HURNER
GOVERNMENT
RELATIONS AND
ADVOCACY

May 13, 2024

Ms. Liane Randolph
Chair
California Air Resources Board
1001 I Street
Sacramento, CA 95814

RE: Amendments to the Advanced Clean Trucks Regulation and the Zero-Emission Powertrain Certification Test Procedure

Dear Chair Randolph:

On behalf of my client, **Miller Industries, Inc.**, I am writing to request an amendment to the proposed Advanced Clean Trucks (ACT) regulation. The proposed amendment will reduce emissions, preserve California based jobs, and increase safety for first responders and the motoring public.

There are various options to how the amendment could be crafted, two of which are provided in this letter. In general, the first approach is to extend the same consideration to private towing and recovery vehicles that has been granted to those that are government owned but still requiring private towing and recovery vehicles to be subject to all reporting requirements. The second and third approaches would be to ensure that the newest, lowest emission towing and recovery vehicles can continue to be assembled and sold in California. In one option until 2035, as provided to low volume manufacturers. The other option is to allow the assembly and sale until the executive officer determines ZEV or NZEV options are available for the type of work necessary to increase roadway safety and reduce congestion emissions.

Miller Industries, Inc. is a manufacturer of towing and recovery bodies that are sold throughout the United States. The towing and recovery bodies are mounted on Class 6 – Class 8 chassis that are assembled and sold by independent distributors in California. Typically, around 1,200 of these vehicles are sold on an annual basis in the state to replace aging vehicles. According to CARB, 104,558 medium- and heavy-duty trucks were produced and delivered for sale in California in 2022. Thus, towing and recovery vehicles represented just 1% of total sales that year.

Emissions Reductions:

Towing and recovery vehicles lower emissions in several ways. The adequate supply of towing and recovery vehicles ensures that the 1,200 accidents and 2,400 vehicle breakdowns that occur daily are removed in a timely manner. Traffic is allowed to start flowing sooner, reducing the time motorists are idling in slowdowns or backups. This is one of the principles behind the Freeway Service Patrol program, to keep traffic flowing and reduce vehicle emissions from congestion on the roadways.

Additionally, allowing the newest, cleanest emissions towing and recovery vehicles to be assembled and sold in California ensures those models are available to the 4,700 towing companies that operate in California. Less than a handful of these companies are subject to the Advanced Clean Fleets regulation given their small business nature. If towing and recovery vehicles are not assembled and available in California, the regulations do not allow for the newest, lowest emissions vehicles to be imported into California. Instead, the regulations only provide for importing previously registered, used vehicles into California. These older vehicles will have higher emissions when they operate and, given the likely closure of the independent distributors, will have reduced opportunity for maintenance to ensure emissions and other mechanical elements are operating properly.

Job Losses:

California's independent dealers are already running out of chassis and are on the verge of layoffs. These independent distributors are in Anaheim, Fresno, Fullerton, Hawthorne, Sacramento (2), San Carlos, and West Covina. Without accommodation, layoffs will happen, and families and small businesses will be hurt. Certainly, the job losses will not be ironic to those that suffer them. However, the larger context is that these job losses will occur because the newest, lowest emission towing and recovery vehicles won't be sold in California, but older, higher emission trucks will be allowed to be imported.

Protecting these jobs is also not a matter of the need to transition historical job categories to the new green economy. These are the same individuals and small businesses that would assemble and sell ZEV towing and recovery vehicles when the technology becomes available for the variety of applications necessary. Not supporting an amendment simply results in exchanging California jobs for used, higher emission equipment.

State of Technology:

At this time, no zero emission or hybrid chassis has been developed to accommodate the range and operating time necessary to support towing and recovery vehicles given the space constraints of the chassis, weight of the batteries and the energy necessary to run the power take-off and hydraulic systems. No available medium duty ZEV can be configured appropriately. Replacing a medium duty truck with a heavy-duty truck still does not solve the current technology limitations. The heavy duty 4x2 truck chassis doesn't have a sufficient weight rating for the towing body to allow it to haul anything but the lightest vehicles on the road. This won't allow the towing vehicle to meet the minimum requirements for the Freeway Service Patrol or to accommodate most vehicles on the road today, especially the growing population of electric vehicles.

It will also be years before a technological solution can be achieved for the large recovery and rotators that are used for jobs such as recovering semi-trucks and trailers. Annual images of these recovery trucks working to clear Interstate 80 over Donner Summit during snowstorms demonstrate the significant energy demands of these critical operations.

