



VIA EMAIL

October 17, 2022

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

SUBJECT: Comment of U.S. Postal Service on Proposed Advanced Clean Fleets Regulation

Dear Board Members:

On behalf of the U.S. Postal Service, I submit this comment to the California Air Resource Board's (CARB) Advanced Clean Fleets Regulation Proposed Regulation Order, dated August 30, 2022 (Proposed Rule). According to the CARB website, the Proposed Rule is "a medium and heavy-duty zero-emission fleet regulation with the goal of achieving a zero-emission truck and bus California fleet by 2045 everywhere feasible and significantly earlier for certain market segments such as last mile delivery and drayage applications." In May 2022, CARB revised its 2021 draft of the Proposed Rule to expand its applicability to also include "light duty package delivery vehicles" that are "used to deliver packages, parcels or mail to the final destination from the last point of distribution."¹

The Postal Service attended CARB's Workshop on the Proposed Rule's "High Priority and Federal Fleet Requirements." We also appreciate the willingness of CARB's staff to meet separately on June 13, 2022 to discuss our questions and concerns regarding the Proposed Rule. Informed by those discussions and our review of the text, we continue to have serious concerns regarding the Proposed Rule in its current form. As explained in detail below, we believe that without revisions the Proposed Rule: (1) risks the provision of efficient and uninterrupted mail and package service to California residents; (2) creates potential conflicts with other federal laws; (3) fails to promote the equitable distribution of environmental benefits

¹ Proposed Rule, § 2015(a)(1)(B) & (b)(47).

at the national level; and (4) fails to facilitate the functioning of the national postal system in a fiscally responsible manner.

For discussion purposes only, we assume that the Postal Service would be subject to the Proposed Rule in its current form.

Universal Service Obligation

As set forth in the Postal Reorganization Act,² the Postal Accountability and Enhancement Act,³ and the Postal Service Reform Act,⁴ the Postal Service is subject to a Universal Service Obligation, which requires it to deliver to 163 million addresses nationwide, in all climates and topographies, at least six days per week. This Universal Service Obligation must be self-supporting based on a system of fair and reasonable rates and fees.⁵

Current State of the Postal Fleet in California

Currently, the Postal Service owns and operates 24,835 delivery and collection vehicles in California, including 19,434 Long Life Vehicles (LLVs), and 1,757 Flexible Fuel Vehicles (FFVs). These vehicles service California's 22,000 delivery routes and 39 million residents at least six days per week. The average age of these vehicles is 32 years.

New Vehicle Acquisitions

On February 23, 2022, in a Record of Decision issued pursuant to the requirements of the National Environmental Policy Act (NEPA),⁶ the Postal Service adopted its Final Environmental Impact Statement's (FEIS) Preferred Alternative to purchase and deploy over a ten-year period 50,000 to 165,000 purpose-built "Next Generation Delivery Vehicles" (NGDVs), at least 10 percent of which would have battery electric vehicle (BEV) powertrains, with the remainder having internal combustion engines (ICE). Under that Decision, the Postal Service also retained the flexibility to acquire significantly more BEV NGDVs should its financial and operational circumstances warrant. Then, on March 24, 2022, the Postal Service placed an order for 50,000 NGDVs, of which 20 percent are BEVs.

On June 10, 2022 and July 21, 2022, the Postal Service issued Notices in the Federal Register announcing its intent to prepare a Supplemental Environmental Impact Statement (SEIS) to consider potential changes to its NGDV Preferred Alternative and to request public comment on the SEIS's scope.⁷ Specifically, the Postal Service noted its intent to consider:

² See, e.g., Postal Reorganization Act, P.L. 91-375 (Aug. 12, 1970), § 2 (requiring the Postal Service "have as its basic function the obligation to provide postal services to bind the Nation together through the personal, educational, literary and business correspondence of the people" and to "provide prompt, reliable, and efficient services to patrons in all areas.").

³ See, e.g., Postal Accountability and Enhancement Act, P.L. No. 109-435 (Dec. 20, 2006), § 201(b) (establishing postal rate system that requires that market dominant products "maintain high quality service standards" and "maximize incentives to reduce costs and increase efficiency.").

