CLIENT ALERTS & INSIGHTS

Driving Change: CARB's Impacts and Adaptations by Fleet Managers

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Environmental regulations, including those under the California Air Resources Board's ("CARB") jurisdiction, present a complex compliance challenge for vehicle fleet managers and operations departments across the country. Many of CARB's compliance obligations are in effect today. A number of other states are adopting similar or identical requirements expanding CARB's reach to trucking fleets nationwide. In an effort to comply with these regulations, fleet managers must start to employ compliance strategies to avoid enforcement issues and advantageously posture for the potential transition to zero emission vehicles ("ZEVs").

Regulations Impacting Fleet Managers: There is no shortage of CARB regulations that impact fleet managers. This is an environment in which the key regulations driving change amongst fleet managers must be understood to develop compliant implementation strategies and programs:

1. **Advanced Clean Fleets Regulation:** The Advanced Clean Fleets Regulation ("ACF Regulation") applies to drayage fleets and high priority fleets, or fleets that own, operate, or direct the operation of fifty (50) or more vehicles or fleets with $50 million or more in annual revenue. Specifically, the ACF Regulation requires high-priority fleets to gradually transition their fleets to ZEVs. Fleets must report their vehicles through California's Truck Regulation Upload, Compliance, and Reporting System ("TRUCRS") as a part of this transition. CARB will use TRUCRS to track fleets' progress in shifting to ZEVs.

   CARB uses a "Model Year Schedule" as the default cycle that fleets must follow as they transition to ZEVs. Under the Model Year Schedule legacy vehicles must be removed after the end of their useful life, which is either the earlier of eighteen (18) years or 800,000 miles or a minimum of thirteen (13) years if the truck has over 800,000 miles. High priority fleets using the "Model Year Schedule" must begin removing internal combustion engine ("ICE") vehicles exceeding their "useful life" from fleets beginning in January 2025. Fleet owners using the "Model Year Schedule" that attempt to extend the "useful life" by purchasing new ICE vehicles during the enforcement stay may find themselves unable to register these vehicles in California after 2024 because CARB reserved the ability deem such vehicles as non-compliant. An alternative to the Model Year approach is the "Milestone" option where high priority fleets must meet ZEV milestones as a percentage of their total fleet but can still add internal combustion engines. These internal combustion engines, however, must meet CARB's most stringent emissions requirements to comply with the ACF Regulation.

   The ACF Regulation also impacts drayage fleets, or in-use Class 7 or 8 vehicles used to transport containers and bulk goods to and from seaports and intermodal railyards. Operators of drayage fleets were required to register their trucks in TRUCRS by December 31, 2023. Legacy drayage trucks can continue to operate through their minimum useful life. Today, however, only zero-emission drayage trucks are permitted to register in TRUCRS to achieve CARB's goal of transitioning to all drayage trucks being zero-emission by 2035.

   As noted above, enforcement of the ACF Regulation is currently on hold as it is pending a waiver request with the U.S. Environmental Protection Agency ("EPA"). We are nonetheless actively advising clients in preparation for compliance so there are no surprises down the road. The impacts to fleet composition require careful planning and consideration to avoid costly charges or penalties.

TRU ACTM: Another important CARB regulation that imposes compliance requirements on fleets operating in California is the Airborne Toxic Control Measure for In-Use Disel-Fueled Transport Refrigeration Units ("TRU") and TRU Generator Sets, and Facilities where TRUs Operate ("TRU ACTM"). In 2022, the TRU ACTM was amended to impose new emissions standards, and like the ACF Regulation, require TRU owners to gradually transition to zero-emission TRUs. The TRU ACTM also required owners to report all TRUs operated in California to CARB and turnover at least 15 percent of their truck TRUs to zero-emission technology each year. The 2022 Amendment also addressed TRU leasing, since a rental or leasing entity is presumed to be the owner of a truck or trailer TRU responsible for CARB compliance if the lease agreement is for: a period of less than one (1) year; or a period of one (1) year or longer, unless the terms of the lease agreement identify the lessee as the entity responsible for compliance with state laws. TRU owners, such as lessors, may delegate their compliance responsibilities to lessees based on the term and language in the lease agreement.

The Clean Truck Check: Day-to-day operational challenges are also on the horizon for compliant fleet managers. The Clean Truck Check program, formerly known as the Heavy-Duty Inspection and Maintenance ("HD I/M") regulation, subjects nearly all non-gasoline vehicles with a gross vehicle weight rating ("GVWR") over 14,000 pounds that operate in California to periodic emissions testing. These testing requirements help ensure that heavy-duty vehicles operating in California remain equipped with properly functioning emissions controls, and malfunctioning get repaired in a timely manner.

