UTILITY and TRANSPORTATION
CONTRACTORS ASSOCIATION OF NEW JERSEY

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The National-Award-Winning Construction Association

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June 18, 2021

Alice A. Previte, Esq.
ATTN: DEP Docket No. 05-21-03
NJ Dept. of Environmental Protection
Office of Legal Affairs
Mail Code 401-04L" PO Box 402
401 E. State Street, 7th Floor
Trenton, NJ 08625-0402

Re: DEP Docket No. 05-21-03, Advanced Clean Trucks and Fleet Reporting Requirements

Dear Mrs. Previte:

Please accept the following comments on the above referenced rule amendments on behalf of the Utility and Transportation Contractors Association of NJ (UTCA).

GENERAL COMMENTS

UTCA agrees that a comprehensive strategy is necessary to reduce greenhouse gas emissions statewide. We agree that on and off-road aspects of the construction industry (including trucking) will eventually need to convert to lower emission vehicles. In fact, that transition to Zero Emission Vehicles (ZEV) and equipment is already taking place as the market is emerging for lower power equipment and vehicles. However, we disagree that the State of NJ will be able to effectuate these changes with state-specific action as proposed, when the commerce being regulated does not respect statewide boundaries.

We agree with others, including the NJ Business & Industry Association, that this rule (if adopted) will not result in the anticipated emission reductions. This rule proposal effectively includes a mandate on the manufacturing/sales of heavy vehicles with no corresponding mandate that they be bought / sold. UTCA has discussed this issue with our members, who are constantly making decisions on whether to buy new equipment or maintain older stock, and we believe the most likely outcome of this proposed rule would not be a fleet turnover but more likely, put the last of our New Jersey's heavy-duty engine / truck manufactures out of business. Contractors can and do go out of state for their equipment purchases and limiting the impact of this new regulatory framework to just New Jersey is ill-conceived given our place in the region.

Given the proposed framework, UTCA is greatly concerned by the prospect of a future rule that would include a purchase mandate for ZEV or a retirement mandate for existing construction equipment. The costly equipment our members purchase to deliver public infrastructure upgrades is purchased with an expectation of a long useful life and some value after retirement.

We agree with the experts who testified during the public hearing that the technology does not currently exist at a scale to allow for the conversion of our trucking fleets, across all size categories, in the timeframes required. The market will not allow for fleet transition to ZEV until the technology is more widely available and the significantly higher costs are mitigated.

Much of a construction company's value is based on its fleet and this ***transition*** will have a significant impact on contractors of all sizes. For small and mid-sized firms, fleet replacement is cost-prohibitive, and a regulatory mandate (if proposed in the future) would severely impact them financially as well as limit their construction capability as they worked to replace non-compliant vehicles and equipment. For larger firms, there is not just the cost of purchasing trucks and equipment to consider, but also the cost of installing charging infrastructure and the need to produce the electricity. In order to maintain a fleet of trucks and equipment, a contractor could easily need to build a new mini-power plant. Additionally, many infrastructure projects take place far away from central corridors. Construction-related businesses will be hesitant to buy and use these trucks, especially the heavy-duty, longer haul vehicles as recharging them mid-project would require route changes or demobilization and remobilization of equipment traditionally left onsite for the duration of a project.

UTCA and its members are willing to partner with the State/DEP/BPU/EDA to investigate options related to lowering the carbon footprint of medium-and-heavy-duty fleets that are critical to the successful delivery of infrastructure projects statewide. We stand ready to assist.

SPECIFIC COMMENTS

Advanced Clean Trucks Program

NJ has very few manufacturers of vehicles over 8,500 pounds gross vehicle weight rating (GVWR) to regulate. Therefore, creating a credit/deficit program to increase the percentage of zero-emission vehicles (ZEVs) sold in New Jersey is an ill-directed regulatory proposal.

UTCA recommends that the DEP reconsider this regulatory approach in favor of more viable strategies for carbon reduction. New Jersey should instead focus its efforts on a rational national standard for low- or zero-carbon emission trucks and to allow alternative low-carbon fuels in the interim until technology and costs make ZEV equipment and vehicles practicable.

We recommend that the DEP consider the following non-regulatory actions:

1. Continue to apply for Federal DERA State Clean Diesel Grant Programs to assist in replacing engines/vehicles past their useful lives

2. Create tax credit incentives for NJ construction companies to invest in clean diesel engines

3. Track progress of electric technology as it becomes available in the marketplace for high horsepower engines. If technology becomes available, consider state tax incentives for companies to upgrade their equipment voluntarily

Fleet Reporting Requirement

The proposed rule imposes a one-time reporting requirement intended to obtain information about the in-State operation of fleets of vehicles over 8,500 pounds GVWR that is not unreasonable. As the Department intends to use the data from this exercise to inform future decisions concerning further emission reductions from the transportation sector, full transparency and access to this data in its raw form is essential.

We do not support the penalty provisions as currently drafted at N.J.A.C. 7:27A for the proposed amendments to the Air Pollution Control rules. Given the newness of this responsibility, the Department should anticipate inadvertent violations. **UTCA recommends the fee schedule to be revised to have the first offense penalty be an official warning and not $500.**

Outside the context of the rules, we recommend you work with leading trade associations / groups to help educate entities that are potentially under this new requirement. UTCA is willing to be offer our assistance with our members who likely have fleets that trigger this proposed reporting requirement.

Thank you for the opportunity to comment on this proposal.

Sincerely,

Dan Kennedy, PP / MCRP
Sr. Director / Environmental and Utility Operations

About the UTCA of NJ

The Utility and Transportation Contractors Association of New Jersey is a non-profit trade association headquartered in Wall Township, New Jersey. Founded in 1965, UTCA represents approximately 1,000 member firms in the public and private sectors, active in all phases of heavy, highway, utility, and marine construction, as well as site work including remediation of brownfields and contaminated sites.