⁴ See, e.g., Postal Service Reform Act, P.L. No. 117-108 (Apr. 6, 2022), § 202 (requiring that "the Postal Service shall maintain an integrated network for the delivery of market-dominance and competitive products [and] delivery shall occur at least six days a week.").

⁵ 39 U.S.C. § 403(a).

⁶ See U.S. Postal Service, Next Generation Delivery Vehicles Acquisitions, Notice of Availability of Record of Decision, 87 FR 14588-89 (Mar. 15, 2022).

⁷ See 87 FR 35581-82 (June 10, 2022); 87 FR 43561-62 (July 21, 2022).

(1) increasing the minimum percentage of BEV NGDVs to not less than 50 percent to reflect expected changes to our operating strategy and acquisition planning horizon; (2) reducing the maximum quantity of NGDVs being analyzed for NEPA purposes to 50,000 NGDVs as part of a shorter purchasing strategy that better reflects advances in technology, changes to costs and market availability, and further improvements in postal operations; and (3) accelerating the replacement of its aged and high maintenance LLVs and FFVs through the purchase of up to 20,000 left-hand drive (LHD) Commercial Off-the-Shelf (COTS) vehicles within a two-year period, including as many BEVs as are commercially available and consistent with our delivery profile, and up to 14,500 right-hand drive (RHD) ICE COTS vehicles. On August 15, 2022, the public comment period for the SEIS scoping period concluded and we are currently considering the public comments received as we prepare our Draft SEIS.

On August 16, 2022, President Biden signed into law H.R. 5376, the “Inflation Reduction Act of 2022” (IRA),⁸ which includes \$3 billion in funding for the Postal Service to purchase zero-emission vehicles (ZEVs) and supporting infrastructure. While we must continue to base vehicle purchasing decisions on our financial and operational considerations, we believe these additional funds will help us in advancing our electrification goal. Thus, we are also currently considering the impact of the IRA funds in preparing the Draft SEIS.

Compliance Options for Proposed Rule

In its current form, the Proposed Rule provides two paths for fleet owners to comply with its ZEV Milestone requirements. The first path requires that, beginning January 1, 2024, fleet owners must add only ZEVs to their California fleet and must remove all ICE vehicles by January 1 of the calendar year following the end of the vehicle’s “minimum useful life”⁹ (“Standard Option”).¹⁰

For the second path, the “Milestones Option,”¹¹ beginning January 1, 2025 and each January 1st thereafter, fleet owners would be required to continuously meet or exceed certain ZEV percentage requirements, which increase at set intervals of 10%, 25%, 50%, 75%, and 100%. For the group which would include “light-duty package delivery vehicles,” such as the LLVs and FFVs, and heavy duty vehicles such as the NGDV (Group 1), the 100% milestone year would be 2035.

Given the average age of the LLVs and FFVs which form the vast majority of the Postal Service’s delivery fleet in California, on our June 13, 2022 call, CARB staff represented that CARB recognized that “most of the Postal fleet would be obsolete within two years” under the Standard Option and therefore expected that the Postal Service would be required to use the Milestone Option.

⁸ P.L. No. 117-169 (Aug. 16, 2022).

⁹ “Minimum useful life” is defined as “the later [of] (A) 13 years commencing from the model year that the engine and emissions control system in a vehicle was first certified for use by CARB or U.S. EPA; or (B) the date that the vehicle exceeded 800,000 vehicles miles traveled or 18 years from the model year that the engine and emissions control system of that vehicle was first certified for use by CARB or U.S. EPA (whichever is earlier).” Proposed Rule, § 2015(b).

¹⁰ Proposed Rule, § 2015.1.

¹¹ Proposed Rule, § 2015.2.

As an initial matter, we note that CARB revised its draft Proposed Rule in May of 2022 expressly to add “light-duty package delivery vehicles,” which form the vast majority of the postal California delivery fleet. We therefore agree that the replacement of almost all postal delivery trucks in California by January 1, 2025, would be an impossible regulatory requirement and note our serious concern that the Proposed Rule appears to have been expressly designed to make the California postal fleet obsolete within such a short window of time. As a result, we evaluate the Proposed Rule according to the only compliance option actually available, the Milestone Option.

