COMMENTS OF THE

NATIONAL STAR ROUTE MAIL CONTRACTORS ASSOCIATION

IN RESPONSE TO THE CALIFORNIA AIR RESOURCES BOARD'S REQUEST FOR COMMENTS:

PROPOSED ADVANCED CLEAN FLEETS REGULATION

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COMMENTS SUBMITTED: October 17, 2022

Introduction

The National Star Route Mail Contractors Association (NSRMCA) is the national trade association for over-the-road transportation companies that contract with the United States Postal Service to help move mail throughout the United States. These companies (hereinafter "HCR suppliers") comprise and are the backbone of the Postal Service's surface transportation network. They range from sole proprietors that deliver mail to and from local post offices to the largest transportation companies in the nation, moving the mail intra and interstate between postal processing, sorting, and distribution facilities. Nearly all the Postal Service's mail volume—including packages—moves through the surface transportation network. And at least a majority of the Postal Service's surface transportation network mail volume is transported by NSRMCA members. Without the transportation services of these companies, the mail would cease to be delivered.

The California Air Resource Board's Advanced Clean Fleets (ACF) rule will significantly impact HCR suppliers operating in California, regardless of whether they are based in the state, and could indirectly burden the entire postal surface transportation network. In order to comply with the ACF rule, NSRMCA members and HCR suppliers will need to make significant and potentially impractical changes to their operations

As the industry stands today and for the foreseeable future, any requirement for the exclusive use of battery-electric vehicles is not feasible due to the lack commercial availability, technological capability, and recharging infrastructure to enable use consistent with the postal surface transportation network. These challenges are exacerbated for the interstate transportation of mail.

NSRMCA urges the California Air Resource Board to establish clear and viable exceptions to its Advanced Clean Fleet rule that will allow transportation companies to continue to use available reduced-emission fuel solutions and technology until battery-electric power is truly viable. In the alternative, NSRMCA urges the California Air Resource Board to revisit the compliance timeline so that low-emission alternative fuel solutions available today can be used until battery-electric or other future solutions become viable. Finally, NSRMCA urges the California Air Resource Board to recognize that the ACF rule unnecessarily imposes significant burdens on the interstate transportation of mail and commerce by treating all vehicles within the High Priority Fleet category equally even if they spend a de minimis about of time within the state.

NSRMCA and the Postal Service’s Surface Transportation Network

The United States Postal Service has relied on contract transportation since at least 1785. In 1845, Congress took the step of reauthorizing contract transportation for the purpose of reducing transportation costs by awarding contracts to the lowest bidder that could still “provide for the due celerity, certainty, and security of such transportation.” These contracts, known as star routes, were retitled highway contract routes (HCRs) in the 1970s. As postal operations expanded to meet the communication and commerce demands of a growing nation, the Postal Service’s reliance on these transportation companies significantly increased. In FY2021, the Postal Service spent more than $5 billion in over-the-road transportation relying on approximately 1,700 HCR suppliers to transport mail between Postal Service facilities inter and intrastate.

Founded in 1935, NSRMCA is one of the oldest transportation trade associations in operation today. It has represented the interests of Postal Service surface transportation contractors for decades. NSRMCA has worked closely with the Postal Service, including numerous Postmaster Generals, to address industry issues and ensure the efficient flow of mail. Today, NSRMCA members collectively manage approximately $3.5 billion in United States Postal Service contracts. As relevant here, members operate long-haul interstate contracts, local distribution contracts, regional contracts, and spot-market (or freight auction) contracts providing on-demand transportation service. NSRMCA members operate in all 50 states, including California, and between California and states across the nation. They rely on medium- and heavy-duty trucks—owned, leased, or subcontracted—to perform these contracts. Many HCR suppliers, including NSRMCA members, exclusively contract with the United States Postal Service and have done so for generations.

