

Date: June 2, 2025

California Air Resources Board 1001 I Street Sacramento, CA 95814

Re: July 24, 2025 hearing on Advanced Clean Trucks, pooling

<u>Section 177 of the federal Clean Air Act</u> prohibits states from adopting vehicle emission standards that differ from federal standards unless they are "identical to the California standards." Credit pooling under Advanced Clean Trucks (ACT) circumvents the Section 177 identicality requirement by allowing California and Section 177 states to, in effect, comply with different ACT standards. For example, Oregon could effectively buy the right to relax its ACT standard by paying California to attain a more stringent standard.

If pooling is allowable under Section 177, then it should also be possible for California and Oregon to adopt different ACT implementation timelines, by agreement, without relying on interstate credit sales. The effect would be identical to pooling, but without the trading revenue transfer from Oregon to California. Oregon's trucking industry should not be compelled to pay a penalty fee to California for not complying with an infeasible, California-imposed regulatory standard. Trading revenue would be better spent in-state to support electrification of Oregon's own lagging trucking industry rather than subsidizing California's industry.

The theory of credit trading is that the impact of vehicle emissions does not depend on where the emissions are generated, and therefore a Section-177 state can achieve the same environmental benefit by outsourcing its ACT compliance requirement to other states. From the standpoint of criteria pollutants, this rationale does not make sense. Health impacts of pollution are localized and depend very much on where the pollution is generated. Under CARB's credit pooling proposal, the trucking industry in Oregon, for example, would buy the right to keep imposing high health costs on Oregon residents by paying California to reduce health impacts of trucking pollution on its citizens. California should pay asthma sufferers in Oregon for the health benefits that California's population would accrue at Oregon's expense.

From the standpoint of GHG emissions, California's attainment of its ACT goals will provide no significant environmental benefit unless similar standards or measures are adopted nationwide and globally. (The state only generates about 2% of global transportation-related GHG emissions.) Whether or not California meets its ACT targets and timelines is much less important than whether and how state policies impact the scale and pace of truck electrification nationally and globally.

Currently, a half-dozen Section-177 states <u>have delayed</u>, or have pending <u>legislation to delay</u>, ACT implementation, and <u>Congress has voted</u> to revoke California's EPA waiver authority. Even

if the ACT waiver is upheld in court, the inflexibility of ACT targets and the Section-177 identicality requirement create an impediment to widespread adoption of truck electrification. For example, a state seeking to adopt ACT in 2030 would have to already be in compliance with California's <u>ACT sales requirement</u> of 30% or higher at that time. Pooling would allow the new entrant to employ interstate trading for a portion of its compliance requirement, but it could only do so by paying other states to overcomply.

California's response to ACT opposition in Section-177 states and in Congress should not be to double down on a futile and fruitless regulatory paradigm. California could easily reform its ACT regulations to entirely circumvent federal preemption in a way that would be more economically efficient and impactful even without the encumbrance of Section 177. Rather than employing an inflexible standard to drive unpredictable and volatile market trading prices, the regulation could employ stable pricing incentives (EV subsidies financed by fees on internal-combustion vehicles) to drive EV adoption at a scale and pace that the market can tolerate. Price stability would be conducive to long-term investment in truck electrification, and program ambition would not need to be restrained by predictive uncertainty.

Under an incentive program of this type, manufacturers would effectively pay or be paid for allowance credits, based on their percentage of clean truck sales, as in the current ACT regulation. But credit transactions would be conducted directly with CARB at a mandated and stable allowance price, rather than through open market trading at a market-determined price. (The transactions, in this context, comprise "fees" or "rebates," and the policy instrument is termed a "feebate.") The sales "standard" would simply match and vary with the industry's actual clean-truck sales, which would be market-determined in response to the stable price incentive. Manufacturers whose clean-truck sales percentages are below the industry average will pay a fee; those with better-than-average performance will accrue a rebate.

A tradable standard such as ACT cannot guarantee feasibility or affordability unless the established targets and timelines are premised on worst-case predictive assumptions, and it provides no incentive for industry-wide overcompliance if costs turn out to be well below worst-case projections. A feebate program, by contrast, would incentivize the maximum feasible reduction in emissions within limits of a predetermined price incentive. A price incentive is not an emissions standard and would not be subject to federal preemption. States could adopt their own incentive policies modeled after California's precedent, but there would be no need to enforce price homogenization between states or to rely on interstate cross-subsidies for compliance flexibility.

California could also take inspiration from Feed-in Tariff policies (such as <u>Germany's incentive</u> <u>program</u> for wind and solar power in the early 2000s) as a potential model for truck electrification. CARB should initially explore regulatory options that retain the basic ACT framework but with the regulated emission standard replaced by a regulated emission price. A financial incentive program could constitute one element of a targeted industrial policy (including charging infrastructure, grid capacity, battery technology, etc.) that leverages the investment

potential of truck electrification to gain the support of the trucking industry and establish a market-based incentive framework for nationwide truck electrification.

I have written a couple of recent op eds on this topic:

<u>Oregon should bypass California's stalled Clean Trucks program and steer its own into the fast</u> <u>lane</u>, Oregon Capital Chronicle, May 27, 2025

CARB doesn't have to abandon diesel truck regulation, Capitol Weekly, January 31, 2025

Also see James Sallee's related article,

California's Truck Decarbonization Puzzle, Haas Energy Institute blog, February 10, 2025

The <u>UC Davis Institute for Transportation Studies</u> has also been investigating vehicle feebates as an alternative to standards-based regulation.

Sincerely,

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