



September 27, 2021

Comment letter submitted via electronic commenting system

Mr. Tony Brasil
Mobile Source Control Division
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Mr. Craig Duehring
Mobile Source Control Division
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Mr. Paul Arneja
Mobile Source Control Division
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Association of California Water Agencies' Comments on Draft Regulatory Language for the Advanced Clean Fleets Regulation Public Fleet Requirements

The Association of California Water Agencies (ACWA) appreciates the opportunity to provide public comments to the California Air Resources Board (CARB) in response to the recent Draft Regulatory Language on Public Fleet Requirements (Draft Rule), and the September 9, 2021 Advanced Clean Fleets Regulation public workshop. We appreciate the work that CARB staff has done to consider and incorporate stakeholder input in the draft regulatory language, and we encourage CARB staff to continue these constructive efforts to develop a feasible, practical and effective Draft Rule. We look forward to additional opportunities to work with CARB staff in upcoming public workshops, advisory groups, and follow-up calls. ACWA represents more than 460 public water agencies that collectively deliver approximately 90 percent of the water in California for domestic, agricultural, and industrial uses.

ACWA continues to request that CARB ensure that the Draft Rule avoids imposing unintended consequences that would limit water and wastewater agencies' ability to deliver essential services, including during emergencies. Our members are called to work alongside first responders in emergencies with specialty fleet vehicles, and perform maintenance that requires unique vehicle specifications and diverse duty cycle needs. Maintenance work may not be

classified as “emergencies” in the same way as natural disasters, such as wildfire and earthquakes, but run significant risk of resulting in disasters if our fleets are unable to complete their missions, such as mitigating water line breaks to prevent floods or cleaning up mudslides to uncover sewer lines. CARB’s exemption process for public fleets must acknowledge and include exemptions for practical and economic conditions when ZEV models are unavailable for purchase due to inability to match duty cycles, oversubscription, or cost to meet public fleet needs. Specific comments are provided below describing our concerns and recommendations regarding the Proposed Rule related to public fleets:

1. ACWA is concerned about the real-world cost implications for water and wastewater agencies of complying with the Draft Rule.

ACWA members’ primary mission is to ensure a high quality and reliable water supply in an environmentally sustainable and fiscally responsible manner. In doing so, ACWA’s members own and operate medium-and-heavy duty (MHD) fleets. MHD fleets can vary in size from as few as 10 vehicles to upwards of 500 vehicles. Replacing even a few MHD fleet vehicles is a multi-year process with high upfront costs. Thus, the economics of this Draft Rule will affect our member agencies differently. ACWA has concerns that, as drafted, the cost for water and wastewater agencies to comply with the Draft Rule could result in rate increases that challenge water affordability for customers and investments in other essential climate resilient projects. These requirements may be especially hard for small and medium sized water and wastewater agencies to budget for.

ACWA notes that while investments in ZEVs and charging infrastructure are cost neutral in the long run, significant upfront resources will be necessary to comply with the Draft Rule. These necessary investments could require trade-offs and shifting budgetary priorities to cover these increased costs, as well as rate increases for some of our member agencies. Maintaining and adapting California’s water system infrastructure to climate change will be essential to reliably delivering water to California’s communities, economy, and the environment. We recognize that the need to reduce greenhouse gas emissions from public fleets is essential to mitigating climate change, but shifting budget priorities could impair the ability for small and medium sized water and wastewater agencies to implement other important climate resiliency and multi-benefit projects.

2. ACWA is concerned that the necessary charging infrastructure to meet fleet duty cycle needs will be unavailable in the early years of the Draft Rule.

Compliance with the Draft Rule would require developing the necessary charging infrastructure to support ZEV vehicles to meet public water and wastewater agencies fleet duty cycle needs. As noted during the September 9 public workshop, fleet owners, including public water agencies, are concerned about the availability of models will not meet needs for duty cycles that require operation for 12-16-24 hour days. As noted above, ACWA is concerned about the cost and feasibility of available charging infrastructure to charge MHD fleet vehicles rapidly, and to stay within budgetary constraints.

