



September 16, 2024

Via WWW.REGULATIONS.GOV

U.S. Environmental Protection Agency  
Office of the Administrator  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

**Subject: California Request for Waiver of Preemption to Implement Advanced Clean Fleets Regulation [EPA-HQ-OAR-2023-0589]**

Dear Administrator Regan:

The U.S. Chamber of Commerce (“Chamber”) appreciates the opportunity to comment on the California Air Resource Board’s (CARB’s) request to the U.S. Environmental Protection Agency’s (EPA) for a special waiver of preemption under the Clean Air Act for the state’s recently finalized Advanced Clean Fleets (ACF) regulations.<sup>1</sup> The Chamber opposes this request, and urges EPA to recognize the complexities and challenges that implementation of the ACF standards would present to a broad range of stakeholders, including not only heavy-duty vehicle manufacturers, fleet owners, utility providers, and other entities engaged in advancing clean vehicle technology, but also the countless commercial and individual end-use consumers that directly and indirectly depend on medium- and heavy-duty vehicles to support their families and businesses.

The Chamber and its members are proud of their role as collaborative partners with EPA and state regulators to develop emissions-reducing technologies and implement standards that have led to remarkable progress improving the nation’s air quality and addressing the climate challenge. This progress has occurred even as overall vehicle miles traveled have increased by nearly 50 percent since 1990. We believe the overall goals of the ACF rulemaking are laudable, and the Chamber remains eager to partner with EPA, states, and industry stakeholders on effective, workable rules that deliver real-world emissions reductions.

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<sup>1</sup> California State Motor Vehicle Pollution Control Standards; Advanced Clean Fleets Regulation; Request for Waiver of Preemption and Authorization; Opportunity for Public Hearing and Public Comment, 89 Fed. Reg. 57151, July 12, 2024.



As a foundational approach in support of those goals, we have long encouraged adherence to the following basic objectives for the medium- and heavy-duty transportation sector:

- Cost-effective, technologically achievable standards that facilitate fleet turnover necessary to drive meaningful emissions reductions.
- Regulatory certainty and durability, which are necessary not only to achieve emissions reductions over the proposed rule's implementation timeline, but also to create the stable business environment that facilitates the significant investments needed to meet ambitious and transformative regulatory requirements.
- Full consideration of outside-the-vehicle factors, including the availability of charging infrastructure that substantially impacts the rate of customer acceptance, fleet turnover, and logistical and supply chain adjustments necessary to limit economic disruptions.
- Sufficient lead-time and compliance flexibility to allow manufacturers and other stakeholders to plan, adapt, and invest in the array of relevant heavy-duty vehicle platforms.
- National harmonization, accounting for the above objectives, that avoids a patchwork of compliance across states and will help reduce regulatory burdens on manufacturers, ultimately reducing compliance costs and speeding implementation.

Unfortunately, the ACF rule fails to adhere to each of these core principles, and as a result would result in significant negative consequences for a broad range of businesses across the economy. While the concerns detailed in this comment letter focus primarily on the traditional trucking sector and its customers, similar concerns exist with respect to impacts on users and customers of all vehicle classes covered by the rule, including transit buses, commercial delivery vehicles, and vehicles designed for waste removal, construction, agriculture, and more.

First, it should be recognized that trucks directly subject to the ACF rule are responsible for the overwhelming majority of freight movement over land—trucking moves 73 percent of goods in America and is the foundation of a well-functioning



supply chain.<sup>2</sup> When trucking costs go up, the cost of nearly all goods eventually rise in concert. This is because participants in the industry typically operate on tight margins and typically do not have the financial resources necessary to absorb significant regulatory cost increases, which are then passed on to American consumers in the form of higher costs for shipped goods.

There would be significant, costly challenges for fleet owners, municipalities, heavy-duty vehicle manufacturers, and other stakeholders if EPA moves forward with approving California's waiver request to implement ACF. While the overarching goals of the ACF regulation—to reduce emissions and promote the adoption of zero-emission vehicles—are commendable, it is essential to consider the myriad practical implications and obstacles that are expected to arise (and are already beginning to occur) as a result of the regulation.

