April 9, 2021

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Mr. Paul Arneja
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California Air Resources Board
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Sacramento, CA 95812

Comments on the March 2 and March 4, 2021 Workshops on the Proposed Advanced Clean Fleets Rule

Mr. Arneja,
The diverse and broad coalition of signatories to this letter are focused on achieving clean air and climate goals, appreciate the opportunity to comment on the concepts presented at the Advanced Clean Fleets (ACF) Workshops[1] held by the California Air Resources Board (CARB) in early March. The undersigned entities have a common purpose to provide advanced technology heavy-duty vehicles and associated services available today to assist the State of California with its air quality and climate change goals. It is in the spirit of solving these complex problems that these comments are presented.

Adoption Process
Our initial comment concerns the process and speed upon which this rulemaking is to be adopted. Such a significant rulemaking needs to be fully vetted and analyzed by stakeholders before its formal adoption. As we submit this letter, staff's stated schedule anticipates less than four to five months of stakeholder engagement before the formal regulation is presented. The rushed timeline is concerning, given staff has only presented high-level concepts, with very few details, which has left stakeholders with many questions. Additionally, both the environmental and economic analyses are required, either concurrently or prior to the formal release of regulatory language. We question how these important regulatory documents can be drafted without stakeholder feedback on fundamental details of the proposal. Further, with the delay in the Large Entity Reporting, the time available for staff to conduct such analysis is even shorter.

[1] https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets/advanced-clean-fleets-meetings-events

We are also concerned with CARB's general approach/assumption that Medium and Heavy Duty (MHD) Zero Emission Vehicle (ZEV) technology will be available when needed in *all classes* of vehicles, for all duty-cycles, for all commercial sectors, and supported by the necessary infrastructure (both regional utility network and incremental clean power) and for all geographic regions of the State. We understand this is an assumption based on the prospect of technology advancement, yet staff has not produced any analysis providing support for such an assumption. Rather staff has adopted the philosophy of "all in," with limited exemptions given if regulated parties can show that isn't the case. This equates to reverse rulemaking, whereby regulated entitles are required to prove technological infeasibility AFTER rule adoption, rather than CARB determining technology feasibility PRIOR to adoption. Staff is foisting this analytical burden on future stakeholders in the name of expedient adoption.

Such an adoption schedule and process certainly violates the spirit, if not the letter, of the Administrative Procedure Act—especially during a time of remote workshops and an inability to meet in person to discuss remaining issues.

One-to-One Replacement

While exemptions will be based on a number of factors, they appear to be largely driven by the availability of vehicles. Replacement vehicles should be able to do the same duty cycles without requiring significant changes to operations. When assessing the availability of vehicles, staff must conduct a detailed analysis of whether or not a conventional vehicle can be replaced by a zero-emission vehicle on a one-to-one basis. Los Angeles Metropolitan Transportation Authority found that converting its fleet to plug-in battery electric buses would require an 18 percent larger fleet. Additionally, Metrans conducted an analysis of drayage operations and found that a fleet of 19 drayage trucks would have to be expanded by 70% to complete the same work if replaced with plug-in battery electric trucks.

Exemptions

Allowing exemptions in the near-term will help entities immensely by providing a reasonable offramp when technologies are not available. At the workshops, staff only discussed exemptions at a high level, noting that we can expect to see further details as they are developed. To improve this development, we recommend the following.

- Exemptions and the exemption process should be identical for both public and private fleets.
- Exemptions should be based on clear, specific criteria. Staff indicated that exemptions would be on a case-by-case basis and would be determined at the discretion of staff. This approach would create significantly more work for staff and potential bottlenecks in the approval process. Having a concise, comprehendible form or checklist would provide certainty for users and public transparency. A completed checklist can be submitted to CARB and if all parameters are met, it would substitute for a formal approval process. Use of a checklist could be administered as a self-executing exemption process, which would expedite the process and prevent overloading staff.
- Exemptions should be allowed up to 18 months prior to the needed delivery of the vehicles. Significant lead time is needed to budget for procurement, complete bid processes and account for vehicle build time. If on-site charging is required, or necessary, there are additional timing concerns—see section below.

