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

Re: California Municipal Utilities Association's Comments on California Air Resources Board's Proposed Advanced Clean Truck Regulation

Clerk of the Board,

The California Municipal Utilities Association ("CMUA") appreciates the opportunity to submit these comments on the California Air Resources Board's ("CARB") Proposed Advanced Clean Truck Regulation ("Proposed Regulation").

CMUA is a statewide organization of local public agencies in California that provide electricity and water service to California consumers. CMUA represents 42 publicly owned electric utilities ("POUs") and 44 public water agencies. Collectively CMUA members provide electric service to approximately 25% of Californians and provide water service to approximately 70% of Californians. California's POUs and public water agencies are committed to, and have a strong track record of, providing safe, reliable, affordable and sustainable water and electricity service. Our members support a balanced and cost-effective approach to meeting the states air quality goals that includes renewable transportation fuels in addition to zero-emission technologies to reduce GHG emissions.

The Proposed Regulation establishes a Large Entity Reporting Requirement.¹ CMUA members rely on heavy-duty equipment to build and maintain California's critical electricity and water infrastructure. CMUA supports CARB's intent to develop informed regulations by receiving data and input from stakeholders. However, as written, the Proposed Regulation raises concerns about timing, data security and confidentiality, and enforcement.

The Proposed Regulation Does Not Provide Sufficient Time to Collect Data

The Proposed Regulation mandates that regulated entities complete the reporting requirement by April 1, 2021 for the 2020 calendar year.² Collecting, organizing and providing this data will require significant time and for many CMUA members this cannot be completed in three months. While some of the information may be collected before the end of 2020, the data required pursuant to Section 2012.3 will require more time to collect, summarize and report. Further, an April 1, 2021 compliance deadline imposes additional burden on the compliance and reporting staff of regulated entities due to existing reporting requirements. The United States Environmental Protection Administration's Greenhouse Gas Reporting Program requires regulated entities to report annual emissions by March 31st of each year.³ Additionally, California's Mandatory Reporting Regulation requires that regulated entities report annual GHG emissions by June 1st of each year.⁴ For many CMUA members, these reporting obligations fall to the same staff and create significant

¹ Proposed Regulation, § 2012.

² *Id.* at Subsection (e).

³ 40 CFR, § 98.

⁴ 17 CCR, § 95103(e).

workflow challenges. In order to provide reporting entities the time needed to gather the data needed pursuant to this regulation, and recognizing reporting obligations already facing regulated entities, CMUA suggests a deadline of July 1, 2021.

Staff Has Significantly Underestimated the Time Needed to Complete this Report

In the Standardized Regulatory Impact Assessment (“SRIA”) staff claim that this regulation will impose, on average, “four hours of reporting per company.”⁵ No where in the SRIA is this claim justified. CMUA suggests that this claim is incorrect and that the actual time needed to comply with the Proposed Regulation will be significantly greater than the time claimed in the SRIA.

The Proposed Regulation imposes a facility reporting requirement, an owned fleet reporting requirement, and a represented facility questionnaire. The facility category reporting requirement and the owned fleet reporting requirement both focus on assets either owned or managed by the reporting entity. However, the Represented Facility Questionnaire seeks information about vendors that make deliveries to a facility. This information will require direct observation in order to provide information that is any better than a guess and will most certainly take far more time that claimed in the SRIA.

Facility Category Reporting

The Proposed Regulation mandates that regulated entities categorize their facilities by groups, and then within each group, report on various characteristics of their facilities.⁶ This element of the reporting requirement alone will take significantly more

⁵ SRIA, p. 35.

⁶ Proposed Regulation, § 2012.2(a)(1).

time than claimed in the SRIA. It seems that staff assumes that this information is fully automated and that running a simple on-line query will provide a report of the requested data. It is not reasonable to assume that regulated entities have recorded information about all their facilities in an electronic database. Additionally, there is no reason to believe that the characteristics requested in the Proposed Regulation are recorded in any central database. Collecting this information will require a combination of electronic database inquiry, telephone inquiries with facility personnel and in some cases, physically observing the characteristics of facilities.

