Western States TRUCKING ASSOCIATION
Since 1941

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April 7, 2023

California Air Resources Board
1001 I Street
Sacramento, CA 95812

Ref: Western States Trucking Association Comments on Advanced Clean Fleets Regulatory Proposal (Notice of Public Availability, dated March 23, 2023)

Dear Air Resources Board:

The Western States Trucking Association (WSTA) is a non-profit organization with interstate and instate motor carrier members that are impacted by the ACF proposal. The ACF proposal would damage the trucking industry in general, and WSTA members specifically, by imposing a new unfunded mandate for which there is inadequate environmental and economic analysis by CARB. Our prior comments of October 17, 2022 are germane to the referenced Notice and are incorporated by reference.

In addition to these comments, WSTA has jointly filed comments with the California Trucking Association (CTA) via our counsel at Wenger, Jones, Helsley PC specific to our serious concerns regarding the conformity of the proposed ACF with multiple State and Federal laws. Nothing contained in these comments regarding the policies proposed by the California Air Resources Board (CARB) should be construed as conflicting with positions reflected in prior comments filed by counsel for WSTA and CTA.

CARB Fails to Perform an Adequate Environmental Analysis of Life-Cycle CO2 Emissions of Renewable Natural Gas, Hydrogen and Battery-Electric Systems

WSTA proposed an alternative that is discussed in the Environmental Assessment (EA) as Alternative 8. CARB is obligated to prepare an analysis of alternatives. In the analysis in the EA for this regulation, CARB makes the shocking announcement that natural gas vehicles are more polluting than diesel. WSTA provided Alternative 8 Technical Comments prepared by Ramboll, which disputes the “more polluting” conclusion as “incorrect and misleading” as well as shows where the CARB staff environmental analysis of Alternative 8 falls short. Ramboll concludes that, “CARB must formulate a revised Alternative 8, as originally suggested by stakeholders, and conduct a full CEQA comparison analysis that reflects the emission reduction potential of including low NOX NG trucks and the GHG emissions reduction potential of RNG-fueled NG trucks.” We acknowledge that the proposed Waste Fleet Provision may allow up to 9,000 RNG-fueled vehicles to be replaced, however there remains a huge gap in analysis for other vocational truck types. Providing an RNG option for our members at over 700 RNG fueling points already constructed should be explored, not ignored.

CARB Fails to Perform an Adequate Economic Analysis of the ACF

WSTA has previously noted the lack of clarity to the proposed definitions of "Common ownership or control," and "Controlling party." We do not believe that either definition is workable in today's interstate goods movement or construction trucking industries. The words "contractors whose services are under the day-to-day control of the hiring entity," and "directs or otherwise manages the day-to-day operation of one or more vehicles," lack the specificity needed for a potentially regulated party to determine what, if any, compliance requirements apply. For example, a general contractor or other hiring party with ten trucks that hires the services of 40 or more dump trucks for a one-time job of two days or longer in any given year could arguably "direct" on a "day-to-day" basis other fleets so could be considered to be "in combination" and be required to meet the ZEV Fleet Milestones for 50 trucks. However, it would appear that the Regulation would also compel the hiring party 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" or "shared resources" and if the hiring party 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. This ambiguity prevents an adequate analysis of the cost impact to businesses, including small businesses, that is required by the Government Code. CARB must identify the legal authority under which it can compel two separate businesses to be treated as one regulated party for the purpose of the ACF.

Relating the Updated Costs and Benefits Analysis (aka Appendix B), we have the following observations:

1. Assuming that "commercial fleets will receive $2.3 billion in additional cost savings due to the IRA's [Inflation Reduction Act] available tax credits," is speculative and uncertain. To benefit from a tax credit, assumes that a taxpayer is profitable. Due to the massive upfront capital to supply power to a battery-electric vehicle (in the range of $50,000 to $100,000 each as discuss in multiple ACF workshops) and the documented loss of efficiency of each ZE trucks, commercial fleet owners that may financially survive the ACF early years may derive no savings.
2. We dispute the assumed CEC projection that electricity costs will be "10.8 percent lower" in 2024-2050. All price signals our members see are upward. Due to abysmal failure of the State and its utilities to provide a clear path for the new electric generation needed to support ACF we believe this reduced cost to commercial fleet consumers is unreasonable.

3. The “Statewide Incremental Total Cost of Ownership,” (Table 4) identifies over $50 billion for “EVSE & Infrastructure Installation” but fails to analyze or identify either, a) the amount of public funding committed (e.g. SB 350 has around $800 million estimated), or b) the impact of increased interest rates and reduced borrowing capacity of affected businesses in the current economic downturn, or c) the affected businesses ability to pay for infrastructure and estimated $9.2 billion “Vehicle Price” total. Our members cannot see how the heavy upfront capital expense is survivable given that avoided fuel costs and “LCFS Revenue” (which functions as a State subsidy) allegedly “payback” the fleet owner in a matter of a few years. The onus is on CARB to perform an adequate analysis of the cost impact to business, which it has not.