Overstated Turnover and Overstated Emission Reductions

The Preliminary Staff Inventory Analysis includes a 'projected' ZEV drayage truck fleet population. It appears to assume a steady turnover to zero emission drayage trucks beginning in 2023 for when new registrants to the drayage truck registry will have to meet a zero-emission requirement. The infiltration of zero emission trucks seems to mirror natural turnover of drayage trucks. Based on the historical actions of the trucking industry normal turnover is unrealistic. Rather, it is more likely there would be a significant prebuy and registration of trucks immediately prior to the 2023 mandate, as occurred leading up to

previous regulations such as the 2007 engine standard. These trucks would then be used for as long as possible. Because the turnover is vastly overstated in the early years, then emission estimates are driven by the rate of turnover would be overstated. Staff should revise the turnover rates to show the easily foreseeable prebuy and adjust the associated emission calculation accordingly.

SB 1 Compliance

California's SB1 Transportation Funding bill in 2017 defined "useful life" provisions for vehicles by age and mileage. Before these times, retirement or turnover "*shall not be required until the later of the following*":

- Thirteen years after the engine model certification year
- When the vehicle reaches the earlier of either 800,000 vehicle miles traveled or 18 years from the engine model certification year

While the Drayage Truck and Public Fleet requirements of ACF seem to meet these requirements, the portions of the rule for Private and Federal fleets may not. CARB staff stated their private fleet turnover targets "will be very close to a normal replacement schedule… to the extent that there are conflicts with SB1, we can say that a fleet is compliant." It is unclear how CARB will monitor or certify compliance for vehicles that could meet an exclusion due to SB1, or if CARB expects fleets to target older vehicles for turnover first. Staff needs to include a model year/turnover expectation analysis for SB1 and ZEV turnover expectations, particularly given the large-scale turnover due to CARBs Truck & Bus rule since 2015.

Truck & Bus Rule and SB1 Future Retirement Expectations

Truck & Bus Deadline	1/1/2015	1/1/2016	1/1/2017	1/1/2018	1/1/2019	1/1/2020	1/1/2021	1/1/2022	1/1/2023
Vehicle Model Year of Replacement Vehicle	2014	2015	2016	2017	2018	2019	2020	2021	2022
Engine Model Year	2013	2014	2015	2016	2017	2018	2019	2020	2021
Engine Model Year - 13 years old	1/1/2026	1/1/2027	1/1/2028	1/1/2029	1/1/2030	1/1/2031	1/1/2032	1/1/2033	1/1/2034
Engine Model Year - 18 years old	1/1/2031	1/1/2032	1/1/2033	1/1/2034	1/1/2035	1/1/2036	1/1/2037	1/1/2038	1/1/2039

Reporting

As currently proposed, there will be duplicative reporting by regulated entities and confusion around responsible parties. The proposed regulations need to make clear the responsible party for meeting the regulatory obligations and the mechanism by which they will register and report their fleet to CARB. At this time, the definition of sub-hauler is hard to interpret and could dramatically impact the requirements of regulated entities. Furthermore, there is little detail on how these entities will report to ensure they are meeting regulatory expectations.

Additionally, as acknowledged by staff, the reporting mechanism and fleet replacement schedule must have useful life provisions in place for vehicles owned prior to the regulations going into effect in 2024.

