October 17, 2022

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

Submitted Electronically

RE: Notice of Public Hearing to Consider Proposed Advanced Clean Fleets Regulation (acf2022)

Chair Randolph and Board Members:

Thank you for the opportunity to comment on the Advanced Clean Fleets Rule (ACF).

The Harbor Trucking Association (HTA) is a non-profit association representing motor carriers doing business at West Coast ports with a particular focus in California. HTA members move the majority of containerized freight going to and coming from coastal maritime ports across the Golden State.

HTA fleets represent a diverse subset of the overall motor carrier industry; our members range from single truck and small motor carrier fleets to the largest fleets doing business across the nation.

While our opinion and opposition to the current proposal is not entirely unique when it comes to the overall policy of the ACF, we wanted to provide some additional perspective on the drayage portion to express frustration with the lack of recognition in ACF on challenges drayage operators will experience when attempting to comply with the proposed standards.

Nevertheless, we are in full support of the comments made by our partner organizations, the California Trucking Association (CTA) and the American Trucking Association's (ATA) on both the October 2021 request for comments as well as CTA/ATA joint comments submitted under the 45-day docket for ACF2022.

Unfortunately, after a close reading of the current ACF proposal and its supporting documents, it is clear the drayage portion of the proposed ACF is more aspirational than reality based.

In reality, the ACF and its supporting documentation does not truly consider the operational constraints in deployment of HDZEVs and infrastructure for fleets who operate in Drayage service.

Nor does the ACF truly investigate how those constraints will impact the overall supply chain here on the west coast and beyond.

For instance, there is no recognition of issues related to public facing infrastructure availability and deployment timelines, no acknowledgement of permitting and site challenges for private infrastructure deployment, no real discussion of overall vehicle range capability constraints or overall payload loss due to increased vehicle weight, no real estimate of total vehicle cost or fueling costs, no true accounting for total cost of HDZEV ownership, no investigation of annual truck turnover in the drayage market segment and how that will impact overall capacity and no consideration of potential drayage capacity loss or constraint on the overall supply chain.

While the issues are plentiful, we will focus on only a couple of these challenges, namely infrastructure availability for fleets who are unable to deploy private, "behind the fence" charging/fueling as well as the lack of overall clarity in fleet size breakdown and subsequent capacity impacts for the drayage market and larger supply chain. We will also address a separate issue with CARB staff's interpretation of California Health and Safety Code Section 43021, the "useful life" provision.

Infrastructure:

One glaring issue is that nowhere in the regulation does CARB take into consideration provisions to offset a lack of public facing fueling infrastructure or for any delays in deployment or overall availability of public facing fueling infrastructure.

The majority of the drayage fleet will rely on public facing infrastructure to fuel their class 7 and 8 tractor trucks in order to operate their drayage businesses. This estimate is consistent with the Public Charging Study put forth by the Port of Long Beach in September 2021, which puts the number at 58% who could rely on public fueling[1].

Unfortunately, within the Initial Statement of Reasons (ISOR) CARB staff hedges their bets and estimates that "class 7-8 tractor trucks will rely on depot charging for 25 to 75 percent of the time, depending on vehicle range, duty cycles, and access to infrastructure…"[2]. This noncommittal estimate is no doubt an indication of how little CARB staff knows on what that the overall drayage breakdown will be, despite months of stakeholder feedback on this exact issue.

It has been repeatedly stated by stakeholders in every public workshop held by CARB staff that most drayage operators lease the property where trucks are housed/parked. These properties are leased on short term agreements of 2-5 years with some longer timeframes for certain locations.

Regardless, landlords have prohibited the installation of any major charging or fueling infrastructure on these sites, leaving drayage operators with no choice but to rely on public facing fueling infrastructure to meet the demands of the proposed ACF regulation.

---

[1] Port of Long Beach, *Fueling the Future Fleet: Assessment of Public Truck Charging and Fueling Near the Port of Long Beach,* Starcrest Consulting Group, LLC. September 2021. Page 9.

[2] California Air Resources Board, *Staff Report: Initial Statement of Reasons*, CARB Staff, September 30, 2022, Page 73.

What has also been repeatedly stated is that there is a large contingent of small drayage operators who park vehicles at private residences or short-term truck parking facilities. These operators will also have no choice but to utilize publicly available charging infrastructure to comply.

Nevertheless, despite these obvious challenges, CARB has not provided any flexibility pathway for drayage fleets who will need to rely exclusively on public facing charging or fueling. CARB staff has so far only recognized delays for private (non-public facing) infrastructure deployment by providing an arbitrary one-year extension.

Without the ability to charge/fuel at a private location, these drayage fleets will merely cease to exist in in the drayage market, since it is obviously impossible to run a zero emissions Battery Electric Vehicle (BEV) or Hydrogen Fuel Cell Vehicle (HFCV) without fuel.

Capacity Impacts:

It is also clear from the ACF proposal that the moral obligation CARB claims for justification of the ACF does not involve a consideration of drayage fleet operators who are unable to comply with the standards for reasons fully out of their control or for the host of issues described at the outset of this letter.

Unfortunately, CARB staff has not given any indication on what the actual impact of the rule will be on various drayage fleet size segments, since no overall drayage fleet size breakdown exists within the supporting documentation that can be counted on as accurate.