The Clean Truck Check program consists of several key components designed to improve emissions compliance and foster the transition to cleaner trucking fleets and is implemented through a multi-phased approach. Under the Clean Truck Check program heavy-duty vehicles are subject to regular inspections to assess their emissions performance and compliance with California's stringent air quality standards. These inspections help identify vehicles that may be emitting excessive pollutants and require corrective action to bring them into compliance. CARB employs robust monitoring and enforcement mechanisms to ensure compliance with Clean Truck Check requirements. Non-compliant vehicles may be subject to penalties, fines, or enforcement actions to encourage adherence to emissions standards and regulatory mandates.

CARB Regulations Beyond California: Fleet managers with terminals and lanes outside California are not spared from the challenge of emissions regulations directly impact their power unit count, traffic routing, and day-to-day compliance obligations. The impact of CARB's regulations extends far beyond California's borders, as other states across the nation increasingly look to adopt similar measures to address environmental challenges. Several states have already adopted CARB's regulations or similar regulations modeled closely the regulations developed by CARB. These states include Oregon, Washington, Colorado, and several Northeastern States. In addition, Illinois is currently considering legislation that would adopt CARB's current and future regulations.

This veritable “patchwork quilt” of compliance obligations poses challenges for fleet managers navigating complex regulatory landscapes. Implementation costs and infrastructure requirements influence the success and effectiveness of regulatory measures aimed at reducing emissions and promoting cleaner technologies. Further, fleet managers must now contemplate how to their transportation goals with a number of states throughout the US considering their vehicles as “noncompliant.”

Compliance and Strategy: With reporting and ZEV requirements currently in place, or soon to take place, we are advising fleets on measures to meet or exceed the compliance standards. Should CARB or other states fully enforce these regulations, failure to comply could result in significant fines or an inability to operate. Fleet managers and their compliance or operations departments are taking various measures to ensure compliance including the examples shown below:

1. **Fleet Accountability and Projections:** While compliance with these regulations can be quite the undertaking, fleets may at least obtain accurate counts of their fleet vehicles, including leased vehicles for which they are responsible for reporting under these various regulations. If possible, fleets can forecast growth or reduction to contemplate how they will meet the various thresholds as these regulations take effect and increase the percentage requirement of zero-emission vehicles.

   Compliant Vehicle Sourcing: With the transition to ZEVs impending, some fleets are moving ahead in sourcing ZEVs to meet future compliance requirements. Today there are scare amounts of compliant vehicles for sale, and some fleets are claiming spots in line by ordering compliant vehicles now to avoid future competition over limited resources. Fleets finding that compliant vehicles are unavailable may find compliance with owning or operating the requisite number of ZEVs to be an issue. Thus, these fleets may then need to start the laborious process of seeking compliance exceptions from CARB based on a lack of available resources, which can help reduce future penalties.

   ZEV Availability: California and the U.S. EPA will impose ZEV production requirements on heavy-duty vehicle manufacturers to facilitate a fleet's transition to ZEVs and compliance with ZEV requirements. Both California's Advanced Clean Truck Regulation ("ACT Regulation") and the U.S. EPA's Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles - Phase 3 impose standards on these manufacturers to annually produce an increasing percentage of ZEVs. The ACT Regulation came into effect in 2024 and requires 5% - 9% of model year 2024 heavy-duty vehicles sales in California be ZEVs. The U.S. EPA's standards will not come into effect until 2027, although several organizations have announced challenges to the U.S. UPA's new standards. Despite the potential challenges, heavy-duty vehicle manufacturers are already transitioning to the production of additional ZEVs which should increase the number of available ZEVs for fleets to purchase.

   Financial Assistance and Additional Resources: The initial investment to upgrade or replace vehicles, coupled with ongoing maintenance costs, pose financial hurdles for many fleet managers particularly smaller ones. CARB offers financial assistance and incentives as well as training and information sessions to support fleet owners in transitioning to cleaner technologies through some of its regulations. For example, agency initiatives such as the Cal Fleet Advisor provides fleets with both ongoing guidance and one-off advice. These resources not only help mitigate the financial burden but also accelerate the adoption of cleaner technologies within the trucking industry.

Preparing You for the Road Ahead: Fleet managers' compliance obligations are only beginning to grow in complexity and geography with more states adopting CARB's regulations, or their own variation of a CARB regulation. The development of a practical operational approach to ensure compliance with CARB regulations while optimizing profit is imperative for fleets that wish to thrive in this new landscape.

Benesch's Transportation & Logistics' Sustainable Transportation Regulatory Environmental Emissions Team (the "STREET") is available to assist with developing compliant operations that satisfy CARB requirements.

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