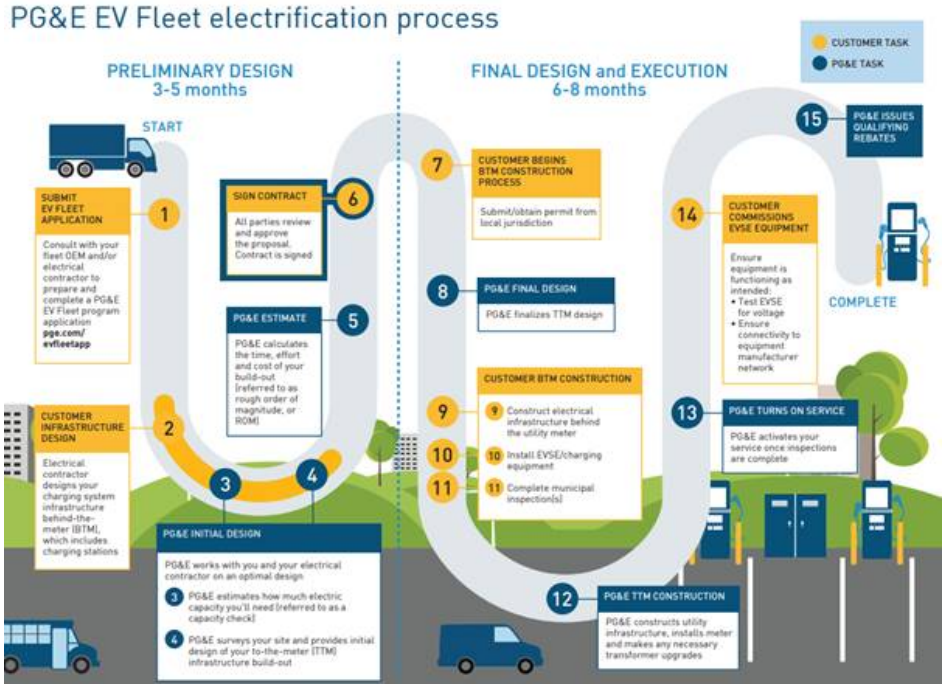
Infrastructure and Timing

The vast majority of the fleets impacted by ACF do not currently have Charging Infrastructure in place to support the EV deployments and there is no public-access charging solution currently available for MD/HD electric trucks. Even if a fleet is able to identify a truck that will meet their operational needs, they will not be able to operate the Electric Truck for *at least* 9 months based on the infrastructure build timelines laid out by the State's major electric utilities. ***According to 3 main Investor-Owned Utilities in the State, Electric Charging Infrastructure development timelines range between 9 to 16 Months.***

Contrarily, if a fleet wants to purchase new low NOx CNG trucks that operate on RNG, they could buy a truck today and fuel it at the extensive public access fueling network already in place in California and across the country. Having charging infrastructure in place is essential to deployment and should be a principal element to the regulations and potential fleet compliance.

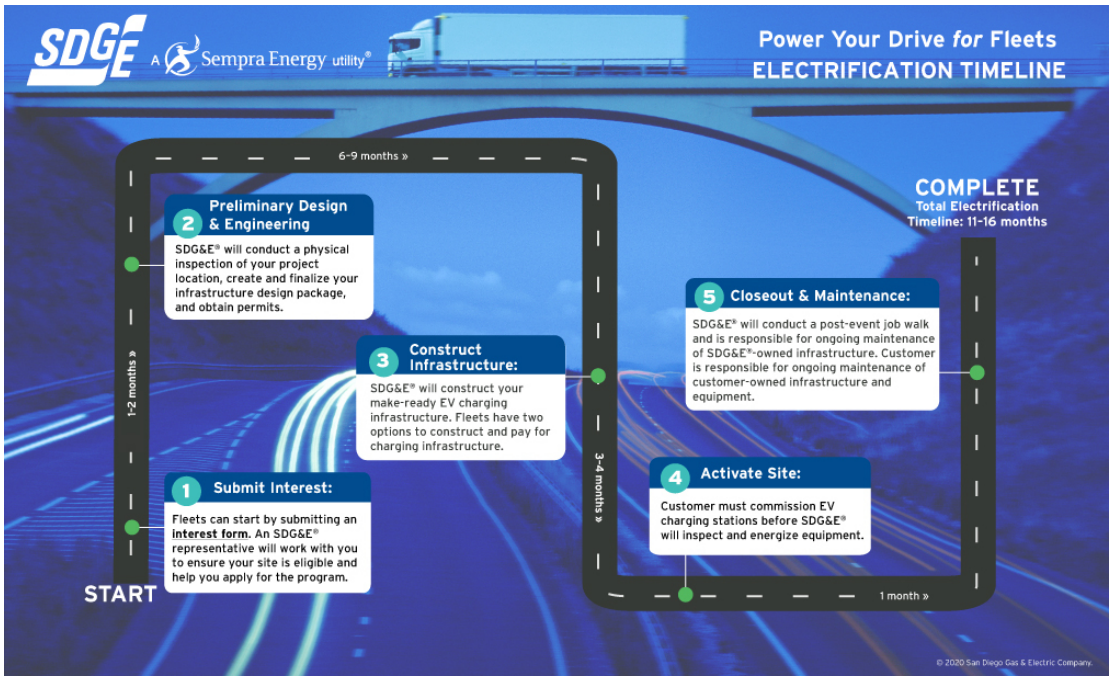
PG&E: 9-13 Months[2]

