State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PHILIP D. MURPHY
Governor

SHEILA OLIVER
Lt. Governor

P.O. BOX 402
Trenton, NJ 08625-0402

CATHERINE R. MCCABE
Commissioner

September 24, 2018

By Electronic Submittal
http://www.arb.ca.gov/lispub/comm/bclist.php

Rana McReynolds
Clerk of the Board
California Air Resources Board
1001 I Street
Sacramento, CA 95814

RE: Proposed Amendments to the Low-Emission Vehicle III Greenhouse Gas Emission Regulation (Amendments to Sections 1961.2 and 1961.3, Title 13, California Code of Regulations) (Board Item leviii18)

Dear Ms. McReynolds:

The New Jersey Department of Environment Protection ("NJDEP") supports the Air Resources Board's proposal to amend its Low-Emission Vehicle ("LEV") regulations to preserve stringent greenhouse gas ("GHG") emissions for light-duty vehicles for model years 2021 to 2025 (the "Proposal"). I write to urge the Board to vote in favor of the Proposal at its September 27, 2018 meeting.

Governor Murphy has committed to using every tool at our disposal to fight efforts to roll back federal fuel emissions standards that save New Jersey consumers money, protect the environment, and drive innovation in the transportation sector.

The Proposal would amend the LEV regulations to prevent weakened national vehicle GHG emissions standards from taking effect in California and other states like New Jersey that have committed to reduce harmful GHG emissions. The national standards are under attack by the Environmental Protection Agency ("EPA") and the National Highway Transportation and Safety Administration ("NHTSA"), whose joint proposal to roll back GHG standards for model years 2021-2026 would dramatically increase emissions from the transportation sector. *See* Rule Proposal, 83 Fed. Reg. 42986 (Aug. 24, 2018). To ameliorate the effects of this perverse federal action, the Board must act now to ensure there is no break in the applicability of existing, stringent vehicle standards in California and New Jersey.

Analyses by NJDEP and by the New Jersey Climate Adaptation Alliance have concluded that global warming is already causing changes in temperature, precipitation and sea level rise and threatens public health, the environment, and the economy in New Jersey.[1] Significantly, extended periods of high summertime temperatures can result in increased mortality and heat-related illnesses, especially in urban areas due to their heat trapping effect. Increased ambient temperatures can also exacerbate formation of harmful air pollution like ground-level ozone and particulate matter. Higher average temperatures may also contribute to the prevalence and spread of vector- and water-borne illnesses.

As a coastal state, New Jersey is particularly vulnerable to changes in sea level that could result from global climate change. Global climate change contributes to the increased frequency and strength of devastating natural disasters such as Superstorm Sandy that, in 2012, ravaged large portions of New Jersey and caused significant financial loss throughout the State. Sea level rise threatens to contaminate drinking water, erode and submerge New Jersey's beaches and coastal ecosystems, and cause enormous coastal and inland flood damage to homes and infrastructure. Salt-water infiltration in coastal ecosystems threatens habitat for wildlife and fisheries.

To combat the worst effects of climate change, New Jersey has committed to reducing its own GHG emissions. New Jersey's Global Warming Response Act, N.J. Stat. Ann. §§ 26:2C-37 to -44, calls for reducing in-state GHG emissions to 80% below 2006 levels by 2050.[2] Achieving the 2050 goal will require a degree of emissions reduction that is far more pronounced: NJ will need to reduce estimated GHG emissions by 78%, or about 2.2% per year on average, between 2014 and 2050.[3]

Meeting New Jersey's goals necessarily requires substantial cuts in vehicle GHG emissions. Transportation emissions are the largest share of New Jersey's GHG emissions: 42% in 2015, far more than power generation and emissions from commercial, industrial, and residential sources.[4] New Jersey is relying on the significant improvements in vehicle fuel efficiency required by the current national standards, and backstopped by California's LEV III GHG standards, to meet its near-term emission reduction goals.[5]

However, the federal agencies' pending rulemaking to roll back national GHG emissions standards for model year 2021-2026 vehicles will be a major obstacle to New Jersey's Global Warming Response Act goals. If the revised national standards took effect in New Jersey, it would dramatically slow the state's reduction of transportation emissions and could require the State to seek further reductions from other source categories. The premise for the federal agencies' actions is their flawed assessment that the

---

[1] New Jersey Climate Adaptation Alliance, *New Jersey Climate and Health Profile Report* (2017), available at https://njadapt. rutgers. edu; New Jersey Low Emission Vehicle Program, 37 N.J. Reg. 2762(a) (proposed Aug. 1, 2005).

