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MANUFACTURERS ADVISORY CORRESPONDENCE (MAC) 2009-03

TO: ALL MANUFACTURERS OF
- PASSENGER CARS
- LIGHT-DUTY TRUCKS
- MEDIUM-DUTY PASSENGER VEHICLES
ALL OTHER INTERESTED PARTIES

SUBJECT: Determination for Manufacturers of Passenger Cars (PC), Light-Duty Trucks (LDT) and Medium-Duty Passenger Vehicles (MDPV) Subject to California's Greenhouse Gas (GHG) Emission Fleet Average Requirement

Under Title 13, California Code of Regulations, (13 CCR) Section 1961.1, manufacturers of PC, LDT and MDPV are subject to fleet average standards for GHG emissions starting with model-year (MY) 2009 for large volume manufacturers (LVM). Intermediate volume manufacturers (IVM), independent low volume manufacturers (ILVM) and small volume manufacturers (SVM) are not subject to the GHG fleet average standard until MY2016. Concurrent with the approval of 13 CCR Section 1961.1, the Board of the Air Resources Board (ARB) also amended 13 CCR Section 1900, which was further amended on April 19, 2009 for the ILVM classification, concerning the definitions of manufacturers with respect to these manufacturer categories. The amended definitions require the aggregation of sales from two or more manufacturers due to equity ownership, equity ownership by a third-party, common corporate officers, or common marketing.

In this Manufacturers Advisory Correspondence (MAC), manufacturers are requested to provide (i) the production volumes of vehicles for sale by the certifying/producing manufacturer and, separately, those for sale by a different marketing manufacturer, (ii) sales of vehicles marketed by the reporting manufacturer that are produced by another certifying/producing manufacturer, and (iii) information concerning equity ownership and marketing arrangements that are necessary for the application of the sales aggregation requirement.

If you have any questions regarding this MAC, please contact Mr. Duc Nguyen, Manager, On-Road Light-Duty Certification Section, by e-mail at dnguyen@arb.ca.gov or by phone at (626) 575-6844.

Sincerely,

/s/

Annette Hebert, Chief
Mobile Source Operations Division

Attachment

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website: <http://www.arb.ca.gov>.

California Environmental Protection Agency

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SUBJECT: Determination for Manufacturers of Passenger Cars (PC), Light-Duty Trucks (LDT) and Medium-Duty Passenger Vehicles (MDPV) Subject to California's Greenhouse Gas (GHG) Emission Fleet Average Requirement

APPLICABILITY:

Manufacturers of model-year 2009 (MY2009) and subsequent PC, LDT, and MDPV produced for sale in California

REFERENCES:

1. Title 13, California Code of Regulations, (13 CCR) Section 1900(b) [Definitions]
2. 13 CCR Section 1961.1 [Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2009 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles]

BACKGROUND AND DISCUSSION:

In 2004 the Air Resources Board (ARB) adopted the "Greenhouse Gas Exhaust Emission Standards and Test Procedures – 2009 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" which set forth GHG emission limits on vehicles. [Ref. 2.] Under 13 CCR Section 1961.1, manufacturers of PC, LDT and MDPV are subject to fleet average standards for GHG emissions starting with MY2009 for large volume manufacturers (LVM). Intermediate volume manufacturers (IVM), independent low volume manufacturers (ILVM) and small volume manufacturers (SVM) are not subject to the GHG fleet average standard until MY2016. Concurrent with the approval of 13 CCR Section 1961.1, the Board of the Air Resources Board (ARB) also amended 13 CCR Section 1900(b) concerning the definitions of manufacturers with respect to these manufacturer categories; the ILVM definition was further amended on April 17, 2009 in a Board action related to amendments to the zero-emissions vehicle requirements. In brief, the amended definitions require (i) a determination of a manufacturer's average number of vehicles sold annually for the three previous consecutive model years for which a manufacturer seeks certification, and (ii) aggregation of sales from two or more manufacturers due to equity ownership, equity ownership by a third-party, common corporate officers, or common marketing. This MAC sets forth the information needed to determine a manufacturer's size status. For ready reference, the definitions of manufacturers in 13 CCR Section 1900(b) are repeated here. Manufacturers are encouraged to make own reference to 13 CCR Section 1900(b) for the definitions of manufacturers and other definitions.