California is a leader in electric charging stations as the Governor recently announced. However, high speed chargers are not ubiquitous even in specialized hubs such as ports and rare to non-existent in rural areas – especially those that provide truck access. The ability to respond on rural roads and highways in mountainous areas often requires more significant energy capacity both for travel and for the recovery of vehicles. And, as with emergency vehicles, the geospatial distribution is even more critical than abundance for towing and recovery work since most work does not involve preplanned routes and knowledge of the time and energy needs that will be required at the scene.

Where the technology is sufficient for the need to serve the public, the towing and recovery industry is starting to implement it. Electric pickups can be used to aid motorists involving battery replacement and other emergency roadside assistance. The tow company operator must determine that the stranded vehicle is within adequate range, sufficient chargers are available after the call and that traditional equipment is on-hand to respond to other calls to not delay assistance to other motorists.

Safety:

The adequacy of the towing and recovery network to support motorists and first responders is not trivial in its impact. There are over 1,200 crashes and 2,400 mechanical breakdowns per day in California.

First responders are most at risk while responding and waiting along roadsides until victims are transported and the towing and recovery can be completed. Often, a single crash leads to additional crashes, especially in congested areas or in extreme weather.

The importance of towing and recovery vehicles is partially recognized in the existing regulations. However, it only applies the exemption to those towing vehicles that are owned by the state, emergency agencies, or a bridge and highway district. California Vehicle Code Section 165[1] (c) exempts from the regulation:

(c) Any vehicle owned by the state, or any bridge and highway district, and equipped and used either for fighting fires, or ***towing or servicing other vehicles*** [emphasis added], caring for injured persons, or repairing damaged lighting or electrical equipment.

Allowing an exemption to those assisting the public and emergency personnel in those limited circumstances but not providing the same consideration for prompt service and safety to the first responders and the public on all roadways is not equitable in its application. This exemption favors large urban, coastal areas. The ability to respond in a timely manner to an accident or a call for service is no less important for the safety of the public or first responders in any corner of the state.

[1] CA Vehicle Code 165.

Governor Newsom recognized the importance of towing and recovery vehicles and workers during COVID as did the federal government. Towing and recovery drivers were designated essential workers to maintain the critical infrastructure of our roadways. California's "Essential Critical Infrastructure Workforce" is even more important now as more drivers and workers are returning from remote work and tourism has increased in our parks and coastal areas. This is shown in CalTrans data where the Average Annual Daily Traffic (AADT) for vehicles and trucks is returning and even exceeding pre-COVID volumes.

Further, Governor Newsom acknowledged and supported maintaining traditional medium and heavy-duty vehicles when necessary to respond to foreseeable events to maintain essential services. On October 8, 2023, Governor Newsom signed AB 1594, by Assembly member Eduardo Garcia, to ensure that medium and heavy-duty specialized vehicles remain available for electric utility, water, and waste-water providers when needed to maintain reliable service and respond to major foreseeable events. Similarly, the towing and recovery industry is responding to daily foreseeable life, health, and safety events to maintain the reliability of the state's road and highway transportation system.

The California Highway Patrol (CHP) describes the importance of the Freeway Service Patrol (FSP) participants as, "Due to the structure of FSP beats, the FSP tow truck driver is frequently the first to arrive on the scene of freeway incidents. As such, the FSP tow truck driver provides valuable "real time" information about the incident to the CHP Communications Center."

This necessitates an amendment that will allow all motorists to have equal access to the towing and recovery industries on all roadways in the state.

Economics:

As noted in 'Job Losses' there are significant impacts on the independent small businesses and their employees. In addition to those impacts, the lack of adequate access to towing and recovery services will impact California's economy more broadly. TRIP, a national transportation research non-profit, documented that Californian's suffer annual economic impacts of over $29 billion per year from congestion and another $10 billion per year from safety. And these impacts are understated as it pertains to towing and recovery services as the study only focused on areas where poor road maintenance was a contributing factor.

$39 billion in impacts, that doesn't include the 1,200 daily accidents, 2,400 mechanical breakdowns and injury or loss of life during the delay in clearing those events if it was unrelated to poor road maintenance. Clearly, the safety of our roadways and availability of those that provide services to motorists, including first responders and the towing and recovery industry, has a significant impact on the state's overall economy.

California towing companies will also suffer economic harm. With no new equipment available, they will be forced to retain trucks longer, incurring higher maintenance costs and more downtime. With the layoff of experienced employees and potential closure of distributors, maintenance options will be limited. When those trucks can no longer be sustained, California's towing and recovery operators will be forced to purchase used equipment from out of state that will also

require more maintenance. And the used equipment will come at a premium given other state operators will know California operators can't access new replacement equipment.

