

November 26, 2018

California Air Resources Board, Members
1001 I Street
Sacramento, CA 95814

RE: Proposed Amendments to the Innovative Clean Transit Regulation

Chair Nichols and Members of the California Air Resources Board:

On behalf of the California Transit Association, I write to you today in response to the Proposed Amendments to the Innovative Clean Transit (ICT) Regulation, released November 9, 2018. The Association and its more than 200 transit-affiliated members support the goal of converting California's transit bus fleet to 100% zero-emission by 2040. We greatly appreciate that the Proposed Amendments, by incorporating several definitional changes proposed by the Association, continue to move in the direction of a workable regulation. However, the Proposed Amendments have yet to make progress on our most important recommendations to: incorporate zero-emission bus (ZEB) cost & performance benchmarks and a regulatory assessment in the regulation itself; and, add language to the regulation that allows transit agencies to access incentive funding to offset the incremental cost of ZEBs for the life of the regulation. As detailed at length in our letter, dated September 24, 2018, we remain concerned about ZEB cost and performance; making these changes is essential to ensuring transit agencies can continue to deliver frequent, reliable and affordable service as they take on the monumental task of electrifying their fleets. Any dilution of our service resulting from this regulation undermines the state's ability to reach its climate objectives and harms the very riders whose air we are endeavoring to improve with cleaner zero-emission fleets. By submitting this letter in the 15-day comment period, we ask that you revisit these omissions with ARB staff and direct them to make changes to the regulation that are consistent with the Association's recommendations, listed below.

Benchmarking and Regulatory Assessment: In our September 24 letter, and in public testimony before the Board on September 28, the Association made the following recommendations related to "Benchmarking and Regulatory Assessment:"

1. Move the existing language on the "Performance Review of Zero-Emission Bus Technologies" scheduled to occur "at least one year prior to the initiation of any purchase requirements" from the ISOR (pp. I-13 to I-14) to the proposed regulation. The relevant language reads:

"The performance review would identify the status of ZEB technology and would help the State design policies to further advance zero-emission technologies, and inform funding

strategies related to zero-emission vehicles and infrastructure. The review would occur at least one year prior to the initiation of any purchase requirements. This review would look at bus categories, such as cutaway buses and standard buses individually, to ensure categorical needs and characteristics are considered. Staff envisions the performance review will comprise the following components:

- **Costs.** *Costs include infrastructure and vehicle capital, operating and maintenance costs. Infrastructure capital costs include charging/refueling equipment, installation, and utility upgrade costs.*
 - **Battery performance.** *Batteries used in the ZEBs will degrade over time. The assessment will help identify how battery degradation may affect daily operating range as vehicles age, and whether transit buses would require mid-life battery replacement. The assessment can help to estimate the remaining battery capacity after the end of their useful life in buses.*
 - **Operating range.** *The maximum operating range of a vehicle after it is fully charged or refueled. Range assessment will take into consideration various factors, such as energy storage capacity, battery degradation, HVAC, passenger loading, and grades. Understanding real world operating range is essential for a transit agency to plan for its routes and schedule using ZEB technologies.*
 - **Performance and reliability.** *Different from small pilot or demonstration projects, a successful system-wide transition to the ZEB technologies must demonstrate the reliability and viability of the technologies. Measurements could include bus availability, road call frequency, and other performance metrics, such as fuel efficiency and factors affecting fuel efficiency, refueling or charging time and frequency, and parts availability.”*
2. Add language to the proposed regulation that establishes benchmarks for ZEB cost and performance and funding availability – these should be sourced from the inputs and assumptions used by ARB staff in the Original SRIA, Draft Environmental Analysis and Cost Update.
 3. Add language to the proposed regulation that requires the Board to temporarily halt the initiation of an upcoming year’s purchase requirement, if real-world ZEB cost and performance and funding availability are misaligned with the benchmarks established in the proposed regulation.

Role of Incentives: In our September 24 letter, and in public testimony before the Board on September 28, the Association recommended that ARB fund the transition to ZEBs in a manner that does not force transit agencies to compromise transit service or the maintenance or expansion of their capital assets. This approach acknowledges that the vast majority of ZEBs purchased to-date – because they are more expensive than conventionally-fueled buses – were purchased with state and/or federal incentive funding, and could be accomplished by:

1. Adding language to the proposed regulation that authorizes a transit agency that has submitted a ZEB rollout plan to ARB to access incentive funding, like HVIP, to offset the incremental cost of ZEBs for the life of the regulation.

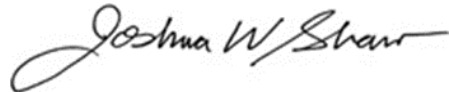
In response to these recommendations and feedback from the Board following public testimony on September 28, the Proposed Regulation now provides the ARB Executive Officer with additional authority to temporarily waive the ZEB purchase requirement for agencies that can demonstrate that they do not have the resources to purchase or operate ZEBs. This added flexibility, which would be administered on a case-by-case basis, improves the regulation, but it fails to acknowledge that, if challenges arise with the regulation, they are likely to be systemic and will require a holistic review and response from ARB.

As you revisit the omission of the Association's recommendations and consider further direction to ARB staff, we hope you will consider that a dozen parties in attendance at the September 28 board meeting, including the most aggressive early adopters of ZEBs in the country, urged ARB's adoption of our recommendations. Like the Association, these parties recognize the importance of incorporating these recommendations into the regulation for protecting transit service quality, maintaining affordable fares, and ensuring that the riders who depend on the service our members provide are not disadvantaged by the regulation.

We thank you again for this opportunity to comment, for your continued willingness to meet with us, and for your dedication to working with our industry to get the transition to a fully electrified transit bus fleet right.

Please contact Legislative and Regulatory Advocate Michael Pimentel at 916-446-4656 or at michael@caltransit.org, if you have any questions or comments about the Association's feedback on the regulation.

Sincerely,

A handwritten signature in black ink that reads "Joshua W. Shaw". The signature is written in a cursive, flowing style.

Joshua W. Shaw
Executive Director

cc: Kim Craig, Deputy Cabinet Secretary, Office of Governor Edmund G. Brown, Jr.
Alice Reynolds, Senior Advisor, Office of Governor Edmund G. Brown, Jr.
Richard Corey, Executive Officer, California Air Resources Board
Steve Cliff, Deputy Executive Officer, California Air Resources Board
Jack Kitowski, Chief, Mobile Source Control Division, California Air Resources Board
Tony Brasil, Branch Chief, Heavy Duty Diesel Implementation Branch, California Air Resources Board
Shirin Barfjani, Air Pollution Specialist, Mobile Source Control Division, California Air Resources Board