

Advanced Clean Fleets

Common Ownership and Control

This summary describes frequently asked questions about common ownership or control and controlling parties as it relates to compliance with the Advanced Clean Fleets (ACF) regulation.

What does common ownership and control mean for a fleet that is subject to the ACF regulation?

Vehicles that are operated under common ownership or control must be included in the fleet when determining compliance with the ACF regulation. Common ownership and control is used to identify all the vehicles that are owned or managed on a day-to-day basis by the same persons or entities. This means that different entities are treated the same whether some or all of the vehicles are owned.

What is required of a controlling party?

A controlling party is an entity that directs or otherwise manages the day-to-day operations of the vehicles to serve their customers or clients. Controlling parties must include all vehicles that are operated under common ownership and control as part of their fleet to comply with the requirements of the ACF regulation. For example, a motor carrier that directs the day-to-day operation of owner operators must include the trucks of the owner-operators in the fleet to comply with the regulation.

How do I determine if a vehicle is under common ownership or control?

Common ownership or control can be broken into three basic questions:

- Is the vehicle under common ownership?
- Is the vehicle under common control?
- Is the vehicle sharing logos, entity names, operating authority, resources, or operating expenses with the controlling party?

If the answer is yes for any of these questions, then the vehicle is under common ownership or control. If the answer is no to all three questions, then the vehicle is not considered under common ownership or control. Common ownership and control does not include vehicles used to transport individual loads that are competitively bid and issued to the lowest qualifying bidder, such as those from a load board.

What is “common control”?

The contract between the parties will help determine whether there is day-to-day control. If the terms of a contract give the controlling party the right to dictate when, where, and how work is to be performed on a day-to-day basis or effectively removes the right to refuse the work there is common control. An owner operator that signs a contract with the controlling party to work under common ownership or control is still under common ownership or control and must be reported as part of the fleet no matter how long the contract is nor whether the contract is terminated early.

Vehicles that are under common control also include any vehicles that display the same logo, entity name, or operating authority (e.g., motor carrier number, Department of Transportation number, Public Utilities Commission number, California number, etc.) per the regulation’s definition. Common control also includes relationships where expenses for operating the vehicle are shared with the controlling party, such as providing a fuel card or shared insurance costs.

What is “common ownership”?

Vehicles are considered under common ownership if they are managed by the same directors, officers, or managers, or by distinct corporations that are controlled by the same majority stockholders are under common ownership or control, even if their titles are held by different business entities or they have different taxpayer identification numbers. For example, an entity that owns a 51% stake in two different companies commonly owns both companies.

Who is responsible for compliance for vehicles under common ownership or control?

Controlling parties are responsible for meeting the reporting and compliance requirements for the fleet of vehicles they own and any vehicles under their day-to-day control as part of their California fleet. Controlling parties are entities who direct or otherwise manage the day-to-day operation of one or more vehicles under their common ownership or control to serve its customers or clients. Entities using vehicles under their control to move their own goods, equipment or manage inventory are ultimately serving their customers or clients and are still considered to be under their common ownership and control.

What must I do if I am not subject to the ACF regulation, but my truck is directed by a controlling party?

If you are an owner operator that is not subject to the ACF regulation there is no action you need to take to comply with the regulation. However, if you are directed by a controlling party that is subject to the ACF regulation, you should work with the controlling party to understand what their plan is to comply with the regulation as their requirements are phased in over the next decade or two.

What must I do if I am subject to the regulation, but my fleet is also under someone else's common ownership or control?

Fleet owners that are subject to the regulation must report and upgrade their own vehicles to comply. In addition, if your vehicles are also being directed by a controlling party under common ownership and control, the controlling party must also include them in their California fleet.

Are contracts to provide services, such as waste removal, construction contracts, or plumbing, considered common control?

Generally, no. Contracts that are commonly put out for bid for construction projects or for various services typically may specify where and when to perform the services, they typically do not exhibit day-to-day control over the contracted entity nor the vehicles that may be used to provide the service. However, the hiring entity is still required to verify whether the hired fleet has reported compliance.

What are common examples of vehicles operated under common ownership and control?

All of the following are examples of vehicles that are operated under common ownership and control:

- Freight Company ABC contracts with another trucking fleet that displays the name and logo of Freight Company ABC on its vehicle.
- Freight Company XYZ contracts with an owner operator that displays Company XYZ's DOT number on the vehicles under contract.
- A construction company that provides a fueling card to its contractors and pays for part or all of the truck fuel or other operating expenses for the contractor.

Is it common ownership and control if Company A contracts with a fleet for refuse collection services?

No, a common trash service contract may identify the frequency of service and costs from the service provider, but typically does not meet the other common ownership and control criteria because Company A does not dictate how the service is provided, nor which trucks may be used, and does not limit the refuse company's ability to contract with other clients.

What are examples that are not considered to be common ownership and control?

The following are examples of agreements that are not common ownership and control:

- Individual loads offered by a hiring carrier that are competitively bid from a load board to the lowest qualifying bidder is expressly not included in the definition of common ownership or control.
- Construction contracts put out for bid to pour concrete at a job site are not considered to be under common ownership or control unless the contract requires the winning bidder to relinquish control of their trucks or what future projects they can take.
- If the motor carrier is operating under their own authority and transporting loads across the border for multiple clients while retaining their ability to work for other clients, it is not considered common control.

If Parent Company X has no vehicles but it owns two subsidiary companies both with 25 vehicles, is the parent company or subsidiary subject to ACF?

Yes, Parent Company X has 50 vehicles under common ownership and meets the threshold for being a high priority fleet. Therefore, each subsidiary must report and comply with the regulation. However, they have the option to comply jointly if using the ZEV Milestones Option.

Who is the controlling party in a 50/50 ownership split?

An entity with two equal owners, as in a general partnership, do not have a controlling party since no one has a majority ownership, however, the fleet must still comply as a single fleet.

In other words, the fleet would be treated the same as the same fleet in a wholly owned company.

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