AUTOCAR
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January 31, 2018

VIA WWW.ARB.CA.GOV

Ms. Mary J. Nichols, Chair
California Environmental Protection Agency
Air Resources Board
Attn: Clerk of the Board
1001 I Street
Sacramento, California 95812

Re: Comments of Autocar, LLC and Autocar Industries, LLC
Proposed California Greenhouse Gas Emissions Standards for Medium- and Heavy-Duty Engines and Vehicles (Phase 2) and Proposed Amendments to the Tractor-Trailer GHG Regulation (Proposed Regulations)

Dear Chair Nichols,

Autocar submits these comments to the Proposed Regulations to request the inclusion of two changes, developed jointly with EPA staff, which will implement the intended effect of provisions designed to enable small manufacturers to comply with the Proposed Regulations.

As a small business, Autocar was exempt from GHG Phase 1. In contrast, Autocar's larger OEM competitors began generating and banking credits in 2014 or earlier, through the manufacture of multiple credit-producing product lines including on-road tractors. Those Phase 1 credits can be used to support the production and sale of higher GHG emission vehicles in California in Phase 2. Autocar has not generated any credits due to the exemption in Phase 1, and intends to comply in Phase 2 based solely on its limited opportunity to generate credits under the Phase 2 interim provisions, and by incorporating emissions reducing technologies on its limited number of vocational vehicle lines.

Autocar is requesting technical changes to the Proposed Regulations which will (1) ensure that credits generated by small business in Phase 1 do not expire before they can be used in Phase 2, (2) prevent large manufacturers from gaining a competitive advantage over their small competitors, and (3) incent the continued promotion of clean-burning CNG-fueled vehicles by companies like Autocar. The technical changes preserve the policy and objectives reflected by the Proposed Regulations, in a manner consistent with provisions for other similarly-situated vocational vehicles, while providing a challenging, yet reasonable, path for compliance by small businesses that were exempt in Phase 1.

If Autocar's proposed revisions to the Proposed Regulations are not adopted, Autocar, which has been a leader in producing and selling reduced emission vehicles, and other similar small businesses will begin Phase 2 with constraints, including significantly fewer banked credits than their large, diversified, vertically-integrated competitors.

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Background

Autocar, LLC and Autocar Industries, LLC (Autocar) are small, private, U.S. vocational chassis assemblers located in Indiana and Alabama, producing specialized heavy-duty vocational trucks and terminal tractors used in California and across the United States to collect solid waste and recycling, sweep streets and shunt freight at warehouses, railroads and ports.

As the longest-standing continuous truck brand in the United States, Autocar was at risk of being eliminated when its then-owner, AB Volvo, acquired another heavy-duty Class 8 low cab over engine chassis manufacturer, Mack Trucks, Inc., in 2000. The United States Department of Justice (under Presidents Clinton and Bush), concerned with the potential effects of reduced competition in the refuse market, and finding there was no reasonable substitute for a heavy LCOE chassis, ordered Volvo to divest itself of one of its LCOE lines (U.S. v. AKTIEBOLAGET VOLVO, et al., Competitive Impact Statement, February 7, 2001, and Final Judgment, entered April 30, 2001). As a result, Volvo sold the assets of the Autocar division to Autocar's current owner, and Autocar built a factory, hired employees, secured suppliers and began production in Indiana in 2003. Autocar would not exist as an independent small business had the government not taken steps to preserve it, and Autocar's existence has, in fact, generated the pro-competitive effects the Department of Justice sought. The modifications to the Proposed Regulations requested in these Comments will foster these efforts as well, by ensuring that the regulations effectively prevent large manufacturers from gaining an unfair advantage over small manufacturers.