If the Postal Service were, for whatever reason, to not have a sufficient quantity of ZEVs to satisfy the ZEV Milestone then in effect, the Postal Service would have three options:

1. Obtain an exemption or extension from CARB;
2. Remove ICE Vehicles (“ICEVs”) from service to raise the ZEV percentage of fleet;
- or
3. Continue postal operations in a state of noncompliance with the CARB rule.

Exemptions and Extensions

The Proposed Rule provides six exemptions and extensions: (1) Backup Vehicle Exemption; (2) Daily Mileage Exemption; (3) Infrastructure Construction Delay Extension; (4) Vehicle Delivery Delay Extension; (5) ZEV Unavailability Exemption; and (6) Declared Emergency Events Exemption.¹² For the following reasons, we believe all of the potentially applicable exemptions are too narrow to be of practical use or to ensure the continuity of postal operations.¹³

As to the Infrastructure Construction Delay Extension, the Proposed Rule would permit CARB to grant a single extension for one year if “a fleet owner [experiences] construction delays beyond their control on a project to purchase ZEVs and install ZEV charging or fueling stations.”¹⁴ However, limiting extensions to factors beyond the fleet owner’s control fails to account for the magnitude of the effort that will be required to roll-out postal charging infrastructure on the scale required by the Proposed Rule. Postal delivery vehicles will need to be charged at postal facilities, and not retail or third-party facilities, to account for the mail processing cycle which requires that vehicles be charged when they are not being used for transporting, loading and unloading the mail.

Secondly, the Postal Service currently has 1,977 facilities in California, many of which are advanced in age and will require extensive facility and electrical upgrades in order to house EV chargers. The roll-out of this infrastructure will need to be managed and overseen by postal personnel. While the Postal Service would endeavor to complete necessary construction projects in a timely manner, the Postal Service has limited staff managing a portfolio of over 30,000 properties nationwide, over two-thirds of which are leased. As such,

¹² Proposed Rule, § 2015.3.

¹³ We do not discuss the Backup Vehicle, Daily Mileage, and Declared Emergency Exemptions in these comments as those exemptions apply to backup vehicles, vehicles with gross vehicle weight rates greater than 14,000 pounds, and vehicles dispatched to support a declared emergency event, respectively, and therefore would not apply to the postal delivery fleet.

¹⁴ Proposed Rule, § 2015.3(c).

the Postal Service cannot guarantee that infrastructure construction will occur at the necessary pace to satisfy the Proposed Rule's milestone mandates.

Additionally, as is explained in our NGDV SEIS notice, the Postal Service is currently pursuing network improvements which would entail the consolidation of routes into facilities such as new Sorting and Delivery Centers. The Postal Service anticipates that these network improvements, which will include changes to route length and characteristics, and improved electric infrastructure, will favor BEV deployments. However, there is no guarantee that the roll-out of these network improvements, if done in a cost-effective, well-studied, and organizationally-efficient manner, can be completed in accordance with the schedule necessary to satisfy the Proposed Rule's ZEV Milestones.

Thus, to the extent the Postal Service would be required under the Proposed Rule to devote limited resources to the EV infrastructure of poor candidate sites in California rather than at new, improved facilities located elsewhere, it will also hinder and delay infrastructure improvements both within and without California that would have otherwise improved postal operations and increased national BEV deployments.

With respect to the ZEV Unavailability Exemption, which grants fleet owners an exemption to replace existing ICE vehicles with vehicle configurations on a list maintained by CARB, this exemption is also too narrow to be of practical use to the Postal Service. The exemption defines "unavailable" not in the sense of market availability or affordability, but whether a vehicle class or configuration can be feasibly equipped with a ZEV or Near ZEV (NZEV) chassis.

If the Postal Service were to be unable to deploy BEVs at the rate required by the Milestone Option, it would most likely be due to reasons of cost, route fit, state of infrastructure, personnel training, market availability of BEV options (including Right Hand Drive options which are operationally necessary for the majority of routes for curbside delivery), national network demands, and pace of NGDV production – not because a class of vehicle used by the Postal Service cannot be feasibly equipped with a ZEV or NZEV chassis.

Removal of ICEVs from Service

In the event that none of the above extensions and exemptions are applicable in sufficient quantities to maintain compliance with the ZEV Milestone then in effect, the only compliance option remaining to the Postal Service would be the removal of ICEVs from service until the ZEV milestone percentage is obtained. The Postal Service believes that the required removal of ICEVs, without suitable replacements on hand, would degrade service standards nationwide, violate its Universal Service Obligations, and create a severe conflict between the CARB Rule and the multiple federal laws governing postal operations.

