



February 9, 2025

Director Casey Sixkiller
Department of Ecology
State of Washington
300 Desmond Drive SE
Lacey, WA 98503

Dear Director Sixkiller:

Towing and recovery trucks are part of the roadway safety network that supports American motorists and first responders. They prioritize motorists' safety by providing reliable roadside assistance 24/7 and clearing road accidents and mechanical breakdowns daily.

Today, we urge you to prioritize roadway and motorist safety and in-state jobs by delaying the implementation of the California Air Resources Board's (CARB) Advanced Clean Trucks (ACT) regulation and Heavy-Duty Omnibus Regulation (Omnibus) until at least 2027 to avoid the severe product shortages that are being experienced in California.

While the goal of transitioning America's trucking industry to Zero-Emission Vehicles (ZEVs) by 2035 is well intended, the regulations are not functioning as intended and are undermining in-state businesses, jobs and clean air goals.

Washington only needs to look to California to see the consequences of failed regulations. The regulations have reduced combustion engine chassis availability by over 80% in California in 2024, devastating their in-state dealers and upfitters and pushing companies to purchase used out-of-state vehicles or retain older, higher emission vehicles longer. In 2025, a major supplier of chassis to the towing and recovery industry has only been able to confirm 10% of normal chassis deliveries to California across all manufacturers, in other words, CARB's 'fixes' to the regulations and discretionary enforcement have not improved the workability of the regulations or the chassis supply problems. Because of the lack of ZEV sales in the additional ACT states and the backlog of manufacturing Omnibus compliant engines, deliveries will likely be even lower to our members for the next several years, jeopardizing their ability to maintain adequate response times. And as the current inventories of combustion engines are depleted, the production and sale of towing and recovery trucks will stop in your state as they have in California, resulting in small businesses closing, layoffs, and a decline in reliable roadside services.

The failures of the regulations are acute and demonstrated by California's and other state's actions. CARB announced in October that they will not enforce major provisions of the Omnibus regulation recognizing its severe impact on California's economy and in-state businesses. There is no justifiable logic for other states to adopt a policy that knowingly places businesses in violation of the law and then must rely on the 'grace' of the state to not take action against them. New York and Massachusetts have gone further and indicated they will not enforce the ACT regulation against key government entities. This is because CARB failed to account for equipment used for snow removal and the inadequate availability of chassis delayed replacing older equipment before it was required to be counted towards the Zero Emission mandates. In other words, New York and Massachusetts are affirming that the regulation can't be complied with for economic and technical reasons but is only delaying the regulation for government entities.

We strongly agree that New York and Massachusetts should NOT implement the regulations, but they shouldn't create an artificial and illegal compliance "pass" for only government entities. Section 177 of the Clean Air Act requires that every state must adopt a regulation that is identical to California's regulations and at least two years prior to its application. This means New York's and Massachusetts' "pass" for government entities violates Section 177. Similarly, the Clean Air Act provides no exceptions for other states to forgo enforcement of any provision of either regulation, meaning any state that adopts either or both regulations must fully enforce every provision, regardless of CARB's decision not to enforce large portions of the failed regulations.

Any state creating artificial and illegal exemptions is placing the state and risk of litigation from the parties that do not benefit from these unofficial exemptions. It is in the interests of each Section 177 state, its taxpayers, and motorists to delay implementation of the regulations and formally request CARB make appropriate regulatory amendments to address the deficiencies in each regulation.

Private entities, such as the towing and recovery industries, are equally critical to supporting roadway safety. This is why we urge each state to delay implementation until CARB can appropriately update the regulations to exempt those vehicles critical to roadway safety and the economy. This would, at a minimum, include towing and recovery, snowplows, and snow removal trucks. Of note, California provides exemptions for public emergency vehicles, towing and recovery trucks owned by bridge and highway districts, private ambulances, and armored vehicles. These exemptions are due to California's statutory construction that was developed to exempt certain vehicles from rules of the road and completely unrelated to an evaluation of essential vehicles and the state of technology related to air emissions.

As an example of the lack of evaluation conducted on specific use cases by CARB in the development of these latest regulations, the University of California, Berkeley conducts a bi-annual evaluation of the operation of the Freeway Service Patrol (FSP) in California. This is a free service to motorists in 16 metro jurisdictions designed to quickly remove

breakdowns, accidents or other impediments to the flow of vehicles on highways and interstates. UC Berkeley Institute of Transportation Studies (UC Berkeley) found that even during the lower volumes of traffic during the COVID-19 pandemic that the adequate availability of private towing and recovery trucks under the FSP, reduced emissions, saved motorists money, and reduced the economic impact from traffic delays. Specifically, UC Berkeley indicated that in the 2020-2021 fiscal year, the FSP resulted in fuel savings to consumers of over 16.5 million gallons, reduced time on roadways by over 9.6 million hours, reduced carbon dioxide creation by over 145.7 million kilograms, and resulted in 1,153.6 kilograms less of nitrogen oxides.

