
SENATE COMMITTEE ON ENVIRONMENTAL QUALITY

Senator Blakespear, Chair

2025 - 2026 Regular

Bill No: AB 1436
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Fiscal: No

SUBJECT: State Air Resources Board: air pollution regulations: private fleets: exception

DIGEST: This bill prevents the California Air Resource Board from enforcing any regulation that directly or indirectly affects a private fleet, as stipulated, without a waiver from the federal Environmental Protection Agency.

ANALYSIS:

Existing federal law:

- 1) Prohibits, under the Federal Clean Air Act (FCAA), any state from adopting or attempting to enforce any standard relating to the control of emissions from motor vehicles unless granted a waiver to do so by the United States Environmental Protection Agency, who shall grant said waiver unless the standards are not, in the aggregate, at least as protective of public health and welfare as the federal standards; the state's determination of that fact is not arbitrary and capricious; the state has compelling and extraordinary conditions; and the standard meets technical feasibility and manufacturer lead time requirements. (42 U.S. Code § 7543)

Existing state law:

- 1) Establishes the California Air Resources Board (CARB) as the air pollution control agency in California and requires CARB, among other things, to control emissions from a wide array of mobile sources and coordinate, encourage, and review the efforts of all levels of government as they affect air quality. (Health and Safety Code (HSC) §39500 et seq.)
- 2) Requires CARB to adopt and implement technologically feasible emission standards for new motor vehicles to, among other things, ensure compliance with state air quality laws and the FCAA, and prohibit vehicles that do not comply with those emissions standards from being certified for use in the state. (HSC §43100 et seq.)

- 3) Requires CARB to adopt and develop regulations that achieve the maximum feasible and cost-effective reduction of greenhouse gas (GHG) emissions from passenger vehicles, light-duty trucks, or any other vehicles determined by CARB whose primary use is noncommercial personal transportation. (known as the Pavley law or Pavley Standards). (HSC §43018.5)
- 4) Establishes, the Advanced Clean Fleets (ACF) Regulation, Title 13 California Code of Regulations (CCR), Article 3.2 *et seq.*

This bill:

- 1) Prohibits CARB from enforcing any regulation that directly or indirectly compels compliance by private fleets that would be preempted under Section 209(a) of the FCAA until the required waiver or authorization is obtained.
- 2) Includes contractors or subcontractors of government entities as being in a private fleet for the purposes of this bill.
- 3) States that any provision or regulation adopted in violation of this bill is void and unenforceable.

Background

- 1) *Advanced Clean Fleets*. Approved unanimously by the CARB Board in April 2023, ACF requires a phased-in transition toward zero-emission medium-and-heavy duty vehicles. The rule was expected to generate \$26.6 billion in health savings from reduced asthma attacks, emergency room visits, and respiratory illnesses. Furthermore, CARB projected fleet owners would have saved an estimated \$48 billion in their total operating costs from the transition through 2050.

Under the rule, fleet owners operating vehicles for private services such as last-mile delivery and federal fleets such as the US Postal Service, along with state and local government fleets, would begin their transition toward ZEVs in 2024. The rule includes the ability to continue operating existing vehicles through their useful life. Due to the impact that truck traffic has on residents living near heavily trafficked corridors, drayage trucks will need to be zero-emission by 2035. All other fleet owners will have the option to transition a percentage of their vehicles to meet expected zero-emission milestones, which gives owners the flexibility to continue operating combustion-powered vehicles as needed. The flexibility is intended to take into consideration the available technology and the need to target the highest-polluting vehicles. For example, last-mile

delivery and yard trucks must transition by 2035, work trucks and day cab tractors must be zero-emission by 2039, and sleeper cab tractors and specialty vehicles must be zero-emission by 2042.

Since ACF is stricter than FCAA standards, CARB's ability to enforce the regulations was dependent on a waiver being approved by the US Environmental Protection Agency (US EPA). CARB submitted the waiver request on November 15, 2023. California has a long history of being granted waivers when requested from the US EPA as it sought to create its own air quality regime over the years, from vehicles and other sources. Conventional wisdom at the time of the request was that the ACF waiver would be granted, given a similar waiver for the ACT rule had been granted earlier in 2023.

- 2) *Tailoring ACF: accommodations and exemptions.* California's vehicle fleet is massive, complex, and (in some instances) absolutely vital to a safely functioning society. Similar to how California's clean energy goals include careful consideration of grid reliability, so too does ACF carefully balance the need to move rapidly towards a ZEV fleet with the need to respond to emergencies and maintain all utility services.

