

Responses to Comments

on the

Draft Environmental Analysis

Prepared for the

Advanced Clean Truck Regulation

**California Air Resources Board
1001 I Street
Sacramento, California, 95814**

Released June 23, 2020

to be considered at the

June 25, 2020 Board Hearing

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1. Introduction

The California Air Resources Board (CARB or Board) released a Draft Environmental Analysis (Draft EA) for the Proposed Advanced Clean Truck Regulation (Proposed Project) on October 25, 2019, for a 45-day public review and comment period that concluded December 9, 2019. CARB received numerous comment letters through the comment docket opened for the proposed project including the Draft EA, during that time. An additional comment period was held for proposed additional regulatory language changes, which concluded on May 28, 2020. All of the comment letters are available for viewing on the comment docket at:

<https://www.arb.ca.gov/lispub/comm/bccommlog.php?listname=act2019>. Pursuant to CARB's certified regulatory program, staff carefully reviewed all the comment letters received to determine which ones raised significant environmental issues related to the Draft EA requiring a written response.

This document presents those comments and CARB staff's written responses for the Board to consider for approval prior to taking final action on the Proposed Project. Although this document includes written responses only to those comments related to the Draft EA, all of the public comments were considered by staff and provided to the Board members for their consideration. For reference purposes, this document includes a summary of each comment followed by the written response. The full comment letters are included in Attachment A to this document. Attachments and appendices to these comment letters can be found at the link to the docket provided above.

Following consideration of the comments received on the Draft EA and during the preparation of the responses to those comments, CARB revised the Draft EA to prepare the Final EA released June 23, 2020.

1.1 Requirements for Responses to Comments

These written responses to public comments on the Draft EA are prepared in accordance with CARB's certified regulatory program to comply with the California Environmental Quality Act (CEQA). CARB's certified regulations states:

California Code of Regulations, title 17, Section 60004.2(b)(3). Response to Public Comment

CARB shall evaluate comments on environmental issues received during the noticed comment period and shall respond as follows:

(A) Comments received during the noticed public comment period regarding environmental impacts that may result from the proposed project shall be considered, and a written response shall be prepared where required by section 15088 of title 14 of the California Code of Regulations.

(B) CARB may, but is not required to, respond to late comments made outside the noticed comment period.

(C) When responding to a comment raising significant environmental impacts from a public agency, a written proposed response shall be provided to that agency at least 10 days prior to certifying an Environmental Impact Analysis.

(D) The response to comment may be prepared in the form of (1) a revision to the draft Environmental Impact Analysis, (2) a separate section in or attachment to the Final Environmental Impact Analysis, or (3) a separate response to comments document.

(E) The response to comment shall include the following:

1. Comments and recommendations concerning significant environmental issues received during the noticed public review period on the draft Environmental Impact Analysis, either verbatim or in summary;

2. A list of persons, organizations, and public agencies commenting on the draft Environmental Impact Analysis during the noticed public review period; and

3. The responses to significant environmental issues raised during the noticed public review period.

Public Resources Code (PRC) Section 21091 also provides guidance on reviewing and responding to public comments in compliance with CEQA. While this section refers to environmental impact reports, proposed negative declarations, and mitigated negative declarations, rather than an EA, it contains useful guidance for preparing a thorough and meaningful response to comments.

PRC Section 21091, subdivision (d) states:

(1) The lead agency shall consider comments it receives if those comments are received within the public review period.

(2) (A) With respect to the consideration of comments received, the lead agency shall evaluate any comments on environmental issues that are received from persons who have reviewed the draft and shall prepare a written response pursuant to subparagraph (B). The lead agency may also respond to comments that are received after the close of the public review period.

(B) The written response shall describe the disposition of each significant environmental issue that is raised by commenters. The responses shall be prepared consistent with section 15088 of Title 14 of the California Code of Regulations.

California Code of Regulations, title 14, Section 15088 (CEQA Guidelines) also includes useful information and guidance for preparing a thorough and meaningful response to

comments. It states, in relevant part, that specific comments and suggestions about the environmental analysis that are at variance from the lead agency's position must be addressed in detail with reasons why specific comments and suggestions were not accepted. Responses must reflect a good faith, reasoned analysis of the comments.

California Code of Regulations, title 14, Section 15088 (a – c) states:

(a) The lead agency shall evaluate comments on environmental issues received from persons who reviewed the draft EIR and shall prepare a written response. The Lead Agency shall respond to comments raising significant environmental issues received during the noticed comment period and any extensions and may respond to late comments.

(b) The lead agency shall provide a written proposed response, either in a printed copy or in an electronic format, to a public agency on comments made by that public agency at least 10 days prior to certifying an environmental impact report.

(c) The written response shall describe the disposition of significant environmental issues raised (e.g., revisions to the proposed project to mitigate anticipated impacts or objections). In particular, the major environmental issues raised when the Lead Agency's position is at variance with recommendations and objections raised in the comments must be addressed in detail giving reasons why specific comments and suggestions were not accepted. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice. The level of detail contained in the response, however, may correspond to the level of detail provided in the comment (i.e., responses to general comments may be general). A general response may be appropriate when a comment does not contain or specifically refer to readily available information, or does not explain the relevance of evidence submitted with the comment.

1.2 Comments Requiring Substantive Responses

CARB is required to prepare written responses only to those comments that raise environmental issues associated with the proposed action received during the noticed comment period, as outlined in California Code of Regulations, title 17, 60004.2(b)(3). A total of 467 comment letters were submitted electronically to the comment docket during the formal comment periods, and 16 additional comment letters were received during the Public Hearing on December 12, 2019. There was also one comment letter received outside of the formal comment periods for the Proposed Project making a total of 484 comment letters received. Out of the 484 total comments received, 4 comment letters were determined to include comments raising significant environmental issues related to the Draft EA and requiring a written response under CARB's certified regulatory program and CEQA.

Public comments on the Proposed Project submitted prior to the Board's second hearing are available on CARB's website at:
<https://www.arb.ca.gov/lispub/comm/bccommlog.php?listname=act2019>.

