A. Regulated entities must use the steps listed in 95692.1(b) to calculate their fleet ZEV target for their fleet. ZEV milestone percentages must be maintained until the next compliance milestone.

Table A: ZEV Fleet Milestones by Vehicle Body Type and Year

Percentage of fleet that must be ZEVs	10%	25%	50%	75%	100%
Group 1: Box trucks or vans, two-axle buses, yard tractor	2025	2028	2031	2033	2035 and beyond
Group 2: Work trucks, day cab tractors, three-axle buses	2027	2030	2033	2036	2039 and beyond
Group 3: Sleeper cab tractors and specialty vehicles	2030	2033	2036	2039	2042 and beyond

- (1) *Backup vehicle exclusion.* Backup vehicles may be excluded from the fleet when totaling the number of vehicles in each group.
- (2) Fleet owners or controlling parties may utilize the exemptions or extensions specified in section 95692.1(d).
- (b) *ZEV Target Calculation.* The annual ZEV target is calculated by counting the vehicles in each of three groups listed in Table A, then multiplying the number of vehicles in each group by the ZEV percentage requirement for that year as shown in the calculation below. If the sum of the ZEV targets is not a whole number, the value must be rounded using standard rounding convention.

$$\begin{aligned}
 & (\text{Group 1 Number of Vehicles}) \times (\text{Group 1 Percentage Requirement}) + \\
 & (\text{Group 2 Number of Vehicles}) \times (\text{Group 2 Percentage Requirement}) + \\
 & (\text{Group 3 Number of Vehicles}) \times (\text{Group 3 Percentage Requirement}) +
 \end{aligned}$$

= ZEV Target

The following example shows how the ZEV target is calculated for the 2031 compliance year for a fleet that has 100 Group 1 vehicles and 50 Group 2 vehicles and 2 backup vehicles that are excluded from the calculation:

Group 1: 100 vehicles x 50% = 50 ZEVs

Group 2: 50 vehicles x 25% = 12.5 ZEVs

Total ZEV Target 62.5 (rounds up to 63 ZEVs)

- (c) *Alternative Compliance Requirement.* A fleet that does not meet the ZEV milestones remains in compliance only if each of its fleet vehicles is a ZEV, an NZEV, or meets either of the following criteria:
- (1) Is granted any exemption defined in section 95692.2; or
 - (2) Was owned by the fleet as of January 1, 2024, and is within its minimum useful life.
- (d) *Vehicle Exemptions.* A fleet owner whose fleet is in compliance may utilize exemptions or extensions if they are otherwise unable to meet the requirements of section 95692.1(a) through (c) for all vehicles in the fleet. The exemption or extension may only be granted by CARB if the fleet would remain in compliance by using it. The following is a list of exemptions that may be utilized for a fleet to remain in compliance:
- (1) *Backup Vehicle.* The fleet owner may designate a backup vehicle as specified in section 95692.2(a).
 - (2) *Daily Mileage Exemption.* The fleet owner may demonstrate that additional ZEVs cannot be placed in the fleet and meet the daily mileage needs of existing vehicles as described in section 95692.2(b)
 - (3) *Emergency Response Exemption.* A fleet owner with vehicles that provide emergency response services may designate some vehicles as exempt from the ZEV requirement as described in section 95692.2(c)
- (e) *Compliant Fleet Determination.* Compliant fleets are those fleets that meet or exceed the ZEV target as specified in section 95692.1(a), or that meet the requirements of section 95692.1(c). Fleets that do not comply with the requirements of section 95692.1 will not be listed on the CARB website as a compliant fleet.
- (f) *ZEV Fleet Recognition.* Any fleet may optionally elect to be recognized as a ZEV fleet starting January 1, 2024. A fleet will be recognized as a certified ZEV fleet on the CARB website if it meets or exceeds all of the following criteria:

- (1) The number of ZEVs in the fleet meets or exceeds the fleet ZEV target as calculated in section 95692.1(a) and (b)
 - (2) The fleet owns at least 1 ZEV
 - (3) The fleet consists of at least 5 percent ZEVs; and
 - (4) The fleet meets the reporting requirements of 95692.4 and record keeping requirements of a section 95692.5.
- (g) *Non-Compliant Fleet Requirements.* Fleets that do not meet all the requirements of sections 95692.1 are subject to the following additional requirements, until the fleet again is in compliance and meets the requirements of sections 95692.1:
- (1) All vehicles that are added to the fleet that do not qualify for an exemption as listed in section 95692.2 must be ZEVs, and
 - (2) All vehicles which are not a ZEV and which have exceeded their minimum useful life must be removed from the fleet immediately.
- (h) *Requirement to Hire Compliant Fleets.* Any motor carrier, broker, or any California person or entity who operates or directs the operation of any vehicle subject to this regulation must verify that each hired or dispatched fleet is listed on the CARB website as a compliant fleet. The hiring entity must also comply with the record keeping requirements of section 95692.5. This requirement does not apply to the fleets that comply as a group subject to the controlling party compliance requirements of section 95692.1(j).
- (i) *Corporate Joint Compliance Option.* Subsidiaries, parent companies, or joint ventures may comply independently, or the corporate parent or joint venture business may comply jointly on their behalf as long as all requirements of sections 95692 through 95692.6 are met. Under this option, each fleet must report a primary CARB-issued ID number of the controlling corporate parent, joint venture business, or designated primary entity when they report their individual fleet information and compliance will be determined based on the combined group. If the group fails to comply, all participants must comply individually.
- (j) *Controlling Party Compliance.* A controlling party that directs multiple fleets that operate under common ownership and control must comply as a group and will be treated as a single fleet when determining compliance. The combined fleet must meet the following:
- (1) Compliance calculations in sections 95692.1(a) through (d) must be based upon all vehicles the controlling party owns or operates under common ownership and control; and

- (2) The controlling party must comply with the reporting requirements of section 95692.4(c)(1)(K) in addition to the general reporting requirements.
- (k) *Reporting and Recordkeeping Requirement.* Reporting is required as specified in section 95692.4. Records must be kept as specified in section 95692.5.
- (l) *Requirement to Remain in Compliance.* Once a fleet is required to be in compliance in California, it must remain in compliance at all times that it is 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 95692.2 High Priority and Federal Fleets Exemptions and Extensions

- (a) *Backup Vehicle Exemption.* Backup vehicles as defined in section 95692(b)(2) may be excluded from the compliance requirements of section 95692.1. The fleet as a whole must immediately be brought into compliance when a backup vehicle exceeds annual mileage limits, and the vehicle may not be used to qualify for other exemptions or extensions. The fleet owner must meet each of the following requirements:
 - (1) The fleet owner must report the vehicle as a backup vehicle one year prior to the first compliance date for the applicable vehicle group and must submit odometer readings per section 95692.4(e)
 - (2) The fleet owner may exclude any mileage a vehicle accrues while operating under an exemption due to a declared emergency per section 95692.6(c) if the annual mileage limit for backup vehicles is exceeded; and
 - (3) The fleet owner must meet the reporting requirements of section 95692.4, keep records of vehicle usage and meet the record keeping requirements specific to backup vehicles of section 95692.5(c)

The Executive Officer will grant the exemption annually if the conditions of this section have been met. An approved exemption means the vehicle may be excluded when determining compliance with the ZEV milestone targets of section 95692.1 and the vehicle will be deemed compliant as long as it remains a backup vehicle in the fleet.

- (b) *Daily Mileage Exemption.* If ZEVs are commercially available to meet the primary intended function of a vehicle and there are no commercially available NZEVs, the fleet owner may request an exemption if the fleet owner can demonstrate that all available ZEVs cannot meet the daily mileage needs of any existing internal combustion engine vehicle in the fleet. The fleet owner must meet the following requirements:
- (1) More than 10 percent of the existing vehicles in the fleet are ZEVs
 - (2) Show no NZEVs of the same intended function are available to purchase by completing the following:
 - (A) The fleet owner must issue a public request for bids to purchase NZEVs, or attempt to purchase NZEVs from all applicable manufacturers of vehicles with commercially available NZEVs, and has identified in the bid the specifications necessary to meet the primary intended function of the vehicle
 - (B) If fewer than two bids from NZEV manufacturers are responsive to the bid request for that vehicle type, the fleet owner must submit a letter to CARB that includes the following:
 1. An explanation that there were no responsive bids for the NZEV purchase
 2. The names of the manufacturers or authorized dealers that were contacted; and
 3. Documentation specifying the vehicle body type, chassis configuration, and technical specifications needed to meet the primary intended function of the vehicle.
 - (3) Submit a daily mileage report for each vehicle of the same body type in the existing fleet. The mileage report must include daily vehicle mileage traveled for a period of at least 30 consecutive days using telemetry data or other daily tracking method. Data must be from within the last 12 months
 - (4) Submit documentation demonstrating how all commercially available ZEVs that meet the needed chassis and technical specifications are not able to meet the operational daily mileage needs of any remaining internal combustion powered vehicle in the fleet for at least three days out of the consecutive 30 day period in the mileage report
 - (5) Submit a copy of the ZEV purchase request or bid proposal and the resulting bids from ZEV manufacturers showing the manufacturer rated mileage and vehicle characteristics available for each vehicle

- (6) Fleet owners can optionally submit measured vehicle energy use data to substantiate their exemption request from similar ZEVs already operated on daily assignments in the fleet's service, including: battery degradation, air conditioning or heating usage, loading, grades, and driving behavior that shows typical energy usage over one month or more of regular revenue service; and
- (7) Submit a description of the daily assignments or routes used by existing drivers for the applicable vehicle types with an explanation of why available ZEVs cannot be charged or fueled along the route, or during the work day where ZEV fueling is available to the fleet or ZEV fueling would be installed by the fleet owner. The explanation must include a description of why charging or fueling could not be managed during driver rest periods or breaks during the work day.