Following the completion of the EV Fleet program application, the EV Fleet electrification process, from design to execution, takes approximately 9 to 13 months

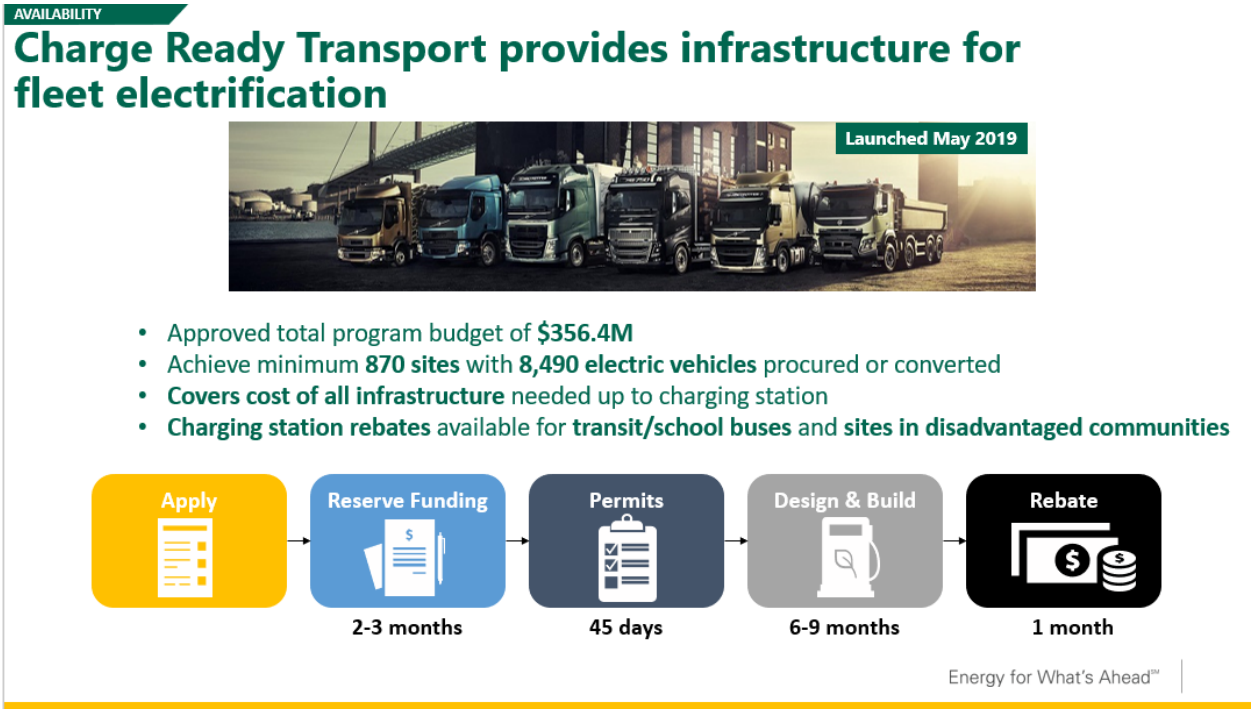


[2] https://www.pge.com/pge_global/common/pdfs/solar-and-vehicles/clean-vehicles/ev-fleet-program/EVFleet_Guide_ElectrificationProcess.pdf

