

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.<sup>1</sup>

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 <sup>1</sup> 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.

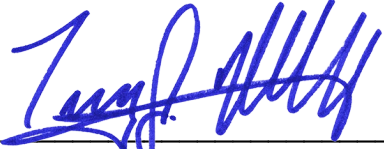
16 5. Plaintiffs agree that if CARB finalizes, and OAL approves, the repeal of the High-  
17 Priority Fleet and Drayage Fleet Requirements from the Advanced Clean Fleets regulation,  
18 Plaintiffs will dismiss their complaint pursuant to Federal Rules of Civil Procedure 41(a)(1)(A)(i)  
19 within 15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

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27 DATED: May 2, 2025

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Troy L. Nunley  
Chief United States District Judge

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Dated: May 2, 2025

Respectfully submitted,  
  
ROB BONTA  
Attorney General of California  
MYUNG J. PARK  
Supervising Deputy Attorney General

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

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)