History of Leadership in Bringing Environmentally Sound Technology to Market

Autocar has been a leader in its industry with regard to early adoption of environmentally sound technology. In each of the past five years, 73-90% of Autocar's refuse trucks sold for use in California were built with compressed natural gas (CNG) engines. Autocar has built and sold more than 6,000 CNG vehicles, with a majority of those trucks produced for use in California, and CNG fueled vehicles now comprise the largest portion of Autocar's refuse truck production. No other refuse truck maker's product mix reflects a higher concentration of clean-fuel burning vehicles.

On the forefront of current technology, natural gas engines are the only available internal combustion engines that have been certified to California's 0.02 Optional Low-NOx Standard (OLNS) and thus are the only true "near-zero" (NZ) engines available in the marketplace today. Before 2018, Autocar installed almost 300 NZ engines in refuse trucks that are currently hauling trash on the streets of Los Angeles, Long Beach and other locations in California. As of February 2018, every natural gas engine installed in Autocar trucks will have near-zero emissions.

Preparing for the Future of Emissions Reducing Technology

Autocar has supported the objectives and policies of emissions regulation through promotion of CNG trucks and development of a hybrid-drive refuse truck, and continues to work with partners and customers to develop environmentally conscious products. These efforts include development and integration of "Phase 2-type" emissions-reducing improvements to transmission and tire systems, as well as working closely with CARB staff to develop a strategy to deploy zero-emission trucks in California.

Autocar recently expanded its operations to Birmingham, Alabama, increasing its workforce and production capacity, in anticipation of increased demand for near-zero emissions trucks and other developing technologies. Every Autocar truck is made in the U.S. Autocar remains a small business with a unionized workforce producing trucks only in America.

Autocar appreciates the opportunity to submit the brief comments below to the Proposed Regulations, with the objective of ensuring that technical amendments to EPA's Phase 2 GHG regulations deemed necessary and warranted by EPA staff are incorporated into the Proposed Regulations by CARB, regardless of when and whether EPA is permitted to complete its own technical amendment process.

We look forward to attending the Hearing on February 8 and welcome any opportunity to discuss these matters with you there, or outside of the hearing. Please direct any questions to me at (765) 489-5499 or to Autocar's counsel, Robert Wyman, at (213) 891-8346.

Sincerely,

James M. Johnston
President

I. BACKGROUND

Autocar worked closely with EPA staff throughout the Phase 2 rulemaking process, providing information and perspective with regard to several key aspects of Autocar's business and how they were impacted by the proposed rules. Among others, Autocar advocated the following principles:

a. Small businesses were exempt under Phase 1 and will be disproportionately burdened under Phase 2.

    i. Large OEMs began generating credits in Phase 1 in 2014 or earlier and will continue to do so throughout Phase 1. Small businesses which are exempt under Phase 1 have generated no credits, and unless they opt in early, they will start Phase 2 with no credits. In theory and in the extreme, a large OEM could certify its entire vocational fleet in Phase 2 using credits generated in Phase 1 from tractors or vocational, while a small OEM is required to install costly and weight-adding emissions technologies, if those technologies are even ready for market, which puts small business at a competitive disadvantage.

    ii. Large OEMs which were not exempt under Phase 1 had two years to ramp up certification and compliance, whereas small businesses are now scrambling to certify and opt in as soon as possible.

    iii. Large OEMs manufacture engines and multiple product lines, and they can spread their administrative and development cost over multiple divisions and hundreds of thousands of trucks per year, whereas small businesses have singular or a few product lines and one or two locations and a few thousand trucks to absorb this significant burden.

   Without appropriate accommodations, Phase 2 compliance could cripple small business and Autocar in particular, as it struggles to compete directly with large, diverse, vertically-integrated manufacturers like Mack and Peterbilt.

b. Many of the proposed Phase 2 technologies are not suitable for the heavy-duty specialty vocational vehicles that Autocar produces – low-speed, frequent-stop applications with design, purpose and duty cycle that are very different from tractors and other vocational trucks.

EPA staff recognized these concerns, and as a result of intensive coordination between EPA and Autocar, these concerns were largely addressed in the final rule, in the form of interim provisions (found in §1037.150) which allow small businesses and alternative fuel adopters to generate extra credits in Phase 1, and custom chassis provisions which provide an alternative compliance scheme for Autocar's refuse trucks, street sweepers and other unique applications.

