



December 15, 2023

The Honorable Jula S. Moore
Secretary
Vermont Agency of Natural Resources
1 National Life Dr.
Montpelier, VT 05620

RE: Proposed Amendments to 10 VSA Sections 554, 558, 567 of the Regulations of Vermont State Agencies

Dear Secretary Moore:

On behalf of the American Bus Association (ABA), we submit comments in response to the Vermont Agency of Natural Resources (ANR) Notice of Intent to Amend Chapter 40, Vermont Low Emission Vehicle and Zero Emission Vehicle Rules, which were effective December 16, 2022 (Notice). The stated purpose of ANR's action is to adopt the newly amended California Low NOx 'Omnibus' (Omnibus) regulations, promulgated by the California Air Resource Board (CARB). Before proceeding with the adoption of these regulations, ABA believes there are a number of outstanding issues ANR should clarify, particularly in seeking to adopt regulations that are not yet final.

The ABA is a non-profit industry national trade association representing private bus and motorcoach operators, manufacturers, and suppliers, in addition to tour/travel entities, destination marketing organizations and convention and visitors' bureaus. Our members provide critical transportation services supporting employment, education, recreation, emergency response and defense activities within the state of Connecticut and throughout the country. The bus industry is also the leading public transportation mode serving the needs of rural and underprivileged communities in a safe and economical manner. Private bus operators are key partners with the other modal operations, including public transits, Amtrak and airlines, ensuring a robust national transportation network is accessible to all.

Bus operations, by design, are one of the most environmentally friendly forms of transportation. A motorcoach vehicle can take up to 35 personal vehicles off the road, providing both congestion relief and emissions reduction. Also, with the advent of cleaner burning fuels and advancement in emissions technology through the years, bus operations have increasingly become more

efficient and effective in reducing the industry’s carbon footprint.¹ As an industry, bus operators are proud of these efforts and eager to pursue continued advancements in the race to address climate change, including the pursuit of zero-emission vehicles (ZEVs). However, it is crucial to the survival of the industry that this pursuit be reasonable, and account for both the historical benefits buses have made toward emissions reductions as well as the technological and economic feasibility of making the transition to ZEVs. As an industry, we are concerned that, due to our size, bus operations and fleets are often overlooked or inappropriately aggregated with other types of motor carriers when it comes to improving the environmental or congestion impacts of heavy-duty diesel vehicles. Motorcoaches use the exact same engines as large trucks, although we provide a very positive environmental impact. Yet often the focus (and outreach) of these initiatives has generally been targeted toward freight-carrying vehicles or trucks and has not taken into account the benefits bus fleets contribute to the climate change fight, or the unique challenges the long-distance bus industry faces to achieve a ZEV transition without considerable investment in infrastructure. Additionally, incentives are needed to provide support from states and local governments to the small family-owned businesses that make up 90% of the motorcoach industry. These important political entities don’t often realize that the motorcoach operations they most need to support are ones who are domiciled hundreds, if not thousands of miles away, but have a substantial impact on their economy as well as the environment.

With these considerations in mind, we offer the following comments:

Procedural Concerns

Initially, ABA seeks clarification on the process enabling ANR to proceed with adopting the amended emissions regulations that are still being further amended. It is our understanding that CARB is still awaiting approval of its waiver request to the Environmental Protection Agency (EPA) for the Omnibus regulation per the Clean Air Act, and has requested additional time before the Agency acts on the waiver request.² Further, as announced on June 28, 2023, CARB entered into an agreement³ with various heavy-duty on-highway engine manufacturers, committing to, among other things, amend its Omnibus regulation. CARB has since issued a notice soliciting comments and holding a public hearing on its proposed amendments to the Omnibus regulation.⁴ These additional amendments are still out for comment through December 21⁵ and are not final. Based on these actions, it is premature for ANR to proceed any further toward adopting the Omnibus regulations (or their amendments) at this time. According to Section 177 of the Clean Air Act, which ANR cites as its authority to proceed with this action,

¹ Updated Comparison of Energy Use and CO₂ Emissions from Different Transportation Modes, <https://www.buses.org/assets/images/uploads/general/2019%20UPDATE%20Comparative%20Fuel%20CO2%20FIN AL-July%202019.pdf>

² [Environmental Protection Agency Summary, California Waiver Requests for Heavy-Duty Vehicle Emission Regulations](#), April 6, 2023.

³ [CARB-Heavy-Duty On Highway Manufacturers Agreement](#), July 7, 2023.

⁴ [Notice of Public Comment Period on Proposed Amendments to the Heavy-Duty Engine and Vehicle Omnibus Regulation](#), Aug. 1, 2023.