While the CARB regulations broadly address the ZEV transition for medium- and heavy-duty vehicles, not all vehicles are used for the same purpose and have the same operating requirements. Publicly owned utilities operate under unique and often challenging circumstances and their medium- and heavy-duty vehicle fleets are essential to provide communities with services such as water and power. Their specialty vehicles often need to travel long distances and work in remote areas on difficult terrain, and for extended periods of time. These vehicles often are needed for rapid response or emergency situations and require refueling in the field.

While ACF includes purchase mandates for all fleets, it also provides an alternative, flexible compliance option for state and local agencies called the ZEV milestone option. For some vehicles, the ZEV milestone option means they will not actually need to have 100% ZEV fleets until 2042.

Beyond the ZEV milestone option, ACF also includes a number of specifically tailored exemptions and delays. Most of these were proposed and further expanded or refined over CARB's three-year process to develop ACF. Briefly, there are exemptions from ACF allowing fleets to:

- a) Purchase internal combustion engine (ICE) replacement vehicles if a functionally-comparable ZEV is unavailable in the year of or the year before the compliance date;
- b) Purchase ICE replacement vehicles if available ZEVs do not meet the fleet's duty cycle needs;
- c) Delay implementation if infrastructure installation was delayed for reasons outside a fleet's control;
- d) Delay implementation if an ordered vehicle is not delivered in time;
- e) Completely exempt vehicles operated for under 1,000 miles a year;
- f) (Only for fleets with mutual aid agreements – i.e. utilities) Reserve up to 25% of the fleet's vehicles to remain exempt from the regulation's requirements, once the fleet reaches certain thresholds of ZEVs purchased;
- g) Calculate their fleet size in ways that accommodate the unique demands on rental fleets;
- h) Exempt vehicles that are in California for less than five days per year;
- i) Delay implementation by roughly three years for waste and wastewater fleets that are implementing organic waste diversion programs;
- j) Purchase new ICE vehicles if the original vehicle was totaled;
- k) Exempt snow removal vehicles from the regulation until 2030; and
- l) Exempt maintenance and support vehicles owned by transit agencies until 2030 so they can focus their efforts on moving transit operations to ZEVs.

All of these exemptions apply to contracted vehicles within covered fleets.

Through this painstaking process, CARB developed a first-in-the-world regulation to help accelerate the transition of the transportation sector to ZEVs while minimizing disruptions to essential services. After three years of active development, the ACF regulations were adopted unanimously by the CARB Board.

- 3) *...But then, everything changed.* On January 13th, 2025 (425 days after the request was submitted to the US EPA), CARB withdrew the FCAA waiver requests pending U.S. EPA approval that were necessary to enforce the majority of the ACF regulations.¹ Accompanying the decision, CARB issued an update that read:

“California has withdrawn its request for a waiver and authorization for the addition of the ACF Regulation to its emissions control program. At this time, CARB is evaluating next steps. CARB is not enforcing the existing portions of the ACF Regulation that require a federal waiver or

¹ Advanced Clean Fleets. CARB. <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets> Accessed 3/20/25

authorization, such as the portions of the ACF Regulation that apply to high priority and drayage fleets. However, not all elements of the ACF Regulation require a federal waiver or authorization. The state and local government fleets portion of the ACF Regulation remains unaffected. Because CARB is committed to reducing air pollution to protect public health, we encourage affected industries to continue reducing their emissions and we look forward to continued partnership in these efforts.”

Some in the remaining segment of the market still covered by ACF—state and local government fleets—have expressed consternation at still being subject to ACF under the new reality of ZEV policy in California.

All of these exemptions apply to contracted vehicles within covered fleets.

- 4) *California in the crosshairs.* Since the 1960s, California has sought and received waivers to enact stricter air pollution control standards than required under the FCAA. In 2025, Congress used the Congressional Review Act in a previously-unintended way to revoke three waivers that had previously been issued to California, thereby ending CARB’s ability to enforce them.

Even as recently as several weeks ago (June 12th, 2026), U.S. EPA sent to Congress four FCAA waivers that were previously granted to CA. Despite the Senate Parliamentarian finding last year that CAA waivers are not subject to the Congressional Review Act and ongoing litigation regarding the revocation of three CAA waivers last year, these four waivers will now be considered for rescission under the Congressional Review Act.