The Executive Officer will grant the exemption if the conditions of this section have been met. The exemption will allow the fleet owner to purchase a vehicle powered by an internal combustion engine. Even if the ZEV targets have not been met, the vehicle will be treated as a compliant vehicle unless it is removed from the fleet.

- (c) *Emergency Response Vehicle Exemption.* This exemption is limited to fleets that have deployed vehicles to provide emergency response in supporting electricity, natural gas, water, or wastewater services across California or in other states. A fleet owner may receive an exemption to purchase a vehicle powered by an internal combustion engine to be used as an emergency response vehicle if the following conditions are met:
 - (1) The fleet owner can demonstrate that NZEVs of the needed type are not available per the requirements of section 95692.2(b)(2)
 - (2) More than 75 percent of the body type for which the exemption is being requested are already ZEVs
 - (3) The fleet owner can 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 the event of an emergency
 - (4) The fleet owner submits a letter signed by the responsible official that explains why adding additional ZEVs to the fleet of that type will compromise the ability of the fleet to support emergency response services, tells the number of internal combustion powered vehicles of that type that are to be purchased and designated as emergency response vehicles, and identifies what areas are typically served

- (5) The fleet owner is able to demonstrate the request is consistent with records or documentation of vehicles used to support past emergency response events; and
- (6) The fleet owner must keep records of the letter signed by the responsible official or 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. The extension will allow the fleet to purchase an internal combustion engine vehicle instead of a ZEV. Even if the ZEV targets have not been met, the vehicle will be treated as a compliant vehicle unless it is removed 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 95692.3 High Priority and Federal Fleets Compliance Demonstration

- (a) *Compliance Certificate.* If the requirements of sections 95692 through 95692.6 have been met and the required reporting has been received to demonstrate compliance, CARB will provide the fleet with a Certificate of Reported Compliance.

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 95692.4 High Priority and Federal Fleets Reporting

- (a) *Method of Reporting.* Reports submitted to comply with sections 95692 through 95692.6 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:

(1) *Entity Information.* Fleet owners must report the following:

- (A) Entity name
 - 1. Fictitious business name if applicable.
- (B) Company owner name
- (C) Company physical and mailing addresses
- (D) Designated contact person name
- (E) Designated contact person phone number
- (F) Designated contact person email
- (G) Federal Taxpayer Identification Number
- (H) The following operating authority numbers, if applicable: motor carrier identification number, United States Department of Transportation number, California Carrier Identification number, California Public Utilities Commission transportation charter permit number, International Registration Plan number
- (I) Identify whether fleet is a federal fleet.
- (J) Which of the following apply to the fleet:
 - (1) The reported fleet is owned by an entity with annual gross revenue in the prior year that exceeds \$50 million
 - (2) The reported fleet owns, or operates under common ownership and control with other fleets, 50 vehicles or more, or
 - (3) The reported fleet is not in the scope of the regulation and is voluntarily being reported to be recognized as a ZEV fleet.
- (L) For fleets that are newly formed or become newly subject to the regulation, the date the fleet was either formed or became subject to the regulation.
- (M) For fleets that fall below the threshold of the scope and applicability of this regulation, the date the fleet became no longer subject to the regulation.

- (2) *Vehicle Information.* A fleet owner must report the following information for each vehicle in the fleet that operates in California. For controlling parties that comply as a whole with fleet vehicles under common ownership or control per section 95692.1(j), the controlling party must report in their own CARB account all vehicles in the fleet including those operated under common ownership or control.
- (A) Vehicle Identification Number (VIN)
 - (B) Vehicle make and model
 - (C) Vehicle manufacture year
 - (D) Vehicle license plate
 - (E) Vehicle GVWR weight class (8,501-14,000 lb., 14,001-26,000 lb., 26,001 lb. or more)
 - (F) Vehicle body type
 - (G) Fuel and drivetrain type
 - (H) Date vehicle added to or removed from the fleet
 - (I) Whether the vehicle will be designated as a backup vehicle
 - (J) Odometer readings for backup vehicles and tractors that are 12 years or older
 - (K) Engine model year and engine family for tractors that are 12 years or older; and
 - (L) Controlling parties subject to section 95692.1(j) must identify which vehicles are being operated under common ownership or control.
- (d) *Changes to an Existing Fleet.* Fleets must comply with the following reporting requirements when adding or removing vehicles:
- (1) Vehicles added to an existing fleet must be reported within 30 days of being added to the fleet.
 - (2) Vehicles removed from an existing fleet must be reported within 30 days of removal. The report must include the date of removal.
 - (3) If a backup vehicle exceeds the allowable mileage limit the change must be reported within 30 days that the mileage limit was exceeded.