2. RESPONSES TO COMMENTS

The comment letters responded to in this document were coded by the order in which they were received. Table 2-1 provides the list of comment letters that contain substantive environmental comments. Responses to these comments are provided below. Comment letters, bracketed to indicate individual comments, are provided in Attachment A

Table 2-1: List of Comment Letters Receiving Responses for CEQA Purposes			
Comment Number	Date	Name	Affiliation
81	December 9, 2019	John Kelly Astor	California Refuse Recycling Council, Southern District
Informal (Received Outside of Formal Comment Period)	April 17, 2020	John Kelly Astor	California Waste Haulers Council
15-28	May 16, 2020	Thomas Becker	
15-145	May 27, 2020	J Barazi	Zero Emissions Partners

Comment Letter 81 December 9, 2019	John Kelly Astor California Refuse Recycling Council, Southern District
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81-1 The commenter states that consideration should be given to the environmental and fiscal impact that will increase costs for construction and operation of new integrated waste management facilities to support more organics processing, composting and recycling facilities. These new facilities will require readily available near zero-emission technologies and increased manufacturing of low NOx engines, along with future considerations for electrification. It is important to note that many of these facilities are needed in the very near future to accomplish the timelines established to divert more waste, including organics. These initiatives should be carefully considered, harmonized and incorporated in any environmental analysis.

Response: The Draft EA is a program EA which requires a broad scope of environmental analysis of the proposed regulation, not project-specific analysis of potential projects that may occur in response to the proposed regulation. A program EA is one "...which may be prepared on a series of actions that can be characterized as one large project and are related either: ... (3) In connection with issuance of rules, regulations, plans or other general criteria to govern the conduct of a continuing program...." (14 California Code of Regulations section 15168, subd. (a)(3).) A program EA "evaluates the broad policy direction of a planning document...but does not examine the potential site-specific impacts of the many individual projects that may be proposed in the future consistent with the plan." (*Citizens for a Sustainable Treasure Island v. City and County of San Francisco* (2014) 227 Cal.App.1036, 1047.)

The commenter's request to incorporate a project-specific environmental analysis for future waste management projects into the Draft EA is better suited for the lead agency that will have to review such facility requests at the local level. The Draft EA acknowledges several potential impacts to the evaluated resources that would be associated with greater demand for recycling facilities, including the potential that the regulation will require the modification of existing facilities or construction of new facilities.¹ Throughout the Draft EA, CARB staff also provides mitigation measures that lead agencies could implement in evaluating proposed projects that could result from compliance with the proposed regulation. In several, resource sections, the Draft EA takes the conservative approach since CARB does not have jurisdiction over the specific projects that could occur in response to the proposed project and finds that, given this, the impacts from the compliance responses, including the potential for new or modified recycling facilities, are significant and unavoidable. If, in fact, waste management entities will need to modify existing facilities or build new ones, the project proponent will provide the specific layout, design, siting and other elements to the lead agency for additional CEQA review; this is plainly acknowledged throughout the Draft

¹ See DRAFT EA, pages 27, 29, 32, 38, 41,43, 44, 47, 49, 50, 53, 57, 58, 62, 64, 66, 68, 69, 71, 78, 81, 82, 85, and 87.

EA. Therefore, given the programmatic scope of the Draft EA, it cannot provide the project-specific analysis requested by the commenter.

81-2 The commenter states that implementation of a Low Emission Diesel (LED) standard will also be necessary to increase consumption of LED fuels, including renewable diesel and/or compressed or liquefied renewable LED fuels from gas to liquid processing of biomethane. The infrastructure to support collection, processing and distribution of biomethane in the form of Renewable Natural Gas (RNG) will also be mandated and thus needs to be evaluated.

Response: Under CEQA a lead agency must respond to comments raising significant environmental issues related to the project. The proposed regulation order does not involve a low emission diesel standard, and thus, the comment does not appear to be related to proposed project, therefore the comment is noted, but no further response under CEQA is required. From a program perspective, staff disagrees with this comment. The emissions analysis for the Proposed ACT Regulation includes all adopted regulations in its baseline including those affecting fuels. Therefore, any effects associated with existing fuels regulations are already included in staff's analysis. The proposed regulation does not regulate fuels in any way. To the extent future regulations affect LED and RNG, those impacts will be assessed when those regulations are being considered.

81-3 The commenter states that the contribution of the proposed ACT regulation compared to the significant cumulative impacts could be considerable, particularly given that the proposed regulations may themselves result in significant adverse effects on public service systems, including integrated waste management system mandates, recyclables export, increased vehicle trips (VT), more vehicle miles travelled (VMT), new source review (NSR), and permitting, to name a few.

Response: The comment is noted. As it relates to vehicle trips and VMT, the Draft EA concludes that the proposed regulation will result in significant and unavoidable impacts on transportation and traffic resources and on several other resource areas. CARB will be adopting a statement of overriding considerations to approve the project with these significant and unavoidable impacts. Since the comment does not elaborate on the types of impacts that the proposed regulation will have on the environment beyond those that the Draft EA identified, CARB is unable to respond meaningfully further to this comment in more detail.

81-4 The commenter states that the Proposed Draft EA has not fully factored all of the impacts, and they urge a more specific detailed look at the likely impacts on the state's solid waste management system and current initiatives that need to be considered for this major regulatory directive. In considering the state's solid waste management system, they seek careful consideration and expression of the many environmental benefits their programs currently provide and their continued commitment to advance the state's ambitious environmental goals (including the mandates and policy objectives set forth in AB 341, AB 1826, AB 1594, AB 901 and SB 1383). The commenter also

states that it is imperative that they are able to respond in a timely and effective manner to assist in safeguarding public health and safety. The commenter respectfully urges that these issues and their role be more thoroughly incorporated in both the Draft EA and the regulations.

Response: Given the commenter's general request, without specifying which impacts the Draft EA failed to consider in its analysis, CARB may respond in a general manner. Further, "CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters." (Title 14 CCR, section 15024, subd. (a).)