⁵ [Notice of Public Availability of Modified Text Proposed Amendments to the Heavy-Duty Engine and Vehicle Omnibus Regulation](#), December 6, 2023.

for a state to adopt California's standard, EPA must first grant a waiver for the standard.⁶ For this reason, ABA believes ANR should suspend this proceeding, which will also provide the opportunity for ANR to gain a better understanding of the private bus and motorcoach industry, many of whom are coming from out of state and the effect the amended regulations would have on industry operations as well as their own enforcement initiatives.

The engines subject to the emissions regulations are not only used in truck vehicles, but also in buses and motorcoaches as well. Because ANR only references trucks in the Economic Impact Analysis, we are concerned an important segment of Vermont's transportation network was not accounted for in the analysis. Further, diesel engines are not built as stand-alone products, they are components of vehicles that operate in commerce. The impact of the emissions regulations goes far beyond a one-time reporting requirement, and the expectation of only short-term cost increases to small businesses is no small factor. It is too narrow of a view to limit the regulatory impact analysis simply to an assessment of engine and vehicle manufacturing, when it is the operation of these engines that affect the environment. In addition, it is not so simple of task to reconfigure the entire motorcoach sales network and pre-determine which states vehicles will be set up to operate in advance of their sale. And to then have an entirely different motorcoach sales network in states that are following the EPA's heavy duty engine emissions rules, where vehicles are available on a first come, first served basis. The entire purpose of the Emissions Regulations is to reduce harmful emissions; this cannot be done without considering the operating use of the engines by vehicle operators and the benefits they might provide to the environment. In addition, long distance fleet operations and interstate truck and motorcoach operations were ignored in the ANR analysis. This analysis was heavily relied upon in justifying the need for Vermont to adopt California's emissions standards (and the pending amendments), and a full presentation of heavy-duty vehicle operations in the state was needed. When properly considered within a realistic context, accounting for both the manufacture *and use* of the engines for both trucks and motorcoaches, there will be a far greater regulatory impact than anticipated. While Vermont is home to a limited number of motorcoach operations who will all be affected by the adoption of these rules, there are many more whom pass through the state and bring visitors to major tourist destinations like Montpelier or Burlington, and to visit maple farms or see fall foliage. These businesses are entirely dependent on the OEMs complying with the Emissions Regulations. If, for example, the OEMs cannot produce engines or vehicles in compliance with the Emissions Regulations by the deadline or they can do so only at an excessive cost, small business operators will be in jeopardy and not just the ones in Vermont. For these reasons, ANR should revise its analysis to fully capture the reach of these regulations, and comply with the other provisions of the Act, such as identifying alternative compliance methods or consider an exemption. A suspension of this proceeding would enable ANR to undertake this effort.

Substantive Concerns

In addition to the procedural concerns yet related to the fact that operating businesses rely on the engines subject to these regulations, ABA has several concerns with the Emissions Regulations.

First, it is our understanding the engine OEMs have given notice to CARB and motorcoach vehicle manufacturers of their technological inability to comply with CARB's Omnibus

⁶ [Clean Air Act, Section 177 \(42 USC 7507\)](#).

regulation, which led to the Agreement and CARB's proceeding to amend the Omnibus regulation. Although the Agreement appears to address some of the technical issues limiting the OEM's abilities for the out years, MY 2027 and beyond, it does not address short-term challenges, e.g., MY 2024-2026 (and 2025-2026 in the case of Vermont). The engine OEMs have informed the motorcoach vehicle manufacturers they are incapable of meeting the CARB goals, and there will be little to no supply of compliant engines available for new motorcoach vehicles in the upcoming years before re-alignment with the EPA regulations. Motorcoach vehicle manufacturers, in turn, are currently contacting their customers informing them of this impending crisis. Faced with possible new-vehicle shortages, motorcoach operators are weighing plans to retain equipment that would otherwise be replaced for longer, delaying transition to lower emitting equipment and reducing their operational footprint in some states.

Emissions goals should be reasonable, considering what is technologically and economically feasible. Engine OEMs and motorcoach vehicle manufacturers need additional time and/or flexibility to meet the stringent emissions standards established by CARB in the Omnibus regulation. In fact, this fact is what led to the negotiation between CARB and the heavy-duty on-highway manufacturers, resulting in the Agreement and CARB's proceeding to amend its Omnibus rule. These negotiations did not include representation from the bus and motorcoach industry, and challenges persist for motorcoach vehicle manufacturers, and in turn motorcoach owners, in meeting CARB standards. The changes CARB is making to its Omnibus rule bring the regulation closer to alignment with the EPA's 2022 Heavy-Duty Engine and Vehicle Standards NOx rule adopted in 2022 (NOx rule),⁷ which is helpful, but they do not go far enough, which is why they required additional amendment. The EPA NOx rule meets the need for emissions reduction in a reasonable manner, considering technological and economic feasibility as well as a responsible motorcoach-specific engine derate schedule. Vermont should suspend this proceeding, and instead remain compliant with EPA's NOx rule, which engine and motorcoach vehicle manufacturers have been working toward for years.