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DEFINITIONS:

“Independent low volume manufacturer” means a manufacturer with California annual sales of less than 10,000 new passenger cars, light-duty trucks and medium-duty vehicles following aggregation of sales pursuant to this section 1900(b)(8). Annual sales shall be determined as the average number of sales sold for the three previous consecutive model years for which a manufacturer seeks certification; however, for a manufacturer certifying for the first time in California, annual sales shall be based on projected California sales for the model year. A manufacturer’s California sales shall consist of all vehicles or engines produced by the manufacturer and delivered for sale in California, except that vehicles or engines produced by the manufacturer and marketed in California by another manufacturer under the other manufacturer’s nameplate shall be treated as California sales of the marketing manufacturer. The annual sales from different firms shall be aggregated in the following situations: (1) vehicles produced by two or more firms, one of which is 10% or greater part owned by another, except in circumstances for which the Executive Officer determines that 10% or greater ownership by one of the firms does not result in responsibility for overall direction of both firms; or (2) vehicles produced by any two or more firms if a third party has equity ownership of 10% or more in each of the firms; or (3) vehicles produced by two or more firms having a common corporate officer(s) who is (are) responsible for the overall direction of the companies; or (4) vehicles imported or distributed by all firms where the vehicles are manufactured by the same entity and the importer or distributor is an authorized agent of the entity.

"Intermediate volume manufacturer" means any pre-2001 model year manufacturer with California sales between 3,001 and 60,000 new light- and medium-duty vehicles per model year based on the average number of vehicles sold by the manufacturer each model year from 1989 to 1993; any 2001 through 2002 model year manufacturer with California sales between 4,501 and 60,000 new light- and medium-duty vehicles per model year based on the average number of vehicles sold by the manufacturer each model year from 1989 to 1993; and any 2003 and subsequent model year manufacturer with California sales between 4,501 and 60,000 new light- and medium-duty vehicles based on the average number of vehicles sold for the three previous consecutive model years for which a manufacturer seeks certification. For a manufacturer certifying for the first time in California, model year sales shall be based on projected California sales. A manufacturer's California sales shall consist of all vehicles or engines produced by the manufacturer and delivered for sale in California, except that vehicles or engines produced by the manufacturer and marketed in California by another manufacturer under the other manufacturer's nameplate shall be treated as California sales of the marketing manufacturer. For purposes of applying the 2005 and subsequent model year zero-emission vehicle requirements for intermediate-volume manufacturers under section 1962(b), the annual sales from different firms shall be aggregated in the case of (1) vehicles produced by two or more firms, each one of which either has a greater than 50% equity ownership in another or is more than 50% owned by another; or (2) vehicles produced by any two or more firms if a third party has equity ownership of greater than 50% in each firm. For purposes of applying the 2009 and subsequent model year Greenhouse Gas requirements for intermediate volume

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manufacturers under section 1961.1, the annual sales from different firms shall be aggregated in the following situations: (1) vehicles produced by two or more firms, each one of which either has a greater than 10% equity ownership in another or is more than 10% owned by another; or (2) vehicles produced by any two or more firms if a third party has equity ownership of greater than 10% in each firm.

"Large volume manufacturer" means any 2000 and subsequent model year manufacturer that is not a small volume manufacturer, or an independent low volume manufacturer, or an intermediate volume manufacturer.

"Small volume manufacturer" means, with respect to the 2001 and subsequent model-years, a manufacturer with California sales less than 4,500 new passenger cars, light-duty trucks, medium-duty vehicles, heavy-duty vehicles and heavy-duty engines based on the average number of vehicles sold for the three previous consecutive model years for which a manufacturer seeks certification as a small volume manufacturer; however, for manufacturers certifying for the first time in California model-year sales shall be based on projected California sales. A manufacturer's California sales shall consist of all vehicles or engines produced by the manufacturer and delivered for sale in California, except that vehicles or engines produced by the manufacturer and marketed in California by another manufacturer under the other manufacturer's nameplate shall be treated as California sales of the marketing manufacturer. Except as provided in the next paragraph, beginning with the 2009 model year, the annual sales from different firms shall be aggregated in the following situations: (1) vehicles produced by two or more firms, one of which is 10% or greater part owned by another; or (2) vehicles produced by any two or more firms if a third party has equity ownership of 10% or more in each of the firms; or (3) vehicles produced by two or more firms having a common corporate officer(s) who is (are) responsible for the overall direction of the companies; or (4) vehicles imported or distributed by all firms where the vehicles are manufactured by the same entity and the importer or distributor is an authorized agent of the entity.

For purposes of compliance with the zero-emission vehicle requirements, heavy-duty vehicles and engines shall not be counted as part of a manufacturer's sales. For purposes of applying the 2005 and subsequent model year zero-emission vehicle requirements for small-volume manufacturers under section 1962(b) and 1962.1(b), the annual sales from different firms shall be aggregated in the case of (1) vehicles produced by two or more firms, each one of which either has a greater than 50% equity ownership in another or is more than 50% owned by another; or (2) vehicles produced by any two or more firms if a third party has equity ownership of greater than 50% in each firm.

As used in this MAC, "California sales" shall mean the number of vehicles produced for sale in California for a model year.

