



February 27, 2023

TO: Tony Brasil – [abrasil@arb.ca.gov](mailto:abrasil@arb.ca.gov)  
FROM: Construction Industry Air Quality Coalition – [mike@lewisandco.net](mailto:mike@lewisandco.net)  
RE: Advanced Clean Fleets Regulatory Proposals

## CONSTRUCTION DOES NOT FIT IN THE COMPLINACE FRAMEWORK PROPOSED

### Coalition Members



Associated General Contractors  
America-San Diego Chapter, Inc.



Building Industry Association  
of Southern California

Western States Trucking  
Association



Engineering  
Contractors Association



United Contractors



Southern California  
Contractors Association

On behalf of the construction industry, we wanted to express our concerns about the proposed Advanced Clean Fleets rule and the items recently discussed at the CARB Board meeting and the recent workshop. We have also attached our comment letter submitted to the Board prior to that meeting outlining our original and continuing concerns about the impact of the rule on our industry's unique operating conditions.

We support the Boards direction to move cautiously and to be sure that the vehicles, infrastructure, and charging stations will be available in sufficient quantities to support an effective roll-out of this regulation. Our industry has certainly witnessed CARB's ambitious plans dissolve after we have spent hundreds of millions of dollars attempting to comply with measures that were far too aggressive on the availability of technology and ambitious deadlines that proved unworkable. We don't want to see that happen again and much of the measures needed to implement this rule are well beyond CARB's ability to provide or influence.

### LOWERING THE FLEET SIZE TO 10 IS AMBUSHING SMALL BUSINESSES.

We do not support the idea to lower the fleet threshold from 50 to 10 vehicles and believe it will disproportionately impact our industry. There are already so many uncertainties about this proposal that drawing in another 20,000 or more fleets at this point will likely doom the implementation of the plan altogether. It dramatically increases the number of trucks required to comply. A number that your staff has not evaluated or determined the economic impacts on these smaller businesses. Most of what the fleet owners are being asked to do cannot yet be done with the current and likely available vehicles and infrastructure. Lowering the threshold will disproportionately impact small businesses and their fleets. Finally, these smaller fleets have not been a part of the discussion during the development of this rule and the small operators voice and their concerns have not been heard or considered.

### CONSTRUCTION FLEETS DO NOT OPERATE LIKE OTHER FLEETS

The current ACF proposal assumes that fleets will be "homed" at the same location every day where the necessary chargers will be provided and that they will travel short distances during their duty cycle to locations that will also be developed sites capable of installing the expensive high speed DC chargers required for this type of battery propulsion. Neither of those conditions are likely with construction fleets.

While some equipment might be "homed" when it is not in use it is most likely going to be traveling between sites and locations where the installation of chargers is impossible or impractical. Many larger construction fleets are comprised of a variety of vehicles capable of providing specialty services to the industry. For example, Class 8 vehicles are likely used to haul very heavy off-road equipment to a construction site from the main yard or from that site to another construction site. These movements are already at or near the state weight limits for these vehicles. Adding another 10,000 – 20,000 lbs. of batteries make them unusable for the most basic of industry needs.

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Major Funding Provided by the Construction Industry Advancement Fund and the Fund for Construction Industry Advancement

The lighter weight vehicles (F350 to F550) are maintenance vehicles what carry compressors, pumps, welders, and lifts that may operate off of the fuel tank with PTO's or discreetly from the engine of the truck. These vehicles once assigned, if they are not left permanently at the job site, are generally driven home by the worker every night, not back to the main yard. In either case there is unlikely to be charging facilities available. First, because at most construction sites, there is no utility power until late in the construction phase and workers will not have access at their home to sufficient charging capacity to charge the vehicle.

By the time ample electricity is brought to the construction site most of our equipment has already moved to another, new, remote site.