Comments

- 1) *Purpose of Bill.* According to the author, “The Advanced Clean Fleets regulation is one of several regulations developed by CARB as part of its strategy to transition the state’s transportation sector to zero-emission technologies. Under federal law, states are explicitly preempted from enforcing any standards relating to motor vehicle emissions, and California’s authority to adopt more stringent requirements exists only with EPA approval as granted via a preemption waiver.

“On April 2, 2026, CARB staff issued modifications to the ACF regulations that require private vehicles operated under contract with State and Local Governments to be treated as part of the public fleet for compliance purposes—effectively extending regulatory requirements to private operators through contractual relationships without a federal waiver.

“This raises significant legal, operational, and economic concerns. AB 1436 provides urgently needed legal certainty and prevents the implementation of a regulatory framework that is legally vulnerable and operationally unworkable.”

- 2) *Now’s not really a good time.* CARB does not adopt vehicle regulations on a lark; it does so to comport and comply with existing, legally binding standards and targets.

Take the FCAA. Under the FCAA, the US EPA developed health-based air quality standards for categories of so-called “criteria air pollutants” (Ozone, particulate matter, oxides of nitrogen, oxides of sulfur, carbon monoxide, and lead) and applied them to all states. States are required to report to the U.S. EPA on whether they meet the standards and to prepare “State Implementation Plans” (SIPs) for the attainment and maintenance of the standards. If a state or an area within it does not meet the standards, the plan must contain provisions for emission limitations and controls, emission reductions pending attainment, and a permit program for new and modified equipment or devices that emit or control the emission of air pollution.

If a state submits an inadequate SIP or fails to attain the standards by the deadlines established by the U.S. EPA, the consequences could be severe, including the imposition of a Federal Implementation Plan, a construction ban on certain new or modified sources, or a citizen's suit to enforce the state plan. Compliance with NO_x and PM standards has been out of reach for multiple California air districts for years, and absent strong efforts to reduce NO_x from medium- and heavy-duty vehicles, in some air districts there are simply not enough other NO_x sources to reduce to achieve the FCAA targets. This fact increases the likelihood of a citizen’s suit or federal action to enforce the law.

Beyond FCAA compliance and reducing criteria for air pollution, the state has multiple applicable GHG emission reduction goals. SB 32 (Pavley, 2016) requires statewide GHG emissions to be 40% below their 1990 level by 2030. AB 1279 (Muratsuchi, 2022) requires the state to be carbon neutral no later than 2045. Given transportation emissions account for roughly half of the state’s emissions, there are limited—if any—credible pathways to compliance when CARB’s flagship transportation emission reduction regulations continue to be stymied. Given the current dynamic between the state and federal governments, California should be thinking about actions that could be taken that do not require an FCAA waiver from the US EPA.

The proposal here may have consequences that would make it significantly harder for California to achieve its legally-required emissions reductions. Particularly given the fact that this bill was introduced less than three weeks ago and significantly amended since, there has not been time to assess all of the ways in which CARB's authority would be further restricted by AB 1436.

The committee may wish to hold this bill.

- 3) *Anything that "Directly or indirectly compels compliance by private fleets" is a wide, wide net.* The sponsors of this measure have conveyed to the committee multiple times that the bill seeks generally to restate existing law. Section 209 of the Federal Clean Air Act states that no state "shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part."

Although not entirely clear, there is a risk that (especially because of the use of the term "indirectly") the effects of this bill could go beyond what requires a waiver under the FCAA. CARB enforces many regulations today (e.g. Clean Truck Check) that do not set emission standards but do affect private fleets. Since CARB did not believe that they needed a waiver to enforce these programs, they did not seek or receive one. Although recent amendments provide for the bill to only apply to regulations "... that would be preempted under [the FCAA]", again, due to timing constraints it is not possible to appropriately assess how that determination would be made and could be challenged. Far beyond the state of things today, AB 1436 could put California significantly more at the mercy of the federal government to be able to enforce any regulation affecting private fleets in any way.

At a time where the federal administration has made it extremely clear they intend to thwart California's efforts to regulate motor vehicle emissions by any means necessary, it seems particularly ill advised to potentially require any regulation whatsoever that compels compliance for private fleets to obtain a U.S. EPA waiver before being able to enforce it.

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- 4) *Yes, contractors too.* The bill's supporters contend that CARB's proposed amendments to the ACF regulation are intended to expand the scope of the state and local government fleet section to capture private fleets that were not intended to be in the regulation originally. Not only does this not seem to be the case, this would be at odds with long-established practices for applicability of fleet requirements to contracted vehicles.

