



334 N. Euclid Avenue • Upland, CA 91786
(909) 982-9898 • Fax (909) 985-2348
www.westrk.org

December 9, 2021

California Air Resources Board
1001 I Street
Sacramento, CA 95812

Ref: Comments on Proposed Heavy-Duty Inspection and Maintenance Regulation (hdim2021)

Dear Air Resources Board:

The Western States Trucking Association (WSTA) and CleanFleets.net provide these comments on behalf of over 1,000 member companies affected by the proposal. WSTA is a non-profit organization and CleanFleets.net has been our endorsed CARB Consultant to the membership for over a decade and has been extensively involved in heavy duty (HD) vehicle maintenance.

We concur with the Truck and Engine Manufacturers Association (EMA) comments of November 29, 2021, specifically their conclusion that, “there is a need for more study and refining of the program before its implementation. Thus, the concurrent release of a report on the pilot program documenting the need to improve the efficacy of the proposed HD I/M program, and the Proposal of that very same program is patently inappropriate.”¹ WSTA believes that the legislative intent of the “pilot program” is to demonstrate a program that is not overly burdensome or onerous to affected vehicles owners. It does not appear that CARB has met that requirement. Our comments appear in the order presented in the Notice of Public Hearing.

Reporting Requirements

Under the Proposed Regulation, owners of HD vehicles operating in California (including out-of-state vehicles) would be required to report owner and vehicle information to CARB and ensure their fleet information is current. Owners would first need to establish an account in the CARB’s HD I/M database system and then report the required vehicle information for vehicles within their fleet. To minimize the reporting burden on WSTA members, CARB should use its existing TRUCRS reporting system owner and vehicle details along with California Department of Motor Vehicles (DMV) to populate any new reporting system so the fleet owner’s obligation is to verify or simply clarify information. The submittal of data no more frequently than once per year should be user friendly in no case should CARB staff review exceed 10 calendar days from submittal. Where the Regulation references physical documents to be carried in an affected vehicle, there should also be allowance for a digital image of the required document.

¹ CARB Website Public Comment Log, EMA document at: [12-hdim2021-AGVUPwRkVVXMGfFu.pdf \(ca.gov\)](https://www.ca.gov/12-hdim2021-AGVUPwRkVVXMGfFu.pdf)

Vehicle Compliance Testing Requirements

HD vehicle owners would demonstrate their emissions control systems are properly functioning through required vehicle compliance tests. For on-board diagnostic (OBD)-equipped vehicles, vehicle owners would submit OBD data, while for non-OBD vehicles, vehicle owners would submit the results of a smoke opacity test and visual emissions control inspection. WSTA observes:

- EMA details the remote monitoring problems that may erroneously subject vehicle operators to costly and unnecessary additional testing;
- EMA and our members note the uncertainty that a continuous connection to an OBD port on any vehicle can be made;
- Because there are currently no non-continuously connected OBD devices available for testing or use we are uncertain whether these devices can meet our members needs, even if an OBD port on a vehicle is available;
- It is very unclear at what cost our members can accomplish vehicle testing and reporting. While the state fees are capped at \$30 per vehicle it is not clear whether a small fleet owner will be able to accomplish this on his own or what the fee will be to the HD I/M tester;
- What is clear is that twice per year testing is extremely onerous and that inability of our members to navigate a complicated (and likely costly) testing and reporting program will result in no DMV renewal and therefore preventing the legal operation of their trucks.

None of these items is adequate described in the hearing documents and the Regulation should not be finalized without a full disclosure to fleet owners and the public.

Referee Testing Network

CARB proposes to establish a referee testing network to provide independent evaluations of HD vehicles and services for vehicles with inspection incompatibilities or compliance issues. WSTA observes:

- To be successful, this network must be widespread both geographically throughout the state and also operate evenings and weekends when fleet owners can access their services.
- In planning for state-operated or contracted locations to serve truck owners must take into account the accessibility to truck and trailer combinations with adequate circulation, parking and driver facilities to facilitate inspections. Because of the real estate needs, adequate facilities may be hard to site in urban areas. CARB must lead the planning effort immediately to explain how adequate referee services will be made available to potentially hundreds of thousands of trucks each year needing referee services.

WSTA does not believe that adequate planning or resources have been provided to date and objects to completion of the Regulation without an adequate description of referee services.

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Parts Unavailability Compliance Time Extension Provisions

CARB staff is proposing a compliance time extension provision for small fleets of ten vehicles or fewer who cannot obtain the parts needed to repair a vehicle in time. WSTA observes:

- This time extension should be available to all fleet sizes;
- Allowances for multiple time extensions should be authorized as one need only look at the current global HD parts supply chain problems to recognize that the fleet owner cannot face a certain repair date for parts unavailability provided adequate documentation is kept.

Freight Contractor Requirements

To assist with the implementation and enforcement of the Proposed Regulation, CARB staff is proposing that freight contractors, applicable freight facilities, and brokers verify fleet and vehicle HD I/M compliance as part of their business processes. WSTA observes:

- The supply chain expectations for HD I/M compliance verification are overly aggressive as our members object to any requirement to surrender confidential private party agreements to enforce an emissions requirement;
- Our members are amenable to asking for a “hired fleet’s” annual compliance document.
- The onus is on CARB to develop and maintain a user-friendly database lookup tool that enables retrieval of the compliance status of fleet owners by name, USDOT number and/or VIN. CARB’s database should be formatted to time stamp the date of the query and be printable on a single page.

Compliance Fee Assessment

Assessing compliance fees to out of state trucks identical to in state trucks will result in litigation that we do not believe the state could win (see Sec. 4306, SAFETEA-LU).

Conclusion

For the reasons noted herein, the proposed Regulation is unworkable and must be modified as suggested in order for fleet owners to be successful. We may be reached via electronic mail at LeeBrown@westrk.org and Sean@CleanFleets.net.

Sincerely,



Lee Brown
Executive Director
Western States Trucking Association



Sean Edgar
Director
CleanFleets.net LLC

cc: WSTA Executive Committee
Ellison Wilson Advocacy, LLC