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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF CALIFORNIA
12 SACRAMENTO DIVISION

14 **AMERICAN FREE ENTERPRISE
15 CHAMBER OF COMMERCE; and
16 ASSOCIATED EQUIPMENT
DISTRIBUTORS,**

17 Plaintiffs,

18 v.

19 **STEVEN S. CLIFF, in his official capacity
20 as the Executive Officer of the California
21 Air Resources Board; and ROB BONTA, in
22 his official capacity as the Attorney General
of the State of California,**

23 Defendants.

2:24-cv-00988-TLN-CKD

**STIPULATION AND REQUEST TO
HOLD CASE IN ABEYANCE PENDING
OUTCOME OF RULEMAKING;
ORDER**

Courtroom: 2, 15th Floor
Judge: Hon. Troy N. Nunley
Trial Date: Not Set
Action Filed: April 1, 2024

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1 Defendants STEVEN S. CLIFF and ROB BONTA (Defendants), in their official capacities,
2 and Plaintiffs AMERICAN FREE ENTERPRISE CHAMBER OF COMMERCE and
3 ASSOCIATED EQUIPMENT DISTRIBUTORS (Plaintiffs) hereby submit this stipulation and
4 request for abeyance.

5

6 **RECITALS**

7 WHEREAS, on November 15, 2023, the California Air Resources Board (CARB)
8 submitted a request to the U.S. Environmental Protection Agency (EPA) seeking a Clean Air Act
9 preemption waiver for parts of CARB's Advanced Clean Fleets regulation, pursuant to Section
10 209(b)(1) of the Clean Air Act, 42 U.S.C. § 7543(b)(1);

11 WHEREAS, on April 1, 2024, Plaintiffs filed their complaint challenging the High-Priority
12 Fleet and Drayage Fleet requirements of the Advanced Clean Fleets regulation, California Code
13 of Regulations, title 13, Sections 2015 through 2015.6 (High-Priority); Sections 2014 through
14 2014.3 (Drayage);

15 WHEREAS, on June 17, 2024, Defendants moved to dismiss Plaintiffs' complaint, ECF 20-
16 1; and briefing on that motion is complete;

17 WHEREAS, on January 13, 2025, CARB withdrew its waiver request;

18 WHEREAS, Plaintiffs and Defendants (collectively, the Parties) have met and conferred to
19 discuss how this case should proceed in light of CARB's withdrawal of its waiver request;

20 WHEREAS, the Court has placed this case in abeyance to allow the Parties to continue
21 meeting and conferring about possible settlement, ECF 37;

22 WHEREAS, the Parties have reached an agreement that is anticipated to resolve this
23 litigation but will require time to execute;

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25 **STIPULATION AND REQUEST FOR ABEYANCE**

26 THEREFORE, IT IS HEREBY STIPULATED among the Parties, through their respective
27 counsel, as follows:

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1 1. In his official capacity, Defendant Cliff agrees that CARB staff will present a
2 proposal to repeal the High-Priority Fleet and Drayage Fleet Requirements of the Advanced
3 Clean Fleets regulation (California Code of Regulations, title 13, Sections 2015 through 2015.6
4 (High-Priority); Sections 2014 through 2014.3 (Drayage)) to the Board in a public hearing to be
5 held no later than October 31, 2025. The notice and the Initial Statement of Reasons for that
6 rulemaking action will be published on or before September 1, 2025. If the Board approves the
7 proposed repeal, CARB staff would submit that rulemaking action to California's Office of
8 Administrative Law (OAL) for approval no later than August 31, 2026.

9 2. Defendants agree that they will not take any enforcement action under the High-
10 Priority Fleet or Drayage Requirements against Plaintiffs or Plaintiffs' members, or otherwise
11 hold Plaintiffs or Plaintiffs' members subject to any of these requirements for the period
12 beginning with the earliest effective date of any of these requirements (November 1, 2023) and
13 ending when CARB or OAL (whichever acts latest) takes final action on the CARB rulemaking
14 described herein. If CARB's Board fails to approve the proposed repeal, Defendants will not take
15 any enforcement action or otherwise hold Plaintiffs or Plaintiffs' members subject to any of these
16 requirements for a period of at least 120 days following such decision to allow the Parties to
17 evaluate—and meet and confer about—next steps in light of the Board's decision.

18 3. The Parties agree that the case should be held in abeyance during the CARB
19 rulemaking described herein, to avoid wasting party and judicial resources.

20 4. Plaintiffs agree that if CARB finalizes, and OAL approves, the repeal of the High-
21 Priority Fleet and Drayage Fleet Requirements of the Advanced Clean Fleets regulation, Plaintiffs
22 will voluntarily dismiss their complaint against all Defendants pursuant to Federal Rules of Civil
23 Procedure 41(a)(1)(A)(i) within 15 days of when the repeal becomes effective under state law.

24 5. In the event the case is voluntarily dismissed, the Parties agree they shall each bear
25 their own costs and attorneys' fees.

26 6. The Parties agree that if OAL has not approved the subject repeal by October 15,
27 2026, the Parties will submit a joint statement within 30 days advising the Court how the Parties
28 propose to proceed.

1 IT SO ORDERED.
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5 DATE: May 30, 2025
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Troy L. Nunley
Chief United States District Judge

8 Dated: May 29, 2025
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Respectfully submitted,

11 ROB BONTA
12 Attorney General of California
13 MYUNG J. PARK
14 Supervising Deputy Attorney General
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17 */s/ Benjamin Lempert*
18 BENJAMIN LEMPERT
19 Deputy Attorney General
Attorneys for Defendants

20 Dated: May 29, 2025
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29 */s/ James Conde*
30 JAMES CONDE*
31 *Pro hac vice application granted
32 *Counsel for Plaintiffs*
33 (as authorized for all Plaintiffs on May 29,
34 2025)