In light of the ongoing attacks on CARB’s ability to regulate vehicle emission standards, upon releasing the proposed regulations for the state and local government fleets, CARB also stated, “The proposed amended ACF regulation expands flexibility for all State and local government agencies while ensuring continued progress toward reducing and eliminating harmful motor vehicle emissions. Of particular note, the proposed amendments make clear that a public agency’s fleet includes vehicles it directly owns as well as vehicles it rents, leases, or contracts to operate on its behalf. The ACF regulation, as proposed to be amended, does not apply to private fleets.”

This is not the first time CARB (or any state agency) has applied similar requirements to contractors of a covered entity. Several of the many applicable examples include:

- a) The Fleet Rule for public agencies and utilities. Approved in 2005. Regulations state that covered transit agencies can contract out for all or part of the services provided, and that they must include language requiring the contractor to comply with all applicable laws.
- b) SB 1383. Approved in 2020. Regulations require jurisdictions to adopt enforceable ordinances to apply requirements to organic waste generators, haulers, and other entities subject to the regulation. Specifically states that a jurisdiction may designate a private entity to fulfill its responsibilities through designation via a contract or memorandum of understanding.
- c) State Contract Act. Enacted 1981, in Government Code 10231. Requires any state agency contracting out work to require each contractor to comply with all air pollution control rules, regulations, ordinances, and statutes which apply to any work performed pursuant to the contract.

Considering that extending legal requirements that apply to an entity to that entity’s contractors is a well-established precedent, it seems inappropriate to apply AB 1436’s interpretation that contracted entities should be exempt. Although there may indeed be conversations worth having about how state and local governments will comply with ACF under today’s ZEV market and policy landscape, a wholesale attack on CARB’s regulatory authority is not that.

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Related/Prior Legislation

SB 496 (Hurtado, 2025) would have made several changes to how CARB would administer ACF regulations, including establishing an advisory committee to appeal rejected exemption requests; significantly expanding existing emergency vehicle exemptions; and rewriting the daily usage exemption to make it easier for

fleets to use. SB 496 was held on suspense in the Senate Appropriations Committee.

SOURCE: California Renewable Transportation Alliance

SUPPORT:

Aemetis
American Biogas Council
Associated General Contractors of California
Associated General Contractors, California Chapters
Association of California Water Agencies (ACWA)
Bioenergy Association of California
Buena Park; City of
California Association of Recreation & Park Districts
California Association of Sanitation Agencies
California Bus Association
California Compost Coalition
California Construction & Industrial Materials Association
California Fuels and Convenience Alliance
California Legislative Conference of Plumbing, Heating & Piping Industry
California Municipal Utilities Association
California Renewable Transportation Alliance
California Special Districts Association
California State Association of Counties
California Tow Truck Association
California Trucking Association
California Waste Haulers Council
California Water Association
Calleguas Municipal Water District
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Elsinore Valley Municipal Water District
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Irvine Ranch Water District
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Mesa Water District
Mission Springs Water District
Modesto Irrigation District
Mountain Counties Water Resources Association
National Electrical Contractors Association (NECA)
Northern California Allied Trades
Olivenhain Municipal Water District
Padre Dam Municipal Water District
Rancho Water
Resource Recovery Coalition of California
Rng Coalition
Rural County Representatives of California
Sacramento Area Sewer District
San Bernardino Municipal Water Department
San Diego County Disposal Association
Santa Ana Watershed Project Authority
Santa Margarita Water District
Stanton; City of
Supply Chain Federation
The Transport Project
Tss Consultants
Turlock Irrigation District
Union Sanitary District
United Contractors (UCON)
Wall and Ceiling Alliance
Waste Connections, INC.
Western Line Constructors Chapter, Inc., Neca, INC.
Western Painting and Coating Contractors Association
Western Propane Gas Association
Western States Trucking Association
Western Wall and Ceiling Contractors Association (WWCCA)
Western Water
Wm (waste Management)

OPPOSITION:

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California Interfaith Power & Light
Center for Biological Diversity
Center for Environmental Health
Cleaneearth4kids.org
Climate Action California
Climate Resolve
Coalition for Clean Air
Earthjustice
Environmental Health Coalition
Environmental Defense Fund
Greenlatinos
Moms Clean Air Force
National Charging Access Coalition
Nextgen California
Nrdc
Regional Asthma Management and Prevention
San Francisco Bay Area Physicians for Social Responsibility
Sierra Club California
Union of Concerned Scientists

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