Owned Fleet Reporting

The Proposed Regulation mandates that “regulated entities that own or operate any vehicles with a GVWR greater than 8,500 lbs. must report general information about the facility where all on-road vehicles are domiciled or assigned as specified in section 2012.3(a), and information about vehicle operating characteristics for vehicles domiciled or assigned to each facility in California”.⁷ General fleet information is most likely to be housed in a centralized entity database. However, it is not likely that any database regularly records information addressing all the characteristics required to be reported. As a result, an agent of each regulated entity will need to inquire about vehicles in the organization’s fleet, requiring that facility representatives collect data on the characteristics mandated in the Proposed Regulation. This alone will take significantly more than four hours.

Represented Facility Questionnaire

⁷ Proposed Regulation, § 2012.3.

The Proposed Regulation mandates regulated entities must submit “information about one representative facility within each facility category listed in section 2012(d)(4) that applies to your entity.”⁸ As part of this questionnaire, regulated entities are required to estimate the number of vehicle trips to a “typical facility” and estimate the number of vehicle trips, by category, in a “typical week”.⁹ However, the Proposed Regulation provides insufficient guidance on identifying a typical facility or a typical week. CMUA appreciates the flexibility this offers but remains concerned about the compliance impact when so much of the reporting requirement involves subjective responses. In order to provide a response that would be of any value whatsoever, an agent of the facility must observe trips to the facility for a week. For some of the trips the information may be already known or would not have to be physically observed. For example, a firm can easily assume that a cash or other financial document delivery or pickup would be performed by an armored transport truck. However, there is no reason to anticipate that regulated entities currently record whether deliveries are made by tractor trailer or straight bed. To provide an estimate based on something more than a guess, particularly if regulated entities are required to provide information about assets they neither own nor control, regulated entities will need to observe deliveries at each location category and then compile the information for the report. The staff responsible for identifying, collecting and reporting this information requires more clarity on how CARB will interpret the individual entities’ specific approaches to selecting typical facilities and typical weeks.

⁸ *Id.* at Subsection (b).

⁹ Proposed Regulation, § 2012.2 (b).

Vendor Data is Best Provided by Vendor Owners or Operators

The Proposed Regulation seeks specific detail on the truck type used for pickups from and deliveries to a facility.¹⁰ This information would be more accurately reported by those fleet owners under the Owned Fleet Reporting Requirement. By imposing a vendor information reporting requirement on the customers, the Proposed Regulation adds a significant regulatory burden for a very limited value of information. In order to collect this information, a representative from the agency would need to physically observe, possibly question the operator of the truck, and record the truck type for every delivery for a selected period. It is clearly unreasonable to expect that every facility will assign a person to observe every delivery and record information about truck type. This data would more appropriately and more accurately be obtained from the truck owners or operators.

The Proposed Regulation Does Not Clearly Describe Data Being Requested or the Means of Measuring the Data

The Proposed Regulation appears to provide regulated entities with discretion on how to classify and interpret observed data. In order to improve the quality and value of the data owners and operators report, CMUA suggests that CARB should provide greater clarity on how it will interpret and evaluate the reported data.

Facilities Owned or Operated by Water Agencies or Electric Utilities Could Reasonably Overlap Various Facility Categories.

¹⁰ *Id.* at Subsection (2).

Section 2012 (d)(5) identifies facility categories that are vague and subject to inconsistent interpretation. Many of the facilities operated by water agencies or electric utilities span the descriptions provided for different categories. As a result, it is possible that similar organizations may interpret these categories differently in their reports. This creates questions about the value of such reported data and how CARB will address compliance as a result of subjective self-reported designations. For example, the definition for “Multi-Building/Campus Base” includes the description “a property typically operated by a single entity with several buildings, often serving multiple purposes.”¹¹ This definition could be used to describe many facilities owned or operated by water agencies or publicly owned electric utilities. It is common for a municipal water agency to house facilities that could be described as “Administrative/Office Building”, “Distribution Center/Warehouse”, “Manufacturer/Factory/Plant”, “Service Center” and “Truck/Equipment Yard” in a single location. As such, CMUA requests that CARB provides greater clarity for facilities commonly used by water agencies or electric utilities.

