

Subject: Public Hearing Comments
Date: Friday, May 26, 2023 at 3:27:35 PM Eastern Daylight Time
From: DoNotReply@delaware.gov
To: HearingComments, DNREC (MailBox Resources), maryann.hogan@nist.gov
Attachments: CHN_Comments_on_USA1986.pdf

Comments on 2022-R-A-0011: Low Emission Vehicle Program

Name: MaryAnn Hogan
Phone: 301-975-2918
Email Address: maryann.hogan@nist.gov
Organization: National Institute of Standards and Technology, USA WTO TBT Enquiry Point

Comments:

Dear DNREC Hearing Officers, We are contacting you to submit comments on behalf of the WTO/TBT National Notification and Enquiry Center of the People's Republic of China on a proposed rule that was notified by the United States to the World Trade Organization under the Agreement on Technical Barriers to Trade. The proposed rule was circulated by the WTO TBT Committee under the symbol G/TBT/N/USA/1986. The notification is accessible from the WTO's ePing platform at <https://epingalert.org/en/Search/Index?domainIds=1anddocumentSymbol=USA%2F1986>. Further information about obligations under the WTO TBT Agreement and NIST's role in carrying out the notification obligations for the United States is accessible at <https://www.nist.gov/notifyus>.

Subject: USA TBT Enquiry Point Passing Along Comments from the People's Republic of China on 1140 Delaware Low Emission Vehicle Program, DOCKET # 2022-R-A-0011 [USA WTO Notification G/TBT/N/USA/1986]
Date: Friday, May 26, 2023 at 3:45:06 PM Eastern Daylight Time
From: Hogan, MaryAnn G. (Fed)
To: Englert, Taylor (DNREC), Krall, Kyle (DNREC), HearingComments, DNREC (MailBox Resources), Newman, Theresa L (DNREC)
CC: Petersen, Thor J. EOP/USTR, Manseau, Gwenann S. EOP/USTR, Loke, Yue Heng EOP/USTR, Strickler, J. Sloane S. EOP/USTR, Ferland, Henry, Emdur, Zoe (she/her/hers), usatbtep
Attachments: CHN_Comments_on_USA1986.pdf, Submitted to Delaware Using Online Form - Comments on 1140 Low Emission Vehicle Program, DOCKET # 2022-R-A-0011 [G/TBT/N/USA/1986] from the WTO/TBT National Notification and Enquiry Center of the People's Republic of China .eml, USA TBT Enquiry Point Passing Along Request from China to Extend the Comment Deadline, from May 26 to July 2 2023, on Delaware's Proposed Rule DOCKET # 2022-R-A-0011 on the Low Emission Vehicle Program [USA WTO Notification G/TBT/N/USA/1986].eml

Dear Colleagues in Delaware's Department of Natural Resources and Environmental Control, Division of Air Quality,

Please see below and attached comments received earlier today (5/26) from China on Delaware's proposed rule identified by Docket Number 2022-R-A-0011:

<https://regulations.delaware.gov/register/april2023/proposed/26%20DE%20Reg%20823%2004-01-23.htm>.

We understand Delaware is accepting public comments through today, May 26, 2023, in written form via email to DNRECHearingComments@delaware.gov, or by using the online form at <https://de.gov/dnrecomments>.

I used the online form to transmit the comments on behalf of China; a copy of the information is attached to this message for reference, and it may duplicate existing correspondence you already received from us.

Please forward this correspondence to any other appropriate contact(s) for follow up and possible response if not already included in this message.

The proposed rule was notified by my office to the World Trade Organization under the Agreement on Technical Barriers to Trade (WTO TBT Agreement). [G/TBT/N/USA/1986](https://www.wto.org/eng/whatis/tbt/usa1986.htm) is the notification symbol, similar to a reference number or Docket ID, assigned to this action by the Committee on Technical Barriers to Trade (TBT) at the World Trade Organization (WTO TBT Committee), to which we are obligated to submit certain U.S. proposed rules and related actions that could affect international trading partners.

A basic overview of the notification of certain regulatory actions by the USA to the WTO TBT Committee is available at <https://www.nist.gov/standardsgov/usa-wto-tbt-enquiry-point>.

