

November 12, 2018

Submitted Electronically

Karen Slattery
Department of Environmental Management, Office of Air Resources
235 Promenade Street
Providence, RI 02908

Dear Ms. Slattery:

Subject: Air Pollution Control Regulation No. 37, Rhode Island's Low Emission Vehicle Program

The Association of Global Automakers¹ (Global Automakers) appreciates the opportunity to provide comments on the Rhode Island Department of Environmental Management's (DEM) proposal to update its existing Low Emission Vehicle (LEV) Program regulations. In our comments below, we raise several procedural concerns with respect to process, and thus Global Automakers respectfully requests that DEM hold action until after California's regulation has been finalized through the required regulatory and statutory process. DEM should, however, act immediately to complete all of the other regulatory updates necessary to bring the state's emission standards into alignment with California amendments that have already been finalized.

In adopting California's LEV program, DEM has committed to following Section 177 of the Clean Air Act, which requires that Rhode Island's requirements be identical to those in California. While we fundamentally agree that DEM must update its rulemaking, Global Automakers has concerns regarding the process for doing so.

We understand that DEM is attempting to be timely with its adoption of California's 2018 "deemed to comply"² rulemaking. The issue at hand is that California's proposed amendments to the "deemed to comply" provision are not yet complete. It is unclear when California will finalize its rule, which in any

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 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.



event was prematurely proposed given the ongoing federal process for light-duty vehicle GHG standards. The California Air Resources Board (CARB) voted to move forward with the proposal in September 2018, but this action does not make the regulation final.³ In California, once approved by the Board, a rule change does not become final until it is reviewed and approved by the California Office of Administrative Law. This typically takes months, not days or weeks, to result in a final rule. Global Automakers also believes that CARB's proposed amendments will require a waiver from EPA.⁴ Section 177 of the Clean Air Act specifies that states may only adopt California standards for which a waiver has been granted. In light of the foregoing, any action by the Rhode Island DEM to adopt California requirements at this time, even via incorporation by reference, would violate Section 177 of the Clean Air Act.

To be clear, Global Automakers has urged California and the federal government to find a "common sense" solution that continues the goal of a unified national program, or "One National Program," and sets meaningful and continued increases in vehicle efficiency standards, while also meeting the needs of America's drivers.^{5,6} The continuance of One National Program will negate the need for any such rulemaking from California, Rhode Island and the other Section 177 states.

In conclusion, to maintain compliance with Section 177 requirements, DEM must defer taking action on the "deemed to comply" provision until California's Office of Administrative Law has approved the amendment and 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 dark ink, appearing to read "J. Rege", written in a cursive style.

Julia M. Rege
Director, Environment & Energy
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³ Global Automakers believes that California's current greenhouse gas requirements need additional amendments in order to be implemented and feasible, and these amendments were not included in California's proposed rulemaking.

⁴ See Global Automakers' comments submitted to the California Air Resources Board on September 24, 2018 at https://www.arb.ca.gov/lispub/comm/bccomdisp.php?listname=leviii18&comment_num=29&virt_num=26.

⁵ Global Automakers' Statement on U.S. EPA and DOT Propose Fuel Economy Standards for MY 2021-2026 Vehicles, August 2, 2018, <https://www.globalautomakers.org/posts/press-release/fuel-economy-nprm>.

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>.