April 7, 2023

Clerk of the Board
California Air Resources Board
1001 I St.
Sacramento, CA 95814

**Submitted Electronically**

**RE: Proposed 15-day Changes to the Proposed Advanced Clean Fleets Regulation**

Dear Chair Randolph and Members of the Board:

On behalf of the Truck Renting and Leasing Association (TRALA) members, we submit the following comments in response to the Notice of Public Availability of Modified Text published by the California Air Resources Board (CARB) on March 23, 2023.

TRALA is the national trade association representing the interests of over 500 truck renting and leasing companies and over 100 supplier companies. TRALA advocates on behalf of its members at both the federal and state levels. Our members provide short-term commercial rental vehicles, short-term consumer rental vehicles, and full-service leases to customers that operate a vehicle or fleet of vehicles. Most TRALA members are family-owned businesses that have operated for generations to supply the transportation backbone to small businesses throughout the U.S. and in California. Their diverse customer base typically rents or leases less than four trucks per customer and are dependent on flexible transportation contracts to manage variable operations and expand their small businesses. Many do not realize that truck renting and leasing companies purchase more than 30 percent of all new trucks.

TRALA members' customers opt to rent or lease rather than purchase trucks due to high up-front equipment costs, vehicle maintenance responsibilities, and to support seasonal and temporary demand surges. Their business models are oftentimes different than those of traditional truckload and less-than-truckload fleets who purchase new power units, utilize such equipment in their operations, and maintain their own equipment. As noted in prior comments submitted to CARB, vehicle operators of rented and leased equipment are the businesses least able to manage the transition to zero-emission vehicles (ZEVs) due to their secondary use of ZEV equipment purchased by another entity.

TRALA thanks CARB for addressing several concerns raised by our members under the Advanced Clean Trucks (ACF) rule including:

- Allowing interstate rental fleet owners the option to report the average number of rental vehicles operating in California using the quarterly averages of rental trucks operating in the state.

- Allowing individual rental vehicles rented fewer than 180 calendar days under contract with origins and destinations in California not needing to be reported if using the rental vehicle quarterly averages.

- Clarifying that the renting operator or lessee of the vehicle is the party responsible for compliance so long as the rental or lease agreement for the vehicle is for a period of one year or longer and the terms of the rental or lease agreement or other equally reliable evidence identifies the renting operator or lessee of the vehicle as the party responsible for compliance.

- Affording compliance flexibility for infrastructure construction delays, infrastructure site electrification delays, vehicle delivery delays, and ZEV unavailability.

While the latest proposed language is an improvement, TRALA urges CARB's continued work on the following areas:

- Short-term commercial and consumer rental trucks for less than one year's use should be exempt from the ZEV targets until the industry and infrastructure properly matures to sustain the projected purchase targets.

- Charging infrastructure remains a major stumbling block.

- Harmonization is critical between the Advanced Clean Fleet Rule and the Advanced Clean Trucks Rule.

- CARB's overall compliance reporting requirements need to be simplified and streamlined.

- State-provided incentive monies should be weighted towards achieving compliance with the ACF.

- CARB should support using the wide range of lower carbon intensity fuels and technologies throughout the coming decades instead of limiting future equipment choices to unproven pathways and guesstimates on ZEV market penetration rates.

- Provide greater flexibility for infrastructure construction delays, infrastructure site electrification delays, vehicle delivery delays, and ZEV unavailability.

- CARB must seek a formal waiver of federal preemption from EPA before it may start implementing and enforcing the ACF rule.

- The five-day temporary pass exclusion is an impractical provision to implement and enforce.

We urge CARB not to rush to judgment and finalize the ACF regulation until industry's concerns are addressed. Our more detailed concerns are expanded upon below. TRALA's members are critical stakeholders under this rulemaking and we continue to stand ready to work with you moving forward.

**Short-Term Commercial and Consumer Truck Rentals Should be Exempt**

CARB worked with TRALA and its members to acknowledge the needs of truck renting and leasing businesses. In particular, CARB recognized that the "owner" subject to the rule requirements is presumed to be the rental or leasing entity for purposes of compliance unless the rental or lease agreement for the vehicle is for a period of one year or longer and the terms of the rental or lease agreement or other equally reliable evidence identifies the renting operator or lessee of the vehicle as the party responsible for compliance with state laws. CARB further acknowledged that individual rental vehicles rented fewer than 180 calendar days under contract with origins and destinations in California do not need to be reported if using the rental vehicle quarterly averages.

