

UPDATED INFORMATIVE DIGEST

Sections Affected: Proposed amendments to title 13, California Code of Regulations (CCR), sections 1961 and 1961.1, and the “California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles” incorporated by reference in CCR, Title 13, Section 1961(d) (as last amended December 2, 2009).

Background: Citing compelling and extraordinary air quality and other impacts California faces from global warming, in 2002 the Legislature passed and the Governor signed Assembly Bill (AB) 1493. This bill required ARB to develop and adopt regulations to achieve the maximum feasible and cost-effective reduction of heat-trapping greenhouse gas emissions from passenger motor vehicles, beginning with the 2009 model year. The Board approved those regulations at its September 2004 hearing, and they were adopted in their final form in August 2005.

The AB 1493 regulations set separate greenhouse gas emissions levels for both passenger cars and light-duty trucks (PC/LDT1) and heavier light-duty trucks and medium-duty passenger vehicles (LDT2/MDPV). The standards are effective beginning in the 2009 model year and become more stringent each year through 2016. The levels are measured in grams per mile of carbon dioxide-equivalent emissions, targeting carbon dioxide (CO₂) as the main greenhouse pollutant and other greenhouse gases including refrigerants used in automotive air conditioners. Compliance is determined on a fleetwide basis, meaning that while each individual model can be above or below the standard, the average of a manufacturers’ fleet must meet the standard or else the manufacturer incurs debits that must be equalized within five model years. Manufacturers can also accrue and trade credits between their PC/LDT1 and LDT2/MDPV segments, bank credits from over compliance for use in later model years, and trade credits with other manufacturers. Manufacturers may also obtain additional credit for selling vehicles fueled by other than conventional gasoline or diesel and demonstrating use of that fuel.

The greenhouse gas emission reductions to be achieved by the Pavley regulations are substantial. By 2016, the regulations require a 30% reduction in greenhouse gas emissions compared to 2009 model year vehicles. The AB 1493 regulations provide about 27.7 million metric tons in greenhouse gas reductions, or about 16 % of the 174 million metric ton CO₂-equivalent reductions needed to meet 1990 levels by 2020. They are the single largest emission reduction measure identified in the Scoping Plan adopted by the Board in December 2008 to chart ARB’s course toward meeting AB 32, the Global Warming Solutions Act of 2006 (Chap. 488, Stats. 2006).

Since Board approval in 2004, motor vehicle manufacturers and their trade associations have challenged the regulations in numerous federal and State court proceedings and have opposed California’s request for a U.S. EPA waiver of preemption under the federal Clean Air Act to allow California to enforce its adopted standards.

On May 19, 2009, challenging parties, individual automakers, California, and the federal government reached agreement on a series of actions that would resolve these current and potential future disputes over the California standards through model year 2016. A summary of those actions is contained in a document published in the Federal Register at 74 Fed. Reg. 24,007 (May 22, 2009) and in commitment letters by California and other parties that are available at www.epa.gov/otaq/climate/regulations.htm. On June 30, 2009, EPA granted California's waiver request for all model years 2009-2016. 74 Fed. Reg. 32744 (July 8, 2009).

For its part, California committed to: (1) revise its standards to allow manufacturers to demonstrate compliance with the fleet average greenhouse gas emission standard by "pooling" California and Section 177 State vehicle sales; (2) revise its standards as necessary to allow manufacturers to use emission data from the federal Corporate Average Fuel Economy (CAFE) program to demonstrate compliance with the Pavley regulations; and (3) revise its regulations for the 2012 through 2016 model year vehicles such that compliance with U.S. EPA-adopted greenhouse gas standards would serve as compliance with California's standards. Regulatory changes that implement the first and second commitments made by California as part of our May 2009 commitment letter were approved by the Board at a public hearing on September 24, 2009. The subject amendments to California's passenger motor vehicle regulations implement our third commitment.

The Board's Regulatory Action: On February 25, 2010, the Board approved amendments to the regulations originally proposed in the Staff Report released on January 7, 2010, as described above, with direction to the Executive Officer to make modifications available for comment.

Based on 45-day comments received, staff identified several modifications to the regulations that were needed. These changes provide manufacturers with compliance flexibility by allowing them to demonstrate to ARB their compliance with the National greenhouse gas program by providing ARB with any documentation provided to them by EPA verifying compliance, rather than requiring an "official" document from EPA and to allow manufacturers to submit this documentation to ARB within 30 days after receiving approval by U.S. EPA, rather than requiring them to submit it by May 1. These changes also included the addition of language to clarify what factors the Executive Officer will consider in reviewing for approval a manufacturer's plan to offset greenhouse debits and conforming changes to indicate the status of the National greenhouse gas program in the Federal Register. These 15-day changes were made available for public comment beginning on March 11, 2010 through March 26, 2010. The Executive Officer then adopted the amendments in their final form.