

Truck and Engine Manufacturers Association (Timothy French)

On behalf of the Truck and Engine Manufacturers Association, please see the attached comments.

**STATE OF CALIFORNIA
AIR RESOURCES BOARD**

**Proposed Permanent Adoption of the)
Emergency Vehicle Emissions)
Regulations; Second Notice of Public)
Availability of Modified Text;)
Second Proposed 15-Day Changes)**

**Public Availability Date: June 20, 2026
Public Comment Deadline: July 15, 2026**

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

July 15, 2026

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Introduction

The Truck and Engine Manufacturers Association (“EMA”) appreciates the opportunity to comment on the second round of “15-day changes” that the California Air Resources Board (“CARB”) is proposing to make to implement CARB’s second (or third) attempt to permanently adopt its twice-renewed “Emergency Vehicle Emissions Regulations” (the “Emergency Regulations”). These comments supplement and incorporate by reference EMA’s prior comments on CARB’s unauthorized efforts to implement the Emergency Regulations, which comments were originally filed on September 27, 2025, and then resubmitted on March 20 and 26, 2026, and filed again on April 20, 2026.

The multiple iterations of this attempted rulemaking have become as convoluted as CARB’s underlying rationales for trying to circumvent federal preemption. Accordingly, and as before, EMA opposes CARB’s permanent adoption of the Emergency Regulations, including certain of the additional proposed 15-day changes. As EMA has explained previously, CARB’s Emergency Regulations are preempted because there is no waiver in place for the “antecedent” emission standards that CARB proposes to resurrect, and no such preemption waiver can be obtained. With those prior overarching comments incorporated by reference, EMA’s specific comments on the current round of 15-day changes are set forth below.

Modified Text – Abandonment of Phase 2 GHG Standards

In the second round of the proposed 15-day changes, CARB is conceding that it never applied for or received any federal preemption waiver for its “Phase 2” greenhouse gas (GHG) standards, Cal. Code Regs. tit. 17, § 95663, such that those standards “are currently preempted and cannot be enforced.” (CARB’s Second Notice, p. 4.) As a result, CARB is proposing to add “clarifying language stating that CARB will not enforce the Phase 2 GHG regulations until such time as a waiver is granted by the U.S. EPA” (*Id.*) While EMA does not oppose CARB’s concession, it is noteworthy that CARB feels the need to clarify that it is willing to comply with federal law in this instance, but not in others where that clarification is equally warranted as explained in EMA’s prior written comments.

Further, EMA is concerned that CARB’s proposed concession does not go far enough. CARB’s “non-enforcement” language does not cure all of the underlying preemption defects, because Section 209(a) of the Clean Air Act bars a State not only from attempting to enforce standards, but also from “*adopting*” any standard relating to the control of emissions absent an

EPA waiver. 42 U.S.C. § 7543(a). CARB’s commitment to refrain from enforcing the Phase 2 GHG standards “until such time as a waiver is granted” thus leaves those standards impermissibly adopted in the interim. That preemption violation is especially significant because CARB’s stated practice is to enforce its standards retroactively to their date of adoption, and CARB notably has not disclaimed retroactive enforcement of the Phase 2 GHG standards.

EMA is further concerned that CARB’s proposed 15-day changes are designed to preserve CARB’s authority to require certification of heavy-duty and medium-duty (HMD) trucks and engines—an authority that now could only stem from CARB’s GHG standards. But there are no such standards in place that have an EPA preemption waiver. CARB cannot lawfully preserve any certification authority by attempting to resurrect its superseded Phase 1 GHG standards, since CARB itself expressly limited those standards to pre-2021 model year vehicles and engines when it subsequently adopted the Phase 2 standards. Attempting to revive the Phase 1 standards now without a new preemption waiver or “within the scope” determination would only serve to add another layer of waiverless standards to an already fragmented patchwork of CARB HMD standards that EPA has never reviewed or approved as a coherent regulatory program. Accordingly, regardless of whether CARB relies on its waiverless Phase 2 GHG standards or vainly attempts to resurrect its lapsed Phase 1 standards, conditioning the sale of HMD trucks and engines on compliance with waiverless emission standards is forbidden by CAA Section 209(a).

CARB likewise has never obtained a separate preemption waiver for its current heavy-duty on-board diagnostic (“OBD”) standards at section 1971.1, 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 superseding OBD amendments. Consequently, those current OBD standards are just as unenforceable as CARB’s waiverless Phase 2 GHG standards. CARB’s 15-day changes should be further revised to reflect that.

Modified Text – Reinstatement and Retroactive Enforcement

Through the other proposed 15-day changes, it appears that CARB is continuing to attempt to reserve the right 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 vitiated CARB’s authority to adopt or implement medium- and heavy-duty (“HMD”) vehicle and engine emission standards (the “CRA litigation”). *See California v. United States*, Case No. 4:25–cv–04966 (N.D. Cal.).

Specifically, in sections 1956.8, 1971.1, 1971.5 and elsewhere, CARB’s proposed changes provide 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 1956.8 [and others] to the extent consistent with the court’s final ruling.” (Emphasis added.) CARB claims that this language is necessary to clarify that the court-revived standards “would be the only compliance option left.” (CARB’s Second Notice, p. 4.)

These proposed changes—couched in the present tense—seem to leave in play CARB’s prior threats to enforce the CRA-voided regulations retroactively if CARB prevails in the CRA litigation. But CARB has no lawful basis to make such threats, especially in this case where CARB has repeatedly attempted to adopt emergency and permanent regulations to provide alternative certification and compliance pathways for vehicle and engine manufacturers. CARB should clarify that there will be no retroactive enforcement against any manufacturer that has utilized the alternative compliance pathways that CARB has expressly provided for through this ongoing rulemaking process and through its prior Manufacturer Advisory Correspondence, including MAC ECCD-2025-08 and MAC ECCD-2026-02.

Respectfully submitted,

TRUCK AND ENGINE
MANUFACTURERS ASSOCIATION