Duty cycles are case specific and depend on the severity of the damage to be repaired (for example, on a water distribution pipeline), and also on the location where the damage is located. For unplanned repairs, which require fast mobilization to repair unforeseen damages, the average time that water agency staff will be out in the field can range from 1-2 weeks in far-flung systems. This concern also extends to the energy and charging required to travel to worksites, required to operate for long periods of time while at worksites, and the need for certain trucks to be outfitted with equipment needing power to run, such as power take-off (PTO) devices. There will be high energy demands on vehicles used to transport equipment needed in the field. Not having adequate charging infrastructure and reliable ZEVs to handle heavy loads, as well as diverse and rugged road conditions, can be detrimental to public water agencies effectively and efficiently responding to and repairing massive water disruption breaks in a timely manner. As noted above, members are concerned that the options for charging infrastructure will not be adequate to charge MHD vehicles rapidly to meet fleet needs. Some fleets require the practice of having two charging stations for a single vehicle. Additionally, vehicles must keep up with rapidly changing weather patterns and can act as shelter for workers during extended repair projects or emergency situations.

The types of vehicles that water and wastewater deploy include, but are not limited to: utility trucks ranging in size from F-250s to F-550s, flat rack trucks transporting pumps, filters and piping for de-watering operations, and, tractor trailers transporting excavation equipment cranes, utility trucks, light towers, generators and air compressors to support repair efforts. These vehicles may tow heavy equipment such as generators, compressors or pumps, perform welding operations, support a variety of PTO driven equipment, power onboard welding machines and air compressors, and other tasks that require long duty cycles.

3. CARB should further acknowledge public fleet challenges in the Draft Rule.

ACWA has serious concerns that the proposed Public Fleets Exemption process and the proposed conditions that must be met to apply for an exemption from ZEV or NVEV purchase requirements will not be achievable for water and wastewater agencies. We support the long-term goal of this Draft Rule, appreciate the reference to “water and wastewater services” as providers of emergency response support, and appreciate that the Draft Rule addresses the need for public agency vehicles to respond to emergencies and to maintain essential public services. However, we believe that the proposed exemption process would place an impossible burden on public agencies and CARB staff to manage exemption applications on a vehicle-by-vehicle basis. To enable ACWA’s members to meet their public mandates, the Draft Rule must address the following challenges related to technology availability, subscription, and process:

- The Draft Rule would be adopted in Fall 2022 at the earliest, leaving ~18 months to budget and implement procurement to comply with a steep increase by 2024 purchase requirements. Also, in accordance with the governmental process, many of ACWA’s members are already budgeting for purchases over the next five-year period. Increased funding that may be needed to purchase ZEVs and infrastructure may not be available through the normal budgeting process and may even require Board approval.

- At present, the commercial availability of ZEV MHD vehicles that meet our members' service needs are limited, at best. Initial assessments by our members regarding the design and capabilities of existing and prospective vehicles have also raised significant concerns with the factors affecting accurate sizing and installation of charging infrastructure. We understand that there is the expectation for the market of ZEVs that meet our members' service requirements to expand. Currently, prospective buyers, including public water agencies, can only proceed with assurances from CARB, without substantiation, that vehicle models will be available that meet fleet needs by the time they are required. Public water agencies need to know that the type of vehicles required for purchase and use can and will work, and be able to continue to operate for extended hours, in all weather, elevation, and natural disaster conditions. There will be considerable uncertainty and challenges in the early years of the Draft Rule even with the 50 percent requirement on-ramp prior to 2027.
- The proposed vehicle-by-vehicle exemption application process will likely result in a large number of applications and we are concerned that deserving exemptions could be subject to lengthy delays or simply be unmet. Both the lack of process laid out for certainty of achieving an exemption if it is asked for, and the challenge for CARB to be responsive to the volume of exemption requests likely to be submitted are very concerning.

