



# ANNUAL BOARD MEETING

## October 10<sup>th</sup>, 2025

### W Hotel/Mandalay Bay Resort, Las Vegas, NV

3950 S Las Vegas Blvd, Las Vegas, NV 89119  
(702) 632-7888

Saturday, October 11 <sup>th</sup>	WSTA Membership & Board Meeting Agenda (Open)	Room/Location
09:00 a.m. – 10:00 a.m.	<i>Breakfast - Continental</i>	<i>Sage BC</i>
09:00 a.m. – 04:00 p.m.	General Board Meeting – <i>Covering Agenda for the Day</i>	<i>Sage BC</i>
09:00 a.m. – 09:30 a.m.	<ul style="list-style-type: none"> <li>▪ EC Recommendations &amp; Updates</li> <li>▪ WSTA Financials – (See <i>Hand-out</i>)</li> <li>▪ Membership Additions and Changes Approval</li> <li>▪ Staff Reports</li> </ul>	<i>Sage BC</i>
09:30 a.m. – 9:40 a.m.	Scholarship Committee – Updates	<i>Sage BC</i>
09:40 a.m. – 10:15 a.m.	Mark Sturdevant, PCD, Inc. - The Key to Good Corporate Credit	<i>Sage BC</i>
10:15 a.m. – 11:15 a.m.	2025 Legislative & AB 5 Updates – Kirk Blackburn & Pat Whalen	<i>Sage BC</i>
11:15 a.m. – 11:30 a.m.	Insurance Updates – David Martini-Marsh, McLennan Ins. Agency & Dianna Webster	<i>Sage BC</i>
11:30 a.m. – 12:00 p.m.	Affiliate Programs Updates – Existing & New Services	<i>Sage BC</i>
12:00 p.m. – 1:35 p.m.	Lunch – <i>Hosted by AADT</i>	<i>Sage BC</i>
01:45 p.m. – 02:45 p.m.	CARB Regs: ACF/ACT/CTP Legal – Sean Edgar, <i>Cleanfleets.net</i>	<i>Sage BC</i>
02:45 p.m. – 03:45 p.m.	Steve Milloy (Closing Guest Speaker) – The New EPA & Much	<i>Sage BC</i>
03:45 p.m. – 04:00 p.m.	Old/New Business	<i>Sage BC</i>
05:00 p.m. – 07:00 p.m.	Cocktail Social – Hosted by Marsh & McLennan Ins.	<i>Skyfall Lounge</i>

## Time is Running Out for the 84<sup>th</sup> Annual WSTA Board Meeting - Las Vegas

***RSVP – Us by August 29<sup>th</sup> to Get the Best Room Rates***

We'd really like to encourage those who have not attended a meeting or have not attended recently to come to our Annual Membership meeting this fall. It will be held at the W Hotel (Mandalay Bay) in Las Vegas (south end of the strip) this October 9<sup>th</sup> 10<sup>th</sup> & 11<sup>th</sup> ...and not only will it be a great time to

catch up on association activities, you'll be able to mix in a little fun...and it's a good tax event! So go online to [westrk.org](https://westrk.org) and link to the event ad.

## Guest Speakers You Should Not Miss! Saturday the 11<sup>th</sup>

### AB5 Updates



#### **WSTA Legal Counsels – Pat Whalen and Kirk Blackburn;**

During our last Board Meeting in Palm Desert, our legal counsels really delivered high level analysis on a whole range of issues. Association legal counsel, Kirk Blackburn and Pat Whalen of Ellison Wilson Advocacy LLC in Sacramento gave many important updates especially on AB 5 compliance.

Our legal team has done a deep dive into updating FAQ's that were posted to the Labor & Workforce Development Agency (LWDA) website which included a Public Records Act submittal requesting all documents related to the posted updates. After poring through the tranche of documents, they discovered that the State has now softened its position on some of the B2B prongs (in AB 5), including the requirement in Labor Code 2776, subdivision (a)(2) which states "The business service provider is providing services directly to the contracting business rather than to customers of the contracting business." This was always deemed problematic in the context of trucking where an O-O or other subhauler could be deemed to be carrying product for the ultimate customer, rather than the broker above them. Now, however, as a result of other litigation, the State is saying that contracting with another trucking business is fine. Here's a passage from one of the State's legal briefs:

#### **Subsection b. Plaintiffs and OOIDA Are Not Prohibited from Using Independent Contractors Under AB 5.**

Plaintiffs' and OOIDA's preemption claims also fail because they apparently did not demonstrate that AB 5 prohibits motor carriers from working with drivers properly classified as independent contractors. Those seeking to work as independent contractors may utilize the business-to-business exemption. California Labor Code section 2776, subdivision (a) provides that the ABC test "do[es] not apply to a bona fide business-to-business contracting relationship," if an individual acting as a sole proprietor or a similar business entity "contracts to provide services to another such business." *Bowerman v. Field Asset Servs., Inc.*, 60 F.4th 459, 478 (9th Cir. 2023). If these conditions are met, the applicable test of Appeal has recognized, the motor carrier industry already utilizes "legally organized business entities and appear to be among the kinds of businesses contemplated by the business-to-business exemption." *Cal Cartage*, 57 Cal. App. 5th at 632-34. This is a significant improvement on one of the more difficult "prongs to satisfy in the B2B exemption."

