

October 22, 2024

California Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

RE: Comments of the California New Car Dealers Association on the Proposed Amendments to the Advanced Clean Trucks Regulation

Dear Chair Randolph and Members of the Board,

The California New Car Dealers Association (CNCDA) is a statewide trade association that represents the interests of over 1,300 franchised new car and truck dealer members. CNCDA members are primarily engaged in the sale and lease of new and used motor vehicles, but also provide customers with parts, service, and automotive repair.

California's new car and truck dealers are committed to supporting the state's transition to zero-emission vehicles (ZEVs) and cleaner combustion technologies. Dealers are at the forefront of the ZEV transition and are ready to help consumers navigate purchasing ZEVs and cleaner technologies that meet their transportation needs. Our front-line experience has taught us that this transition is possible but must be done in a way that maintains the trust of California fleets and consumers.

CNCDA appreciates CARB's consideration of these Advanced Clean Trucks (ACT) amendments to add flexibility in ACT credit utilization. We are encouraged by the removal of the ultimate purchaser requirement for credit generation, extension of the credit deficit makeup period from one to three model years, and the inclusion of provisions allowing secondary vehicle manufacturers to purchase and trade credits with primary original equipment manufacturers (OEMs). These amendments represent positive steps towards making ACT a more functional program.

Although these amendments are positive, we remain deeply concerned about the inventory shortage of medium- and heavy-duty vehicles due to the broader impacts of both the ACT and Low NOx Omnibus. As currently implemented, these regulations have resulted in manufacturers greatly reducing vehicle allocation to California dealers. If new vehicles are not available, fleets will increasingly be forced to either maintain older vehicles for longer or purchase vehicles from outside California, which are not subject to ACT or Low NOx requirements. Either option undermines California's environmental goals and jeopardizes the financial stability of dealerships and their ability to provide the latest, most efficient vehicles to their customers.

CNCDA believes that CARB has not fully addressed the severity of the ongoing inventory shortages, which will worsen without further action. In response to the proposed amendments and CARB Staff's September 25 Memo on California Truck Availability, CNCDA provides the following recommendations:

- CARB should allow for parallel exemptions between ACT/Low NOx and ACF to allow customers to purchase the vehicles they need.
- CARB staff should share a medium- and heavy-duty marketplace update with the Board in Q1 2025.

These recommendations are discussed more thoroughly below.

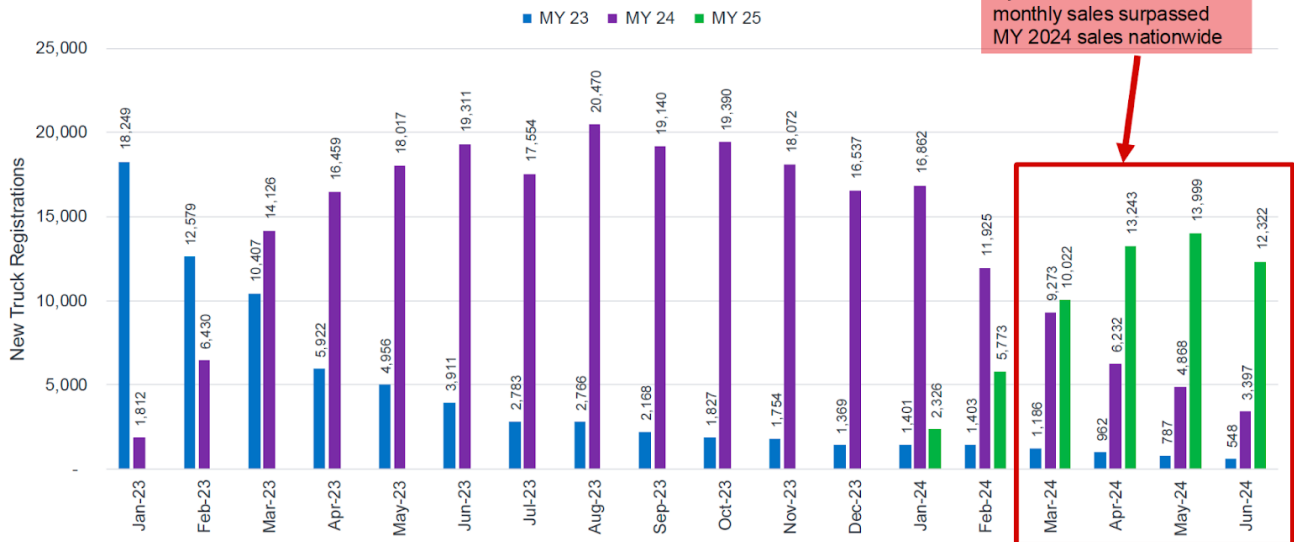
California dealers are experiencing acute shortages of the vehicles their customers need today.

CNCDA is deeply concerned about the immediate and growing shortage of medium- and heavy-duty vehicles available to California dealers, which is negatively impacting our ability to meet the needs of our customers. The California Air Resources Board's (CARB) September 25 memo claims that "policies do not appear to be causing acute product shortages today," but this does not reflect the reality that California dealers are already experiencing.