### **“COMMERCIALLY AVAILABLE” NEEDS TO BE CLEARLY DEFINED**

The rule needs a clearly defined set of criteria to determine a vehicle's suitability for an application. What vehicle may be “Commercially Available” for one company, will inevitably be unsuitable for another company with more specialized needs. The current draft completely eliminates the “commercially available” terminology. At a minimum, the criteria must include: payload requirements for current tooling and equipment that will not require a step up in vehicle Class rating, safety considerations including ground clearance and toolbox accessibility, variations in mileage and PTO use that will exceed the capabilities of the “commercially available” electric vehicle battery capacity, accommodation for specialized equipment including PTO and outriggers, duty cycle, cost effectiveness, a suitable battery disposal network, sufficient generating and distribution capacity and an assessment of reliability. Vehicle owners must not be forced to settle for something less efficient or less capable than the IC engine vehicle they must replace. Current experience indicates that fleets need to retain their older non-electric vehicles to use when their newer vehicles are in the shop due to manufacturer issues. This defeats the purpose of the ACF rule completely. There also needs to be better alignment of the sales requirements between the Advanced Clean Truck and the Advanced Clean Fleets rule.

### **THE RULE NEEDS A VERY SPECIFIC COMMITMENT TO A REVIEW/REOPENER DATE**

We wholeheartedly support the idea of a thorough review of the availability of vehicles and infrastructure in the 2026/27 timeframe to make appropriate adjustments to the rule before mandating further costly investments by fleet owners. CARB has made commitments in the past to review rules after specific periods of time and failed to do so or only given cursory reviews that fail to assess the compliance against the original assumptions at the time of adoption. For that reason, we support keeping the current 2030 deadlines rather than the arbitrary 2027 date proposed by some members of the legislature. The final deadline for 100% ZEV needs to remain at 2045 or later until such a thorough review has taken place.

### **MULTIPLE FUEL TYPES ARE PROBLEMATIC ON CONSTRUCTION SITES**

The construction industry needs the option of utilizing one fuel type for all of its equipment. CARB has already required the use of renewable diesel for the Off-Road equipment. Suppliers have indicated that there will be ample supplies of renewable diesel and natural gas available from their sources and there are currently over 500 locations to purchase the fuel. CARB has required the construction industry to make billions of dollars in investment in the clean diesel option. We need the same option for the balance of our fleets of portable, on-road and other equipment. There is great uncertainty as to when electric options will be available and when they will be reliable in construction's unique applications. We see renewable diesel and natural gas as the most effective way to achieve early reductions across the entire fleet of construction equipment. We would request that the construction industry be given the option of utilizing renewable options for their fleets rather than attempting to blend multiple propulsion types when there is so much uncertainty in the applicability of electric in the construction application.

### **OUR INDUSTRY RELYS HEAVILY ON RENTAL VEHICLES**

There is nothing in the proposed regulation that addresses the impractical and infeasible use of electric rental heavy construction related vehicles (eg., water trucks, dump trucks, bucket trucks). Rental and leasing companies that service the construction and agricultural industries (SIC Code 7353, must be exempt. DC chargers do not exist on remote sites because hard wired, high voltage, high amperage electrical power is not available. Thus, DC chargers will never be available in remote sites no matter how much infrastructure is created, because they are remote. Certainly, connecting a portable DC charger to a diesel generator is self-defeating. Also, these types of rental vehicles can have multiple users in a single day. Electric vehicles cannot be easily fully recharged for the next use, which certainly is not practical for a construction rental business. The heavy equipment rental industry must be exempt from this regulation.

## **“WHERE FEASIBLE” NEEDS TO BE DEFINED IN THE RULE**

Most of the authority for the development of this rule comes directly from the Executive Order issued by the Governor. That order is filled with the qualifier very specific “where feasible”. That term is not used in the proposed rule and has been replaced with broader terms such as practical, available and flexible. “Where Feasible” needs to be included and defined in the proposed rule. These issues are critically important to the construction industry and our workers, and we would like to have our comments addressed as soon as possible.

As you begin the final modifications to the draft proposal, we would like the chance to discuss additional language changes that would make clear the options available to our fleets which operate very differently from the drayage, shipping and government fleets covered by this rule.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, reading "Michael W. Lewis". The signature is written in a cursive, flowing style with a large, prominent 'M' and 'L'.

Michael Lewis  
Senior Vice President