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POLICY:

1. For MY2009, within 45 days after the date of this MAC, ALL manufacturers must provide the information specified in this MAC that is required to determine their status as LVM, IVM, ILVM or SVM.
2. For MY2010, within 45 days after the date of this MAC, ALL manufacturers must provide preliminary information required to determine their status as LVM, IVM, ILVM or SVM, and must provide final information specified in this MAC that is required to determine their status no later than March 31, 2010.
3. For MY2011 and subsequent, ALL manufacturers must provide preliminary information required to determine their status as LVM, IVM, ILVM or SVM prior to the first certification for the model-year, and must provide final information specified in this MAC that is required to determine their status no later than March 31st of the calendar year as the model year (e.g., March 31, 2011 for MY2011 status determination based on the average annual sales volumes over MY2008-2009-2010).
4.
 - a. Attachment 1 must be used to provide the California sales. For a manufacturer A, vehicle sales to be provided and used in the determination of manufacturer A's status are (i) vehicles produced and marketed by manufacturer A (use Table 1-A) and (ii) vehicles produced by manufacturer B but marketed under manufacturer A's nameplate (use Table 1-B). For vehicles produced by manufacturer A but marketed under manufacturer M's nameplate, manufacturer A (using Table 1-A) must provide the numbers of these vehicles for each such manufacturer M's separately from the number of vehicles provided in (i) and (ii) above.
 - b. Manufacturers claiming SVM status must provide the California sales of PC, LDT, MDPV, MDV, and on-road heavy-duty engines and vehicles.
 - c. Manufacturers not claiming SVM status are required to provide the California sales of PC, LDT, MDPV and MDV only.
5. Each manufacturer ABC must respond to the following statements:
 - a. Does ABC have an equity ownership of ten percent (10%) or greater of another vehicle manufacturer "X1"? And, does another vehicle manufacturer "X2" have an equity ownership of ten percent or greater of ABC? If yes, provide the names of all such manufacturers "X1's" and manufacturers "X2's".
 - b. Does ABC have an equity ownership of fifty percent (50%) or greater of another vehicle manufacturer "Y1's"? And, does another vehicle manufacturer "Y2" have an equity ownership of fifty percent or greater of ABC? If yes, provide the names of all such manufacturers "Y1's" and the manufacturer "Y2".

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- c. Does any third party "3PA" have an equity ownership of ten percent (10%) or greater of manufacturer ABC? If yes, provide the names of all such third parties "3PA's".
 - d. Does any third party "3PB" have an equity ownership of fifty percent (50%) or greater of manufacturer ABC? If yes, provide the name of the third party "3PB".
 - e. Is/are one or more corporate officers of manufacturer ABC also corporate officers of another vehicle manufacturer "Z" who is/are responsible for the overall direction of both manufacturers ABC and "Z"? If yes, provide the names of all such manufacturers "Z's".
 - f. For vehicles produced by manufacturer ABC that are imported or distributed by one or more importers "IMP" or distributors "DIS" that are authorized agents of manufacturer ABC, provide the names of, and the California sales to, all such importers "IMP's" and distributors "DIS's".
 - g. If manufacturer ABC has an equity ownership of ten percent (10%) or greater of another manufacturer "V" and is claiming the ILVM status, provide all information necessary for the ARB to determine that ten percent or greater ownership by one of the firms does not result in responsibility for overall direction of both firms.
6. Concerning equity ownership between vehicle manufacturers, the following "No-Look-Back" non-aggregation of sales and "Count-Forward" aggregation of sales apply. In the following discussion, MY0 means the current model year (e.g., MY2009); MY-1/-2 means the immediate previous one/two model years (e.g., MY2008/2007), respectively; and MY+1/+2 mean the immediate next one/two model years (e.g., MY2010/2011), respectively. And, CY0 means the current calendar year (e.g., CY2009) which concurrently includes both MY0 and MY+1 (e.g., MY2009 and MY2010).
- a. For a change in equity ownership resulting in less than ten percent ownership, the aggregation of California sales of manufacturers "C" and "D" does not apply to the same model year (MY0, e.g., MY2009) as the calendar year (CY0, e.g., CY2009) in which the change resulting in less than ten percent ownership occurs nor does it apply to the immediate previous two model years (MY-1 and MY-2, e.g., MY2008 and MY2007) ("No-Look-Back"). The "No-Look-Back" non-aggregation of sales will be used to determine the manufacturer status in the next model year (MY+1, e.g., MY2010) after the calendar year (CY0, e.g., CY2009) of the equity ownership change [i.e., MY2010 status is based on MY2007-2008-2009 non-aggregated sales].
 - b. For a change in equity ownership resulting in greater than ten percent ownership, the aggregation of California sales of manufacturers "S" and "T" applies starting to

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the same model year (MY0, e.g., MY2009) as the calendar year (CY0, e.g., CY2009) in which the change resulting in greater than ten percent ownership occurs (“Count-Forward”). The “Count-Forward” sales aggregation will be used to determine the manufacturer status in the next model year (MY+1, e.g., MY2010) after the calendar year (CY0, e.g., CY2009) of the equity ownership change [i.e., MY2010 status is based on MY2007-2008 non-aggregated sales and MY2009 aggregated sales].