

Timothy French

I am writing on behalf of the Truck and Engine Manufacturers Association (EMA). EMA has been an active participant in and commenter on the DEC's Clean Vehicles Program. In this instance, however, the DEC's proposals are fundamentally invalid. The simple reason is that there are no CARB Omnibus and ACT regulations to align with. Those regulations were voided and nullified pursuant to federal legislation enacted under the Congressional Review Act (CRA). The net result is that those regulations do not exist as a matter of law. The same holds true with respect to any prior or current state regulations purporting to opt-in to those CARB regulations. Moreover, the prior versions of CARB's MHD emission regulations have "sunsetted" such that those regulations cannot "snap-back" in the absence of a new preemption waiver from EPA. While all of this may change depending on the outcome of pending federal litigation, the current legal landscape precludes the DEC's proposed rulemaking, which at the very least should be deferred pending the final resolution of the relevant legal challenges to the CRA joint resolutions. Thank you for your consideration of these comments. Tim French, EMA General Counsel.