Western States TRUCKING ASSOCIATION
Since 1941

334 N. Euclid Avenue ● Upland, CA 91786
(909) 982-9898 ● Fax (909) 985-2348
www.westrk.org

February 24, 2022

California Air Resources Board
1001 I Street
Sacramento, CA 95812

Ref: Agenda Item 22-3-6: Comments on State Implementation Strategy (SIP)

Via Electronic submittal: http://www.arb.ca.gov/lispub/comm/bclist.php

Dear Air Resources Board:

The Western States Trucking Association (WSTA) and CleanFleets.net provide these comments. Our prior comments of December 8, 2019, April 8, 2021, and September 27, 2021 and October 29, 2021 relating to the Advanced Clean Trucks (ACT) or Advanced Clean Fleets (ACF) elements of this SIP are incorporated by reference. WSTA is a non-profit organization whose members would be impacted by the ACF and Zero Emission Truck proposals. Founded in 1941, the WSTA is the nation's oldest, independent, nonprofit trucking association representing over 1,000 motor carriers with another 5,000 allied motor carriers primarily operating on the west coast. The WSTA advocates on behalf of our owner-operator, fleet, and broker members for sensible legislation and regulations that affect their businesses. Our members are engaged in virtually every mode of trucking, including; construction/demolition, port drayage, cross-border, general freight, heavy-haul and agricultural operations.CleanFleets.net has been our endorsed CARB consultant to the membership for over a decade and has been extensively involved in the CARB zero emission vehicle (ZEV) planning process for trucking since it began in 2016. The ACF proposal and the proposed Zero Emissions Trucks Measure are not feasible for the trucking industry in general, and WSTA members in particular. Both measures effectively punish small businesses that have already invested as part of the $5 billion investment that the Board required under the Statewide Truck and Bus Regulation and should be removed from the SIP document dated January 31, 2022.

ZEV Readiness

WSTA members operate severe-service heavy duty trucks (e.g. dump trucks, water trucks, waste collection/rolloff trucks) in urban and rural areas of the western states. These are highly customized specialty vehicles that our members rely on to profitably serve customers. The battery systems that we are aware of result in a heavier truck that reduces the carrying capacity (or payload) which has negative financial effects on our members. The truck manufacturers have consistently communicated to CARB the state of ZEVs:

> "Unfortunately, compared to traditional vehicles, ZEVs currently (i) cost a trucking company more to purchase, (ii) are not able to perform the same amount of work

as traditional trucks, (iii) require new maintenance facilities and equipment investments, (iv) have lower residual values, and (v) require the build-out and maintenance of a completely new electricity charging or hydrogen fueling infrastructure." [1]

Current Economic Burden

The Statewide Truck and Bus Regulation has compelled our members to invest heavily in compliant trucks. Prior to the Regulation, many of our members relied on a secondary truck market when newer equipment was needed. The Regulation changed that practice and required the purchase of 2007 or newer engines initially and the final compliance with 2010 or newer engines by 2023 (end of this year). It is important to note that Board staff reported 40,125 vehicles with 2007 to 2009 model year engines reported to the CARB TRUCRS system.[2] These are vehicles that cannot operate statewide next year and require borrowing by our members and other fleet owners to replace them. The decision to buy used or new trucks is affected by many factors including access to capital and the price of the replacement vehicle. New truck prices have increased in the 30% to 50% range in the experience of our members. That means the new compliant trucks being purchased for the final Statewide Truck and Bus deadline represent a historic level of investment for our members. Our members are counting on the minimum "Useful Life" of that vehicle and any effort to shorten that useful life will have additional negative economic consequences to our members.

