THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

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SUBJECT: Metropolitan's Informal Public Comments on the Proposed Advanced Clean Fleets Rulemaking

Rulemaking Staff,

The Metropolitan Water District of Southern California (Metropolitan) appreciates the opportunity to comment on the California Air Resources Board's (ARB's) Advanced Clean Fleets Regulation Proposed Draft Regulation Language- Public Fleet Requirements (ACF Draft) dated September 9, 2021. As an environmental steward, Metropolitan supports the overall goal of transitioning away from fossil fuels to zero-emission (ZE) technologies and we appreciate ARB's leadership to move the state in this direction. As an essential water provider with mandated public service requirements, Metropolitan has been actively pursuing this transition, and is in the process of characterizing our vehicle inventory, reviewing technology options, and researching vehicle manufacturers and vendors to understand the commercial availability of candidate vehicles. However, to better support public agencies and the proposed provisions placed on them by the ACF Draft, Metropolitan recommends that ARB consider the following:

- Recognize the operational constraints of public fleet vehicles and the need for available ZE fueling infrastructure;
- Establish clear and feasible purchase alternatives to give public agencies the ability to procure dependable and reliable vehicles with the lowest emissions possible that are commercially available at the time they are needed; and
- Allow for commercially available, proven technology that provides near-term greenhouse gas (GHG) reductions and criteria pollutant reductions to bridge the gap until Zero-Emission Vehicles (ZEVs) become more widely available.

As such, Metropolitan offers the following comments to clarify and improve the practical implementation of the ACF Draft regulation.

Background

Metropolitan is a regional water wholesaler that delivers approximately two million acre-feet of water per year to 26-member public agencies, who in turn provide water to nearly 19 million people in Southern California. As the largest distributer of treated drinking water in the United States, Metropolitan's service area spans approximately 5,200 square miles throughout Los Angeles, Orange, San Diego, Riverside, San Bernardino, and Ventura counties. In addition, Metropolitan owns and operates an extensive range of facilities including the Colorado River Aqueduct, 15 hydroelectric plants, nine reservoirs, 830 miles of large-scale pipes, and five water treatment plants.

Metropolitan's Emergency Management and Business Continuity Operating Policy dictates that Metropolitan must maintain sufficient resources (i.e., personnel, material, and equipment) to repair two major simultaneous pipeline failures. Major pipe failures may be the result of an earthquake, man-made accidents, or simple deterioration. These pipe failures can occur anywhere within Metropolitan's 5,200 square-mile service area in the Southern California coastal plain, or along our Colorado River Aqueduct system that spans the Mojave and Sonoran deserts. To respond to these and other emergencies (e.g., wildfires, critical infrastructure repairs, mutual aid requests), standby staff are prepared to mobilize to any emergency directly from home.

Additionally, to maintain Metropolitan's vast water distribution system, staff perform routine preventative and corrective maintenance activities throughout the year. On average, Metropolitan annually conducts 35 large-scale, planned shutdowns of portions of its water system for maintenance or improvements necessary to maintain its critical infrastructure and ensure safe and reliable water deliveries to the Southern California region. These projects vary in duration and location but can span one week or up to several months, often working around the clock, to complete.

In order to meet reliability demands, Metropolitan owns and maintains a fleet of over 500 vehicles that are subject to the ACF Draft (i.e., Class 2B-3 medium-duty trucks to Class 8 tractors). Many of these vehicles are considered "specialty vehicles" that were specifically outfitted to meet Metropolitan's operational needs. While these specialty vehicles may not consistently travel long distances, they may be required to do so under certain circumstances and/or may be required to operate continuously for up to 24 hours at a project site under extreme conditions (e.g., inclement weather, rough terrain, remote locations).

General Comments

To allow Metropolitan and other public fleets to meet service and reliability mandates, it is critical that the performance capabilities—namely duty cycles—of new ZEVs are fully vetted before requiring them to be purchased. Metropolitan must maintain a 1:1 replacement ratio for new vehicles that also match existing duty cycles.

