

Truck & Engine Manufacturers Association (Timothy French)

Please see the attached comments on behalf of the Truck and Engine Manufacturers Association.

**STATE OF CALIFORNIA
AIR RESOURCES BOARD**

**Proposed Permanent Adoption of the)
Emergency Vehicle Emissions) Comment Deadline: April 20, 2026
Regulations; Public Availability of) Public Hearing Date: March 26, 2026
Modified Text; Proposed 15-Day)
Changes**

**COMMENTS OF THE
TRUCK AND ENGINE MANUFACTURERS ASSOCIATION**

April 20, 2026

Timothy A. French
Truck & Engine Manufacturers Association
333 West Wacker Drive, Suite 810
Chicago, IL 60606

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AIR RESOURCES BOARD**

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Introduction

The Truck and Engine Manufacturers Association (“EMA”) appreciates the opportunity to comment on the “15-day changes” that the California Air Resources Board (“CARB”) is proposing to make to the regulatory text to implement CARB’s attempt to permanently adopt its earlier “Emergency Vehicle Emissions Regulations.” These comments supplement and incorporate by reference EMA’s prior comments on CARB’s efforts to implement the Emergency Regulations, which comments were originally filed on September 27, 2025, and then resubmitted on March 20 and 26, 2026. As before, EMA opposes CARB’s adoption of the Emergency Regulations, including the proposed 15-day changes, since those regulations are clearly preempted under federal law. EMA’s specific comments on the 15-day changes at issue are set forth below.

Modified Text – Retroactive Enforcement Language

The proposed 15-day changes and modified text include revisions to CARB’s Phase 2 greenhouse gas emissions standards, Cal. Code Regs. tit. 17, § 95663, and its heavy-duty on-board diagnostic standards, Cal. Code Regs. tit. 13, § 1971.1, and also attempt to reserve the right for CARB to retroactively enforce its currently preempted regulations should it prevail in pending litigation that CARB has brought in federal court challenging the Congressional Review Act (“CRA”) legislation that curtailed CARB’s authority to adopt or implement medium- and heavy-duty (“MHD”) vehicle and engine emission standards (the “CRA litigation”). CARB does not have the authority to try to adopt or enforce those retroactive enforcement provisions.

Specifically, in proposed section 95663, CARB threatens that “if a court of competent jurisdiction issues a final ruling that H.J. Res. 87 (119th Congress), H.J. Res. 88 (119th Congress), and H.J. Res. 89 (119th Congress) are invalid or that the waivers U.S. EPA granted California on April 6, 2023 (88 Federal Register 20688), and January 6, 2025, (90 Federal Register 642 and 90 Federal Register 643,) are in effect, the regulated parties are subject to the requirements of this section 95663 to the extent consistent with the court’s final ruling.”

At the same time, CARB has admitted in the CRA litigation that it has never submitted to U.S. EPA any preemption waiver application for the MHD “Phase 2” greenhouse gas (“GHG”) emissions standards. CARB likewise has never obtained a separate preemption waiver for its heavy-duty on-board diagnostic (“OBD”) standards at section 1971.1 since 2016, since the prior waiver only covered amendments to the OBD standards through 2013. *See* 81 Fed. Reg. 78,149 (Nov. 7, 2016). CARB subsequently amended the OBD standards in 2016 and 2019, but, again,

has never sought a preemption waiver or “within the scope” determination in connection with either set of OBD amendments.

As a result, CARB’s MHD Phase 2 GHG and OBD standards are expressly preempted under federal law, and they will continue to be preempted even if a court issues a ruling that the CRA are invalid.

Adding retroactive enforcement language to MHD standards for which CARB has failed to secure any of the necessary preemption waivers makes no sense. CARB did not “lose” EPA waivers for the Phase 2 GHG emissions standards or the heavy-duty OBD standards because of the enactment of the CRA resolutions. Rather, CARB never obtained waivers for those MHD standards in the first instance. Accordingly, CARB’s attempt to add retroactive enforcement language for regulatory provisions not at issue in the CRA litigation is fundamentally flawed and should be withdrawn.

Resolution 26-3 Assertions

CARB also lacks any authority for two of the assertions included in its Resolution 26-3, dated March 26, 2026, purporting to adopt the Emergency Vehicle Emissions Regulations.

First, Resolution 26-3 states that “new vehicles and engines sold in California must obtain certification that they meet the Board’s emission standards and requirements.” But Section 209(a) of the Clean Air Act, 42 U.S.C. section 7543(a), expressly provides that “[n]o State shall require certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.” Absent a waiver of federal preemption from EPA for emissions standards governing a particular class of motor vehicles or engines, California cannot require certification or any other conditions precedent to the initial retail sale of new motor vehicles and engines.

CARB has no certification authority for new MHD vehicles and engines, either because: (i) the waivers for CARB’s regulations were directly revoked under the CRA resolutions enacted in June of 2025 (*i.e.*, the CRA resolutions invalidating CARB’s ACT and Omnibus Low-NOx regulations); (ii) CARB never applied for the requisite preemption waiver in the first place (*i.e.*, CARB’s GHG regulations); or (iii) CARB has sought to resurrect and amend MHD regulations that have previously lapsed and have no extant preemption waivers (*i.e.*, CARB’s “antecedent” MHD emission and OBD standards, and CARB’s evaporative emission standards). As such, CARB cannot require any certification for any new MHD vehicles and engines unless and until EPA grants the requisite preemption waivers for CARB’s “antecedent” standards, or CARB secures new waivers for any MHD emissions standards applicable to model year 2026 and subsequent vehicles and engines.

Second, Resolution 26-3 also states that “the Board hereby determines that the regulations adopted herein, in conjunction with other elements of California’s motor vehicle or on-road engine emissions control program, will render California’s motor vehicle or on-road engine emission standards, in the aggregate, to be at least as protective of public health and welfare as applicable federal standards.”

That is not true. The Emergency Rulemaking adopts tailpipe emissions standards that are less protective than the corresponding federal standards. *Compare* Cal. Code Regs. tit. 13, § 1956.8.1 *with* 40 C.F.R. § 1036.104.

Respectfully Submitted,

TRUCK AND ENGINE
MANUFACTURERS ASSOCIATION