4. The Public Fleets Exemptions should include a wider breadth of options that reflect real world considerations for public fleets.

ACWA supports the long-term goal of this Draft Rule and our members are already working to electrify fleets where feasible. Still, the Public Fleet Exemptions must reflect the variety of situations that public water agencies face when purchasing fleet vehicles to meet their needs. ACWA requests additional options be added to §95693.2 Public Fleets Exemptions to mitigate the concern that acceptable and economically feasible ZEV and NZEV models will be unavailable when the Draft Rule takes effect starting in 2024. We urge that the concerns noted above be considered grounds for revisiting the proposed exemption criteria and process. We also urge that the Draft Rule accommodate sufficient time to install and develop necessary charging infrastructure to meet the needs of extended duty cycles. §95693.2 Public Fleet Exemptions must account for specialty vehicle availability, cost of replacement, charging infrastructure and grid accessibility and reliability, and the ability to maintain core services and mutual aid during and following natural disasters. A few additional examples reflecting these concerns are identified below:

- Emergency response from utility providers is not limited to natural disasters, but can occur from downed power lines, ruptured pipelines or other instances that are frequently caused by a third party. It is critical to have vehicles capable of responding immediately in any geographic location that can perform or aid in the repair to the infrastructure.
- When considering replacement of construction related trucks, agencies need trucks to be capable of traversing steep hills fully loaded with dirt, pulling either backhoes or

drilling rigs, and holding fuel or charge long enough to be in the field for multiple days—without refueling or having access to charging infrastructure.

- Members have expressed concern on the need to have a “try before you buy” period from ZEV manufacturers. This would allow the purchaser sufficient time to fully test ZEV specialty vehicles on varying road conditions, remote location reliability, and extended duty cycle capabilities.

5. The 75 percent requirement by body type in the Public Fleets Exemptions should be removed.

The 75 percent by body type requirement in §95693.2 Public Fleets Exemptions is infeasible as a starting point as the Proposed Rule takes effect. As mentioned during the September 9, 2021 public workshop, this high 75 percent starting point is concerning, especially when paired with unsettled exemption criteria, and when layered upon the absence of or inaccessibility to charging infrastructure. The requirement to already possess 75 percent ZEVs by body type to qualify for an exemption supersedes consideration of whether there is the necessary accessible charging infrastructure for critical services and emergency response, and does not account for the probable unavailability of vehicles in stock that can adequately meet unique fleet vehicle needs.

Public water agencies are different sizes and act with multiple functions to provide reliable water and wastewater services, and perform maintenance and repair operations. There is substantial uncertainty as to whether water and wastewater agencies’ unique vehicle specification needs can be met within the proposed timeline and doubt with respect to the ability to successfully implement the significant related infrastructure investments required to support ZEVs. ZEVs are still evolving, and organizations cannot with any certainty determine what technology mix that is available now or may materialize in the future will fit their operations best at this time. Small and medium sized agencies may have only 2-3 vehicles of a particular body type (or less). In these situations, the 75 percent threshold is difficult to comply with due to the reasons stated above regarding availability of vehicle models that meet fleet needs, and also due to the rounding practice to be used in this regulation. This is a unique challenge to service providers and we recommend that CARB provide maximum regulatory flexibility to align with planning, as well as rate and/or fee approval processes.

6. Acknowledgement of “Specialty Fleet Vehicles” in the Public Fleet Requirements.

ACWA suggests including the definition proposed by the Specialty Vehicle Coalition in its comment letter submitted on April 2, 2021 to incorporate consideration of specialty fleet vehicle needs in public fleet exemption criteria. As noted in the above comments, public water and wastewater agencies have many vehicles with unique, specialty fleet needs that must be considered to ensure maintaining critical services at all times, including during emergencies.