As noted, in response to comment 81-1, the Draft EA is a programmatic environmental analysis of the likely compliance responses that will occur in response to the proposed regulation. The proposed regulation does not directly regulate the waste management community, nor does it require fleets to purchase ZEVs. Rather, it simply requires the manufacturers of certain trucks and buses to sell a certain percentage of zero-emission vehicles and a one-time reporting requirement for large entities that meet certain criteria to aid CARB in developing future fleet regulations that would require usage of ZEVs in fleets. Staff will evaluate the impacts to the solid waste collection industry at the time it develops proposals that may require ZEV usage for refuse truck fleets. Since the comment did not provide additional detail on which impact analysis within the Draft EA is allegedly deficient, CARB is unable to meaningfully respond further to this comment in more detail.

Informal Comment April 17, 2020	John Kelly Astor California Waste Haulers Council
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Informal-1 The commenter states that after reviewing the Large Entity Reporting Requirements they have determined that the Proposed ACT Regulation may trigger several compliance responses producing environmental impacts and unintended consequences.

Response: The Draft EA for the Proposed Regulation analyzed the potential environmental impacts from the proposed compliance responses. The commenter does not provide any specific claims that the compliance responses already analyzed in the Draft EA are not adequate. Since the comment did not provide additional detail on which environmental impacts would be triggered, CARB is unable to meaningfully respond further to this comment in more detail. Therefore no further response is required.

Comment Letter 15-28 May 16, 2020	Thomas Becker
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15-28-1 The commenter states that, for several years, the State of California has violated CEQA by refusing to respond to public requests to study the reduction of Vehicle Miles Traveled (VMT) as an alternative to emission reduction strategies that will adversely impact interstate commerce.

Response: Under CEQA a lead agency must respond to comments raising significant environmental issues related to the project. The proposed regulation specifically regulates the vehicle manufacturers who do not directly control how the truck is used after it is sold. Thus, the comment does not appear to be related to the proposed project, therefore the comment is noted, but no further response under CEQA is required. However, from a program perspective, staff agrees that reducing VMT can achieve emission reductions as it relates to the operation of medium and heavy duty trucks in California. Future regulatory efforts affecting fleet mandates may assess VMT reduction as a possible strategy. CARB is currently investigating ways to reduce VMT in other regulatory programs, for example, The Climate Investments group is looking at community-based incentives approaches to reduce VMT, and the Sustainable Freight Strategy includes efforts to explore how to reduce VMT as part of reducing emissions from goods movement.

Comment Letter 15-145 May 27, 2020	J Barazi Zero Emissions Partners
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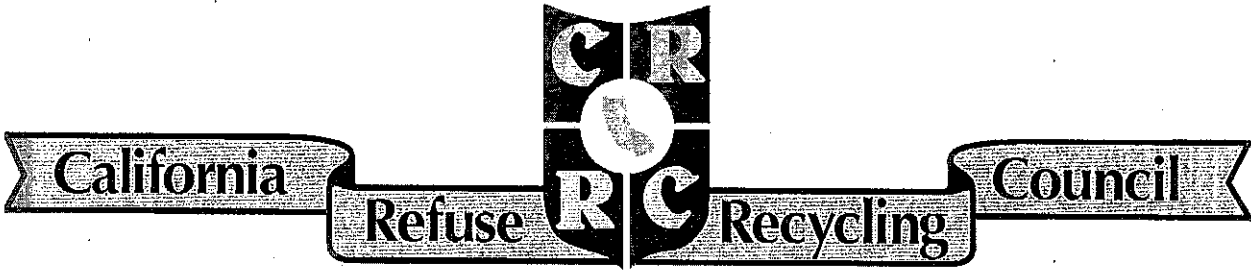
15-145-1 The commenter states that in their opinion the proposed Draft EA is not adequate. The commenter claims that they do not see evidence to support that SB 350 and its affected utilities can or will meet the fleet end users infrastructure needs. Or that “most or all of the costs” needed for a fleet end user to enable ZEV deployments will be satisfied through SB 350 funds. Additionally, the commenter states that the EA did not address the current economic crisis impacts on manufacturers. In effect, the commenter appears to be requesting that CARB evaluate, in the EA, the impact of SB 350 funding and the current economic crisis on the proposed project.

Response: Staff disagrees with the commenters assertions. CEQA Guidelines provide that an “EIR shall identify and focus on the significant effects of the proposed project on the environment.” (Title 14 CCR section 15126.2) CEQA Guidelines also provide that “economic or social effects of a project shall not be treated as significant effects on the environment.” (Title 14 CCR section 15131). To the extent that the commenter appears to claim that the project will cause economic impacts, CARB notes that such economic impacts are not deemed significant effects on the environment and, thus, do not require further evaluation under CEQA since CEQA only requires an EIR to focus on the project’s significant effects on the environment. To the extent that the commenter is seeking an analysis of the existing environment’s (SB 350 funds and current economic crisis) impact on the proposed project, such an analysis is not required under CEQA. In California Building Industry Association (CBIA) v. Bay Area Air Quality Management District (BAAQMD), the California Supreme Court found that, generally, CEQA only requires a lead agency to evaluate the project’s impact on the environment, not the environment’s impact on the project. (CBIA v. BAAQMD (2015) 62 Cal.4th 369, 392). There are very few exceptions to this general rule, which do not apply here. (See, CBIA v. BAAQMD (2015) 62 Cal.4th 369, 391-392)

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ATTACHMENT A
COMMENT LETTER

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SOUTHERN DISTRICT

December 9, 2019

Clerk's Office
California Air Resources Board
1001 I Street
Sacramento, California 95814

Via Electronic Submittal: <https://www.arb.ca.gov/lispub/comm/bclist.php>

Subject: Comments on Proposed Advanced Clean Trucks Regulation and Draft Environmental Analysis Prepared for the Regulation

Dear Clerk's Office:

The California Refuse Recycling Council, Southern District (CRRC SD) is an association of solid waste service providers. Our members range from small, privately owned enterprises to several of the world's largest integrated waste management firms. Collectively, CRRC Southern District members serve an estimated two-thirds of the state's population and operate virtually every form of facility and service now in existence for integrated solid waste management, recycling, composting, and anaerobic digestion. Our members share in the state's pollutant reduction and climate change goals, and although we may have different views on how best to accomplish those goals, we remain committed to providing these essential services to help ensure that California will realize all of its environmental objectives.