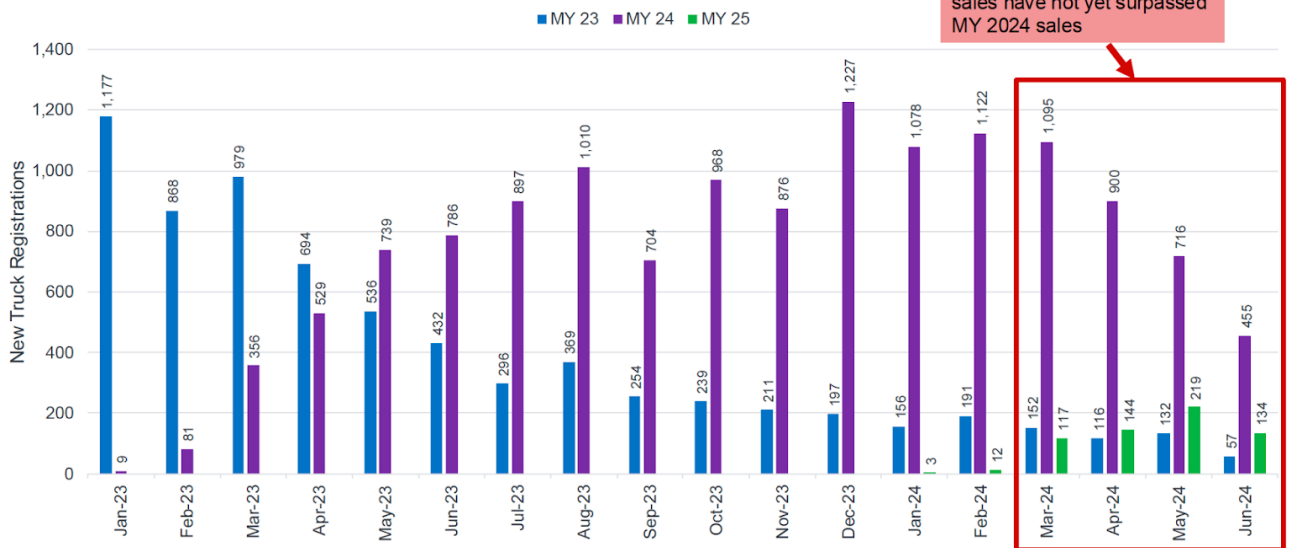
The impact of ACT and Low NOx on the availability of trucks in California is shown by comparing California and national vehicle sales. The charts below depict Class 8 vehicle sales by model year in California and nationwide.¹

¹ Data from SP Global Mobility. June 2024 is the most recent period in which CNCDA has data.

National Class 8 Monthly Registrations by Model Year (Excluding California)



California All Powertrain Class 8 Monthly Registrations by Model Year



ACT and the Low NOx rules were effective January 2024, and the MY 2025 vehicles are entirely subject to these new requirements. As the charts above demonstrate, MY 2025 vehicle sales currently constitute most new Class 8 vehicle sales nationwide outside of California, but MY 2025 sales in California are severely depressed. Instead, California dealers are continuing to rely on older MY 2024 inventory due to the lack of MY 2025 vehicles. As the availability of MY 2024 vehicles dwindles in the coming months, CNCDA is concerned that real-world vehicle inventory

challenges will become more acute, unless the supply of newer model year vehicles increases dramatically.

The Staff Memo states that nationwide supply chain issues are contributing to the decline in sales, but the sales decline for MY 2025 vehicles is far more pronounced in California than in the rest of the nation. Nationally, there was a 36% decline in the newest model year Class 8 sales from June 2023 (MY 2024) to June 2024 (MY 2025). However, California faced an 83% drop in the sales of the newest model year vehicles during the same period. California's sales declines cannot be fully explained by nationwide trends and are being impacted by CARB's ACT and Low-NOx regulations.

California's plummeting new vehicle sales in the medium- and heavy-duty sectors will have detrimental impacts to California's workforce and environmental goals.

The lack of new vehicle inventory is forcing dealerships to make difficult staffing decisions, which will hinder ZEV adoption in California. Many dealerships have reduced their expert sales staff, professionals with deep industry knowledge and longstanding customer relationships. These individuals play a pivotal role in helping fleet operators and businesses navigate the complexities of purchasing new vehicles - especially in the medium- and heavy-duty market, where vehicle customization, upfitting, and regulatory compliance are often part of the sales process. As the industry loses expertise and faces continued inventory shortages, dealers and their customers will be less equipped to handle the growing complexity of the market transition toward cleaner technologies.