Increasingly, the Postal Service is also contracting with another type of transportation service provider: third party logistics companies, which are often referred to as brokerages, to leverage both their capacity and operational flexibility. These brokerages are also represented by NSRMCA. Unlike traditional HCR suppliers, these companies operate both multi-year dedicated contracts (traveling consistent, set routes between the same postal facilities) and spot-market contracts moving the mail as and where needed for sortation and distribution. These spot market contracts are almost always long-haul and interstate, including into and out of California, and are made on short notice. In order to serve these spot-market contracts, brokers rely upon a vast and diverse network of commercial freight motor carriers and owner-operators based throughout the United States. They are often dispatched from the road while serving other customers rather than a centralized business location. Brokerages may own assets (i.e., trucks) but do not necessarily use them to serve their Postal Service contracts.

Collectively, these companies, the largest of which are NSRMCA members, provide an irreplaceable role in the transportation and delivery of mail. Even though they vary in their structure and the duration of their experience in transporting mail, they have in common the shared commitment of providing the Postal Service reliable, affordable transportation services. These companies are all also impacted, directly or indirectly, by the proposed ACF rule.

<u>The Postal Service Surface Transportation Network: Alternative Fuel Advocates</u>

Although NSRMCA has concerns about the ACF rule, it participates in this opportunity as an advocate of alternative fuels. In fact, NSRMCA members have been some of the leading adopters of low-carbon alternative fuels in the transportation industry and NSRMCA works closely with the nation's leading alternative fuel suppliers and truck manufacturers to facilitate adoption.

Postal Service transportation contracts are uniquely situated for the utilization of alternative fuel solutions. Unlike commercial freight contracts, which can be short and vary in frequency and route, Postal Service contracts are typically multi-year, static, and renewable. The length of these contracts and the predictability of the routes allows for transportation companies to strategically select their fuel solution and refueling locations. The reduced variability mitigates the risk that often comes with the increased costs of alternative fuel vehicles—transportation companies have greater confidence that these alternative fuel trucks can be deployed and their cost recouped over the contract term. The predictability also mitigates risk for the fuel supplier. In instances where refueling infrastructure can be costly, it is easier for alternative fuel providers to make the infrastructure investment knowing that they can count, with a reasonable degree of certainty, on a certain level of consumption by the transportation companies operating along that route.

For example, the predictability of Postal Service transportation has been particularly valuable for compressed and renewable natural gas. Given the cost of such refueling infrastructure, which would otherwise be prohibitively expensive without being able to predict fuel consumption, RNG/CNG suppliers have substantially invested in serving HCR suppliers. In turn, HCR suppliers, including NSRMCA members, have been able to invest in the more expensive trucks that utilize RNG/CNG by financing those costs over multiple years and locking in long-term fuel agreements often at prices lower than the prevailing cost of diesel. And with dairy-farm sourced RNG, these companies are also using the only commercially available carbon negative fuel and the only commercially available alternative fuel for long-haul, interstate transportation.

NSRMCA's Concerns About The ACF Rule

On August 30, 2022, the California Air Resources Board published its final version of the ACF rule. The purpose of this proposed rule is to reduce greenhouse gas emissions by requiring the trucking industry within California to transition to battery-electric zero-emission vehicles over the next several years. The rule would be the first of its kind in the nation and is admittedly ambitious in both the scope of vehicles impacted and the speed with which transportation companies would have to comply. As formulated today, the ACF rule threatens to unduly burden the surface transportation network of the United States Postal Service and significantly disrupt the flow of mail, including packages, in California and beyond.

NSRMCA members based within and outside of California, as well as other HCR suppliers, would be subject to the ACF rule as high-priority fleets.   Numerous companies that contract with the United States Postal Service fall under either the 50-truck fleet minimum or $50 million minimum revenue qualification. While NSRMCA agrees with the goal of significantly reducing greenhouse gas emissions, it is concerned that the ACF rule is currently constructed and believes that it is currently inconsistent with the operation of the postal surface transportation network. The transition to zero-emission electric vehicles is not feasible based on the current and anticipated commercial availability of battery-electric trucks, technological capability of those trucks, and lack of recharging infrastructure, especially for the interstate transportation of mail.

NSRMCA has three specific concerns based on the current operation of the postal surface transportation network.