The CRRC Southern District is comprised of the California counties of Fresno, Imperial, Inyo, Kern, Kings, Los Angeles, Madera, Orange, Riverside, Santa Barbara, San Bernardino, San Diego, San Luis Obispo, Tulare, and Riverside. It is home to approximately 26 million residents. CRRC SD members have expended billions of dollars in delivering recycling and composting services to these communities. We are a primary stakeholder that has invested and committed to the highest level of waste recycling, composting and anaerobic digestion, and we are proud of our significant contribution to our communities and the state's environmental goals.

We are pleased to provide comments on the Proposed Advanced Clean Trucks (ACT) Regulation and Draft Environmental Analysis (Draft EA) prepared for this regulation. The ACT Regulation is of critical importance to the delivery of services in our communities and contributing to the advancement of the state's laudable environmental objectives, both the immediate benefits and California's long-term goals.

DRAFT ENVIRONMENTAL ANALYSIS – COMPLIANCE RESPONSES

First, we would like to address a few observations related to the Draft EA. The Draft EA makes clear that the Proposed Advanced Clean Trucks Regulation is intended to create environmental benefits related to greenhouse gas (GHG) reductions and air quality benefits. As integrated solid waste management services, including recycling, composting, anaerobic digestion, landfills, and export of recyclables, we approach this regulation through the myriad efforts underway. As we review the EA, we have determined that the Proposed ACT Regulation may actually trigger a number of compliance responses producing environmental impacts and unintended consequences.

For example, in complying with the current State Implementation Plan (SIP), we will need to expand several efforts, including but not limited to the following

- 1) more facilities for natural gas and alternative diesel refueling,
- 2) increased demand for organics processing, recycling and composting services,
- 3) increased emissions testing of heavy-duty vehicles, and
- 4) increased complexities in the support of recyclables.

As a result, the near-term replacement of off-road and on-road vehicles will also increase, requiring that older models be sold outside of California or recycled. Consideration should be given to the environmental and fiscal impact that will increase costs for construction and operation of new integrated waste management facilities to support more organics processing, composting and recycling facilities. These new facilities will require readily available near zero-emission technologies and increased manufacturing of low NOx engines, along with future considerations for electrification. It is important to note that many of these facilities are needed in the very near future to accomplish the timelines established to divert more waste, including organics. These initiatives should be carefully considered, harmonized and incorporated in any environmental analysis.

81-1

Implementation of a Low Emission Diesel (LED) standard will also be necessary to increase consumption of LED fuels, including renewable diesel and/or compressed or liquefied renewable LED fuels from gas to liquid processing of biomethane. The infrastructure to support collection, processing and distribution of biomethane in the form of Renewable Natural Gas (RNG) will also be mandated and thus needs to be evaluated.

81-2

The contribution of the proposed ACT regulation compared to the significant cumulative impacts could be considerable, particularly given that the proposed regulations may themselves

result in significant adverse effects on public service systems, including integrated waste management system mandates, recyclables export, increased vehicle trips (VT), more vehicle miles travelled (VMT), new source review (NSR), and permitting, to name a few.

81-3

The Proposed Draft EA has not fully factored all of the impacts, and we urge a more specific detailed look at the likely impacts on the state's solid waste management system and current initiatives that need to be considered for this major regulatory directive. In considering the state's solid waste management system, we seek careful consideration and expression of the many environmental benefits our programs currently provide and our continued commitment to advance the state's ambitious environmental goals.

81-4

A few of those requirements include the mandates and policy objectives set forth in AB 341 (2011) – 75% recycling goal and mandatory commercial recycling; AB 1826 (2014) – mandatory commercial recycling; AB 1594 (2014) – ADC no longer counts as recycling in measuring a jurisdiction's annual 50% per capita disposal rate; AB 901 (2015) – requires direct reporting of organics, recyclable materials and solid waste to CalRecycle; and SB 1383 (2016) – requires a 50% reduction of solid waste disposal by 2020 and 75% by 2025. Our solid waste management systems are essential public services, the support and sustained operation of which must be considered alongside achievement of the state's varied air quality objectives, including GHG emissions reductions.

It should be noted that our members are part of the fabric of every jurisdiction in the state and are called upon for assistance in natural disasters and consistently are partners in our communities and their unique and varied environmental goals. It is imperative that we are able to respond in a timely and effective manner to assist in safeguarding public health and safety. We respectfully urge that these issues and our role be more thoroughly incorporated in both the Draft EA and the regulations, and we offer any assistance to such an effort.

PROPOSED ADVANCED CLEAN TRUCKS RULEMAKING

We submit the following comments on the draft regulation referenced above:

ZEV Sale Requirements

The waste industry has been transitioning from diesel to natural gas (NG)-powered vehicles. The transition began some 15 years ago, and there is universal agreement that the emissions benefits of the transition have been profound. Billions of dollars have been invested in NG fleets and equipment as well as in fueling stations to keep these vehicles on the road. The timing of a further transition to electric power has many in the waste industry in a quandary about capital investments and the air quality trade-offs that might occur as a result of abrupt deployment to a technology that is not readily available or has not gone through the rigorous analysis needed for our sector.

Electric Refuse Vehicle (ERV) Considerations

Waste industry challenges for deploying zero-emission technologies include

- 1) high upfront capital costs for both vehicle purchase and fueling/charging infrastructure construction,
- 2) fueling/charging infrastructure expansion,
- 3) maintenance facility retrofit and scalability,
- 4) electricity rates,
- 5) vehicle payload capacity and operation flexibility,
- 6) workforce training,
- 7) need for carbon intensity analysis,
- 8) grid resiliency,
- 9) need for economic evaluation for electric refuse vehicle (ERV) closed loop energy systems, such as anaerobic digestion and landfill gas to energy, to maintain and build out those energy systems,
- 10) factoring in geographical distinctions, i.e., mountainous terrain impact on battery performance,
- 11) warranty impacts on the customized components of ERV's, and
- 12) need for a comparison of the cost of ZEV's with other renewable fuels and comparable determination of environmental benefits.

Captive Fleets

In addition, a guaranteed uninterrupted electrical energy supply and/or on-site battery backup charging infrastructure must be available to meet the mandated public health and environmental protection services for nuisances, homeless encampments, fires and disaster readiness, and uninterrupted daily integrated solid waste management services.