In fact, within the ISOR, there are contradictory statements related to overall drayage fleet size percentage make up. In one section, CARB staff says that "Drayage truck owners generally own 1 to 3 tractors and represent approximately 25 percent of drayage businesses"[3]. Yet, earlier in the same ISOR document, CARB staff claims that "57 percent of drayage fleet owners have 4 or more trucks"[4].

Not only is there a missing 18% to make up for the entre drayage population, but these are merely estimates based upon available data that cannot be counted on as reflective of the current drayage population in 2022.

Bottom line, CARB staff cannot say with certainty how the HDZEV entry standard in the currently proposed rule and subsequent useful life expirations will affect drayage capacity and the larger overall supply chain once implementation begins.

Not only has CARB staff refused to clearly acknowledge and account for the impact to fleets who will need to rely exclusive or in part on public facing infrastructure, they haven't clearly demonstrated total overall impacts to specific drayage fleets by size threshold.

[3] Ibid, Page 218
[4] Ibid, Page 66

This includes ignoring what the overall impact to the supply chain will result from whatever capacity loss takes place in 2024 when the HDZEV entry standard begins in the Drayage Truck registry (DTR) and especially once DTR reporting requirements start in 2025 and continue through 2035.

While CARB staff has adhered to state law by initially allowing for useful life of drayage trucks prior to turning over to a HDZEV, there is no clear determination from CARB staff on what the population of vehicles who will run out of useful life protection once DTR reporting begins.

Existing legacy trucks with post 2023 compliant 2010, 2011 and 2012 engines make up 16% of full gate moves for July 2022 in the Port of Los Angeles alone[5]. CARB cannot say with any level of certainty what useful life mileage levels of these vehicles remain and most importantly if they will be forced out of the DTR once they begin reporting in 2025.

The impacts of both the 2024 entry standard and the subsequent removal of an unknown number of vehicles starting in 2025 and each year thereafter will no doubt impact overall drayage capacity.

Under the rule fleets have no choice but to only add HDZEVs into the DTR after 1/1/24.

While the proposal is clearly lacking in its consideration of impacts to existing operators who will need to turn over equipment as early as 2025, staff has also disregarded those fleets who in 2024 may experience a catastrophic engine failure or vehicle accident that could render existing legacy drayage equipment useless, despite remaining useful life protection.

The only pathway to stay in business for drayage operators is through the purchase and deployment of an HDZEV after 1/1/24. If a fleet cannot afford the truck purchase or if there is no ability to charge or fuel a HDZEV, or if the operational realties of the HDZEV does not meet the operational realties of their business, that fleet will at best, need adjust their business model to account for the decreased number of vehicles or at worst, leave the drayage market altogether and possibly go out of business, taking jobs and capacity with them.

Useful Life:

Although CARB staff has allowed for the useful life protection on the front end of the proposed rule, they are not properly accounting for the useful life requirements on the back end, since the proposal says that ALL drayage vehicles will need to be HDZEV starting in 2035.

Since there is a total of 18 years or 800,000 miles, but no less than 13 years of protection from mandated turnover requirements under California H&SC §43021, engines that are in service that have not reached age or vehicle mileage thresholds by 2035 are afforded protection which should extend beyond 2035.

For example, a 2022 engine would reach its initial useful life threshold in 2035 but would still have protection until that engine reached 18 years old or the vehicle hit 800,000 miles.

[5] Gate Moves POLA June 2022 accessed from: https://kentico.portoflosangeles.org/getmedia/452bad8c-4e16-490f-bab6-155b061866bb/POLA-Monthly-Gate-Move-Analysis

Assuming the vehicle stays under the 800,000-mile threshold out to the 18 years, the useful life provision would provide protection for that vehicle until 2040.

CARB staff has not acknowledged this and has instead moved forward another standard for compliance without any regard for existing law. This provision described above (among others) is a clear indication that staff has not fully analyzed the overall effects of this rule and how it is to be implemented, and really whether it can be implemented at all, legally or otherwise.

In Conclusion:

It is clear from the supply chain challenges our country has experienced recently that any disruption to the fragile network that makes up the goods movement distribution chain can have profound effects throughout the rest of the system.

Unfortunately, CARB staff has underplayed the potential disruption of ACF in the supply chain especially related to overall available drayage capacity at major marine and intermodal gateways.

Beyond the obvious operational constraints for drayage operators pertaining to cost, range, weight, fueling etc. there are serious concerns that this proposal will be detrimental to the overall economy and jobs in the goods movement sector. Nevertheless, CARB staff has dismissed the overall impact as "unlikely to have a significant impact on the California economy"[6].

Nothing could be further from the truth as fleets leave the marketplace and shippers seek out other gateways to avoid potential disruptions related to available compliant drayage capacity. With decreased import activity so goes export opportunity for California exporters of agricultural and other commodities as vessel operators cancel west coast sailings due to decreased volumes.

The overall effects of this rule are profound and deserve further investigation to prevent a catastrophic collapse of the drayage trucking industry in California.

We respectfully urge you to reject the proposed ACF and direct staff to come back with a realistic proposal that considers the challenges and potential impacts to drayage operators and the larger goods movement industry in California.

Sincerely,

Matt Schrap
CEO, Harbor Trucking Association
matt@harbortruckers.org
www.harbortruckers.org

[6] California Air Resources Board, *Staff Report: Initial Statement of Reasons*, September 30, 2022, Page 235.