Recommendations

1. ACWA recommends adding Specialty Fleet Vehicles to §95693 Public Fleets Applicability, Definitions, and General Requirements.

“Specialty Fleet Vehicles” means vehicles owned or operated by an entity or government agency that provides services with complex specifications unique to the service area topography, weather, physical environment and mission objectives beyond basic pickup and delivery functions, including but not limited to medium/heavy duty class 4-8 booms for aerial/overhead work, extended duty cycle PTO driven equipment, augers, cranes, water filtration, vacuum equipment, fumigation sprayers, support vehicles and vehicles designated to deliver otherwise defined Specialty Fleet Vehicles.

2. ACWA recommends further clarification in Section 95693.2(a) that CARB identify “specialty fleet vehicles” as eligible for exemption as well. Specialty fleet vehicles are very often used by public agencies to provide emergency response operations. Specific language could include-

95693.2(a)- Public agencies can apply for an exemption from ZEV or NZEV purchase requirements if the vehicles will be designated as specialty fleet vehicles, and/or to provide emergency response in supporting electricity, natural gas, water, or wastewater services in and across California or in other states.

3. ACWA recommends amending the eligibility criteria for exemption in §95693.2(a) to include an applicant public agency meeting 2 or more of the listed conditions. More specifically:

95693.2(a)- A public agency may receive an exemption from the ZEV purchase requirements set forth in 95693.1 if 2 or more of the following conditions are met:

4. ACWA recommends removing the 75 percent per body type requirement for the reasons stated above in the comments.

~~95693.2(a)(1) More than 75 percent of that body type in the fleet are already ZEVs.~~

5. ACWA recommends adding “or specialty fleet vehicle needs” to 95693.2(a)(3) to address the situation when specialty vehicles that are critical to water agency fleet needs may not yet be available.

95693.2(a)(3)- The agency has obtained a letter from the governing body that lists the number of vehicles to be purchased for emergency response with details about the vehicle type, and what areas of the country are typically served, and a statement that explains why available ZEVs are not suitable to be dispatched to serve those areas in emergency response or do not otherwise meet specialty fleet vehicle needs; and

6. ACWA recommends adding additional conditions that qualify for exemption based upon our comments above. Additional conditions could include:

95693.2(a)-

-The agency is able to demonstrate that available models do not meet duty cycle needs for the agency's fleet operations.

- The agency is able to demonstrate that appropriate models are out of stock, or unreasonably cost prohibitive as determined by the agency governing board, such that the budgetary impact will require rate increases to maintain near and long-term reliability to comply with ongoing regulatory requirement and/or ensure access and affordability to water for customers.

7. ACWA recommends amending the Executive Officer statement to avoid confusion by stating "extension" instead of "exemption" for consistency; and remove reference to 25 percent of total vehicles to be consistent with ACWA's previous request to remove the 75 percent by vehicle type requirement.

~~- The Executive Officer will grant the exemption extension if the conditions of this section have been met, provided no more than 25 percent of the total vehicles in the fleet would be using extensions. Vehicles approved for the exemption extension will be designated as using the "emergency response" or "specialty fleet" vehicle exemption extension when they are reported.~~

We appreciate the opportunity to comment on this very important rulemaking. Please do not hesitate to contact me at nickb@acwa.com or (916) 441-4545, if you have any questions regarding ACWA's input.

Sincerely,



Nicholas Blair
Regulatory Advocate

cc: The Honorable Liane Randolph, Chair, California Air Resources Board
The Honorable Sandra Berg, Vice Chair, California Air Resources Board
The Honorable E. Joaquin Esquivel, Chair, California State Water Resources Control Board
Mr. Richard Corey, Executive Officer, California Air Resources Board
Mr. Dave Eggerton, Executive Director, Association of California Water Agencies
Ms. Cindy Tuck, Deputy Executive Director for Government Relations, Association of California Water Agencies