Noncompliance with the Proposed Rule

Fleet owners failing to meet the ZEV Milestones would also be "subject to penalties."¹⁵ Thus, if the Postal Service were at any point in time unable to meet the ZEV Milestone then-in effect and were to continue mail operations to California residents nonetheless, it would be subject to penalties of undefined scope and severity. The Postal Service believes that monetary

¹⁵ Proposed Rule, § 2015.6.

sanctions, whether imposed or threatened, for maintenance of postal operations would pose yet another potential conflict between the Proposed Rule and the federal laws governing postal operations.

Environmental Justice and National Performance

On July 29, 2022, CARB submitted a comment in response to the Postal Service's request for public comments for its NGDV SEIS. In its comment letter, CARB urged the Postal Service to analyze "how their facilities, fleet yards, and operating vehicles are distributed with respect to environmental justice or disadvantaged communities." The Postal Service is carefully considering this comment as it prepares its Draft SEIS and it urges CARB to likewise consider the impacts of its Proposed Rule on environmental justice and disadvantaged communities.

The Postal Service is entrusted with the management of a national postal system. Unlike its for-profit competitors, the Postal Service is required by the Postal Reorganization Act to "provide a maximum degree of effective and regular postal services to rural areas, communities and small towns where post offices are not self-sustaining."¹⁶ Furthermore, the Act requires that "no small post offices shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured [sic] to residents of both urban and rural communities."¹⁷

In short, the Postal Service must manage the nation's postal system in pursuit of multiple statutory objectives, including but not limited to the ones above, and do so in an efficient and economical way. The Postal Service thus believes that the Proposed Rule's treatment of the postal system in the exact same manner as the for-profit sector lacks due consideration for the Postal Service's multiple other statutory objectives as well as CARB's own stated interests.

The Proposed Rule would require that the Postal Service's newest and cleanest vehicles be deployed to California on the same schedule as the for-profit sector, regardless of whether the deployment of such vehicles would degrade operational reliability, result in greater air emissions for the nation as a whole, or reduce environmental benefits in other parts of the nation, including environmental justice and disadvantaged communities located outside California.

Moreover, to the extent the Proposed Rule would require the Postal Service to install charging infrastructure and deploy BEV vehicles to California routes in advance of routes located outside California where the fiscal and operational benefits of BEVs would be significantly higher, the Proposed Rule would further degrade the Postal Service's financial condition to the detriment of the postal system as a whole. In other words, as neither air emissions nor climate change respect state boundaries, it is in everyone's best interests if the Postal Service can maximize its national BEV fleet, with its attendant environmental benefits, by being able to deploy BEVs on routes where they can best be financially and operationally justified.

Conclusion

The Postal Service is committed to the fiscally responsible roll-out of BEVs for America's largest and oldest federal fleet. To that end, we have already placed orders for thousands of

¹⁶ 39 U.S.C. § 101(b) (emphasis added).

¹⁷ *Id.*

BEVs, which will begin servicing postal routes as soon as 2024. Furthermore, we strongly believe that our planned network modernization, route optimizations, improved facility infrastructure, brought about by the Delivering for America 10-year plan and the Postal Service Reform Act, will significantly increase the percentage of BEVs we can procure and acquire, which is why we are currently supplementing our NGDV EIS. Finally, the provision of additional funds for ZEVs in the Inflation Reduction Act will certainly have beneficial effects on our capital planning for BEVs.

Nonetheless, the Postal Service believes that the Proposed Rule, in its current form, fails to account for the multiple statutory objectives the Postal Service is required to balance in order to reliably and cost-effectively deliver the nation's mail. Thus, the Postal Service strongly urges CARB to pursue its goal of eliminating mobile source emissions while also adding sufficient safeguards to ensure the maintenance of postal operations, both within California and nationwide, without degradation.

Respectfully submitted,

A handwritten signature in black ink, reading "Thomas J. Marshall". The signature is written in a cursive, flowing style with a large initial "T" and "M".

Thomas J. Marshall
General Counsel and Executive Vice President
United States Postal Service