It is also important to recognize that most waste industry service providers are rate-regulated: they are not free to unilaterally pass on to their customers the costs associated with a change in law or regulation. Typically, rate increases must be approved by the local agency with a jurisdiction to set the rates, and it can take a substantial amount of time to implement changes. These jurisdictions have, in many cases, recently authorized relatively substantial rate increases to address a host of other environmental compliance objectives resulting from new legislative requirements, regulations and China's new import policies that have deprived much of the world of its most reliable market for recyclable materials.

The current state of the technology regarding electric-powered refuse equipment is yet another area of potential concern. Prototype zero-emission refuse trucks may be available today, and they may be capable of exceeding a 100 mile daily range. However, they are not ready to meet certain duty cycle requirements, let alone the need to refuel or charge at the end of the shift in order to be able to operate within that same range the following day or be on standby to meet public health and environmental emergencies. Therefore, refuse truck applications where the vehicle can return to base or utilize multiple hub operations are not suitable candidates for electrification, at least for the foreseeable future.

Customized Vehicles

Class 8 refuse vehicles (except for tractors) are specialized equipment, usually manufactured by companies that are not vertically integrated (i.e., the manufacturer that produces the drivetrain and chassis likely does not produce the body). This is typical of a lot of specialized truck manufacturing. Manufacturers work with third parties, including upfitters and dealers, who actually install vocational bodies to meet our members' needs. The body elements are manufactured by a variety of companies and assembled based on the specifications of our members' end uses. This process can make it exceedingly difficult, and expensive, to identify the proper engine/chassis/body configuration that will perform as required. Specialized equipment requires a great deal of coordination among the parties, and this contributes to issues associated with maintenance and troubleshooting problems with the equipment.

We hasten to add that Class 8 vocational refuse vehicles have general operational characteristics that are less favorable for electrification, typically with multiple types of unpredictable routes, greater concerns about payload, varied daily range needs, stop-and-go operations, and they return to multiple locations daily where they can be charged or fueled.

We submit that more detail is needed about individual fleets and how they dispatch services to better determine whether this concern about variable payloads could be managed when the percentage of ZEVs in the fleet may be relatively small. Without further study, it is unwise to assume it will all work as expected.

In addition, the uncertainty over the continuous availability of electricity and hydrogen for integrated solid waste management fleet deployments will possibly deter fleet owners from transitioning to ZEVs. Front line equipment must be available, and consistently reliable, at all times, otherwise the fleet operator risks being in default of their franchise agreement with the local agency. Guarantees of price stability and continuous availability from electric utilities and hydrogen suppliers are needed for greater confidence.

Truck Market Segment Analysis

The expansion of the heavy-duty ZEV market is dependent on matching the suitability of zero-emission technologies with fleet operation needs. The Truck and Engine Manufacturers Association (EMA) identified 87 truck market segments and 4 suitability factors to rank the compatibility of each market segment for electrification. CARB staff updated the suitability analysis this year (2019) to include the effects of legislation and other sources of truck operation data using quantitative methods to assign weighted suitability factors for each vehicle market segment.

Our association members reviewed the final market segment and sustainability analysis and found that the CARB staff analysis of suitability factors did not properly reflect the suitability weighting of Class 8 integrated solid waste management vehicles, including Class 8 heavy-duty tractors, identified in each of the appropriate 87 market segments, and this is a concerning misclassification. Some of the suitability factors that we find erroneous are the following:

- 1) Weight/Route/Range – Payloads, routes, weights, and ranges vary and are not routine in each segment and are under reported in this market assessment. Legislative changes such as AB 341, AB 876, AB 1826, proposed SB 1383, pending command and control regulations, and unprecedented fluctuations in recycling and organics commodity markets have increased both VT and VMT.
- 2) In addition, the 2,000 lb. weight allowance provided by AB 2061 is already being utilized by existing compliant NG fleets due to variability in payloads which advanced the legislative intent of the statute. It would be inaccurate to consider that weight allowance again to offset battery weight.
- 3) The market segment analysis does not account for ZEV model solid waste collection vehicles and transfer tractor availability, costs, site specific issues that could impact infrastructure installations, normal truck replacement rates, fleet size, duty cycles, nor other factors that impact the weighting of suitability for ZEVs that could be deployed in each integrated solid waste management sector.

In summary, we find the market segment and suitability analysis, and suitability scores of 1 or 2 for refuse or solid waste vehicles, to be dramatically overstated, and they should not be relied upon to support the transition of integrated solid waste management fleets to ZEV powertrains before 2027 or thereafter.

Large Entity Reporting Requirements

Section 2012. Advanced Clean Trucks, Large Entity Reporting Requirement states the purpose of this section is to collect information to assess the suitability of zero emission vehicles in multiple use cases and to inform future strategies on how to accelerate the zero-emission market in California. In reviewing this section of the regulation, our members find that there are ambiguities in the section language that will lead to misleading or erroneous conclusions on how to accelerate the zero-emission vehicle market in multiple use cases. For example, refuse collection vehicles will be reported by entities with more than 100 refuse vehicles and, at the same time, local municipalities will report the same refuse collection vehicles as franchise contracted captive fleet vocational vehicles. Another situation might arise where a local municipality may have a franchise contract with a company that has less than 100 vehicles. In both cases the information will be skewed and/or double-counted.

Of general concern is the broad scope of data collection and the need to have further expression of the time frame for collection and the representative period of data collection. We always appreciate regulations providing more clarity in the definitions and descriptions, and we encourage further efforts in that regard in these regulations.

Other problems identified by our membership are that the facility categories, contracting practices, fleet mix, fuelling infrastructure, and service delivery are internally inconsistent and do not match cross-agency policies and mandates. This lack of consistency and clarity will interfere with compliance obligations of our members with CalRecycle, the California

Department of Food and Agriculture, the Governor's Office of Planning and Research, the State Water Resources Control Board, the Department of Motor Vehicles, local air districts, etc.