Heavy-duty vehicle manufacturers and fleet owners are actively working to advance clean vehicle technology, with many companies investing heavily in research and development of electric and zero-emission vehicles. These stakeholders understand the importance of transitioning to cleaner fleets and are committed to supporting efforts that align with national and state environmental goals. Nonetheless, the transition to cleaner medium- and heavy-duty vehicle fleets involves many challenges, and poorly designed regulations such as ACF are likely to be counterproductive to achieving the long-term consensus goals shared by industry and government stakeholders alike. As explained in further detail below, the Chamber views the ACF regulation as unworkable and highly problematic in its current form.<sup>3</sup>

## 1. Infrastructure Challenges: Permitting and Installing Charging Stations

One of the significant hurdles associated with the ACF regulation is permitting and installation of new charging stations. To support a large-scale transition to electric heavy-duty vehicles, a robust and expansive network of charging

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<sup>2</sup> Source: American Trucking Association, available at <https://www.trucking.org/economics-and-industry-data>

<sup>3</sup> These comments are not an exhaustive discussion of the defects in the ACF rule and in CARB's request that EPA waive preemption concerning the rule. For example, several parties have already brought litigation challenging the ACF rule in state and federal court. Moreover, it is expected that if EPA were to issue a waiver approving the ACF rule, further litigation would be brought challenging the waiver decision. These comments do not purport to catalogue the legal defects in the ACF rule or the range of arguments that would likely be presented in the expected litigation challenging an EPA waiver decision. In general, the Chamber is seriously concerned (in part because of the considerations raised in these comments) that the rule (and any associated waiver approval decision) will not be legally durable, which is a major factor weighing in favor of the conclusion that the waiver request should be denied to facilitate new discussions between EPA and CARB.



infrastructure is required. However, the permitting process for new charging stations is cumbersome and time-consuming, often involving multiple layers of local, state, and federal regulations. Delays in permitting slow the deployment of necessary infrastructure, hindering the ability of fleet owners to comply with ACF standards within the specified timelines.

These delays impede the ability of fleet operators to comply with the ACF standards. In addition, the cost of installing charging infrastructure, especially for fleets operating on a large scale, can be prohibitively high without sufficient financial assistance or incentives. Addressing these infrastructure challenges will require streamlining the permitting process, improving inter-agency coordination, and providing targeted support to accelerate the development of charging networks.

Streamlining the permitting process for charging infrastructure is essential to facilitate the swift and efficient deployment of the charging stations needed to support an advanced clean fleet. Collaboration between federal, state, and local agencies, along with the private sector, is crucial to identifying and eliminating bureaucratic barriers that impede infrastructure development. In addition to permitting reforms, the Chamber supports targeted incentives and funding to accelerate deployment of charging infrastructure, but until and unless these issues are addressed, the rapid scaling of zero emissions vehicle (ZEV) purchase requirements that is required by the ACF rule will remain infeasible.

## 2. Grid Reliability and Energy Demand

A related consideration concerning the implementation of the ACF standards is the impact on grid reliability. The electrification of heavy-duty fleets will result in a substantial increase in electricity demand, particularly during peak charging periods (including overnight periods) when solar resources are not available. This increased demand, combined with rapid deployment of other grid-dependent applications such as data centers and light-duty electric vehicles, will further strain California's already-fragile electrical grid, leading to threats to grid stability, threats to electric reliability, and the potential for power outages. These concerns are further exacerbated by recent and forthcoming EPA regulations that restrict, and promise to restrict, the capacity of certain baseload electricity resources that California relies on for electricity generated both in-state and imported from neighboring states.

Meanwhile, a 2024 study concluded that preparing commercial vehicle fleets for electrification would require industry to invest upwards of \$620 billion in charging infrastructure alone, and utilities to invest nearly \$400 billion to serve additional



power demand.<sup>4</sup> It therefore comes as no surprise that a recent survey found 75 percent of electric vehicle charging station developers and operators see power grid limitations as a significant barrier to deploying commercial EV charging infrastructure.<sup>5</sup> This illustrates that the widespread adoption of electric heavy-duty vehicles required by ACF is dependent on factors outside of not only the regulated entities' control, but CARB and EPA's control as well.

To accommodate increased demand from vehicle electrification, manufacturing, and data centers, substantial investments in grid modernization are required. Utility companies, municipalities, and other stakeholders will need to work closely and carefully to develop strategies that mitigate grid impacts, such as deploying energy storage solutions, implementing smart charging technologies, and offering incentives for off-peak charging. Until and unless these grid reliability concerns are addressed, charging infrastructure will simply not be able to be deployed at a level necessary to comply with the ACF rule.