The Proposed Regulation Seeks Information on Fleets That is Vague or Not Applicable

The Proposed Regulation requires that regulated entities describe vehicles located at their facilities by characteristic classes.¹² These characteristic classes include descriptions such as miles driven per day, whether the vehicle is all-wheel drive, primarily refuels on-site, returns to the facility daily, and whether the vehicle has predictable usage patterns. Data on miles driven per day would be reasonably

¹¹ Proposed Regulation, § 2012 (d)(5)(F).

¹² Proposed Regulation, § 2012.3.

determined by taking the average of the total miles driven in the measurement year. However, this statistic would not provide insight to the distribution of how those miles are accrued. Among the characteristic classes is “Has a predictable usage pattern”. Again, while CMUA understands the reason that this data would be useful, the Proposed Regulation does not sufficiently define what a predictable usage pattern is. As a result, different reporting agents will likely interpret this differently. How many atypical usage events during a year would reasonably lead to a determination that usage is not predictable? During emergency events, system maintenance equipment must be available to travel anywhere in the water agency’s or POU’s service area. Additionally, CMUA members participate in various regional mutual aid associations and respond to requests for assistance in addressing emergencies in other service areas. Given the need to respond rapidly to emergency conditions, it is unclear how to determine if a usage pattern is predictable.

Additionally, water agencies and electric utilities operate vehicles that measure usage by time, not miles. These vocational trucks drive on road to reach a maintenance or new build location, but they do not have odometers. The usage of these vehicles is measured by hours, not miles.

CMUA Supports the Ability to Designate Information as Confidential

The Proposed Regulation seeks specific facility level information including address, facility type and detail about assets housed at the facility that may be considered confidential.¹³ For example, POUs operate critical energy infrastructure,

¹³ *Ibid.*

including generating facilities and electricity substations. Providing detailed information such as location or usage patterns may pose a security risk if this information were to be released. As the Proposed Regulation recognizes,¹⁴ regulated entities may designate this and other information as confidential as needed.¹⁵

The Proposed Regulation Should Apply Equally to Public Agencies as to Private Firms

The Proposed Regulation applies to “any entity that operated a facility in California in 2019 calendar year and had gross annual revenues greater than \$50 million in the United States for the 2019 tax year” and “Any fleet owner with more than 100 vehicles with a GVWR greater than 8,500 lbs.”¹⁶ The Proposed Regulation also mandates that all government agencies, regardless of size, comply with the reporting regulation. However, California water agencies and POU’s are characterized by a broad size distribution. While some of these entities are very large, many of CMUA’s members are comparatively small, serving a local city or utility district. Of CMUA’s members, 11 have total annual revenue below \$50 million, seven have total revenue below \$10 million and three others have total revenue below \$5 million. Many of these are local utility districts that operate independently of any of the cities they serve. The value of the information that would be collected from these very small members is minimal, yet the burden for compliance remains. In applying the regulation to those private entities with fleets greater than 100 vehicles or revenue greater than \$50 million, CARB demonstrates that it recognizes that the data from smaller private entities will not help inform a potential future regulation to a sufficient extent as to make the reporting

¹⁴ Proposed Regulation, § 2012(e).

¹⁵ 17 CCR, § 91000.

¹⁶ Proposed Regulation, § 2012(b)(1) and (2).

requirement worthwhile. CMUA requests that CARB assign the same applicability standards to water agencies and POU's.

Conclusion

CMUA's members fully support California's transition to a cleaner transportation future which will, where applicable, rely on electricity as a transportation fuel. CMUA also appreciates that CARB staff is working to collect data that can better inform a future regulation. As indicated in these comments, CMUA encourages CARB to clarify how the data is to be collected and classified. In order to appropriately balance the regulatory burden against the data benefits, CARB staff must more accurately evaluate the burden of compliance with the regulation. CMUA further recommends that CARB collect data from the owners and operators of the vehicles and not impose a data acquisition requirement on their customers.

CMUA appreciates the opportunity to comment on the Proposed Regulation and looks forward to continuing to work with CARB to best inform future regulations.

Respectfully submitted,

/s/

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