Standard industry definitions used for both truck lease and rental arrangements are as follows:

> *Full-Service Lease*: a contractual agreement between a leasing company and a lessee to operate a truck for a minimum of one year, in which the lessee operates the truck, and the leasing company typically performs maintenance services. The truck operates under the lessee's US DOT number and has its own International Registration Plan (IRP) account and International Fuel Tax Agreement (IFTA) account.
>
> *Commercial Rental Truck*: a truck owned by a rental and leasing company that is rented to a business for less than one year. The truck operates under the renter's US DOT number and the IRP and IFTA accounts of the rental and leasing company.
> *Consumer Rental Truck*: a truck that has a Gross Vehicle Weight Rating (GVWR) of 26,000 pounds or less, that is rented to consumers for the movement of their own goods.

Rental trucks are fundamentally temporary transportation assets that are utilized by multiple customers throughout the year. Flexible fleet access serves a critical economic role for small California businesses that do not specialize in transportation, enabling businesses to add extra capacity during peak seasons, manage growth in an uncertain market, and replace trucks at a moment's notice. These rental vehicles may be owned by a single entity but the vehicles have no single operator, no designated single routes, and no single home facility.

These variabilities are the reason why rental vehicles' operational profile does not meet the basic standards for near-term electrification.

There remains a reporting gap between the 180-day rental cut-off and the one-year full-service lease agreement. The best way to address and simplify the 180-day provision is to exempt all rental vehicles rented under a period of one year and continue to require reporting of all vehicles operating under a full-service lease of one year or more. This provision could be revisited in the future as the industry and infrastructure properly matures to sustain the projected purchase targets under the ACF rule.

**Charging Infrastructure Remains a Major Hurdle to Overcome**

While electric vehicle charging infrastructure is expanding in California, much of it is not accessible or practical for commercial fleet use. Fleets wanting to install charging infrastructure are confronted with permitting delays, insufficient power, long installation periods, large monetary outlays, and parking space reductions. Companies wishing to install chargers on their rented or leased property are often told they cannot do so under their lease terms. Electrical power demands have significantly increased due to unprecedented climatic swings and power production from previously reliable electric generation sources has diminished.

No state knows better than California what happens during brown-out or black-out periods. For an industry that has three essential needs to conduct its business – a truck, a driver, and fuel – one missing element results in lost revenue and essential products not being delivered throughout the economy. TRALA therefore requests CARB conduct periodic reviews under the ACF rule to ascertain whether charging infrastructure is keeping pace with vehicle availability and milestone schedules, as well as sufficient infrastructure siting across the state to meet trucking's charging needs.

**The Advanced Clean Fleet Rule and the Advanced Clean Trucks Rule Must be Harmonized**

TRALA is concerned over CARB's intention to sunset the existing Advanced Clean Trucks (ACT) rule and replace it with a 100 percent sales requirement for 2036 and beyond. As the ACT rule currently stands, the annual manufacturer sales percentages for Model Year 2035 are 55 percent, 75 percent, and 40 percent for Class 2b-3, Class 4-8, and Class 7-8 tractors respectively. Mandating such a quantum sales leap between the years 2035 and 2036 is highly speculative. Establishing such mandates 13 years into the future is both unpredictable and irresponsible.

TRALA recommends a more measured approach that considers off-ramps and alternatives tied to the state of available charging infrastructure, ZEV technology development, economics, performance, and vehicle choice. Technology and infrastructure development, along with economic and global headwinds, must always be considered in developing sound regulations. To do otherwise results in bad public policy that increases the odds of failure.

**Compliance Reporting Requirements Need to be Simplified**

The tremendous amount of data requests and reporting from trucking companies continues to grow exponentially in California. Fleets presently report to multiple CARB databases including TRUCRS, DTR, and ARBER, with additional databases being proposed (HDIM and ACF). These databases provide duplicative data on several levels. A single database that satisfies CARB's data needs for all such reporting requirements from fleets is a logical and more efficient measure that should be developed to help reduce excessive regulatory burdens falling upon the shoulders of the trucking sector.