### 3. High Costs and Economic Impacts on Fleet Owners

The transition to zero-emission vehicles represents a significant financial undertaking for heavy-duty fleet owners. The initial costs associated with purchasing new electric vehicles, retrofitting facilities, and installing necessary infrastructure are considerable. A wide variety of fleet owners operating on narrow margins with limited capital at their disposal may find it challenging to absorb these costs without substantial financial support.

For example, a diesel Class 8 truck costs roughly \$180,000, while a comparable battery-electric truck costs over \$400,000 and are limited in availability.<sup>6</sup> Beyond the direct costs of vehicle acquisition and infrastructure, fleet owners also face indirect costs, such as the need for workforce training on new technologies, adjustments to operational practices, and potential disruptions during the transition period. For instance, federal law regulates the amount of time in a given day and week that a commercial driver can work, and because refueling is typically an on-duty activity for drivers, charging ZEV trucks could necessitate that drivers are forced to reduce on-road hours to comply with hourly work limits.<sup>7</sup> While there may be long-term savings associated with lower fuel and maintenance costs of electric vehicles, the upfront

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<sup>4</sup> <https://www.trucking.org/news-insights/new-report-pegs-cost-electrifying-us-commercial-truck-fleet-1-trillion>

<sup>5</sup> <https://www.utilitydive.com/news/grid-utility-ev-charger-development-xendee-survey/719708/>

<sup>6</sup> <https://www.trucking.org/news-insights/new-report-pegs-cost-electrifying-us-commercial-truck-fleet-1-trillion>

<sup>7</sup> <https://californiatruckingassoc.growthzoneapp.com/ap/CloudFile/Download/rD7ON0qL>



financial burden could act as a deterrent for many fleet owners, especially those operating on tight margins.

It is also important to recognize the unique and disproportionate impact of ACF on rental fleets and interstate commerce. Inherent to the rental vehicle business model is a customer's ability to drive across state lines without impediment. As the California Trucking Association's complaint filed in its lawsuit against CARB states, "[b]y their very nature, rental fleet -owners cannot control where the renter takes the vehicle. Yet based on how ACF tries to capture transient rental fleets, for out-of-state rentals, each time a renter takes an out-of-state truck across the California border, it may become part of the fleet owner's 'California fleet' and subject to ACF. It is virtually impossible for the rental fleet owners to develop a compliance plan unless all trucks, whether sold and registered in Florida or Texas or Maine, comply with California's regulations... ACF's extraterritorial effect will burden interstate commerce and impact both national and international trade, leading to the potential loss of jobs due to the transfer of goods to other U.S. ports, a marked increase in the cost of moving freight and goods nationally and internationally, and potential supply chain disruptions."<sup>8</sup> These considerations raise serious legal and practical questions. For example, if the waiver is approved and the ACF 100% ZEV requirement begins in 2035, fleet vehicles purchased or rented legally in other states would immediately render a fleet out of compliance if those vehicles are driven into California.

The Chamber supports increased financial assistance, such as grants, rebates, tax incentives, or low-interest financing options, to support fleet owners through an appropriately structured transition. But absent a comprehensive and coordinated effort by federal, state, and local governments to address these and other barriers, ACF will remain unworkable. The waiver request should not be approved.

#### 4. Technological Readiness and Vehicle Availability

Heavy-duty vehicle manufacturers are making significant strides in developing electric and zero-emission vehicle technologies. However, the availability of these vehicles, particularly for specific applications such as long-haul trucking or specialized heavy-duty tasks, is simply not aligned with the timelines set forth in the ACF regulation.

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<sup>8</sup> Complaint at 11, 16, *California Trucking Ass'n v. California Air Resources Board*, No. 2:23-at-01044 (E.D. Cal. filed Oct. 16, 2023), available at <https://californiatruckingassoc.growthzoneapp.com/ap/CloudFile/Download/rD7ON0qL>. It should be noted that the



Meanwhile, fleet owners face challenges in finding suitable zero-emission vehicle options that meet their operational needs, especially in the early stages of regulation implementation. Additionally, replacements to diesel-powered vehicles face concerns about vehicle performance, range limitations, towing ability, cargo capacity, and the overall reliability of new technologies, which impact the confidence of fleet operators in making a switch.

