

1 ROB BONTA, State Bar No. 202668
 Attorney General of California
 2 MYUNG J. PARK, State Bar No. 210866
 Supervising Deputy Attorney General
 3 BENJAMIN P. LEMPERT, State Bar No. 344239
 DAVID M. MEEKER, State Bar No. 273814
 4 JONATHAN A. WIENER, State Bar No. 265006
 M. ELAINE MECKENSTOCK, State Bar No. 268861
 5 Deputy Attorney General
 1515 Clay Street, 20th Floor
 6 Oakland, CA 94612-0550
 Telephone: (510) 879-0299
 7 Fax: (510) 622-2270
 E-mail: Elaine.Meckenstock@doj.ca.gov
 8 *Attorneys for Defendants Steven S. Cliff and Rob
 Bonta, in their official capacities*

ZACHARY B. POHLMAN*
 Acting Deputy Solicitor General
 Nebraska Department of Justice
 2115 State Capitol
 Lincoln, Nebraska 68509
 Tel.: (402) 471-2683
 Fax: (402) 471-3297

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

9
 10 IN THE UNITED STATES DISTRICT COURT
 11 FOR THE EASTERN DISTRICT OF CALIFORNIA
 12 SACRAMENTO DIVISION

13
 14 **STATE OF NEBRASKA, et al.,**

15 Plaintiffs,

16 v.

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

20 Defendants.
 21

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

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

4 **RECITALS**

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

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

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

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

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

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

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

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

21 **STIPULATION AND REQUEST FOR ABEYANCE**

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

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

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

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

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

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

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

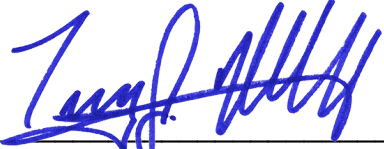
16 5. Plaintiffs agree that if CARB finalizes, and OAL approves, the repeal of the High-
17 Priority Fleet and Drayage Fleet Requirements from the Advanced Clean Fleets regulation,
18 Plaintiffs will dismiss their complaint pursuant to Federal Rules of Civil Procedure 41(a)(1)(A)(i)
19 within 15 days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

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

22 7. The Parties agree that if OAL has not approved the subject repeal by October 15,
23 2026, the Parties will submit a joint statement within 30 days advising the Court how the Parties
24 propose to proceed.

25 **IT SO ORDERED.**

26
27 DATED: May 2, 2025

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Troy L. Nunley
Chief United States District Judge

1 Dated: May 2, 2025

Respectfully submitted,

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ROB BONTA
Attorney General of California

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MYUNG J. PARK
Supervising Deputy Attorney General

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

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Dated: May 2, 2025

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

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