Additionally, having available infrastructure that is appropriate and accessible, especially in remote locations, is a vital success factor for public fleet compliance with the ACF Draft requirements. The January 26, 2018 Governor's Executive Order B-48-18 set a goal of having

250,000 vehicle charging stations and 200 hydrogen fueling stations installed throughout the state by 2025. Per the California Energy Commission (CEC) Zero Emission Vehicle and Infrastructure Statistics dashboard (last updated July 30, 2021), the State has installed 74,459 public and shared chargers and 52 hydrogen refueling stations. It is concerning that in the almost four years since the promulgation of the Executive Order, the state has not yet achieved 50% of the goal. This underscores the overall difficulty of ZE infrastructure installation, which is compounded by the size and scale of medium- and heavy-duty vehicles. To allow adequate time to develop and install the infrastructure as directed by the Executive Order, the ACF Draft public fleet purchase requirement implementation dates should be aligned with the State's infrastructure goals. In the event that viable ZEVs and associated infrastructure options are not readily available before the ACF Draft public fleet compliance dates become effective, it is imperative that ARB provide sufficient flexibility for purchasing options.

Specific Comments and Recommendations

Section 95693. Public Fleets Applicability, Definitions, and General Requirements

Addition of Definitions for "Commercial Availability" and "Specialty Fleet Vehicles"

Including definitions for "Commercial Availability" and "Specialty Fleet Vehicles" will assist public entities in identifying qualified ZEVs and/or alternative fueled vehicles that meet unique operational requirements and time constraints. During the September 9, 2021 ACF workshop, several stakeholders provided comments regarding the lack of commercially available ZEV options. The vague understanding of "commercial availability" can result in different regulatory interpretations of this term. For example, vehicle manufacturers may interpret the term to mean viable ZEVs that may be available within a given timeframe of three years or more, while public entities may interpret the term to mean a shorter timeframe such as six months to one year. Additionally, similar clarification is recommended for "Specialty Fleet Vehicles", as this category is integral to public fleet operations and should be recognized in the Draft ACF provisions.

Metropolitan offers the following definitions:

> "*Commercial Availability*" means a Zero-Emission Vehicle (ZEV) or Near-Zero Emission Vehicle (NZEV) that is commensurate with the purchaser's specifications and is available for delivery by vehicle manufacturers/vendors within 18 months from the time of purchase."
>
> "*Specialty Fleet Vehicles*" means vehicles owned or operated by an entity or government agency that provide services with complex specifications beyond basic pickup and delivery functions, including but not limited to booms for aerial/overhead work, power take-off (PTO) equipment, augers, backhoes, cranes, water filtration, vacuum equipment, fumigation sprayers, and vehicles designated to deliver otherwise defined Specialty Fleet Vehicles.

It should be noted that the above proposed definition of "Specialty Fleet Vehicles" is consistent with the request made by other industry associations representing essential service providers.

Section 95693.1 Public Fleet ZEV Purchase Requirements

Expand the Category of NZEV to Include Best Available Control Technology (BACT) Fuel Options

Metropolitan appreciates that the ACF Draft allows NZEV purchases to count as ZEVs until 2035. This will provide public agencies with much needed purchasing options in vehicle categories where there may be a lack of commercially available ZEVs, particularly for specialty vehicles. However, to further attain near-term GHG and criteria pollutant reductions and to lower the numbers of the older, higher-emitting vehicles on the road, Metropolitan recommends that the ACF Draft provisions for NZEVs be expanded to include commercially available, proven BACT such as Low-NOx natural gas vehicles or conventional hybrids with electric power take-off (ePTO) devices. Allowing public agencies to utilize proven alternative technologies, while ZE technology advances, will achieve near-term emissions reductions and can result in less demand for vehicle exemptions and stimulate turnover of higher-emitting vehicles.

Incorporate a Safeguard Provision for when No ZEV or NZEV Bids are Received by a Public Agency

As written, Section 95693.1 does not address the situation that a public agency may receive zero bids for either a ZEV or NZEV that meets their specifications. To avoid operational impacts, Metropolitan recommends adding an additional provision allowing the purchase of non-ZEV or non-NZEV options when no responsive bids are received. In this fashion, public agencies such as Metropolitan will not need to defer vehicle purchases until such time as a ZEV or NZEV becomes available and potentially jeopardize their ability to properly and adequately maintain their systems or provide emergency response services.