Near-Zero Limitation

We are perplexed by why the regulation would narrowly interpret "near-zero" to apply only to plug-in hybrids with some "all-electric range," eliminating low NOx vehicles as they greatly advance our environmental efforts and are contributing currently to air quality improvements in our air districts. To reiterate what we referenced above in the data collection discussion, it is imperative that definitions be clear and consistent. "Near-zero" has statutory meaning, as has been expressed in SB 1403 (2018), and includes low NOx vehicles. Additionally, the near-zero definition is laced throughout regulations and state commissioned reports to include low NOx vehicles. We respectfully request the regulation emulate the current definition of near-zero.

Conflicting Environmental Policies

Finally, we have communicated to several agencies our continuing concern that many of the state's environmental policies do not reconcile well. Too often, air and water quality regulations may have the effect of actually constraining our ability to provide comprehensive waste recycling and composting services and the environmental benefits which they offer, including GHG emissions reductions. To be sure, the waste sector has a role to play in improving the air we breathe. Too often, however, the environmental benefit that accrues from waste recycling and composting activities is either overlooked or completely disregarded in our haste to pursue other environmental goals. This need not be the case. We can, and should, better align and harmonize ALL of our environmental policies at the federal, state and local levels.

Funding Needs

We applaud the efforts being discussed at CARB to better align the funding programs with the needs of our sector, specifically in the Carl Moyer program. We encourage CARB to send a market signal supporting the current heavy-duty engines, or default to a dirtier technology could be the unfortunate outcome. During the discussion of the HVIP program, we have expressed our request for continued inclusion of low NOx vehicles until a comparable transition can be made to a revised and improved Carl Moyer program. While those issues are complex, involving scrappage and working with U.S. Environmental Protection Agency to access SIP credit factors, it needs to be coupled with this regulation within the context of the goals. We also urge CARB to prioritize sending GHG funds to the waste sector since we are captive fleets that can lower GHG emissions and NOx now in our jurisdictions, especially in our most vulnerable communities

We operate in, and are partners with, our disadvantaged communities throughout the Central Valley and Southern California. We have urged using the current tools available to address communities' concerns and to "do no harm" to them from an environmental and health perspective. We request a tiered approach to future differentiated fleet regulation development and an alternative pathway for those entities we serve. Until that tiered approach is realized, we will continue on the local adopted 8-Hour Ozone SIP measures

alternative pathways for the inclusion of advanced clean diesel and alternative fuel low NOx engines and renewable fuels to complete our mandated tasks. It is important to stay on this course with low NOx engines and renewable natural gas fuels until such time as our fleets can transition in the future to ZEV technologies that are street ready for the comprehensive daily delivery of services.

Thank you for the opportunity to comment on the proposed regulations. Please contact any of the undersigned if you have questions or to request further information. We stand ready to assist you and our local air districts in achieving the goals of the Advanced Clean Truck Regulation.

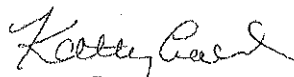
Sincerely,



Mr. John Kelly Astor
General Counsel, Legislative and Regulatory Affairs
CRRC Southern District
jka@Astor-Kingsland.com



Mr. Paul Ryan
Senior Regulatory Advisor
CRRC Southern District
enviropablo@sbc.global.com



Ms. Kathryn Lynch
Regulatory Affairs
CRRC Southern District
lynch@lynchlobby.com

cc: Ms. Mary Nichols, Board Chair, CARB
California Air Resources Board
Mr. Paul Arneja, Engineer, CARB
Mr. Scott Smithline, Executive Director, CalRecycle
Ms. Eileen Sobeck, Executive Director, SWRCB
Ms. Karen Ross, Secretary, CDFA
Ms. Kate Gordon, Director, OPR
Mr. Steve Gordon, Director, DMV
CRRC Southern District Board

Informal

CWHC

California Waste Haulers Council

April 17, 2020

Craig Duehring
Manager
Mobil Source Control Division
California Air Resources Board
1001 I Street
Sacramento, California 95814

Paul Arneja
Air Resources Engineer
Mobil Source Control Division
California Air Resources Board
1001 I Street
Sacramento, California 95814

Via Electronic Mail Submittal: Craig.Duehring@arb.ca.gov
Paul.Arenja@arb.ca.gov

Subject: Comments on Proposed Advanced Clean Trucks Regulation Large Entity Reporting Requirements

Gentlemen:

The California Waste Haulers Council is an association of solid waste service providers. Our members range from small, privately owned enterprises to several of the world's largest integrated waste management firms. Collectively, CWHC members serve an estimated two-thirds of the state's population and operate virtually every form of facility, service and heavy-duty vehicle type now in existence for integrated solid waste management, recycling, composting, and anaerobic digestion. Our members share in the state's pollutant reduction and climate change goals, and although we may have different views on how best to accomplish those goals, we remain committed to providing these essential services to help ensure that California will realize all of its environmental objectives.

The California Waste Haulers Council is comprised of the California counties of Fresno, Imperial, Inyo, Kern, Kings, Los Angeles, Madera, Orange, Riverside, Santa Barbara, San Bernardino, San Diego, San Luis Obispo, Tulare, and Riverside. It is home to approximately 26 million residents. CWHC members have expended billions of dollars in delivering recycling and composting services to these communities. We are a primary stakeholder that has invested and committed to the highest level of waste recycling, composting and anaerobic digestion, and we are proud of our significant contribution to our communities and the state's environmental goals.

We are pleased to provide comments on the Proposed Advanced Clean Trucks (ACT) Large Entity Reporting Requirements. The ACT Regulation in the future will be of critical importance to the delivery of services in our communities and contributing to the advancement of the state's laudable environmental objectives, both the projected benefits and California's long-term goals.

General Comments

First, we would like to make a few general observations related to the proposed Large Entity Reporting Requirements in addition to specific language changes in the Appendix. The potential changes in the latest draft clarify many provisions of the earlier Proposed Advanced Clean Trucks Regulation Large Entity Reporting Requirements. As we review the Large Entity Reporting Requirements, we have determined that the Proposed ACT Regulation may trigger several compliance responses producing environmental impacts and unintended consequences.

Informal-
1

Our members have highlighted the following individual thoughts for consideration:

Section 2012(e)(1)(2)(3) and (4).

This section should include an option to use the existing TRUCRS database to the maximum extent possible, so we do not create a redundant effort for the solid waste fleets that are already in the CARB database. Our members do not want to have to duplicate efforts since we already provide most of this information to CARB.