Freeway Service Patrol:

The Freeway Service Patrol (FPS)[2] is a service conceived and implemented to reduce emissions from highway congestion. The goal of the program is to maximize the effectiveness of the freeway transportation system. The California Highway Patrol FSP website states, "Rapid removal of freeway obstructions also reduces fuel consumption and minimizes automobile emissions by reducing the time vehicles spend idling in stopped traffic. Each year, the FSP program assists approximately 650,000 motorists on California's highway system."

FSP service providers are private companies with CHP-trained, certified, and supervised drivers that patrol over 1,750 miles of "the most congested freeways in California." It is critical that CARB amend the regulation to provide the opportunity for the new, lowest emissions towing and recovery vehicles to be sold in California. The failure to do so creates a conflict with FSP requirements.

As an example, the 2023-2028 Request for Proposal from the Metropolitan Transportation Commission (MTC), that encompasses nine Bay Area Counties, specifies minimum standards for equipment, and strict operating procedures. This equipment is also prohibited from being used for any other purpose than the FSP program, even during non-FSP contract hours.

Under the RFP, Class A trucks proposed for use must have less than 25,000 miles, not have been previously registered, and be no older than 3 model years. Tow truck beds/bodies can be no older than 4 years and may only be refurbished one-time during the contract and must be certified by a qualified tow truck builder. The truck must also be able to recover 4-tons and not exceed any Gross Vehicle Weight Rating or Front or Rear Axle Weight Rating. Equipment and other supplies that each vehicle must also carry are extensive and add substantial weight to the vehicle.

Currently there are 14 FSP programs throughout the state in Sacramento, Placer, El Dorado, San Joaquin, the nine Bay Area counties (Alameda, Contra Costa, Marin, Napa, San Francisco, Santa Clara, San Mateo, Solano, and Sonoma), Fresno, Los Angeles, San Diego, Orange County, Monterey, Santa Cruz, Santa Barbara, Riverside, and San Bernardino.

Conclusion:

The emissions reductions from the continued sale of new, lower emission vehicles and the general and specific FSP program services that reduce congestion in the transportation system provide ample justification for CARB to accommodate relief for towing and recovery vehicles.

There are also demonstratable economic benefits for California small businesses, their employees, and the state for supporting an amendment.

In addition, an amendment is consistent with Governor Newsom's essential workforce designation of the industry during COVID and with legislation he signed last year.

[2] Freeway Service Patrol

Further an amendment helps to protect the safety of first responders and motorists.

Amendments to Appendix A-1: Proposed Regulation Order:

Option 1:

1963.1 ~~(a)~~ Deficit Generation.

(a) Starting with the 2024 model year, a manufacturer accrues deficits for each on-road vehicle produced and delivered for sale in California for the model year *except as specified in (b) and* for vehicles counted towards compliance with 13 CCR section 1962.4. A vehicle is only eligible to generate deficits once.

(b) A manufacturer shall not accrue deficits for emergency vehicles as specified in California Vehicle Code 165 or for any tow truck under Vehicle Code Section 615, that renders towing or recovery service or emergency road service to motorists and that meets the engine model year emissions requirements established by CARB for that model year and complies with annual reporting requirements established for non-emergency vehicles.

Option 2:

1963 (e) Low Volume Exemption.

(1) For each model year through the end of the 2035 model year, manufacturers that do not exceed 500 average annual sales of on-road vehicles produced and delivered for sale in California for the three prior model years are exempt from the requirements of sections 1963 through 1963.5. Manufacturers that meet this exemption as of 2021 but subsequently exceed 500 average annual vehicle sales in any model year become subject to the requirements of sections 1963 through 1963.5 starting the second model year after the average annual sales exceeded the threshold.

(2) A manufacturer may exclude up to 500 on-road vehicles per year when imported into California for the purposes of further assembly as a towing or recovery vehicle until the end of the 2035 model year.

Option 3:

1963.1 ~~(a)~~ Deficit Generation.

(a) Starting with the 2024 model year, a manufacturer accrues deficits for each on-road vehicle produced and delivered for sale in California for the model year *except as specified in (b) and* for vehicles counted towards compliance with 13 CCR section 1962.4. A vehicle is only eligible to generate deficits once.

(b) A manufacturer shall not accrue deficits for towing and recovery vehicles until the executive officer determines the same class of on-road ZEV or NZEV vehicle is available that can perform towing or recovery services significantly equivalent to the lowest emission available gasoline or diesel models.

Thank you for your consideration of meeting the state's environmental goals while supporting the safety of first responders and the public and preserving jobs in California.

Sincerely,

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