The UC Berkeley study did not quantify the additional benefits of increased safety to first responders spending less time along roadways, the reduction in follow along crashes from stalled traffic, and the benefits of reduced injuries and deaths from those crashes. Similarly, the adequate availability of other essential vehicles to clear highways of other hazards would offer similar economic and safety benefits and reduced emissions that CARB should have evaluated in their environmental documents. If CARB had done a full evaluation of use cases it would have included private towing and recovery trucks in the exemption with no impact on air quality emissions. There is no difference between a towing and recovery truck operated by a private entity and those operated by a bridge or highway district. There is no commercially available ZEV option that can meet the energy requirements and the specifications that are enforced by the California Highway Patrol.

Given the state of technology, towing and recovery truck operators are left with little to no options to purchase from in-state businesses. And those that are available are increasing in cost due to mandatory mitigation fees of at least \$9,000 imposed on only new trucks. This results in operators being forced to keep older, higher emission trucks on the road longer. Trucks that don't have updated safety equipment and are subject to higher maintenance and upkeep costs. Alternatively, operators will seek used trucks from out-of-state that are not required to pay mitigation fees. CARB's regulations allow higher emissions trucks to be brought in that are up to 18 model years old or have less than 800,000 miles. And in direct competition to in-state businesses, CARB's rule also allows any truck with over 7,500 miles to be imported with no requirement to pay a mitigation fee or be counted against the ACT mandates. These "used" trucks undermine jobs and economic activity associated with in-state businesses. CARB has created an economic loophole you can literally drive a truck through. This legal loophole means that dealers, up-fitters and service providers in surrounding non-Section 177 states will benefit economically all while undermining the clean air goals of your state.

Adding insult to injury, CARB indicates they cannot document imports into their own state. And they plan to cap the exchange or credits between states. At a workshop in December, CARB proposed transferable credits that decline over time, starting at 20% in 2027 and reducing to 4% in 2031. And CARB proposes to further restrict transfers so that no more than 25% of those credits can be transferred from any single state. This means that as the largest market and having the most infrastructure if sales in California exceed what is

needed, every other state will be limited in how many credits can be transferred to ensure economic needs are being met for in-state businesses. This places smaller states in direct competition for credits or redirecting state resources to subsidize ZEV infrastructure and purchases at unsustainable levels.

Governor Newsom recently announced another \$1.4 billion for charging infrastructure. This brings California's total investment to over \$10 billion for ZEVs and ZEV infrastructure (not including federal funding). And yet California's investment remains far from making the transition to ZEV trucks economically or technologically viable at the scale the regulations contemplate. In fact, most of the excess credits boasted about by Governor Gavin Newsom are related to the sale of electric pickup trucks for non-commercial uses. Yet these pickup manufacturers have implemented plans to reduce manufacturing volumes or delay manufacturing of future models completely. This reflects the broader statements by manufacturers of not expanding offerings of electric only vehicles and in most cases reducing production volumes in favor of hybrid and plug-in hybrid technologies that meet consumer demands for increased efficiency but reflects the inadequate infrastructure for electric only vehicles.

If Washington wants to continue the push for electric-only vehicles and trucks, robust analysis is necessary to evaluate the scale of charging networks necessary to support the fleets, the state of the energy infrastructure and the investment necessary to meet production and distribution upgrades AND other necessary uses that will be competing for those resources such as the rapidly increasing demand of Artificial Intelligence and other data centers, which is predicted to double over the next two-years, equivalent to the total energy consumption of Japan, according to the International Energy Agency. Electric charging will not be able to compete with massive technology companies, increasing the costs of procuring electrons for charging purposes.

Towing and recovery truck drivers provide essential emergency services critical to the free flow of trade, commerce, emergency response, and commuters traveling to and from work. Without access to reliable and affordable towing services, traffic delays will only delay the delivery of products and services, wasting time and fuel. This will result in millions of dollars in economic loss and higher consumer prices.

We urge you to take action immediately to delay the implementation of the ACT and Omnibus regulations to at least model year 2027. And encourage Washington to join with other states to provide a list of specialized and essential vehicles that should be exempt from the regulations to maintain roadway and motorist safety and support first-responders. . As shown by the UC Berkeley study, this will not undermine air quality goals because of the benefits to removing highway congestion and it will create a dis-incentive to the importation of used out-of-state trucks at the cost of in-state jobs and small businesses.

As a national coalition representing tens of thousands of towing and recovery businesses and their valued employees, we implore you to recognize that a strong and vibrant towing industry is essential to your state's economy, jobs, and public safety.

Sincerely,

A handwritten signature in black ink, appearing to read 'Josh Lovelace', written in a cursive style.

Josh Lovelace
National Director

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