Further, prior to MY 2026/2027, motorcoach vehicle manufacturers are unable to assure motorcoach operators of their ability to produce ZEVs, to meet the longer-term sales deadlines established by the Advance Clean Trucks regulations or secure credits for legacy engine sales under this Omnibus initiative. The motorcoach industry is very supportive of the advancements underway in terms of addressing climate change, and believes ZEVs are part of this advancement. However, fundamental issues must be resolved before ZEVs can become a viable option for the motorcoach industry, and these issues need to be resolved before setting target deadlines for compliance. In addition, there is still significant confusion and work to be done to develop the credit calculation system for CARB and other state agencies adopting CARB's regulations. There continue to be a number of workshops to craft legacy engine credit development programs and there is a lack of clarity on the transparency of the legacy engine credit calculation and assignment processes.

California has a lengthy history of incentivizing and supporting the transition to zero-emission vehicles. The State supports a variety of state-funded programs for different vehicle sectors, to utilize for fleet transition as well as to advance infrastructure development. Vermont has not yet

⁷ [Control of Air Pollution From New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards](#), Jan. 24, 2023, Fed. Reg. Vol. 88, p. 4296.

taken these same steps or established programs to assist motorcoach or truck operators in making a transition in step with the proposed schedule in the regulations currently under review.

Conclusion

It is premature for Vermont to consider adopting the CARB Omnibus regulations and their amendments. Procedurally, the Omnibus regulation is not final, and ANR needs to broaden its analysis of the impact of the Emissions Regulations on small businesses. More practically, the Emissions Regulations are too stringent and, according to engine OEMs, the technology does not yet exist to comply with the regulations. The legacy engine credit programs that are being relied upon to help bridge the gap and provide additional flexibility are still being developed and are unrefined. Vermont should suspend this proceeding, and instead remain aligned with the EPA NOx rule.

ABA supports the goal of emissions reduction within the transportation sector. Bus operations, by design, are one of the most environmentally sensitive forms of transportation. A motorcoach vehicle can take up to 50 personal vehicles off the road, providing both congestion relief and emissions reduction. ABA looks forward to seeing the industry continue to advance toward ZEVs in a responsible manner, but it must be done in a reasonable and economically feasible manner to be successful. Thank you for providing the opportunity to submit comments on this important issue. We look forward to working closely with you in the future and are happy to answer any questions should you have any. Please feel free to contact ABA's Suzanne Rohde at (202) 218-7224 or srohde@buses.org with any inquiries.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Brandon Buchanan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Brandon Buchanan
Director of Regulatory Affairs



Steve Henderson
Vehicle Regulatory Strategy & Planning
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Ford Motor Company
One American Road
Dearborn, MI 48126

Via email

December 14, 2023

Vermont Agency of Natural Resources
Department of Environmental Conservation
Air Quality and Climate Division
anr.declevez@vermont.gov

Subject: Ford Comments on Proposed Amendments to the Low Emission Vehicle and Zero Emission Vehicle Rules

Ford Motor Company (Ford) is committed to reducing emissions and considers Vermont and other states as important partners in this goal. Due to long planning lead times and high development costs in the automotive industry, it is important to Ford that regulations be aligned as much as possible to eliminate unnecessary and wasteful churn in development and complexity in certification and in manufacturing. Further, states that adopt California's new vehicle standards must implement those in the same way as California and otherwise maintain identity.

To this end, Ford supports the proposed amendments to Vermont's adoption of California's Heavy-Duty Engine and Vehicle Omnibus (HD Omnibus) regulation, particularly because this would allow manufacturers to earn and bank credits beginning with the 2022 model year. This will more closely align Vermont's HD Omnibus regulation to that of California and other states that have adopted HD Omnibus, and we believe it will contribute positively to the regulation's success, allowing recognition of emissions savings over the full life of the program.

If you have any questions, please contact Luke Spinolo, Vehicle Regulatory Strategy & Planning (pspinolo@ford.com). We appreciate the opportunity to comment as well as the Agency's time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Henderson".

Steve Henderson