

DATE: May 07, 2018

TO: All Interested Parties

SUBJECT: REQUEST FOR PUBLIC INPUT ON POTENTIAL ALTERNATIVES TO A POTENTIAL CLARIFICATION OF THE "DEEMED TO COMPLY" PROVISION FOR THE LEV III GREENHOUSE GAS EMISSION REGULATIONS FOR MODEL YEARS AFFECTED BY PENDING FEDERAL RULEMAKINGS

The California Air Resources Board (CARB) is considering options to best ensure that the greenhouse gas (GHG) emission benefits in California from the current national program and California's light-duty vehicle GHG regulation are maintained. CARB's GHG standards allow manufacturers the option to meet the U.S. Environmental Protection Agency's (U.S. EPA) GHG standards through model year 2025 (referred to as the "deemed to comply" provision). The U.S. EPA has withdrawn its prior Final Determination that the federal standards for model years 2022 through 2025 are appropriate, and determined those standards may be too stringent. CARB disagrees and may consider amending its GHG standards to clarify the "deemed to comply" provision applies to the current federal GHG standards should U.S. EPA change the standards for any model years. CARB is soliciting public input on potential alternatives to this amendment. While CARB believes its regulatory text clearly refers to the current federal standards adopted as part of the national program, CARB is exercising its discretion to seek public input consistent with CARB's commitment to transparency and deliberate decision-making. Input is requested by May 31, 2018.

Background

California's GHG emission programs for light-duty vehicles have included provisions to accept the option of compliance with federal GHG standards adopted by U.S. EPA for the 2012 through 2025 model years. CARB agreed to adopt the "deemed to comply" provisions on the condition that the federal standards would deliver equivalent GHG emission reductions as California's standards.

Because both agencies' regulations extended so far into the future, they included provisions for a progress check to determine if the standards for the latter model years of implementation (model years 2022 through 2025) remained appropriate or if they needed to be revised. To implement this progress check, the federal standards called

for a Mid-term Evaluation, and California's standards called for a Mid-term Review (MTR).¹

On January 13, 2017, U.S. EPA released its Final Determination to maintain the current federal GHG emissions standards for 2022 through 2025 MY vehicles, finding that automakers are well positioned to meet the standards at lower costs than previously estimated.² These findings were reaffirmed by the California-specific MTR, presented to the Board by CARB staff in March 2017.

Based on the CARB MTR, the Board concluded (in Resolution 17-3³) that:

Given U.S. EPA has issued a Final Determination affirming the 2022 through 2025 model year federal greenhouse gas standards will remain as adopted, it is appropriate to continue California's participation in the 2017 through 2025 model year National Program by maintaining the "deemed to comply" provision allowing for compliance with the adopted U.S. EPA greenhouse gas standards for the 2022 through 2025 model years.

However, the U.S. EPA recently issued a notice withdrawing its previous Final Determination for the Midterm Evaluation and issuing a new Determination that the federal GHG standards "may be too stringent" and should be changed.⁴ It did this without sharing any data or analysis with CARB or adequately explaining its reasons for rejecting the conclusions in the previous Final Determination. Because CARB's federal compliance option achieves equivalent GHG emission reductions in California, U.S. EPA's unsubstantiated determination that the federal standards should be changed has prompted CARB to consider clarifying the "deemed to comply" provision to maintain the benefits of the current program.

Regulatory Concept and Request for Public Input

Specifically, CARB is considering whether to proceed with amendments to California's light-duty GHG regulations to clarify that the "deemed to comply" option is available only for the currently adopted federal GHG regulations (as of the date of this notice) for the model years affected by the pending federal rulemaking if those rules are weakened.

¹ California's MTR also reviewed the current zero-emission vehicle (ZEV) regulation and LEV III 1 milligram per mile particulate matter standard.

² *Final Determination on the Appropriateness of the Model Year 2022-2025 Light-duty Vehicle Greenhouse Gas Emissions Standards under the Midterm Evaluation* (January 2017, EPA-420-R-17-001), available at: <https://www.regulations.gov/contentStreamer?documentId=EPA-HQ-OAR-2015-0827-6270&attachmentNumber=1&contentType=pdf>

³ Available at: <https://www.arb.ca.gov/msprog/acc/mtr/res17-3.pdf>

⁴ 83 Fed.Reg. 16,077, April 13, 2018, *Mid-term Evaluation of Greenhouse Gas Emissions Standards for Model Year 2022-2025 Light-duty Vehicles*, Notice and Withdrawal.

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Under this concept, CARB would not change any of the regulatory requirements in the CARB LEV III GHG regulation. However, CARB would take regulatory action as needed to clarify that compliance with any weakened federal standards will not be deemed compliance with CARB standards for the model years affected. CARB is continuing to consider the scope, design, and necessity of any rulemaking.

Continuing emission reductions from light-duty vehicles are critical to protecting public health, and to meet state statutory requirements for GHG emission reductions. The input sought with this notice will ensure CARB is able to timely respond to potential federal proposals. Although CARB regulatory documents are not available to review at this time, we are requesting public input on potential alternatives.

Please direct responses to this request to:

Postal mail: Ms. Sarah Carter
Air Resources Board
9480 Telstar Avenue, Suite 4
El Monte, California 91731

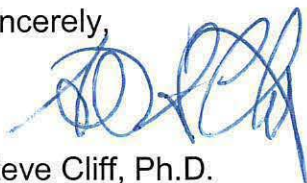
Electronic submittal:

https://www.arb.ca.gov/lispub/comm2/bcsubform.php?listname=leviii-ghgdtc2018-ws&comm_period=1

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral input, attachments, and associated contact information (e.g., your address, phone, email, etc.) become public records and can be released to the public upon request.

If you have any questions, please contact Ms. Sarah Carter, Staff Air Pollution Specialist, Emissions Compliance, Automotive Regulations and Science Division, at (626) 575-6845 or via e-mail at sarah.carter@arb.ca.gov. Responses are requested no later than May 31, 2018.

Sincerely,



Steve Cliff, Ph.D.
Deputy Executive Officer

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cc: Mr. Mike McCarthy
Chief Technology Officer
Emissions Compliance, Automotive Regulations and Science Division

Ms. Sarah Carter
Staff Air Pollution Specialist
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