ACF Vehicle Exemption Process

The ACF language completely misses the mark by: a) decoupling the carrying capacity of a vehicle from the “configuration” definition under which an affected fleet owner can apply for an exemption, and b) making a Daily Use Exemption (“DUE”) process that is unworkable. While CARB staff have verbally indicated that there is no intention to compel the purchase of a truck or bus where there is not a “one-to-one replacement,” the proposed language does not reflect that. While we appreciate that CARB recognizes that many vocational truck segments are not currently suited to ZEVs (e.g. due to range and payload requirements), the proposed exemption process is not adequate. The paperwork burden is entirely on the fleet owner to document the lack of an adequate ZEV replacement truck. There is no definition of “commercially available” in the proposed language and it appears from CARB staff comments that the evidence of availability is when a manufacturer will take an order for a truck. There must be a self-executing exemption process in which the burden of proof is on the manufacturer to certify that its vehicle meets daily range and payload requirements rather than the fleet owner/end user being forced to compile voluminous information for an exemption. Requiring the affected fleet to add 10% ZE trucks before they can even apply for a DUE makes no practical sense for fleet owner with a homogenous fleet of trucks (e.g.dump trucks, ready-mix, etc.). The CARB Executive Officer functions as the judge, jury and sole decisionmaker for exemptions and there does not appear to be any appeals process which is present in the Statewide Truck and Bus Regulation but not present here.

Concrete Pumps & Ready Mix Trucks Should be Exempted from ACF

Chapter 13 of the California Department of Motor Vehicles (DMV) handbook defines a concrete pump and pumper boom as a mobile crane (see Section 13.070). A heavy crane is defined as a power-operated equipment that can hoist, lower, and horizontally move a suspended load, with a gross vehicle weight rating of 54,000 pounds or more, and is not designed to transport cargo.

This definition also applies to a concrete pump for the following reasons:

- A concrete pump hoists, lowers, and horizontally moves a suspended load of concrete
- A concrete pump has a gross vehicle weight rating in excess of 54,000 pounds
- A concrete pump is not designed, nor is capable of transporting cargo

Additionally, a concrete pump's primary intended function requires operation exclusively off-road on an undeveloped parcel that has no fueling infrastructure. By the time the concrete pump reaches its jobsite, its power supply would have already been depleted rendering it inoperable and incapable of performing its primary intended function. Concrete pumps typically remain on a jobsite for the life of the project and do not typically return to home base. Even in the rare cases where a concrete pump would return to home base, its power supply would be depleted before reaching the jobsite or returning to home base to refuel or recharge. If this regulation requires an ICE concrete pump to be converted into a ZEV, there are also major safety concerns surrounding the operation of these heavy vehicles with suspended loads. If a concrete pump has no access to a fueling source, the suspended load of concrete can cause millions of dollars in damage as well as jeopardize the safety of its operator and other workers on the jobsite. For these reasons a concrete pump truck should be exempt from Title 13, CCR Section 2015.

Similarly, ready-mix trucks (e.g. rotary drum delivery of perishable concrete to infrastructure projects statewide) should be completely removed. Due to significant investments that many key companies have made in natural gas ready-mix trucks over the past few years, these fleet owners should benefit from a provision to delay ZEV compliance indefinitely until 2040 or beyond.

Infrastructure Construction Delay Process

The ACF language provides inadequate protections for fleet owners that:

- "Take home" vehicles: Installation at private residences for medium and heavy duty truck charging is entirely infeasible yet there appears no certain pathway for delay or exemption for this common practice (in one example we have spoken with a Fortune 500 company that indicates more that half of their service vans go home with the operator each night);
- Lack access to public charging: It is highly uncertain when, where, if and how much EV or hydrogen infrastructure will be available and at what price;
- Tenants: Fleets that rent truck parking do not appear to have a clear pathway to delay requirements where a public or private landlord and trucker tenant cannot come to terms on tenant improvement to support the ZE trucks

- Twelve step problems: The timeline for Site Electrification presented at the January 13, 2023 workshop (reprinted on the next page) was not agreed to by Southern California Edison, the utility provider for many of our members. Without a clear checklist of what is required to apply for an exemption, the regulated entities have no certainty of how to apply.

Our prior comments put CARB on notice of the lack of an adequate CEQA analysis of construction-related impacts. When coupled with the huge upfront capital costs and the demonstrated incapability of many of the state's electricity providers to manage the inadequate transmission system we have today, WSTA members have little confidence and see inadequate exemptions proposed.