First, the ACF rule imposes significant burdens on HCR suppliers based outside of California. The movement of the mail is inherently interstate. HCR suppliers, regardless of where they are headquartered, operate contracts running in to, out of, and through California. These contracts are almost exclusively long-haul contracts relying on class seven and eight tractor trailers.

Under the ACF rule, once these vehicles cross into California, even if they are primarily operated out of state, they are considered part of the HCR supplier's California fleet and the HCR supplier must meet the requirements set out in Sections 2015.1 and 2015.2. As a practical matter, that means HCR suppliers will be forced into purchasing compliant vehicles as early as 2027 and no later than 2030 to at least meet the milestone benchmarks established by Section 2015.2. And they must do so if they intend to continue their operation in California even though battery-electric charging infrastructure for these types of vehicles is not widely available (within or beyond California) and the current state of the technology does not provide sufficient vehicle range.

Out-of-state HCR suppliers will be presented with the option of forgoing their contracts that begin or terminate within California, reroute trucks that may otherwise pass-through California on their way to an out-of-state destination, or engage in the transfer of trailers at the California border so that a compliant vehicle can deliver the mail to the intended postal facility. In each of these scenarios, the interstate transportation of mail and interstate commerce is unduly burdened or disrupted.

Moreover, the exemption and extension provisions identified in Section 2015.3 do not offer any clear relief because they fail to explicitly recognize the applicability of battery-electric limitations in interstate commerce. While battery-electric technology is and will become increasingly applicable to class seven and eight trucks, it is unforeseeable that those vehicles can be utilized in interstate transportation by 2027 or 2030.

In-state HCR suppliers do not fare much better. Although intrastate recharging infrastructure and use-cases may more easily conform to the Sections 2015.1 and 2015.2 requirements, long-haul operations originating in California are similarly burdened as out-of-state HCR suppliers. Today, mail from processing and sortation centers originating in northern and southern California is shipped across the nation to destinations in the upper Northwest, Midwest, and as far as the East Coast. These vehicles spend the majority of their time operating out of state yet under the ACF rule they would have to comply with ZEV requirements that are inconsistent with the national recharging infrastructure and the range provided by the current technology.

Even in-state HCR suppliers that operate shorter routes and utilize straight or box trucks may not be able to comply with the ACF rule. In the postal surface transportation network, these vehicles are vital for the movement of mail from larger postal facilities to local post offices for delivery to the final intended address. While battery-electric solutions are more readily available for this type of vehicle and recharging infrastructure may also be more developed, the ACF is inconsistent with their current scope of use. These trucks run around the clock in order to ensure the timeline delivery of mail. Even if the recharging infrastructure was readily available (and California's electric grid could handle such heavy usage), these vehicles do not sit idle in a yard enabling them to recharge overnight as might be in the case with other short-distance delivery models. In order to comply with the ACF rule, HCR suppliers with these types of contracts would have to purchase additional trucks and, in some instances, double the size of their fleet to allow sufficient charging while meeting the Postal Service's demanding transportation schedule. Meanwhile, low-carbon alternative fuels, such as propane autogas, are readily available for straight truck operations today and would not require the addition of a single vehicle to meet postal contractual requirements.

Finally, the ACF rule would unduly burden and have unintended consequences for brokerage operations in the transportation of mail. According to Section 2015(a)(1)(A), brokerages with at least $50 million in gross annual revenue are subject to the high priority fleet requirements even though they often do not own or control a fleet consistent with Section 2015(a)-(b). Under Section 2015(g)(1), brokers would have to "[v]erify that each fleet it hires or dispatches is listed on the CARB advanced Clean Fleet webpage" or confirm that the fleet is not subject to the ACF rule. But restricting the scope of transportation companies that brokers are able to utilize is inconsistent with the prevailing broker operations and the national transportation industry.

Brokers, particularly when participating in interstate transportation, leverage a highly diverse and disparate national network of motor carriers and owner-operators. In leveraging that network, brokers contract with and effectively dispatch carriers and owner-operators already in transit according to factors such as pricing, reliability, and the ability to meet the delivery deadline.