Please contact us if you have any questions or if you need additional information, and please also confirm receipt of this message as well as China's comments. Apologies if you are receiving this message in error.

Thank you,

MaryAnn Hogan
USA WTO TBT Enquiry Point

Standards Coordination Office (SCO)
National Institute of Standards and Technology (NIST)
Mobile: 240-654-2415
E-mail: usatbtep@nist.gov
ePing SPS&TBT Platform: <https://epingalert.org/>
About Us: <https://www.nist.gov/standardsgov/usa-wto-tbt-enquiry-point>

From: TBT国家咨询点 <tbt@customs.gov.cn>
Sent: Friday, May 26, 2023 7:24 AM
To: usatbtep <usatbtep@nist.gov>
Cc: bizhonglin <bizhonglin@126.com>; dingtao <dingtao@mofcom.gov.cn>
Subject: Comments from the People's Republic of China on 1140 Delaware Low Emission Vehicle Program, DOCKET # 2022-R-A-0011 [USA WTO Notification G/TBT/N/USA/1986]

Dear USA WTO/TBT Enquiry Point,

Please find attached the Comments from P. R. China on Notification G/TBT/N/USA/1986.

Please acknowledge receipt of this email by return message.

Many thanks for your consideration of these comments.

Thank you.

Yours faithfully

ZHAOMINGGANG
China WTO/TBT National Notification & Enquiry Center
tbt@customs.gov.cn

中国 WTO/TBT 国家通报咨询中心

China WTO/TBT National Notification & Enquiry Center

No.20,Hepingli East Street, Dongcheng District, Beijing,China,Tel: 86-10-57954638 Fax:86-10-57954689

FAX

TO: USA WTO/TBT Enquiry Point	Email: usatbtep@nist.gov
Date: May.26, 2023	Number of pages: 2+4
Copies:	
Department for WTO Affairs, Ministry of Commerce of P.R. China	Fax: +86 10 65197726;65128304 E-mail: dingtao@mofcom.gov.cn
Permanent Mission of P. R. of China to WTO	Fax: +41-22-9097688 E-mail: bizhonglin@126.com
From:	
China WTO/TBT National Notification & Enquiry Center.	Tel: 86-10-57954638 Fax: 86-10-57954689 E-mail: tbt@customs.gov.cn
Subject: Comments from P. R. China on USA Notification G/TBT/N/USA/1986 Low Emission Vehicle Program	

Comments from P. R. China on USA Notification

G/TBT/N/USA/1986

Low Emission Vehicle Program

Dear Sir or Madam,

We appreciate the opportunity to submit comments on the notified draft proposed by UNITED STATES OF AMERICA.

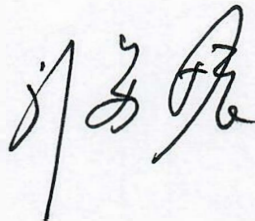
Enclosed please find comments in English and Chinese.

Please acknowledge receipt of the comments by e-mail to tbt@customs.gov.cn.

Thank you very much in advance for EU taking into account comments from P.R. China. Your formal reply will be appreciated.

Best regards,

Liu Suzhen



Deputy Director General
China WTO/TBT National Notification & Enquiry Center
No.20, Hepingli East Street, Dongcheng District, Beijing
Post Code: 100013
Tel: 86-10-57954605
Fax: 86-10-57954683
E-mail: tbt@customs.gov.cn

Comments from P.R. China on USA Notification

G/TBT/N/USA/953

Low Emission Vehicle Program

The People's Republic of China appreciates UNITED STATES OF AMERICA for fulfilling the transparency obligation under WTO, as well as for the opportunities for other WTO Members to make comments on the notification G/TBT/N/USA/1986. According to Article 2.9.4 of the WTO/TBT Agreement "without discrimination, allow reasonable time for other Members to make comments in writing, discuss these comments upon request, and take these written comments and the results of these discussions into account", China would like to put forward the following comments on the notified regulations and hope UNITED STATES OF AMERICA take these comments into consideration. The detail comments as follows:

1. It is suggested to extend the comment period.

This notification was issued on May 2, but receive submission of comments before May 26, which violated the transparency obligation under WTO of giving no less than 60 days for the comment period. It is suggested to extend the comment period.