CARB should explain the confidentiality option in more detail since they are creating a whole new database system. CARB could use the TRUCRS system/model as an example. This is essential for our fleets to participate if CARB could allow the use of the TRUCRS system then that could take care of this issue for our industry members.

The records retention section is very confusing. If CARB used the TRUCRS database to satisfy this requirement it could address this issue.

CARB should change the response time from 14 days to 30 days since that is more in line with the current requirements for fleet reporting systems.

Of general concern is the broad scope of data collection and the need to have further expression of the time frame for collection and the representative period of data collection.

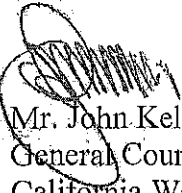
Specific Comments

There is a need for language consistency and clarity with the proposed large entity reporting language and earlier considerations and analysis found in the initial statement of reason and accompanying appendices. We offer up in the attached Appendix suggested language changes we think are necessary for consistency.

Thank you for the opportunity to comment on the large entity reporting portion of the proposed regulations. Please contact any of the undersigned if you have questions or to request further

information. We stand ready to assist you and our local air districts in achieving the goals of the Advanced Clean Truck Regulation.

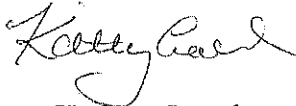
Sincerely,



Mr. John Kelly Astor
General Counsel, Legislative and Regulatory Affairs
California Waste Haulers Council
jka@Astor-Kingsland.com



Mr. Paul Ryan
Senior Regulatory Advisor
California Waste Haulers Council
enviropablo@gmail.com



Ms. Kathryn Lynch
Regulatory Affairs
California Waste Haulers Council
lynch@lynchlobby.com

cc: Mr. Tony Brasil, Branch Chief, Heavy Duty Diesel Implementation Branch
CWHC Board



15-28

Comment Log Display

Below is the comment you selected to display.
Comment 28 for Proposed Advanced Clean Trucks (ACT) Regulation
(act2019) - 15-1.

First Name: Thomas
Last Name: Becker
Email Address: tsbecker069@gmail.com
Affiliation:

Subject: Advanced clean truck regulations.

Comment:

For several years, the State of California has violated CEQA by refusing to respond to public requests to study the reduction of Vehicle Miles Traveled (VMT) as and alternative to emission reduction strategies that will adversely impact interstate commerce.

15-28-1

A reduction of VMT of 25% from baseline will allow areas of the state currently in violation of federal air quality standards to achieve compliance. A reduction of VMT will also have the added benefits of reducing motor vehicle collisions and improving traffic conditions.

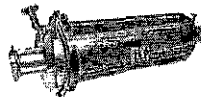
I have sent numerous comment letters to CARB and U.S EPA concerning the intentional actions of the State of California to violate CEQA by blocking public requests to study reductions of VMT. Those comments were submitted during the preparation of EIRs and other environmental documents where the state was either Lead Agency, or the project was located in an area where the state had jurisdiction. CARB staff can contact me if they are interested in obtaining copies of those documents.

Attachment:

Original File Name:

Date and Time Comment Was Submitted: 2020-05-16 07:52:25

If you have any questions or comments please contact Clerk of the Board at (916) 322-5594.



15-145

May 28, 2020

Mary Nichols, Chairman
CARB
1001 I Street
Sacramento, CA 95814

RE: Proposed Advanced Clean Trucks Ruling- Comments on Amendments

Dear Chairman Nichols:

Zero Emissions Partners is transmitting the following pages containing our comments on the fleet reporting.

In addition, we wish to inform you that the Draft Environmental Analysis for the proposed regulation is not adequate in our opinion. That document states, "In October 2015, California adopted SB 350 which among other major goals established greenhouse gas reduction targets and ordered the CPUC to direct the six investor-owned utilities in the state to "accelerate widespread transportation electrification." The resulting programs developed by the electric utilities promote the adoption of medium and heavy-duty ZEVs through incentivizing infrastructure upgrade projects that offset most or all of the costs for electrical service upgrades to enable fleet ZEV deployments." We observe that the scope of the proposed regulation would require several billions of dollars and years or decades to be built. We do not see evidence to support that SB 350 and its affected utilities can or will meet the fleet end users infrastructure needs. Nor do we see that "most or all of the costs" needed for a fleet end user to enable ZEV deployments will be satisfied through SB 350 funds.

Finally, the Notice of Public Availability of Modified Text states, "In general, these proposed modifications will expand the project scope by increasing the number of zero-emission vehicles sold into California, which will in turn increase the environmental benefits related to greenhouse gas reductions and air quality improvements. However, since these proposed modifications will not alter the existing compliance responses identified in the Draft EA, there is no requirement to conduct additional environmental analysis under section 15187 of the CEQA Guidelines. As a result, the Draft EA's findings, overall significance conclusions, mitigation measures and alternatives adequately address the environmental review for the proposed modifications." The manufacturing impacts of the COVID-19 crisis were not, and have not, been addressed in the Draft EA.