[2] N.J. Stat. Ann. § 26:2C-40.

[3] NJDEP, Greenhouse Gas Emissions in New Jersey (Oct. 2017), at 1-2, available at https://www.nj.gov/dep/dsr/trends/pdfs/ghg.pdf.

[4] NJDEP, 2015 Statewide Greenhouse Gas Emissions Inventory (Dec. 2017), available at https://www.nj.gov/dep/aqes/NJ_GHGinventory2015Update.pdf.

[5] Energy Use, supra n. **Error! Bookmark not defined.**, at 6.

current standards are too difficult for car manufacturers to achieve.[6] The agencies' conclusory Revised Midterm Evaluation ignored the agencies' own earlier studies and the great weight of evidence provided by the Board and a multitude of other commenters that the existing standards are overwhelmingly beneficial for public health and the environment, are economical for consumers, and are achievable for manufacturers. New Jersey joined California and 15 other states to petition the Court of Appeals for the District of Columbia to review the agencies' arbitrary decision,[7] which set aside the agencies' thorough and considered 2017 Midterm Evaluation reaching the opposite conclusion.[8]

Therefore, NJDEP supports the Proposal, which would preserve stringent GHG emissions standards in California and elsewhere. New Jersey will benefit from the Board's action because California's LEV III GHG regulations are enforceable in New Jersey, and any change to California's LEV program will affect compliance obligations for vehicles delivered for sale in New Jersey. Under the federal Clean Air Act, states may "adopt and enforce" California's vehicle emission standards for any model year, but only if the follow-on states' standards "are identical to the California standards."[9] In 2003, the New Jersey Legislature determined that implementing California's LEV program was essential for the state to enjoy the very significant public health benefits of California's strict emissions limits on harmful air pollutants. N.J. Stat. Ann. § 26:2C-8.15. In 2006, NJDEP finalized rules to implement California's LEV program in its entirety, recognizing that implementing California's GHG emissions limits would be vital to reducing New Jersey's GHG emissions.[10]

Of course, the benefits would also extend beyond California and New Jersey. Including New Jersey, twelve states have adopted California's LEV III GHG standards, and these states (with California) account for approximately 40% of the national market for light-duty vehicles.[11] By approving the Proposal, the Board would preserve stringent GHG emissions standards for this very large portion of the automobile market, thereby blunting the negative consequences of the federal agencies' emissions standards rollback.

For these reasons, NJDEP urges the Board to adopt the Proposal. NJDEP agrees with the Staff Report and Initial Statement of Reasons that there are no additional costs associated with the Proposal, as it

---

[6] *See* 83 Fed. Reg. 16077 (Apr. 13, 2018).

[7] *State of California et al. v. EPA et al.*, D.C. Cir. Docket No. 18-1114.

[8] EPA, Final Determination on the Appropriateness of the Model Year 2022-2025 Light-Duty Vehicle Greenhouse Gas Emissions Standards under the Midterm Evaluation (January 2017), available at https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100QQ91.pdf.

[9] 42 U.S.C. § 7507. EPA has explained that "States are not required to seek EPA approval under the terms of Section 177" to adopt California's LEV program. 77 Fed. Reg. at 62637 n.54.

[10] NJDEP LEV Rule Proposal, supra n.1, 37 N.J. Reg. at 2771.

[11] EPA, Rule Adoption: 2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards, 77 Fed. Reg. 62624, 62637 (Oct. 15, 2012).

would simply preserve existing standards adopted in 2012.[12] Car manufacturers have had notice of these GHG standards for years, ensuring ample time to plan and prepare to meet them.

New Jersey is committed to reducing greenhouse gas emissions from motor vehicles and maintaining its adoption of California's LEV III GHG regulation and supports the Board's Proposal to clarify that its "deemed to comply" provision applies only to the existing federal GHG standards. If you have any questions, please do not hesitate to contact me at debbie.mans@dep.nj.gov or at (609) 292-2885.

Sincerely,

Deborah A. Mans, Deputy Commissioner
New Jersey Department of Environmental Protection

[12] Air Resources Board, Staff Report: Initial Statement of Reasons in support of Proposed Amendments to the LEV III GHG Emission Regulation at 4, 33-34 (Aug. 7, 2018).