After publication and review of the final rule, EPA staff reconvened with Autocar to discuss the potential effectiveness of the small business accommodations and to start the process for Autocar to relinquish its exemption and opt in to Phase 1 compliance early. The analysis revealed that a few key changes were needed (described below) in order for the interim provisions to provide the intended relief from unfair competition that small businesses face in Phase 2. EPA staff has indicated that these and other technical amendments will be codified through a Notice of Proposed Rulemaking or other means; however, the office and staff do not yet have a path forward for any such process under the new leadership. Therefore, the amendments, and the scope of the detrimental effect that will result if they are not adopted, remain in limbo.

II. TECHNICAL AMENDMENTS

The technical amendments would likely be codified as follows:

a. In §1037.150(y) (Transition to Phase 2 standards.), add to subsection (1) or add a new subsection (4) as follows: "For vocational, emission credits generated by a small manufacturer in model years 2018 through 2022 may be used through model year 2027, instead of being limited to a five-year credit life as specified in §1037.740(c)."

This first amendment rectifies a conflict created by the interim provisions, where the small business opts in to Phase 1 and begins generating credits, but those credits expire (after five years) before they can be used in Phase 2. The amendment extends the credit life through 2027. This accommodation is already provided for Light HDV and Medium HDV[1] (in subsection (1) under §1037.150(y)), so EPA staff was comfortable applying it for small businesses as well. The amendment also protects against potential market fluctuations in the purchase of CNG trucks which are out of the manufacturer's control.

b. In §1037.150(c) (Provisions for small manufacturers.), add the language in bold in the following sentence: "Qualifying small manufacturers are not subject to the greenhouse gas standards of §§ 1037.105 and 1037.106 for vehicles with a date of manufacture before January 1, 2022, **or before January 1, 2023, in the case of qualifying small manufacturers that certify their entire U.S.-directed production volume before January 1, 2022**."

This second amendment addresses a concern for potential fluctuations in sales of CNG trucks during Phase 1. In the event Autocar's sales of CNG trucks decreased meaningfully, it would generate fewer credits under the interim provisions and potentially still be significantly behind its competitors in credits when Phase 2 began. The amendment provides an additional year for small businesses to comply under Phase 2, provided they opt in to Phase 1 no later than model year 2022. The final rule already provided for a one-year deferral, so EPA staff was comfortable with providing for a two-year deferral, for small business who voluntarily comply early.

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[1] As set forth in EPA's final rule at page 73496:

> "To facilitate this transition [to new standards] and better assure adequate lead time, the agencies are extending the credit life for the Light and Medium heavy-duty vehicle averaging sets (typically vehicles in Classes 2b through 7) so that all credits generated in 2018 and later will last at least until 2027. **We are not doing this for the Heavy heavy-duty vocational vehicle category (typically Class 8) because tractor credits may be used within this averaging set. Because we project that manufacturers will have sufficient tractor credits,** we believe that they will be able to manage the Heavy vocational transition to each set of new standards, without the extended credit life that we are finalizing for Light and Medium vocational averaging sets. Nevertheless, we will continue to monitor the manufacturers' progress in transitioning to the Phase 2 standards for each category, and we may reconsider the need for additional transitional flexibilities, such as extending other categories' credit lives."

The first amendment accommodates small businesses that won't have "sufficient tractor credits" in Phase 2, because they manufacture only vocational vehicles, not tractors.

III. CONCLUSION

For the reasons set forth above, and to ensure that the effectiveness of California's GHG regulations is not undermined by the delays and decisions of new policymakers at EPA, Autocar requests that CARB include the technical amendments described herein in its original Phase 2 regulations. By doing so, CARB will enable both small and large companies to comply with the rule, regardless of when EPA is able to take the same action.

End of Comments.