**Truck Purchase Incentives Should be Prioritized to Help Achieve Compliance**

California financial incentive for trucks cannot be solicited for the purchase of new ZEV vehicles if such incentives are for the purpose of complying with the baseline fleet purchase percentages under the CARB ACF rule. High acquisition costs of ZEV trucks can currently be subsidized through the use of financial incentives under programs such as Carl Moyer and the Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP). These incentive funds range from $7,500 up to $180,000 for the largest class trucks.

Losing state-provided incentive funds for ZEV purchases is a big step backwards for fleets trying to comply with such aggressive milestones. Passing the full costs of ZEV vehicles onto renting and leasing customers will be extremely difficult. TRALA requests CARB explore the continued use of incentive dollars to purchase new ZEV trucks for compliance until such a time where ZEV and diesel trucks achieve cost parity.

**Continued CARB Support is Needed for Low-Carbon Fuels and Technologies**

Transitioning to a zero-emissions future is not about flipping a switch. Such unprecedented efforts will not occur overnight and must consider the fact that internal combustion engines will remain a staple of the trucking sector nationwide for decades to come. TRALA asks CARB to strongly support the continued use of lower carbon intensity fuels and low- carbon fuel incentives for in-state trucks not captured under the ASCF rule. We also ask that CARB support and verify new breakthrough technologies, such as on-board carbon capture devices, that can help California achieve its carbon reduction goals.

**Greater Flexibility is Needed for Vehicle and Infrastructure Unavailability and Delays**

While TRALA appreciates the additional compliance flexibility with respect to unavailability and/or delays associated with charging infrastructure build-out and ZEV truck production/orders, we request that additional compliance period flexibility not be capped at a specific definitive endpoint. If circumstances exist whereby fleets still cannot comply due to impossibility, good public policy dictates more time be afforded beyond the current time periods to achieve either milestone or model year compliance. If CARB remains confident in the feasibility of achieving each ZEV compliance milestone, time extensions beyond those already proposed will not be used but will build a degree of additional confidence for fleets working towards compliance under the rule.

## CARB Must Seek a Clean Air Act Waiver of Federal Preemption

CARB is assuming that it does not need to seek a formal waiver of federal preemption under Clean Air Act (CAA) Section 209 before it can begin to implement and enforce this rule. Because the ACF requires fleet operators purchase vehicles certified to applicable California emission standards and emissions-related requirements, this constitutes a standard relating to motor vehicle emissions and is therefore preempted under CAA Section 209(a) unless and until EPA grants a waiver under Section 209(b). If such a waiver is approved by EPA, only then can California implement and enforce these standards on truck purchasers and allow other states to consider "opting-into" CARB's ACF rule under CAA Section 177.

## A One-Time Five-Day Temporary Pass Exclusion is Impractical

Trucks by their very nature are mobile work offices. As such, they transcend local, county, state, and international boundaries. While CARB acknowledges the fact that certain vehicles may enter California and operate for short time periods, a mere five-day window is too abbreviated. The best laid plans for the amount of time an out-of-state truck will be in California are quickly thrown into the wind due to circumstances such as equipment breakdowns, driver illness, scheduling issues, or inclement weather.

In addition, the rule requires the five-day pass request be submitted and approved prior to the vehicle being operated in California and is only applicable for five "consecutive" days once per year. The time needed for submitting and getting approval for a five-day pass does not align with how trucking companies conduct business. For example, a fleet that bids and wins a contract to haul a one-time load into California in the same week would not be afforded enough time to request and get approval for a temporary five-day pass. TRALA therefore suggests an automated process to acquire a temporary in-state pass and expand the pass duration to a period of 15 days.

## Conclusion

TRALA appreciates your consideration of our comments and concerns and stands ready to continue to assist you with your ACF rule efforts. If you need any further clarification on our comments or if you have any additional questions pertaining to the truck renting and leasing space, please do not hesitate to contact me.

Sincerely,

Jake Jacoby
President and CEO
Truck Renting and Leasing Association

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