Comments on Zero Emissions Truck Measure

The table below shows the Draft 2022 State SIP Strategy language for this measure (p. 50) and WSTA's comments:

Draft SIP Strategy Language	*WSTA Comments*
"restrictions or fees for combustion trucks entering low/zero-emission zones" and "The dirtiest trucks would be assessed higher fees to enter low emission zones"	This would restrict interstate commerce and our members ability to support critical infrastructure construction in this state.
"indirect source rules to establish zero-emissions zones by 2035"	We do not support programs that shift additional burden on our members who are struggling to comply with existing regulations
"eventually only zero-emissions vehicles would be allowed to enter these zones"	CARB is failing to recognize that ZEV's are not feasible today and may never be feasible to use in all transportation in the state. Restricting the service areas of legally-purchased vehicles interferes with interstate commerce and the routes, prices and service of our motor carrier members

[1] See Truck & Engine Manufacturers Association comments to CARB at https://www.arb.ca.gov/lists/com-attach/105-acf-comments-ws-V2VUYlBjVjRSC1Bh.pdf

[2] See California Public Records Act response from CARB titled "CARB CPRA 101-052421," July 2021 (attached)

Additional Comments on Advanced Clean Fleets (ACF)

We object to the inclusion of the proposed ACF Regulation in the SIP. CARB's stated goal for the SIP is to describe, "the State's strategy and commitments to reduce emissions." The State's commitment to advance the proposed ACF Regulation is hollow and inadequate as it relates to the economic analysis, environmental benefits and impacts on affected small businesses. Our April 8, 2021, and September 27, 2021 and October 29, 2021 ACF comments are incorporated by reference and are also relevant here as the ACF is proposed for inclusion in this SIP. Among the issues that we expect will cause harm to our members affected by the ACF are:

ZEV Infrastructure: The Advanced Clean Trucks (ACT) Regulation adopted in 2020 included the CARB staff estimate that the funding required for new vehicle charging stations will exceed $9.6 billion. The CARB analysis of the "payback period" for a ZEV fleet owner was rapid due to the avoided cost of purchasing diesel fuel. However, that analysis does not identify how the upfront cost of infrastructure is funded. CARB indicates that Senate Bill 350 funds may provide in the range of $600 million, however there is still an unfunded and unidentified mandate for the remaining $9 billion. During the ACT Regulation process the Truck and Engine Manufacturers Association (EMA) informed CARB that charging infrastructure must be in place BEFORE a ZEV truck is manufactured and delivered or it cannot operate. In addition, physical space is needed for the additional vehicles and infrastructure. CARB identifies a "large cost share" from fleet owners and the Governor's Office details the massive funding and coordination across state agencies and utilities. WSTA demands that the forthcoming ACF Regulation clearly identify the required "cost share" from the regulated fleets and that which is appropriated under SB 350 or other government programs.

Just this past week, the state Senate Committee on Transportation observed, "Looking at vehicle technology is only part of the analysis. As important is the sourcing of the fuel and the charging and refueling infrastructure. For battery electric vehicles the source of electricity is the existing electric grid. California's electricity is exceptionally clean and low-carbon, a result of California's longstanding preference for renewable power as well as California's reliance on nuclear and hydropower, and so is a good choice for fuel. But there are questions about whether California can add enough renewable power to support strong growth in electric transportation. Just meeting California's goal of 5 million light-duty ZEVs by 2030 will increase electricity usage by around 5%-7%; medium- and heavy-duty vehicles will add more. Also, substantial new electric infrastructure will be needed to recharge fleets of battery-electric trucks. A single fast charger for a truck will draw the same electricity as 200 homes, and could go higher. Adding a charging depot of 10 or 20 chargers will be like adding a small city. This will require unprecedented upgrades to utility distribution and transmission systems which often takes years to do. While this does not require any technology breakthroughs, the implementation will require much coordination among multiple regulators and between utilities, regulators and local governments."[3]

[3] February 15, 2022 Informational Hearing on Clean Transportation Program: Trucks and Off-Road Vehicles "Backgrounder"

Additionally, it appears to us that the State has once again put the cart before the horse in the proposed commitment to implement its bold vision. To support this vision of the future, land owners are committed to break ground and support ZEV infrastructure installation in the absence of a full environmental analysis of the impacts of those projects. In other words, in an atmosphere where private developers must adhere to strict environmental review of their proposed projects it is incomprehensible that in the Draft SIP Strategy that the State could commit itself to hundreds or thousands of projects without environmental review. Public agencies (and presumably affected private landowners) would be committed to break ground to support ZEVs without first identifying and mitigating all possible environmental impacts.