The salespeople whose jobs are threatened by the lack of new vehicle inventory are the same people that will help guide fleets through the process of transitioning to ZEVs. The process of transitioning a commercial fleet to ZEVs requires a deep understanding of vehicle configurations, operational needs, second-stage manufacturing (or upfitting), and charging and refueling infrastructure. Salespeople compare ZEV models and work with upfitters to ensure vehicles are properly customized to meet the unique needs of customers. These trusted experts also provide significant guidance to smaller fleets, which are not subject to Advanced Clean Fleets (ACF) and often lack the in-house resources to assess and adopt ZEV technology. For these customers, navigating the ZEV landscape without the support of experienced dealership staff is a significant barrier, and many may choose to delay their fleet transitions.

The declining availability of new, cleaner vehicles directly threatens California's ability to meet its ambitious climate and air quality goals. If dealerships are unable to provide sufficient MY 2025 and newer vehicles to their customers, fleets must either operate older vehicles for longer or purchase vehicles from out of state, which are not subject to ACT or Low-NOx requirements.² Continued use

² California law allows vehicles that are EPA-certified (but not California-certified) to be registered as used vehicles if they have over 7,500 miles on the odometer. (California Health and Safety Code section 43156.) Dealers are concerned that many more out-of-state used vehicles will be registered in California due to the lack of

of older vehicles and used vehicles in California will continue to slow progress toward carbon neutrality and air quality goals outlined in the Scoping Plan and State Implementation Plan.

CARB should allow for parallel exemptions between ACT/Low NOx and ACF to allow customers to purchase the vehicles they need.

CNCDA urges CARB to consider providing parallel exemptions to the ACT and Low NOx regulations that align with those available under ACF to mitigate unintended consequences. As the CARB Staff Memo notes, ACF provides “numerous safeguards if a ZEV is not available or does not meet a fleet’s needs.”³ These rules allow fleets to continue providing important services if they are unable to transition to a ZEV.

ACT and Low-NOx sales requirements have no parallel exemptions to allow dealers to sell these internal combustion vehicles to customers who are legally allowed to purchase them. While ACT and Low-NOx require ZEV or NOx-compliant sales percentages across the entire state, with the intention that OEMs would “strategically focus on vehicle models that are most suitable for electrification,”⁴ OEMs are instead passing ZEV sales ratios to their dealers and customers. This has left some dealers and customers at a severe disadvantage compared to others, as there are some vehicle types with more ZEV models available compared to others. This disparity creates an unfair compliance burden on dealers and customers alike.

We therefore recommend that CARB provide the following exemptions to ACT and Low-NOx requirements that parallel the ACF exemptions:

- ZEV Purchase Exemption: Allow dealers to sell a vehicle if a ZEV is not available in the needed configuration.
- Daily Usage Exemption: Allow dealers to sell a vehicle because the daily usage needs of a given configuration cannot be met by available ZEVs.
- Infrastructure Exemption: Allow dealers to sell a vehicle if the installation of ZEV fueling infrastructure will take over a year due to reasons outside the customer’s control.

These parallel exemptions will provide the more significant relief needed to maintain California’s trucking industry.

CARB staff should share a medium- and heavy-duty marketplace update with the Board in Q1 2025.

CNCDA appreciates efforts CARB is taking to improve flexibility within ACT, and we hope that CARB takes additional actions, if necessary to improve inventory. To ensure that the package

availability of new vehicles. This will greatly undermine the air quality and climate benefits that CARB seeks to realize with ACT.

³ Staff Memo at 7.

⁴ Staff Memo at 4.

CARB adopts at its October 24 meeting has the intended effects of improving inventory availability for customers, ongoing monitoring of the medium- and heavy-duty marketplace is needed.

CNCDA recommends that CARB staff bring an informational update on the state of the medium- and heavy-duty vehicle market in California to the Board in the first quarter of 2025. This update should include a discussion of the OEM compliance plans for ACT and the Low NOx rules and the availability of compliant models for both rules, similar to the discussion in the September 25 Staff Memo.

Additionally, CNCDA recommends that CARB staff bring the following data to the Board in Q1 2025:

- 1. New vehicle sales over time for Class 2b-8 vehicles.**
- 2. Registrations of *used* Class 2b-8 vehicles from out of state.**

This data-driven update will provide CARB with the necessary information to determine if additional modifications are needed. CARB should monitor new vehicle sales and inventory in the marketplace. However, it is equally important that CARB monitor sales of used vehicles as well. As discussed above, CNCDA anticipates that if customers are unable to purchase new vehicles, they will turn towards used vehicles, including non-California-compliant used vehicles from out of state. The potential for this unintended consequence should be monitored actively by CARB.

Conclusion

In conclusion, while we support CARB's commitment to cleaner air and lower emissions, we believe addressing the unintended consequences of the ACT and Low NOx regulations on vehicle availability is essential. We respectfully request that CARB work with dealers and stakeholders to explore rule modifications and strategies that will allow California dealers to provide customers with the newest and cleanest vehicles to meet the state's ambitious climate and air quality goals.

Thank you for your attention to this critical issue. Should you have any questions or comments about this letter or CNCDA's position, do not hesitate to contact me.

Sincerely,



Anthony Bento
Chief Legal Officer
California New Car Dealers Association