

Advanced Clean Fleets Regulation

ENFORCEMENT NOTICE

December 28, 2023

[Updated 10/25/2024]

CARB's Advanced Clean Fleets Program Background

The Advanced Clean Fleets (ACF) regulation was adopted by California Air Resources Board (CARB) in April 2023 and was effective, as a matter of state law, on October 1, 2023. (California Code of Regulations, Title 13, Sections 2013, 2013.1, 2013.2, 2013.3, 2013.4, 2014, 2014.1, 2014.2, 2014.3, 2015, 2015.1, 2015.2, 2015.3, 2015.4, 2015.5, 2015.6, and 2016). The ACF regulation complements CARB's recently adopted Advanced Clean Trucks regulation and will assist California in attaining the State's air quality and climate mitigation targets. The ACF regulation will help advance the introduction of vehicles that emit no criteria or GHG emissions, i.e., zero emission vehicles (ZEV) into California's truck and bus fleets requiring fleets that are well suited for electrification to transition to zero emission technologies with requirements to both phase-in the use of ZEVs for targeted fleets and requirements that manufacturers only sell ZEV trucks in California starting in the 2036 model year. The ACF regulation is expected to introduce 1,690,000 ZEVs into the California fleet by 2050. Additionally, the ACF regulation is expected to result in \$26.5 billion in statewide health benefits from improved air quality and save fleet owners an estimated \$48.0 billion through 2050.

Updates Regarding Enforcement of CARB's Advanced Clean Fleets Regulation

The purpose of this Enforcement Notice (Notice) is to notify the public that CARB has decided to exercise its enforcement discretion and will not take enforcement action as to the drayage or high priority fleet reporting requirements or registration prohibitions until

U.S. EPA grants a preemption waiver applicable to those regulatory provisions or determines a waiver is not necessary.

CARB encourages fleets to voluntarily report and comply while the waiver request is pending and reserves all of its rights to enforce the ACF regulation in full for any period for which a waiver is granted or for which a waiver is determined to be unnecessary, including (but not limited to) the right to remove non-compliant vehicles added to fleets while the waiver request is pending. CARB will also accept requests for the extensions and exemptions available under the ACF regulation during this period.

How does this Notice apply to drayage trucks?

The drayage truck requirements deadline to report combustion-powered vehicles for drayage truck operation is December 31, 2023.

- CARB will not take enforcement action as to the drayage fleet reporting requirements or registration prohibitions until U.S. EPA grants a preemption waiver or determines a waiver is not necessary.
- If fleets add internal combustion engine vehicles to CARB's reporting system after December 31, 2023, those fleets should expect to receive the following notice from CARB:

"The Advanced Clean Fleets Regulation (Regulation) - Drayage truck requirements deadline to report combustion-powered vehicles for drayage truck operation was December 31, 2023. Any combustion-powered vehicles added to the reporting system that were not previously reported by December 31, 2023, may be restricted from performing drayage services once the U.S. Environmental Protection Agency grants California a waiver for the Regulation pursuant to section 209 of the federal Clean Air Act or determines that no such waiver is necessary."

How does this Notice apply to high priority fleets?

High priority and federal fleets requirements begin January 1, 2024.

- CARB will not take enforcement action as to the high priority fleet reporting requirements or registration prohibitions until U.S. EPA grants a preemption waiver or determines a waiver is not necessary.
- Reporting is optional until the waiver is granted or determined to be unnecessary; however, fleets will need to report their fleet as it existed on January 1, 2024, as well as any removals or additions to the California fleet since January 1, 2024, once the waiver is granted or is determined to be unnecessary.
- If fleets add internal combustion engine vehicles to their California fleet after December 31, 2023, those fleets should expect to receive the following notice from CARB:

"Any combustion-powered vehicles added into service in California in high priority or federal fleets after December 31, 2023, may be restricted from operating once the U.S. Environmental Protection Agency grants California a waiver for the Regulation pursuant to section 209 of the federal Clean Air Act or determines no such waiver is necessary. Once the waiver is granted or determined to be unnecessary, fleets may need to remove any vehicle from the California fleet that was not eligible to be added to the California fleet after January 1, 2024, or the fleet must elect to comply with the Zero-Emission Vehicle (ZEV) Milestone Option instead of the Model Year Schedule."