Electricity Supply and Grid Reliability: It is evident that the state's electricity grid is failing to deliver electricity reliably with today's load demand, let alone the periodic outages that have left thousands of California homes and businesses without power. Twenty California counties were declared in a state of emergency within the last 90 days[4] and up to 60,000 customers waiting on power restoration, some for over two weeks.[5] CARB must clearly identify the new sources of electricity to displace the millions of gallons of diesel, LNG and CNG contemplated by the ACF as well as the infrastructure cost and timeline to deliver the additional electricity BEFORE ZEV deployment as the EMA indicated was a pre-condition for their OEM members to develop and deliver ZEVs to California. As part of the CARB AB32 Scoping Plan process, in 2021 we understand that the California Energy Commission's estimated up to three times the current electricity supply is needed to power ZEV cars and trucks. The lack of a clearly stated plan that relies heavily on public sources of funding exposes the weakness in the future adoption of ZEVs by small fleet operators.

Regulated Entities & Controlling Parties

While CARB may point to its intention in the draft ACF to regulate fleets with 50 or more vehicles or $50 million or more in annual revenues, WSTA believes that small fleet operators are being dragged into the proposal. The draft language for the ACF released on September 9, 2021 indicates in the Scope and Applicability that the regulation applies to the following entities,

> "(3) Is a fleet owner whose fleet in combination with other fleets operated under common ownership and control totals 50 or more vehicles
> (4) Is a broker or other fleet owner that in combination with other fleets owns, operates, or dispatches vehicles under common ownership and control that totals 50 or more vehicles;"

Among the proposed Definitions is the following,

> ""Controlling party" means the motor carrier, broker, or entity that dispatches, directs or otherwise manages the day-to-day operation of multiple fleets under

[4] https://www.gov.ca.gov/wp-content/uploads/2021/12/12-30-21-SOE-December-2021-Winter-Storms.pdf
[5] https://www.abc10.com/article/news/local/grass-valley-nevada-city/pge-power-outage-restoration-back-on/103-a612882c-5626-4a8c-b033-e31971d207ad

common ownership or control to serve the customers or clients of the controlling party."

As written, neither section can be implemented in the goods movement or construction trucking industries. The words "in combination," "directs or otherwise manages," and "serves" lack the specificity needed for a potentially regulated party to determine what, if any, compliance requirements apply.

WSTA members that may contract with fleet owners or motor carriers have no practical way of determining the number of trucks over which the contracted party has "common ownership or control." Privately-held businesses have no legal requirement that we are aware of that would compel them to divulge how many trucks they may have under "common ownership or control." Furthermore, the words "directs or otherwise manages the day-to-day operation of multiple fleets," is unworkable in the context of today's trucking industry. For example, a general contractor with less than 10 trucks that hires the services of 40 or more dump trucks for a one-time job of two days or longer could arguably "direct" on a "day-to-day" basis other fleets so could be considered to be "in combination" and meet the ZEV Fleet Milestones for 50 trucks. However, it would appear that the Regulation would also compel the general contractor to investigate the ownership status and business holdings of the "directors, officers or managers" of each truck to determine if additional trucks could be operated under "common ownership or control" and if the general contractor could determine that then he/she would add those additional trucks to the 40 that were contracted and apply the ZEV Fleet Milestone to the new total. There is simply no practical way for a potentially regulated entity to reliably determine the truck ownership status, truck owner business status or a truck count to reliably implement a ZEV purchase for another business with whom he/she has only contracted for two days is any given year during the compliance period.

As requested in our April 2021 comment letter, CARB must identify the legal authority under which it is authorized to compel two separate businesses to be treated as one regulated party for the purpose of the ACF. Additionally, CARB must identify its legal authority to prevent fleet owners from purchasing federally-certified internal combustion engines.[6] WSTA believes that the manufacturer's right to sell federally approved vehicles is meaningless in the absence of a purchaser's right to buy them.