2. It is suggested to clarify the following definitions:

1) It is suggested to clarify the definition of "low emission" in subsection 1.1

Section 1.1 of this regulation refers to Cal. Code Regs. Tit. 13, §1900 - Definitions and Section 1962.4 "Zero-Emission Vehicle Requirements for Passenger Cars and light Trucks for 2026 and later model Years" of the California Code of Regulations without elaborating on the definition of "low emission" in the California Low Emission Vehicle Program, A clear definition of "low emissions" is recommended

2) It is recommended to clarify the definitions of "emission standard" and "environmental performance label" in Section 3.0

In Section 3.0, "Emission Standard" refers to the specified limitations on the discharge of air contaminants into the atmosphere, in which does not specifying the content of specific limits; and for "environmental performance label" , it refers to a paper or plastic decal securely affixed by the manufacturer to a window of all passenger cars, light-duty trucks, and medium-duty passenger vehicles which disclose the global warming and smog score for the vehicle in accordance with Title 13, CCR Section 1965 in Section 3.0. However "Cal. Code Regs. Tit. 13, § 1965 - Emission Control, Smog Index, and Environmental Performance Labels-1979 and Subsequent Model-Year Motor Vehicles" only mentions that light-duty trucks, and medium-duty passenger vehicles shall conform to the "California Environmental Performance Label Specifications for 2009 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Passenger Vehicles"; medium-duty vehicles, except medium-duty passenger vehicles, shall conform to the "California Environmental Performance Label Specifications for 2021 and Subsequent Model Year Medium-Duty Vehicles, Except Medium-Duty Passenger Vehicles". There is no mention of how global warming and smog scores will be disclosed. It is suggested to

further clarify the relationship between environmental performance labels and global warming and smoke ratings to avoid ambiguity..

3. In Recommendation subsection 2.3.2, add manufacturers of display vehicles.

In subsection 2.3.2, only test vehicles and emergency vehicles are exempted in the scope of passenger cars, light trucks or medium vehicles in the new model year 2014 or subsequent model years exempted in subsection 2.1. It is suggested to add display vehicles (type of vehicle only for the purpose of display).

4. It is recommended to delete subsections 5.1.1 to 5.1.7.

Subsection 5.1 requires that any passenger vehicle, light truck, medium passenger vehicle, or medium vehicle of a model year of 2014 or later be both California certified and meet the requirements of sections 5.1.1 to 5.1.7, where subsection 2.1 expressly states "Except as set forth in subsection 2.3 of this regulation no person shall deliver for sale, offer for sale, sell, deliver, purchase, rent, acquire, receive, or register a new model year 2014 or subsequent model-year passenger car, light-duty truck, or medium-duty vehicle within Delaware unless the vehicle has been certified by CARB and has received a CARB Executive Order", it is recommended that subsections 5.1.1 to 5.1.7 be deleted.

5. It is recommended to delay the submission of reports in sections 8.1 and 8.2 and to harmonize the reporting format.

The format of the report was not mentioned in sections 8.1 and 8.2, and the report originally scheduled for 1 May was advanced to 1 March, while Section 8.3 still maintains the date of May 1. It is suggested to adjust the report submission date and unify the report format after confirming the test cycle with the testing institution that can perform the tests related to California regulations. It is recommended to maintain the original deadlines and harmonize the reporting format.

6. It is suggested that subsections 14.4 and 14.5 be deleted.

For the Proportional Credits mentioned in section 14.4 and the Early Action Credits mentioned in section 14.5, if an auto company has no corresponding credits or few credits fails to meet the requirements, it needs to pay a fine of \$5,000 per vehicle to California Air Resources Board (CARB), or purchase credits from other companies with surplus credits. Otherwise, the company could be ordered to leave the California market. This regulation imposes too strict requirements on automobile manufacturers and has a great impact on companies that export to the United States, meanwhile, it also violates the principles of fair trade and WTO international trade. It is suggested to delete the contents in sections 14.4 and 14.5.

Comments in Chinese are in below:

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