

March 8, 2019

Submitted Electronically to Lisa.Vest@state.de.us

Lisa Vest
Hearing Officer
DNREC
89 Kings Highway
Dover, DE 19901

Dear Ms. Vest:

Subject: 1140 Delaware Low Emission Vehicle Program

The Association of Global Automakers¹ (Global Automakers) appreciates the opportunity to provide comments on the Delaware Department of Natural Resources and Environmental Control's (DNREC) proposal to update its existing light-duty greenhouse gas (GHG) emission regulations (7 DE Admin. Code 1140) to incorporate California's December 12, 2018, revisions to its standards for model years 2021 through 2025. Delaware cannot, however, adopt these amendments at this time, because the regulations have not yet received a waiver from the United States Environmental Protection Agency (EPA).

Under Section 177 of the Clean Air Act, Delaware may adopt a California motor vehicle emission standard (or an amendment to that standard) if "such standards are identical to the California standards **for which a waiver has been granted for such model year.**"² While California's 2018 "deemed-to-comply"³ rulemaking has been finalized by the state, the EPA has not granted a waiver for those amendments. Past EPA waiver decisions have made it clear that where an amendment to a California regulation increases the underlying stringency of the California program—as the revocation of the

¹ The Association of Global Automakers, Inc. represents the U.S. operations of international motor vehicle manufacturers, original equipment suppliers, technology companies, and other automotive-related trade associations. Global Automakers works with industry leaders, legislators, regulators, and other stakeholders in the United States to create public policies that improve motor vehicle safety, encourage technological innovation, and protect our planet. Our goal is to foster an open and competitive automotive marketplace that encourages investment, job growth, and development of vehicles that can enhance Americans' quality of life. Our members' share of sales and production in the United States is nearly 45 percent and growing. For more information, visit www.globalautomakers.org.

² 42 U.S.C. § 7507 (emphasis added).

³ California's deemed-to-comply provisions, as currently codified, allows vehicle manufacturers to comply with the U.S. Environmental Protection Agency's national GHG regulations as an alternative to complying with California's state-specific requirements.



deemed-to-comply provision does⁴—California must obtain a new waiver.⁵ In light of the foregoing, any action by the state to adopt California requirements at this time would violate Section 177 of the Clean Air Act.

Finally, with a pending final rulemaking from the federal government on light-duty vehicle fuel economy and greenhouse gas emission standards, it is still our hope that the national program ultimately sets meaningful and continued increases in vehicle efficiency standards, while also meeting the needs of America's drivers, thereby negating the need for separate state regulations.⁶

In conclusion, Delaware should defer its adoption of the California deemed-to-comply amendments until after the federal rulemaking is complete, so we can determine whether the national program provides meaningful annual increases in fuel economy and greater reductions in greenhouse gas emissions across the nation than via individual state standards. In any event, Section 177 of the Clean Air Act requires the DEP to defer taking action on the deemed-to-comply provision until after EPA approves California's request for waiver to implement these amended regulations.

Please feel free to contact me with any questions regarding these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Rege".

Julia M. Rege
Senior Director, Environment & Energy
202-650-5555
jrege@globalautomakers.org

⁴ Removing the deemed-to-comply provision increases the stringency of the California program because: (a) having to comply with a California-specific GHG program increases manufacturer compliance burdens and would require greater fleet-wide GHG reductions in California than the California regulation with the deemed-to-comply provision, and (b) California's GHG emissions regulations do not include some of the programmatic elements that the federal program has to give manufacturers alternate compliance pathways, thus easing the regulatory burden.

⁵ See In the Matter of California State Motor Vehicle Pollution Control Standards; Amendments to California Zero Emission Vehicle (ZEV) Regulation; 2003-2008 Model Years Within the Scope Request; 2007 and Subsequent Model Years Waiver Request, Decision Document, at 20 (December 21, 2006).

⁶ "Global Automakers Submits Comments in Response to the Safer Affordable Fuel-Efficient (SAFE) Vehicles Notice of Proposed Rulemaking," <https://www.globalautomakers.org/posts/agency-comments/global-automakers-submits-comments-in-response-to-the-safer-affordable-fuel-efficient-safe-vehicle-notice-of-proposed-rulemaking>.

Delaware Sierra Club Comments for DNREC Public Meeting 2/21/19 (Prepared by Chapter Dir., Sherri Evans-Stanton)

Delaware is uniquely situated because of its low elevation, and it will be significantly impacted by sea level rise and climate change. The transportation sector is a major source of air pollution and greenhouses gases. Children and adults with asthma and other chronic health conditions like heart disease and lung disease are particularly sensitive to ozone pollution. Aggressive policy initiatives must be put in place.

As a partner in the U.S. Climate Alliance, Delaware needs to incorporate policy initiatives such as: 1) promoting the electrification of vehicles, including buses; 2) continuing state rebates for the purchase of EV's; 3) increasing EV charging stations; 4) defending clean car standards; and 5) working on local clean transportation solutions.

With the current rollback of many federal policies designed to protect our air and water quality, it is more urgent than ever that the states take an aggressive position on protecting air quality.

While our ultimate goal is for Delaware to move towards the Zero Emission mandate, we commend DNREC for the proposed amendments to meet a higher standard in Delaware's air regulations. The adoption by reference of California's Low Emission Vehicle (LEV) III and the Greenhouse Gas (GHG) standards will be a critical first step in reducing greenhouse gases. These amendments include more stringent emission standards for both criteria pollutants and greenhouse gases for new passenger vehicles.

We urge you to adopt these proposed amendments.

From: Coralie Pryde <coraliepryde@gmail.com>

Sent: Thursday, February 21, 2019 5:47 PM

To: Vest, Lisa A. (DNREC) <Lisa.Vest@delaware.gov>

Subject: Proposed Amendment to Low Emission Vehicle Program

Dear Ms. Vest,

I strongly support the proposed amendment to **7 DE Admin. Code 1142**. It is vital that we do not allow our progress toward cleaner vehicles to be rolled back.

Thank you.

Coralie Pryde