In order for brokers to continue to leverage this network to provide much needed capacity they will have to either: (1) contract with fleets recognized as compliant by the California Air Resource Board, or (2) contract only with fleets or owner-operators that are otherwise not subject to the High Priority Fleet requirements.

In reality, this is a false choice. Because there is no comparable ACF rule elsewhere or national battery-electric recharging infrastructure, brokers will not have access to any fleets recognized by the California Air Resource Board for interstate transportation. Instead, brokers will be forced to contract only with smaller fleets (not subject to the High Priority Fleet requirements) or owner-operators, significantly reducing transportation capacity into and out of California. This will, in turn, create inefficiencies and increase costs. Even more important in the context of the ACF rule's purpose: it may incentivize the use of transportation companies that have not invested in lower-emission technologies, equipment, or alternative fuels.

As it is currently constructure, HCR suppliers—regardless of where they are based or how they provide transportation to the Postal Service—will find it difficult if not impossible to comply with the ACF rule.

Potential Solutions to Mitigate Impact on the Interstate Transportation of Mail

The California Air Resource Board can take three steps to advance its mission without unduly burdening the transportation of mail through the Postal Service's surface transportation network.

First, the California Air Resource Board should provide better clarity and accountability regarding the application of exemptions for complying with the High Priority Fleet requirements. The current metrics for determining whether an exemption is warranted and the failure to explicitly identify the likely impact on interstate transportation creates unnecessary ambiguity. Today, HCR suppliers are making multi-year vehicle purchasing and Postal Service contract commitments that will extend into the ACF rule compliance period. Whether they are able to obtain appropriate exemptions based on the state of technology and infrastructure are critical for their businesses' continued success.

Second, the California Air Resource Board should consider an alternative, extended compliance timeline, particularly for class seven and eight tractors involved in long-haul interstate transportation. An extended timeline would ensure that the necessary technology and recharging infrastructure is in place to enable compliance. It would also be consistent with the requirements established by S.B. 1 (2017) and set out in Section 43021 of the California Health and Safety Code, which prohibit the retirement or replacement of vehicles within their useful life. NSRMCA members have recently purchased such vehicles and will continue to do so as necessary in the years ahead. The phased compliance deadlines under Section 2015.2 even contemplate such purchases while also forcing replacement inconsistent with Section 43021.

Finally, the California Air Resource Board should adopt an exemption for vehicles that spend a de minimis amount of time operating in California. This standard would mitigate burdens on the interstate transportation of mail and would be consistent with prior regulations. For example, California Air Resource Board's Truck and Bus regulation established a low-use vehicle exception for those that operated less than a 1,000 mile per year in California. While NSRMCA does not believe 1,000 miles would be sufficient to prevent undue burden on the postal surface transportation network, the low-use exception demonstrates that the California Air Resource Board has and can strike a balance between interstate transportation and pursuing its emission-reduction goals.

Conclusion

The infrastructure and alternative fuel adoption challenges identified above are not new. The California Air Resource Board does not have to look any further than the adoption CNG/RNG by the transportation industry, which remains constrained beyond California due to a lack of infrastructure. Even if the ACF rule incentivizes the construction of a statewide recharging network, there is no evidence that a sufficient network would be created in neighboring states, let alone across the nation. While the CNG/RNG refueling infrastructure rapidly expands it is still insufficient for wholesale adoption. Nevertheless, its continued growth and utilization by HCR suppliers is evidence that reduced emissions can be achieved under a more flexible approach that does not burden interstate transportation.

NSRMCA and its members are committed to reducing emissions and have been among the leaders in alternative fuel adoptions. The ACF rule, however, unnecessarily burdens HCR suppliers and the movement of the mail both within and beyond California. And in some instances, its requirements may be impossible to meet. Battery-electric trucks may be inevitable and necessary to reduce vehicle emissions, but until such vehicles are truly viable, NSRMCA urges the California Air Resource Board to accommodate the reality of the Postal Service surface transportation network and the interstate transportation of the mail.