SDGE: 11-16 Months[3]



SCE: 9-12 Months



[3] https://www.sdge.com/business/electric-vehicles/power-your-drive-for-fleets#works

Options other than ZEV and Diesel
Furthermore, CARB should consider requiring the cleanest, lowest-GHG footprint fuel/vehicle combination when a ZEV option is not available. As the market begins to transition to ZEVs, CARB staff should consider an alternative purchase requirement based on the next cleanest technology. Allowing higher-polluting diesels to be the alternative to exempted ZEVs is a missed opportunity.

Subhauler/Dispatcher
The definition/intent of sub-hauler is unclear, as it pertains to the total fleet size of a regulated entity and the responsible party for meeting the fleet obligations. Staff needs to provide clarification on the definitions of subhaulers and dispatchers and explain the administrative process for how to handle subhauler reporting and compliance as a portion of the "controlling" fleet. Whereas it makes sense to account for company-branded subhaulers as part of a "controlled" fleet, this approach doesn't seem to align with most motor carrier or brokerage operations that are also defined as "subhaulers" under ACF.

In the current proposal, it seems that CARB is both requiring subhauler vehicles to be counted as part of the "controlling" fleet, but also notes that a) fleets will only report on who their subhauler is so CARB can verify their compliance and b) subhaulers will also be required to report their compliance to CARB. This seems like a potential double-counting challenge. Requiring fleets to contract with ZE certified haulers, carriers, or brokers might be a simpler approach for procurement teams.

It remains unclear how a hiring entity could compel a ZEV phase-in upon brokerages or subhaulers based on current dispatching and contracting processes, nor how it could count those vehicles as part of its own fleet and required annual turnover percentages. During the March ACF Workshops, Staff underscored that "the controlling party" will be responsible under the rule and must identify pathways to work with ZEV-compliant fleets or to work with Independent Owner Operators (IOOs) to support their transition to ZEV.

The current proposal claims to regulate only larger "high priority" fleets with the likely market reach and capital to better afford a ZEV transition, however the proposed broker-driven approach would likely impel small businesses and IOOs towards zero-emission trucks to remain competitive and compliant. CARB should consider allowing these small businesses to have alternative purchase options for the cleanest, lowest-GHG footprint fuel/vehicle combination when a ZEV option in not available or economically viable.

Miscellaneous Comments

- Managing multiple fleet locations will be more complex, will add to compliance costs and should be analyzed by staff.

- Additionally, there needs to be an enforcement strategy to ensure that regulated entities are not registering their vehicles out-of-state and thereby avoiding their regulatory obligations.

- Designated Counties 3-year exemption should be clarified. It is unclear if the whole purchase requirement is shifted three years, of if CARB's view is that designated counties jump right to 100% purchase requirement for MY 2027. If it is Staff's intent to do the latter, that would be highly problematic. We recommend that the phase-in approach be used for all fleets, even those that are in designated counties.

- Outreach for this regulation is lacking. As we work with our fleet partners, it is clear that CARB has not been successful in their outreach efforts to engage stakeholders and affected parties. The Coalition recommends that CARB post on their website a list of those entities for which CARB believes will be subject to the ACF rule. If such a list doesn't yet exist, that in itself is a major process issue.

- Stakeholder-specific field testing may be needed to demonstrate ZEV performance and mileage under the specific and demanding real-world conditions in which fleet vehicles operate. This is necessary to ensure the utility vehicles that fleet managers procure have a proven ability to meet operational needs and that any operational constraints, such as mileage limitations, are well understood prior to deployment in the field.

We would be grateful for an opportunity at your earliest convenience to discuss these important issues further.

Sincerely,

California Natural Gas Vehicle Coalition
Trillium
Resource Recovery Coalition of California
Hexagon Agility
Momentum Fuel Technologies
Rush Enterprises
Western Propane Gas Association
Bioenergy Association of California
Clean Energy Fuels
SoCal Gas
California Waste Haulers Council
Inland Empire Disposal Association