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**Pro hac vice application granted
Counsel for Plaintiff State of Nebraska*

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

STATE OF NEBRASKA, et al.,

Plaintiffs,

v.

**STEVEN S. CLIFF, in his official capacity
as the Executive Officer of the California
Air Resources Board; and ROB BONTA, in
his official capacity as the Attorney General
of the State of California,**

Defendants.

2:24-cv-01364-TLN-CKD

**STIPULATION AND ORDER TO
HOLD CASE IN ABEYANCE PENDING
OUTCOME OF RULEMAKING**

Judge: The Honorable Troy L. Nunley
Trial Date: Not Set
Action Filed: May 13, 2024

Defendants STEVEN S. CLIFF and ROB BONTA, in their official capacities, and Plaintiffs STATE OF NEBRASKA, et al., hereby submit this stipulation and request for abeyance.¹

RECITALS

WHEREAS, on November 15, 2023, the California Air Resources Board (CARB) submitted a request to the U.S. Environmental Protection Agency (EPA) seeking a Clean Air Act preemption waiver under Section 209(b)(1), 42 U.S.C. § 7543(b)(1), for parts of CARB's Advanced Clean Fleets regulation;

WHEREAS, on May 13, 2024, Plaintiffs filed their complaint challenging certain requirements of the Advanced Clean Fleets regulation, ECF 1;

WHEREAS, on July 31, 2024, Defendants moved to dismiss Plaintiffs' Complaint, ECF No. 68;

WHEREAS Defendants' motion to dismiss is fully briefed and remains pending;

WHEREAS, on January 13, 2025, CARB withdrew its waiver request;

WHEREAS, Plaintiffs and Defendants (collectively, the Parties) have met and conferred to discuss how this case should proceed in light of CARB's withdrawal of its waiver request;

WHEREAS, the Court is holding the motion to dismiss in abeyance to allow the Parties to continue to meet and confer, ECF 93;

WHEREAS, the Parties have reached an agreement that is anticipated to resolve this litigation but will require time to execute;

STIPULATION AND REQUEST FOR ABEYANCE

THEREFORE, IT IS HEREBY STIPULATED among the Parties, through their respective counsel, as follows:

1. In his official capacity, Defendant Cliff agrees that CARB staff will present a proposal to repeal the High-Priority Fleet and Drayage Fleet Requirements of the Advanced Clean Fleets regulation (California Code of Regulations, title 13, Sections 2016 through 2016.5

¹ Plaintiffs are the States of Nebraska, Alabama, Arkansas, Georgia, Idaho, Indiana, Iowa, Kansas, Louisiana, Missouri, Montana, Oklahoma, South Carolina, Utah, West Virginia, and Wyoming, the Arizona State Legislature, and the Nebraska Trucking Association.

(High-Priority); Sections 2014 through 2014.3 (Drayage)) to the Board in a public hearing to be held no later than October 31, 2025. The notice and the Initial Statement of Reasons for that rulemaking action will be published on or before September 1, 2025. If the Board approves the proposed repeal, CARB staff will submit that rulemaking action to California's Office of Administrative Law (OAL) for approval no later than August 31, 2026.

2. Defendants agree that they will not take any enforcement action under the High-Priority Fleet or Drayage Requirements for conduct during the period beginning with the earliest effective date of any of these requirements (November 1, 2023) and ending when CARB or OAL (whichever acts latest) takes final action on the CARB rulemaking described herein.

3. Defendants also agree that they will not enforce the part of the Advanced Clean Fleets regulation requiring 100% zero-emission-vehicle sales in the medium- and heavy-duty categories beginning with model year 2036 (Cal. Code Regs., tit. 13, § 2016), until CARB obtains a Clean Air Act preemption waiver from EPA for that regulatory requirement.

4. The Parties agree that the case should be held in abeyance during the CARB rulemaking described herein, to avoid wasting party and judicial resources.

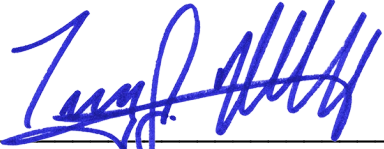
5. Plaintiffs agree that if CARB finalizes, and OAL approves, the repeal of the High-Priority Fleet and Drayage Fleet Requirements from the Advanced Clean Fleets regulation, Plaintiffs will dismiss their complaint pursuant to Federal Rules of Civil Procedure 41(a)(1)(A)(i) within 15 days of when the repeal becomes effective under state law.

6. In the event the case is voluntarily dismissed, the Parties agree they shall each bear their own costs and attorneys' fees.

7. The Parties agree that if OAL has not approved the subject repeal by October 15, 2026, the Parties will submit a joint statement within 30 days advising the Court how the Parties propose to proceed.

IT SO ORDERED.

DATED: May 2, 2025



Troy L. Nunley
Chief United States District Judge

1 Dated: May 2, 2025

Respectfully submitted,

2 ROB BONTA
3 Attorney General of California
4 MYUNG J. PARK
5 Supervising Deputy Attorney General

6 /s/ M. Elaine Meckenstock
7 M. ELAINE MECKENSTOCK
8 Deputy Attorney General
9 *Attorneys for Defendants Steven S. Cliff and*
10 *Rob Bonta, in their official capacities*

11 Dated: May 2, 2025

12 /s/ Zachary B. Pohlman
13 ZACHARY B. POHLMAN*
14 Acting Deputy Solicitor General
15 *Pro hac vice application granted
16 *Counsel for Plaintiff State of Nebraska*
17 *(as authorized for all Plaintiffs 5/2/2025)*