- (e) *Odometer Reading Reporting.* Fleet owners that have backup vehicles, or sleeper or day cab tractors that are more than 12 years old, must comply with the following reporting requirements:
- (1) Report annually the mileage reading and the date the reading was recorded from a properly functioning odometer
 - (A) For backup vehicles, if the odometer is not functional, report the serial number from a hub odometer with a non-resettable odometer
 - (2) In the event that the odometer is replaced, report the following within 30 days of the original odometer failure: the original odometer's final reading, the new odometer's initial reading, and the date of replacement; and
 - (3) For a backup vehicle that is used to support an exemption due to a declared emergency per section 95692.6(c) the fleet owner must report the emergency hours of operation or mileage if the vehicle exceeds the backup vehicle mileage limit.
- (f) *Requirement for signature.* All reports submitted to CARB electronically are considered signed by the responsible official. Paper documentation submitted must be signed by the responsible official.

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 95692.5 High Priority and Federal Fleets Recordkeeping

General Requirement. Affected fleets must keep and provide the following forms of documentation upon request or make available to CARB staff within 72 hours of a request:

- (a) *Entity and Vehicle Documentation.* The following records are required to be kept and provided upon request:
- (1) Records of all vehicles that are in use and dispatched in the fleet including the vehicle identification number, license plate, vehicle type; vehicle model year, drivetrain type, and vehicle registration information
 - (2) Purchase documents, such as purchase orders, notices to proceed, or leasing agreements, for the vehicles

- (3) For all vehicles that have been removed from the fleet, keep and provide the following:
 - (A) If the vehicle is sold out-of-state, a transfer of liability form filed with DMV, including the date of sale and mileage reading at the time of sale
 - (B) If the vehicle is transferred out-of-state, but not sold, a copy of the out-of-state registration
 - (C) If the vehicle is registered with DMV as non-revivable junked or dismantled, a copy of the registration demonstrating it was filed as such with DMV; and
 - (D) If the vehicle is sold or consigned to an auction house, a copy of the contract and the transfer of liability form filed with DMV, if applicable.
- (4) *Shipping documentation.* Fleet owners must keep and provide shipping paperwork or other documentation that identifies the origin and destination of cargo and if applicable, the pick-up and termination destination of the trailer, chassis or intermodal equipment.
- (5) *Emergency operation documentation.* Fleet owners utilizing the provisions of section 95692.6(c) must keep and provide records to document dispatch by a local, state, or federal agency or other responsible emergency management entity as approved by the Executive Officer. Additionally, fleet owners of emergency support vehicles per section 95692.2(c) must keep and provide records of any contracts with a company or agency that was dispatched by a government agency.
- (6) *Gross annual revenue documentation.* Entities that are subject to this regulation on the basis of gross annual revenues per section 95692(a)(1) must keep and provide tax filing records that show the entity's gross annual revenues.
- (b) *Operator Documentation.* Truck operators must keep and provide documentation that identifies the entity that is responsible to pay the driver and any applicable shipping paperwork or other documentation that identifies the origin and destination of the cargo and the pick up and termination destination of the cargo.
- (c) *Backup Vehicle Records.* For any fleet owner utilizing the backup vehicle exemption in section 95692.2(a), the fleet owner must keep and provide third party records of the miles traveled such as those provided in smoke opacity test

results, Biennial Inspection of Terminals (BIT) inspection records, fuel tax records, or third party maintenance records.

- (1) Fleet owners of vehicles used for an exemption due to a declared emergency per section 95692.6(c) shall keep and provide records to document dispatch by a local, state, or federal agencies or other responsible emergency management entity that is authorized by a government agency to support an emergency event under contract
 - (2) If the backup vehicle is not driven for the entire compliance year and either a planned non-operation certificate or a certificate of non-operation has been filed with the DMV, the owner must keep and provide copies of the certificates.
- (d) *Retention of Records.* Records of reported information required in reporting section 95692.4 and documentation required in record keeping section 95692.5 must be kept by the fleet owner and made available to CARB staff for audit for a period of eight (8) years from the date the information is used to demonstrate compliance.

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 95692.6 High Priority and Federal Fleets Enforcement

- (a) *Enforcement of Requirements.* A fleet 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 95692 through 95692.6 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.