



**ASSISTANT ADMINISTRATOR FOR AIR AND RADIATION**

WASHINGTON, D.C. 20460

July 15, 2026

Steven S. Cliff, Ph.D.  
Executive Officer  
California Air Resources Board  
1001 I Street, Sacramento, California, 95814

**Submitted electronically to:** <https://ww2.arb.ca.gov/applications/public-comments>

**SUBJECT: U.S. ENVIRONMENTAL PROTECTION AGENCY’S COMMENT ON CALIFORNIA AIR RESOURCES BOARD’S PROPOSAL TO PERMANENTLY ADPTOT THE EMERGENCY VEHICLE EMISSIONS REGULATIONS**

Dear Dr. Cliff:

I write on behalf of the U.S. Environmental Protection Agency (“EPA” or “the Agency”) in response to the California Air Resource Board’s (“CARB”) Second Notice of Public Availability of Modified Text and Availability of Additional Documents and/or Information on the Proposal to Permanently Adopt the Emergency Vehicle Emissions Regulation (the “Emergency Rulemaking”).<sup>1</sup> The EPA has significant legal concerns regarding CARB’s ability to adopt and implement this regulation. The EPA submits this letter for consideration during the emergency rulemaking voluntarily and without prejudice to any future determination, legal argument, or assertion of right.

The EPA reiterates the Agency’s strong objection to CARB’s approach on the grounds that Clean Air Act (CAA) section 209(a) broadly preempts any State or political subdivision thereof from adopting or attempting to enforce emission standards for new motor vehicles and engines absent a valid waiver of preemption from the Agency under CAA section 209(b).

For California to adopt or attempt to enforce any new motor vehicle or engine emission standard, therefore, it must first obtain a waiver under CAA section 209(b). Specifically, CAA section 209(b) authorizes the EPA to waive preemption if California determines that the relevant standard “will be, in the aggregate, at least as protective of public health and welfare as

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<sup>1</sup> California Air Resources Board. Second Notice of Public Availability of Modified Text and Availability of Additional Documents and/or Information Proposal to Permanently Adopt the Emergency Vehicle Emissions Regulations, [https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2025/orhdcfs/2nd15d\\_notice.pdf?utm\\_medium=email&utm\\_source=govdelivery](https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2025/orhdcfs/2nd15d_notice.pdf?utm_medium=email&utm_source=govdelivery).

applicable Federal standards.”<sup>2</sup> For the EPA to issue a waiver, the Administrator must find, after notice and an opportunity for a public hearing, that California’s determination is not “arbitrary and capricious,” that California needs such standard “to meet compelling and extraordinary conditions,” and that the standard and its enforcement procedures are “consistent with” CAA section 202(a).<sup>3</sup>

If CARB wishes to adopt new or amended standards in this rulemaking that differ in any way from provisions already subject to an extant preemption waiver, CARB must submit a new waiver request and receive a waiver from the EPA under CAA section 209(b) before CARB can adopt or attempt to enforce any such standard. This includes adding standards in any new sections of the California Code of Regulations (“CCR”), combining standards in regulations that were previously separate, or applying standards to different model years. Any such regulation cannot be finalized or enforced, including by requiring certification, until after submission to, and review and approval by, the EPA.

The EPA is also deeply troubled that CARB is attempting to reinstate the zero-emission vehicles (“ZEV”) provisions from the “Advanced Clean Cars I” (“ACC I”) regulation into the CCR through a “15-day change”—what should ostensibly be a minor amendment to the emergency rulemaking. Worse still, the contemplated action appears to reinstate ACC I’s ZEV provisions indefinitely for all model years going forward, whereas the current regulation applies the ZEV provisions only through model year 2025. Even absent the general objections above, this emergency rulemaking would not be the appropriate mechanism through which to enact this substantial change with clear nationwide impacts.

According to California’s Office of Administrative Law (“OAL”), 15-day changes are only to be used for “sufficiently related” modifications to regulations. OAL states: “If a change is substantial, but not sufficiently related to the original proposal (*i.e.*, not reasonably foreseeable based on the notice of proposed action), the Agency must then publish another 45-day notice in the California Regulatory Notice Register similar to the original notice of proposed action. These changes are uncommon.”<sup>4</sup> Thus, by California’s admission, this amendment to the emergency regulation violates California’s procedural requirements.

If you have questions, you are welcome to contact me, or your staff may contact Harry Schwab, Senior Policy Advisor in the Office of Air and Radiation, at [Schwab.Harris@epa.gov](mailto:Schwab.Harris@epa.gov).

Sincerely,



Aaron Szabo  
Assistant Administrator

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<sup>2</sup> 42 U.S.C. § 7543(b)(1).

<sup>3</sup> *Id.* § 7543(b)(1)(A)-(C).

<sup>4</sup> California Office of Administrative Law, About the Regular Rulemaking Process, [https://oal.ca.gov/rulemaking\\_participation](https://oal.ca.gov/rulemaking_participation).