Modify Purchasing Compliance Dates to Allow for Infrastructure Development and Government Budgeting Process

Per the ACF Draft, the first ZEV purchasing compliance date is January 1, 2024. However, the 2024 compliance date is a year ahead of the 2025 goal set by Executive Order B-48-18 to install 250,000 electric chargers and 200 retail hydrogen stations in California. Using the July 30, 2021 CEC dashboard statistics, the State has installed 74,459 public and shared chargers and 52 hydrogen refueling stations, of which 38% and 48%, respectively, are within Metropolitan's service area. Acknowledging a feasible infrastructure installation pace that can be successfully achieved, CARB should align the ZEV public purchasing requirement with the Governor's infrastructure installation goal of 2025. This timeframe will also allow for the medium- to heavy-duty ZEV market availability to mature, as required by the Advanced Clean Truck (ACT) Regulation which increases the required vehicle manufacturer percentage of annual sales that must be ZEVs each year.

In addition, it is important that ZEV purchasing compliance dates align with public agency budgeting processes. For example, many public agencies may already be budgeting for purchases over the next five-year period. The additional funding needed to purchase ZEVs and construct the required charging infrastructure may not be available through standard budgeting processes and may require lengthy procurement processes, including approvals through agency governing bodies.

In consideration of commercial availability of vehicles, infrastructure availability, and budgeting and procurement practices, Metropolitan recommends the following ACF Draft language:

(A) For a public agency whose jurisdiction is not solely in a designated low population county:
1. *Starting ~~January 1, 2024~~* [January 1 after the third year from the effective date of the regulation], *50 percent of the total number of new motor vehicle purchases in each calendar year must be ZEVs; and*
2. *Starting ~~January 1, 2027,~~* [January 1 after the sixth year from the effective date of the regulation], *100 percent of the total number of new motor vehicle purchases in each calendar year must be ZEVs.*

(B) For a public agency whose jurisdiction is solely in a designated low population county:
1. *Starting ~~January 1, 2027,~~* [January 1 after the sixth year from the effective date of the regulation], *100 percent of the total number of new motor vehicle purchases in each calendar year must be ZEVs.*

Section 95693.2 Public Fleet Exemptions

Metropolitan recommends that the ACF Draft public fleet Exemption for Emergency Response approach be modified. While the inclusion of an exemption process recognizes the challenging public fleet needs, as currently written, it is limiting and not attainable. As previously discussed, Metropolitan's capacity as an essential public service hinges on our ability to respond to emergencies. To respond to any type of water supply/distribution system emergency across its large service area, Metropolitan must have vehicles that can travel to the emergency site, perform the work, and quickly return water service without jeopardizing public safety. The exemption process must be supportive of this response.

Metropolitan recommends the following options to create a more feasible and realistic exemption application approach for emergency response vehicles:

- Remove the 75% and 25% requirement and allow public agencies the discretion to apply for an exemption request for any vehicle categorized as Emergency Response.

- Allow a public agency to receive an exemption from the ZEV purchase requirement set forth in section 95693.1 if <u>any two or more</u> of the following conditions are met:

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

1) Commercially Available ZEV/NZEV options are not able to replicate the performance of vehicles used for Emergency Response (i.e., duty cycles);

2) *The agency is able to demonstrate that the necessary publicly accessible charging or hydrogen fueling infrastructure or mobile fueling options are not readily available in the areas to be served in emergency response; or,*

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.* The agency must keep records of the letter signed by governing body and make it available to CARB staff upon request.

~~*4) The agency must keep records of the letter signed by governing body and make it available to CARB staff upon request.*~~
Item 4 was removed and incorporated into item 3 as it should not be a standalone condition to apply for an exemption.

Thank you again for the opportunity to comment on the ACF Draft regulation. Metropolitan looks forward to working with ARB on this transformative issue and asks that ARB consider our comments prior to finalizing the official rulemaking draft. If you have questions or need additional information, please contact Carol Kaufman [cykaufman@mwdh2o.com, (213) 217-6207] or Kiersten Melville [kmelville@mwdh2o.com, (213) 217-7187].

Very truly yours,

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