Sincerely,

J Barazi
Member

Attachments

15-145-1

**Section 2012. Advanced Clean Trucks, Large Entity Reporting Requirement-
Comments**

Regulatory Language	Formal Comments
<p>(1) Any fleet owner <u>in the 2019 calendar year that had with more than 10050 or more vehicles with a GVWR greater than 8,500 lbs. under common ownership or control</u> and operated a facility in California, in the 2019 calendar year;</p>	<ul style="list-style-type: none"> • “Operated” should mean that the entity, fleet owner, broker or agency operated vehicles at a California facility whether or not it was owned or leased by the entity, fleet owner, broker or agency. For example, a motor carrier transporting household goods that has State of California licensed or unlicensed moving company agents is deemed to have operated in California when the shipment originated or ended in California.
<p>(1) <u>“Backup vehicle” means a self-propelled motor vehicle designed for on- highway use that is used intermittently to maintain service during periods of routine or unplanned maintenance, unexpected vehicle breakdowns, or accidents but is not used in everyday or seasonal operations.</u></p>	<ul style="list-style-type: none"> • Both Truck & Bus and SWCV regulations define this as a 1,000 miler annually. Be consistent with that in these regs
<p>(5) <u>"Dispatched" means provided direction or instruction for routing a vehicle(s), whether owned or under contract, to specified destinations for specific purposes, including but not limited to delivering cargo, passengers, property or goods, providing a service, or assisting in an emergency.</u></p>	<ul style="list-style-type: none"> • Entities that call or contract for “Delivering cargo” from material suppliers should be excluded from the “dispatched” definition, consistent with ARB’s guidance for the Truck & Bus Regulation, How to Verify if Hired Fleets Comply, Last Updated June 27, 2019, which states, “If I order materials from a supplier, do I need to verify compliance for the shipper? No. If you are not actively involved in determining which transportation company will deliver the materials or products then you are not responsible for verifying that the fleet is in compliance. In other words, the receiver does not actively determine whose trucks will make the delivery”
<p>(A) <u>“Class 2b-3” means a self-propelled motor vehicle designed for on- highway use with a GVWR from 8,501 lb.</u></p>	<ul style="list-style-type: none"> • As soon as possible, CARB TRUCRS should be modified to allow the manual data entry and large fleet import of data to satisfy this attribute.

<p>to 14,000 lb. The types of vehicle in this category generally includes full-size pickup trucks, smaller utility trucks, cargo vans, and passenger vans.</p>	
<p>(2) <u>Reporting.</u> All regulated entities must submit information <u>specified in sections 2012.1 and 2012.2 to the Executive Officer. Subsidiaries, parent companies, or joint ventures may independently report, or the corporate parent or joint venture business may report on their behalf, as long as all information for subsidiaries, corporate parents, and joint ventures with vehicles over 8,500 lbs. are reported, about each subsidiary. These entities with brokerage and/or motor carrier authority must be reported even if no vehicles are owned by that subsidiary, corporate parents, or joint venture, separately to the Executive Officer, by reporting general entity information as specified in section 2012.1, facility information as specified in section 2012.2, and vehicle usage information as specified in section 2012.3, if applicable. Vehicles that are under common ownership or control may be submitted separately by each fleet owner. Complete information must be reported by April 1, 2021, for their facility operation in 2020 and for any fleet of \forall Vehicles data must be reported as the fleet it was comprised as of January 1, 2021 on a date of the fleet owner's choosing any time after January 1, 2019, to meet the compliance</u></p>	<ul style="list-style-type: none"> • As soon as possible, CARB TRUCRS should be modified to allow the manual data entry and large fleet import of data to satisfy the "Class 2b-3" vehicles • As soon as possible, CARB TRUCRS should be modified to allow the manual data entry and large fleet import of data to satisfy the required reporting of Class 2b and larger vehicles of multiple fuel types not currently available in TRUCRS. Existing vehicles in TRUCRS showing "CNG/LNG" fuel type shall be restored to "Active" status. Many of these vehicles previously reported into TRUCRS were moved to "Deleted" status.

<p>requirements. Entities may report separately by division, or branch if preferred. To the extent reports submitted to CARB contain confidential data, entities may choose to designate that information as confidential per title 17, sections 91000 to 91022.</p>	
<p>(A) Natural gas;</p>	<ul style="list-style-type: none"> • The number of fueling points, dispensers and whether public access is allowed should be reported
<p>(B) Electricity for on-road vehicle charging (Level 2 or higher power);</p>	<ul style="list-style-type: none"> • The number of charging points and whether public access is allowed should be reported
<p>(C) Hydrogen;</p>	<ul style="list-style-type: none"> • The number of fueling points, dispensers and whether public access is allowed should be reported
<p>(2) Identify what refueling infrastructure was initially installed <u>on or after January 1, 2010 less than 10 years ago by the selecting the fuel type dispensed as for the fueling options listed in section 2012.32(a)(6)(A) to 2012.32(a)(6)(G).</u>;</p>	<ul style="list-style-type: none"> • For the purpose of completing economic and environmental analyses of any future vehicle purchase requirement the date of initial construction, any expansion and capital costs should be reported. Remove the word “initially” and modify “after January 1, 2010” to read “after January 1, 2000.” The Total Cost of Ownership document prepared by CARB staff assumed a 20-year amortization period for new electric infrastructure so collecting the dates and costs will inform future analyses.
<p>(3) Identify what types of trailers you pull if you have tractors assigned or domiciled at this facility <u>by selecting the following:</u></p>	<ul style="list-style-type: none"> • We recommend removing the word “you” and rewording this to reflect that a required reporting entity or fleet that has or dispatches trailers is directed to identify the required information
<p>(A) Van-dry;</p>	<ul style="list-style-type: none"> • We recommend using “Dry van” as that is the most common nomenclature
<p>(B) Van-reefer;</p>	<ul style="list-style-type: none"> • We recommend using “Reefer van” or “Reefer” as that is the most common nomenclature
<p>(b) For each facility <u>vehicle home base with a vehicle above 8,500 lbs. GVWR-identified, report information specified in section 2012.32(b)(1) to 2012.32(b)(36) for all vehicles above 8,500 lb. GVWR including off-road yard tractors. assigned to or domiciled at the facility in 2020 and remain in the</u></p>	<ul style="list-style-type: none"> • As soon as possible, CARB TRUCRS should be modified to allow the export of data to satisfy the required reporting data in the body type, weight bin and fuel types.

<p>fleet as of January 1, 2021. Responses may <u>must</u> be grouped by vehicle body type as listed in section 2012(d)(1821), weight class bin specified in section 2012(d)(2024), and fuel type listed in section 2012.3(a)(6)(A) to 2012.3(a)(6)(G). <u>Alternatively, responses may be completed for each individual vehicle and include the vehicle's body type, weight class bin, and fuel type. Separately report vehicles dispatched under your brokerage authority, if applicable. Each vehicle should only be counted once for each response. For fleets with seasonal workload fluctuations, use a time period</u></p>	
<p>(1) How many vehicles in each vehicle group;</p>	<ul style="list-style-type: none"> • For consistency, please define "vehicle group" as the "<u>vehicle's body type, weight class bin, and fuel type</u>"
<p>(A) Is equipped with all-wheel drive; and</p>	<ul style="list-style-type: none"> • Please specify that "all-wheel drive" vehicles include "four-wheel drive" vehicles