Of course, the key "prong" for negotiating one's own rates may still be difficult. (See Lab. Code sec. 2776, subd. (a) (10).) According to a chart on their website, merely turning down work is not enough to show "negotiation" but there are no citations to support that narrow interpretation.

So, overall, this is a promising development, as it indicates that it is at least possible for trucking companies to use the AB 5 B2B exemption, which would return them to the original Borello test rather than the more onerous ABC Test. Our legal team is still determining how best to utilize this new info, including any potential refinements to subhaul agreements to minimize potential liability.

## EPA, CARB and The Trump Administration



**Featured Keynote Speaker - Steve Milloy** has been fighting against the use of agenda-driven bad (junk) science for 35 years. Milloy is a biostatistician and lawyer by training and has been an environment and public health consultant, securities lawyer, registered securities principal, investment fund founder and manager, coal company executive, non-profit executive, and a print/web columnist on science and business issues. He sits on the boards of six not-for-profit organizations

focused on energy, environmental and investment issues. Milloy has authored six books and 1,000+ articles in major newspapers and web sites including the Wall Street Journal, FoxNews.com, USA Today, New York Post, Washington Times, and many other print and web outlets. Mr. Milloy served on the transition team for the Trump EPA during 2016-2017, developing the plans for overhauling how EPA does science.

### General Presentation Points Closing Speaker:

Introduction: Situational Awareness for Success in the Swamp

**Emissions science:** No shame or guilt about emissions...

- Rolling back the endangerment finding. Reasons and status.
- Rolling back PM, ozone and NOx. Reasons and status.

**Federal and State Swamp:** Being right is not enough.

- EPA
- CARB/Other blue/red states
- Industry opponents...
- Media.
- Glider catastrophe.

**Working with the Trump administration:** Having Trump on your side is not enough.

- MAGA and the non-MAGA parts.
- Knowledgeable and non-knowledgeable parts.

## Multiple Legal Cases Against CARB and EPA



**Legal Updates - Sean Edgar** is Director and Project Manager at CleanFleets, an environmental engineering company with proven results for diesel equipment owners facing costly compliance and maintenance issues. CleanFleets' staff has over 80 years of combined experience serving diesel fleets to ensure your bases are covered.

**Bills to Kill EV Mandate:** Three Congressional Review Act (CRA) resolutions have been passed by the Republican controlled Congress. One resolution garnered 35

Democrat votes in the House. The resolutions invalidate the CARB Advanced Clean Cars II, the Advanced Clean Trucks (ACT), and the Low NOx Omnibus regulations. On June 12, 2025 President Trump signed them into law. That same day, CARB and ten like-minded states filed a federal lawsuit calling the new laws an unlawful use of the CRA process. CARB is defending their program and seeking to continue implementing ACT and Omnibus regulations through their waivers previously approved by the Biden Administration. As a backstop CARB is claiming that its Clean Truck Partnership agreement with the OEMs remains valid and enforceable (see article on the CTP). The bottom line is that the federal government has made new law that CARB and their followers are actively trying to invalidate. Interestingly, former CARB Chair Mary Nichols observed in a recent interview that, "the state felt like they had all the cards in their hand, and then after the election, it was pretty hard to reset the conversation." WSTA will continue our federal litigation and explore new opportunities to intervene in support of the current EPA Administrator overturning CARB's authorizations.

**Administrative Reviews by EPA:** During the Obama Administration the EPA adopted a policy on greenhouse gas (GHG) that is commonly known as the “Endangerment Finding.” This policy adoption essentially determined GHGs to be pollutants that endangered the public and air quality. It did not include an economic analysis of clean power and clean transportation regulations that flowed from the adoption of the policy. WSTA understands that EPA Administrator Zeldin has recommended removal of this policy which will again likely result in legal action by environmental justice organizations. WSTA will likely be intervening “in support” of the EPA’s position. Among the possible outcomes could be the repeal of the GHG “Phase 3” Regulation that was passed by EPA in mid-2024 in which the truck OEM’s are mandated to meet fuel economy standards that they claim can only be met with high levels of ZEV truck manufacturing. Think of this as the Biden version of CARB’s ACT which the CRA has now outlawed.

