



California Fuels and Convenience Alliance

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California Air Resources Board
1001 I Street
Sacramento, CA 95814

RE: Proposed Amendments to Advanced Clean Trucks Regulation

The California Fuels and Convenience Alliance (CFCA) represents approximately 300 members, including nearly 90% of all independent petroleum marketers in the state and more than half of the state's 12,000 convenience retailers. Our members, predominantly small, family- and minority-owned businesses, play a vital role in California's fuel supply chain, serving local governments, emergency services, school districts, transit companies, independent fuel retailers, and the agriculture industry.

While CFCA and its members support the broader goal of improving air quality and reducing emissions, we believe the ACT regulation, as currently constructed and proposed for amendments, presents significant legal, economic, and operational problems that must be addressed before any further enforcement or implementation proceeds.

ANTITRUST AND LEGAL CONCERNS WITH THE CLEAN TRUCK PARTNERSHIP

We are deeply concerned about the Clean Truck Partnership, a formal agreement between CARB and major truck and engine manufacturers to comply with the ACT regulation regardless of legal challenges to California's waiver authority under the federal Clean Air Act.

This agreement raises serious antitrust and anti-competition concerns, potentially violating the Sherman Antitrust Act (15 U.S.C § 1). It functions as a non-governmental deal that eliminates competitive market responses, obligating manufacturers to act uniformly regardless of changes in legal or regulatory circumstances. This undermines small businesses and independent fleets by reducing access to affordable diesel vehicles, with no viable alternative compliance pathways. It also bypasses meaningful public input and restricts judicial oversight at a time when federal legal authority is in dispute.

Most notably, this agreement undermines accountability at the same time that Congress has acted to revoke California's waiver for the ACT regulation under the Congressional Review Act (CRA). Enforcing ACT despite this action is inconsistent with federal law and risks further legal exposure for the state.

MARKET DISTORTION AND DIESEL SUPPLY CONSTRAINTS

The ACT regulation's structure, which mandates a minimum percentage of ZEV sales within manufacturers' annual truck sales, is creating a distorted market. Due to persistently low demand for zero-emission vehicles, largely driven by cost and infrastructure challenges, manufacturers are resorting to limiting the sale of diesel trucks to avoid violating their ZEV sales thresholds. This artificial reduction in diesel truck availability directly harms fuel marketers, essential service providers, and commercial fleets. Businesses across the state have reported increasing difficulty in acquiring needed diesel vehicles, which delays business operations and increases equipment costs. Fewer diesel trucks on the market means higher prices for those that remain, all while zero-emission trucks remain prohibitively expensive and infrastructure remains limited.

To illustrate the financial challenge: in 2024, a new diesel Class 8 truck was approximately priced between \$195,000 - \$210,000 (with used class 8 trucks at approximately \$60,000), while an electric counterpart was around \$435,000. That approximate \$220,000 - \$240,000 gap for new class 8 trucks (which widens for each additional vehicle purchased) is unmanageable for small and mid-sized businesses, especially those operating in rural areas or industries where no ZEV alternatives currently exist. This squeezes operational margins and threatens the economic survival of businesses that are essential to California's economy.

Thus, the artificial restriction on the availability of federally compliant diesel trucks—as a result of the Clean Truck Partnership—clearly and unequivocally places an undue burden on interstate commerce, potentially violating the Dormant Commerce Clause (Article 1, Section 8 of U.S. Constitution). Courts have consistently interpreted this clause as reserving the regulation of interstate commerce as an exclusive federal power, one that cannot be usurped by individual states.

Moreover, as mentioned previously, the federal government has already moved to restrict California's authority to enforce the ACT regulation, signaling concerns over its legality and national impact. By advancing these mandates through the Clean Truck Partnership, the state is effectively circumventing federal oversight. In doing so, California risks violating constitutional principles governing interstate commerce and regulatory preemption, as articulated in both Dormant Commerce Clause jurisprudence and under the Supremacy Clause (Article VI, Clause 2 of the U.S. Constitution).

REGULATORY ENFORCEMENT DESPITE FEDERAL REPEAL

Perhaps the most concerning issue is that the California Air Resources Board (CARB) continues to pursue enforcement of the Advanced Clean Trucks (ACT) regulation despite the fact that its legal foundation has been revoked. Earlier this year, Congress repealed California's waiver for the ACT regulation under the authority of the Congressional Review Act (CRA), codified at 5 U.S.C. §§ 801–808.

The CRA grants Congress the authority to review and disapprove of new rules issued by federal agencies. Once a rule is overturned under the CRA, the issuing agency may not reissue the same rule—or one that is “substantially the same”—unless specifically authorized by Congress (5 U.S.C. § 801(b)(2)).

By continuing to implement the ACT regulation through mechanisms such as the Clean Truck Partnership, CARB is effectively enforcing a regulation that no longer has legal standing. This not only

undermines the rule of law, but also calls into question the legitimacy of regulatory governance in California

Unless the waiver is reinstated through lawful federal processes, any continued action to implement or amend ACT is premature and potentially unlawful. We urge CARB to acknowledge this change in federal law and suspend further enforcement and compliance requirements until the issue is legally resolved.

CONCLUSION

The ACT regulation, as currently proposed for amendments, poses serious legal, economic, and operational risks to California's fuel marketers and transportation-related businesses. From the questionable legality of the Clean Truck Partnership to the market disruptions caused by sales quotas and the continued enforcement of a rule repealed by Congress, the regulation in its current form is unworkable and unsustainable.

We respectfully urge CARB to suspend enforcement of the ACT regulation and refrain from further amendments until its legal foundation is clarified, and its real-world impacts are reevaluated. We remain available for further discussion and hope to work collaboratively toward clean transportation goals that are both effective and achievable.

If you have any questions, please contact CFCA's Sr. Director of Government Affairs, Alessandra Magnasco, at alessandra@cfca.energy.

Sincerely,

A handwritten signature in black ink, appearing to read "Alessandra Magnasco". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

Alessandra Magnasco
Sr. Director of Government Affairs