How does this Notice apply to State and local government fleets?

State and local fleets requirements begin January 1, 2024.

- CARB is not required to request a waiver for the Regulation pursuant to section 209 of the federal Clean Air Act to enforce as to State and local fleet.
- CARB will fully enforce all requirements including reporting and the ZEV purchasing requirements or the option to comply with the ZEV Milestone Option beginning January 1, 2024.

Updates Regarding Enforcement of CARB's Advanced Clean Fleets Regulation's Requirements Applicable to Controlling Parties [October 25, 2024]

How does this Notice apply to Controlling Parties?

Controlling parties are subject to the high-priority fleet requirements specified in California Code of Regulations (Cal. Code Regs.), title 13, sections 2015 through 2015.6, including reporting, recordkeeping, and registration prohibitions, beginning January 1, 2024.

The purpose of this Updated Enforcement Notice (Updated Notice) is to notify the public that CARB has decided to exercise its enforcement discretion to not seek—and CARB will not ask the Attorney General to seek—monetary penalties against controlling parties for potential violations of the high-priority fleet requirements specified in California Code of Regulations, title 13, sections 2015 through 2015.6 that may occur during the time period between January 1, 2024, through 90 days after the date the U.S. EPA takes final action on California's request for a preemption waiver and authorization for the ACF Regulation.

CARB's enforcement discretion only applies if a controlling party is not otherwise subject to the high-priority fleet requirements specified in Cal. Code Regs., title 13, sections 2015(a)(1)(A)¹ or (a)(1)(B)² or (a)(1)(D)³—and only to the extent the controlling party (as defined in Cal. Code Regs., title 13, Section 2015(b)), does not own or manage the following vehicles:

- A) Vehicles that are managed by the same directors, officers, managers, or distinct corporations that are controlled by the same majority shareholders;
- B) Vehicles that are operated under the controlling party's state or federal operating authority or other registration;

¹ Is an entity that has \$50 million or more in total gross annual revenues, including revenues from all subsidiaries, subdivisions, and branches, reported to the United States Internal Revenue Service, or its equivalent in another country in the calendar year immediately preceding the current calendar year.

² Is a fleet owner that owns, operates, or directs the operation of 50 or more vehicles in the total fleet, excluding light-duty package delivery vehicles.

³ Is any federal government agency, or is a State or local government agency as defined in title 13, California Code of Regulations (CCR), section 2013(b) that has elected to comply with the ZEV Milestones Option specified in section 2015.2 pursuant to title 13, CCR, section 2013(e).

- C) Vehicles owned by different entities but that are operated using common or shared resources to manage the day-to-day operations of the vehicles using the same motor carrier number, or that display the same name or logo; or
- D) Vehicles owned or operated by federal, State, or local governmental agencies.

CARB reserves the right to seek civil penalties against controlling parties for above-mentioned violations alleged to occur 90 days after the date the U.S. EPA takes final action on California's request for a preemption waiver and authorization for the ACF regulation, regardless of when a contract to operate vehicles subject to this Updated Notice is executed.

However, CARB shall not in any event seek civil penalties against controlling parties for any violations of the high-priority fleet requirements specified in California Code of Regulations, title 13, sections 2015 through 2015.6 alleged to occur during the time period between January 1, 2024, through 90 days after the date of the U.S. EPA's determination on the ACF regulation preemption waiver.

For further information regarding this Notice, please contact Skott Wall at skott.wall@arb.ca.gov and Adam Gomez at adam.gomez@arb.ca.gov.