Conclusion

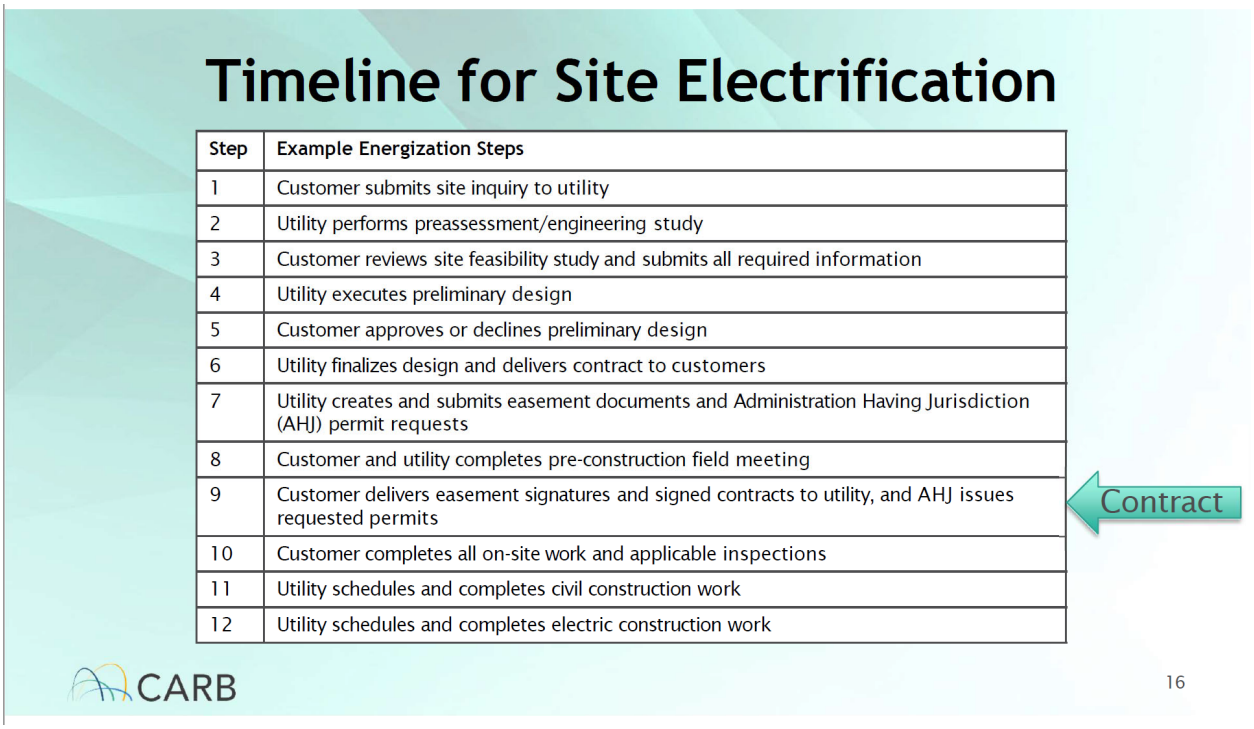
For the reasons detailed herein, the ACF Regulation is nowhere near being ready for adoption, does not meet legal requirements and cannot be implemented by our members as it is proposed. The onus is on CARB, the governor, the legislature and electric utility providers to identify the timeline and sources of public funding to accomplish ZEV truck deployment by fleet owners. This should occur on a voluntary basis until the ZEV manufacturing process provides a "one-to-one" replacement configuration and public charging infrastructure is readily available and affordable. There is currently no business case, savings or cashflow model presented that maximizes ZEV deployment while ensuring that WSTA members that support goods movement, construction & demolition or waste removal can remain in business if the ACF is adopted by the Board as proposed. WSTA is entitled to a complete response and CEQA analysis of our Alternative 8 especially in light of CARB's own modeling that shows that the proposed ACF delivers very little emissions reductions in the South Coast and San Joaquin Valley where hundreds of our members live, work and strive to provide the public with the goods and services it needs.

I may be reached via electronic mail at LeeBrown@westrk.org

Sincerely,

Lee Brown
Executive Director
Western States Trucking Association

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



Timeline for Site Electrification

Step	Example Energization Steps
1	Customer submits site inquiry to utility
2	Utility performs preassessment/engineering study
3	Customer reviews site feasibility study and submits all required information
4	Utility executes preliminary design
5	Customer approves or declines preliminary design
6	Utility finalizes design and delivers contract to customers
7	Utility creates and submits easement documents and Administration Having Jurisdiction (AHJ) permit requests
8	Customer and utility completes pre-construction field meeting
9	Customer delivers easement signatures and signed contracts to utility, and AHJ issues requested permits
10	Customer completes all on-site work and applicable inspections
11	Utility schedules and completes civil construction work
12	Utility schedules and completes electric construction work