Conclusion

The Advanced Clean Fleets and the Zero Emissions Trucks Measure should not be included in the SIP as they are not feasible and are likely to create negative economic consequences for our members, while inadequate environmental analysis has been completed to justify the huge expected pricetag. The Administrative Procedures Act and Government Code require a thorough analysis of these new regulatory costs and burdens on regulated entities and the environmental benefits of the regulatory proposal and any alternatives. WSTA demands that the State follow the law and provide the required economic and environmental analyses before either proposal (or measure) is

[6] See Engine Mfrs. Assn. v. South Coast Air Quality Management Dist. (02-1343) 541 U.S. 246 (2004) 309 f.3d 550 (2002)

included in a SIP “commitment”. We may be reached via electronic mail at LeeBrown@westrk.org and Sean@CleanFleets.net.

Sincerely,

Lee Brown
Executive Director
Western States Trucking Association

Sean Edgar
Director
CleanFleets.net LLC
Endorsed Consultant, Western States Trucking Association

cc: WSTA Executive Committee
Construction Industry Air Quality Coalition
Ellison Wilson Advocacy, LLC

Attachment: California Public Records Act response from CARB titled “CARB CPRA 101-052421,” July 2021

Engine Model Years 2007, 2008, & 2009	
Vehicle Type	Vehicle Count per Type
Blanks	73
Beverage Tractor Tra	387
Beverage Truck	416
Boom Truck	165
Box Reefer Tractor T	441
Box Reefer Truck	384
Box Van Tractor Trai	629
Box Van Truck	1,183
Bucket Truck	217
Bus Other	292
Bus School	463
Bus Shuttle	49
Cab and Chassis	1,530
Car Carrier	155
Cattle Tractor Trail	7
Cattle Truck Convent	11
Concrete Mixer	174
Concrete Pump	23
Crane Heavy	83
Crane Heavy Request	14
Crane Truck	183
Drill Rig Truck	32
Drill Rig Water Well	9
Dump Tractor Trailer	739
Dump Transfer Truck	359
Dump Truck	1,801
Expeditor Hot Shot	4
Farm Grain Tractor T	19
Farm Grain Truck	57
Farm Grain Truck and	12
Feed Truck On Farm	30
Flatbed Tractor Trai	563
Flatbed Truck	1,258
Flatbed Truck and Tr	249
Garbage Packer	938
Garbage Refuse	16
Garbage Roll-Off	55
Garbage Transfer	118
Hay Squeeze	16
Hay Tractor	4
Hay Tractor Trailer	8

Engine Model Years 2007, 2008, & 2009	
Vehicle Type	Vehicle Count per Type
Hay Truck	70
Hay Truck and Traile	5
Hopper Tractor Trail	36
Lettuce Tractor Trai	13
Lettuce Truck	9
Livestock Tractor	28
Livestock Truck	15
Log Tractor Trailer	43
Log Truck	56
Lowbed Tractor Trail	211
Motor Coach Bus	199
Nurse Rig Aircraft S	10
Nurse Rig Other	31
Other Tractor Traile	612
Other Truck	2,383
Parcel	83
Pickup Bed	32
Roll Off Truck	41
Select Vehicle Type	2
Service Fuel Lube	84
Service Utility Mech	419
Silage Feeder	4
Silage Harvest	60
Silage Other	10
Specialty Agricultur	2
Spray Truck	11
Spreader Tractor Tra	21
Spreader Truck	29
Sweeper 1 Engine	25
Sweeper 2 Engine	65
Tank Truck	588
Tanker Tractor Trail	139
Tanker Truck and Tra	131
Tow Truck Roll Back	235
Tow Truck Wrecker	223
Tractor Trailer	19,315
Tractor Trailer Othe	1,049
Vacuum Truck	235
Water Truck	347
Water Truck Farmer O	22
Yard Goat	101

Engine Model Years 2007, 2008, & 2009	
Vehicle Type	Vehicle Count per Type
Total Vehicles: 40,160	