**Federal Litigation Update:** WSTA legal counsel and staff are involved in the following federal matters.

**Nebraska v. EPA, D.C. Circuit Case No. 24-1129.** WSTA and CIAQC are petitioners, along with several other private parties and red states. This is a challenge to the EPA Greenhouse Gas Truck Emissions Rule that implements a Biden-era executive order essentially requiring electrification of trucks nationwide. The case is in abeyance pending the Trump Administration’s decision regarding what to do with this Biden-era rule. EPA must provide the court with status reports every 90 days.

**Kentucky v. EPA, D.C. Circuit Case No. 24-1087.** WSTA and CIAQC are petitioners along with several other private parties and red states. This is a challenge to EPA Greenhouse Gas Car Emissions Rule that implements a Biden-era executive order essentially requiring electrification of light and medium-duty vehicles nationwide, i.e., “50 percent of all new passenger cars and light trucks sold in 2030 must be zero-emission vehicles.” Like *Nebraska v. EPA*, the case is in abeyance pending EPA’s review of the Biden-era rule.

**WSTA v. EPA, D.C. Circuit Case No. 23-1143.** WSTA and CIAQC are the lead petitioners. This is a challenge to EPA’s approval of CARB’s Advanced Clean Trucks Rule, which requires California truck sales of 40%, 55%, and 75% (depending on the type of vehicle) to be zero emissions by model year 2035. This case also challenges EPA’s approval of California’s 2018 HD Warranty Amendments. The case is in abeyance pending the D.C. Circuit’s decision in two other cases, *Ohio v. EPA*, D.C. Circuit Case No. 22-1081, and *Texas v. EPA*, D. C. Circuit No 22-1031. However, the EPA waiver that is the subject of *WSTA v. EPA* was rescinded by resolution of Congress under the Congressional Review Act (CRA). If the CRA survives the *CARB v. EPA* lawsuit filed on June 12, 2025 (discussed above), the three waiver grants discussed in this paragraph will be effectively negated and our suit resolved.

**Ohio v. EPA.** WSTA filed an amicus brief on behalf of WSTA supporting the petitioners. That case was a challenge to the Biden Administration’s March 2022 approval of California’s waiver request for the Advanced Clean Car program that the Trump 1 Administration had rejected. The Court held in *Ohio v. EPA* that the private petitioners lacked standing. The Supreme Court held oral argument on the private party petitioners’ standing issue just a few weeks ago. We do not yet have a decision from the Supreme Court. If the Supreme Court holds that the private parties have standing, the case will go back to the D.C. Circuit for deliberation on the merits. This Biden-era waiver grant is not subject to the recent action of Congress under the CRA.

**Nebraska v. CARB.** Two Separate actions. Both have been dropped.

**State Litigation Update:** WSTA legal counsel and staff are involved in or monitoring the following state court matters.

**Western Propane Gas Association v. CARB.** In May 2025, CARB announced a settlement with the WPGA to pause enforcement of the Zero Emission Forklift Measure until it gets a federal waiver

(which the current EPA is unlikely to grant and the HJR bills pending Trump's signature would prohibit CARB from getting.

**WSTA v. CARB.** Filed in July 2023 in Fresno Superior Court, WSTA alleges that CARB conducted inadequate environmental, economic and scientific analysis of the ACF Regulation's impact. WSTA's legal comments to CARB with alternatives and demands to follow existing law were completely ignored. Because there is no current litigation to impede CARB from doing a pared down version of ACF anytime soon the litigation continues. Furthermore, CARB published guidance not approved by their Board that could have drawn owner-operators and small fleets into what they claimed was a 50 truck and larger rule. CARB backed away from that in October 2024, scoring an early victory in WSTA's efforts to protect its members.

***WSTA Petitions Office of Administrative Law Over Underground Rulemaking by California Air Resources Board  
Our Target was the Clean Truck Partnership***

In June, the Western States Trucking Association filed a petition with the California Office of Administrative law seeking a finding that CARB violated California's Administrative Procedures Act (APA) by entering into a private agreement with truck OEM's to adhere to selling only zero-emissions trucks in California (despite federal action to block the rule) and not inviting public comment to the agreement (a cornerstone to the APA). On October AOL responded by saying, "OAL declines to accept your petition."

**Why We Fight:** CARB's ACF withdrawal, while a welcome delay, does not resolve WSTA's concerns about CARB. There is nothing to say that CARB will not simply wait a year or two and time a new ACF to coincide with the January 2029 exit of Donald Trump. Legal challenges to CARB's zero emission vehicle mandates are moving closer to the courtroom. Since the COVID-era push to outlaw internal combustion of petroleum fuels, WSTA has participated in the federal and state legal proceedings in which CARB passed several zero emission mandates and the prior EPA rubber stamped them. WSTA should view the legal challenges as the opportunity to cut the head off the snake that has been biting you for decades by restricting CARB's state and federal authority in a lasting way through victory in the courtroom. Questions may be addressed to Sean@CleanFleets.net or (916) 718-7050.