

State of California
AIR RESOURCES BOARD

REGARDING A FRAMEWORK FOR VEHICLE EMISSIONS

Resolution 19-20

September 19, 2019

Agenda Item No.: 19-8-5

WHEREAS, sections 39600, 39601, and 39603 of the Health and Safety Code authorize the California Air Resources Board (CARB or Board) to take such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law, including entering into contracts and other agreements and determining how to enforce its regulations;

WHEREAS, CARB has implemented greenhouse gas emissions (GHG) standards and zero-emission vehicle (ZEV) standards applicable to light-duty vehicles;

WHEREAS, CARB has received a waiver of federal preemption for its California GHG and ZEV standards;

WHEREAS, the Board confirmed, after reviewing an extensive staff analysis, that these standards remain appropriate and achievable in Resolution 17-3 (Mar. 24, 2017);

WHEREAS, the current federal government is in the process of greatly weakening its own standards for light-duty vehicle GHG emissions, and purports to revoke the applicable waiver for California's GHG and ZEV standards and to determine the GHG and ZEV standards to be preempted by the federal fuel economy statute;

WHEREAS, the federal actions will likely result in years of litigation and substantial uncertainty in the auto market;

WHEREAS, the Board intends to continue implementing and enforcing California GHG and ZEV standards as appropriate and as allowed by the law;

WHEREAS, certainty that encourages continued progress towards reduced GHG emissions and increased use of ZEVs is of enormous benefit to California, by addressing pollution that worsens public health and exacerbates climate change;

WHEREAS, CARB staff have engaged in discussions with various auto manufacturers regarding the possibility of settlements to resolve potential disputes and provide greater stability and flexibility for business planning while promoting environmental goals;

WHEREAS, four auto manufacturers have individually endorsed a draft framework approach, described in Attachment A to this Resolution, that each has individually determined to be broadly consistent with company goals and that can form the basis of such settlements;

WHEREAS, states which have adopted and enforce California standards support such an approach;

WHEREAS, as described in the framework, the auto manufacturers have recognized California's authority to regulate vehicle emissions, including by issuing and enforcing GHG and ZEV standards, and the authority of other states to follow these standards;

WHEREAS, agreements regarding how California will exercise its enforcement authority during this period of dispute could reduce uncertainty, support compliance, and secure public benefits consistent with the goals of CARB's enforcement policy;

WHEREAS, reducing vehicle emissions is critical to protecting vulnerable communities and populations throughout California;

WHEREAS, reflecting the plans made by these forward-thinking auto companies via Memoranda of Agreement, enforcement agreements, settlement agreements, or similar instruments, especially during the ongoing period of likely litigation caused by the Administration's actions, will further enhance benefits to the public;

WHEREAS, the Board reserved authority to itself as to the approval of certain types of agreements in Resolution 05-40 (July 21, 2005);

WHEREAS, the Board does not ordinarily review or approve enforcement agreements and similar settlements and has not reserved such authority to itself;

WHEREAS, the powers of the Board are, in the absence of a reservation, delegated to the Executive Officer per section 39515 and 39516 of the Health and Safety Code;

WHEREAS, removing any uncertainty as to the extent of the Board's delegation of power as applicable in this matter will avoid delays should it be appropriate to finalize any such agreements;

WHEREAS, in this instance, the rapidly moving circumstances surrounding the federal proposal and ongoing and potential litigation mean that the Executive Officer is best able to quickly respond to circumstances as agreements regarding the auto emissions draft framework are negotiated, finalized and approved and, if necessary, to conduct appropriate environmental review under the California Environmental Quality Act (CEQA) prior to such final approval; and

WHEREAS, the Board finds that:

1. The draft framework approach as now articulated is consistent with CARB's mandates to protect public health and the environment.

2. Continuing to negotiate and proceeding to finalize and approve agreements reflecting the framework and to conduct appropriate environmental review under CEQA prior to such approval in a fast-moving regulatory and litigation-prone environment is best-suited to the Executive Officer.

3. Delegating authority to the Executive Officer to, at his sole discretion, negotiate and, as appropriate, finalize and approve the binding terms of agreements memorializing the draft framework in this circumstance, and to conduct appropriate environmental review under CEQA, if necessary, prior to such approval is therefore appropriate.

4. Such a delegation is consistent with CARB's environmental justice policies and do not disproportionately impact people of any race, culture, or income.

5. The Board's consideration of the draft framework approach at this hearing does not create a binding agreement between CARB and the automobile manufacturers nor does it intend to foreclose the ability of the Executive Officer, in exercising his delegated authority granted hereunder, to consider alternatives, including not going forward with finalizing the agreements or changing the terms of the agreements that may differ from the draft framework, or, if applicable, mitigation measures that may be appropriate depending on the agreements' required level of CEQA review.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby delegates, to the extent necessary, to the Executive Officer to, at his sole discretion, continue to negotiate, and, as appropriate, finalize and approve agreements that generally memorialize the draft framework approach described by the automobile manufacturers.

BE IT FURTHER RESOLVED that the Board hereby delegates to the Executive Officer, at his sole discretion, to conduct the appropriate environmental review required under CEQA prior to his finalization and approval of binding agreements that generally memorialize the draft framework approach described by the automobile manufacturers.

BE IT FURTHER RESOLVED that the Executive Officer shall promptly inform the Board if any such agreements are finalized and approved.

I hereby certify that the above is a true and correct copy of Resolution 19-20 as adopted by the California Air Resources Board.

Ryan Sakazaki, Clerk of the Board

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Identification of Attachments to the Board Resolution

Attachment A: Automobile Emissions Framework