The limited compliance pathways presented by the ACF are also an obstacle to effective emissions reductions. Because the rule focuses overwhelmingly on reducing tailpipe emissions with electric vehicles, other significant emissions reductions opportunities associated with liquid and gaseous biofuels, such as renewable natural gas and renewable diesel, are disallowed. Importantly, vehicles powered by these fuels are mature and well-understood technologies that typically do not face the aforementioned vehicle performance concerns.

Moreover, section 202 of the Clean Air Act—which section 209 waivers must be consistent with—requires that California’s standards give due consideration to costs and be technologically feasible with four years of lead-time. In the Chamber’s view, the phase-out timelines required by ACF are simply insufficient, particularly when capital costs, manufacturing supply chain challenges, and the need for associated infrastructure are considered as part of a reasonable feasibility determination. To address these concerns, continued investment in research and development is essential, along with efforts to expand the diversity of vehicle options available in the market. Furthermore, offering flexibility in compliance timelines or phased implementation could help bridge the gap between technological readiness and regulatory requirements, allowing manufacturers and fleet operators additional time to adapt.

As an alternative to approving CARB’s ACF waiver request, we urge EPA to instead work with California on a more realistic solution that advances a single, workable, and effective nationwide standard. For example, EPA recently finalized GHG standards for heavy-duty vehicles provide a crucial reference point for key issues to be resolved in ongoing discussions with CARB. To be sure, the EPA standards themselves are now subject to legal challenge, and the Chamber believes that the EPA standards are accompanied by their own set of challenges, including practical implementation challenges, that need to be addressed. Nonetheless, if proper modifications were made (whether as a result of the pending litigation or otherwise), a pragmatic nationwide EPA rule would be crucial to a workable, long-lasting national solution.



## 5. Impacts on Municipalities and Other Owners of Public Fleets

Municipalities and other owners of public fleets, such as transit agencies and public works departments, also face unique challenges in complying with the ACF regulation. These entities often operate on fixed budgets and may have limited access to capital for fleet upgrades and infrastructure development. Additionally, public fleets have obligations to provide essential services to the community, often arising from and constrained by complex legal and regulatory requirements.

The transition to advanced clean fleets may require significant investments that could strain municipal budgets, potentially leading to difficult decisions about service levels or funding allocations. To support municipalities in this transition, it is important to consider targeted funding opportunities, technical assistance, and other resources that would help public fleets achieve compliance without compromising their ability to serve their communities and meet core legal, regulatory, and ethical obligations.

### Conclusion

The Chamber supports appropriate governmental and private-sector efforts to further reduce emissions from the mobile source sector. When major regulations are overly stringent and do not provide adequate lead-time for implementation, they can lead to business closures and job losses, and even delayed environmental benefits. While the overall goals of the ACF regulation are laudable, the regulation goes too far, too fast, and approving CARB's waiver request could wreak havoc across a wide range of economic sectors that rely on heavy-duty transport and logistics. Moreover, we are concerned that approving the request would only trigger litigation that would result in further uncertainty and delay in achieving emissions-reductions goals, and that an approval decision would not withstand judicial review.

We urge EPA to reject CARB's waiver request and instead work cooperatively with California and the broad stakeholder community to address the issues outlined in this comment letter. An effective approach must solve the external challenges associated with permitting new charging stations, ensuring grid reliability, addressing cost and performance factors, and allowing sufficient lead-time for compliance. By working collaboratively with all stakeholders, including heavy-duty vehicle manufacturers, fleet owners, utility providers, and regulatory agencies, the EPA can help to create a pathway that supports the transition to advanced clean fleets while addressing the practical challenges that may arise.





By doing so, we can work together to achieve our shared goal of reducing emissions and improving air quality, while also ensuring a smooth, feasible, and durable transition for all stakeholders involved. Thank you for the opportunity to

provide comments on this important topic. We appreciate your consideration of these concerns and look forward to the EPA's continued leadership in advancing clean vehicle technology and supporting clean transportation initiatives.

Sincerely,

A handwritten signature in black ink that reads "Marty Durbin". The signature is fluid and cursive, with the first name "Marty" and last name "Durbin" clearly distinguishable.

Marty Durbin  
Senior Vice President, Policy  
President, Global Energy Institute  
U.S. Chamber of Commerce