

September 28, 2018

COMMENTS OF THE NORTHEAST STATES FOR COORDINATED AIR USE
MANAGEMENT (NESCAUM) ON PROPOSED AMENDMENTS TO SECTIONS 1961.2
AND 1961.3 OF TITLE 13 OF THE CALIFORNIA CODE OF REGULATIONS
("DEEMED TO COMPLY" PROVISIONS)

Good Morning. My name is Kathy Kinsey. I am a Senior Policy Advisor at the Northeast States for Coordinated Air Use Management, or NESCAUM. We are a regional association of the state air pollution control agencies in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont.¹

I am speaking today in strong support of the Air Resources Board staff's proposal and more broadly of California's longstanding environmental leadership and statutory authority to adopt emission standards for new motor vehicles. Our states, and indeed the entire nation, have long benefitted from California's resolute commitment to improve air quality and reduce transportation sector greenhouse gas (GHG) emissions.

Like California, all of our states have also committed to reducing GHG emissions consistent with what science tells us is necessary to avoid the worst effects of climate change. These targets cannot be achieved without deep reductions from the transportation sector, which is the largest source of these emissions in our states. However, because our states are pre-empted under the Clean Air Act from adopting and enforcing their own emission standards for new cars and trucks, we rely on California to develop regulations that drive industry innovation and maximize environmental benefits, while at the same time ensuring continued economic growth.

Seven of the NESCAUM states have exercised their authority under Clean Air Act §177 to adopt California's motor vehicle emission standards – many of them decades ago. These states have been successful partners with California in regulating light-duty vehicle emissions. Adoption of California's Advanced Clean Cars program has resulted in improved air quality and public health outcomes in our states.

The California rules have also established the basis for increasingly more effective federal regulations, over time, by demonstrating need and technical feasibility. Together with the other states that have adopted California's program, we have created a sizable domestic market for automakers, suppliers, charging companies and other investors to establish economies of scale for advanced vehicle technologies.

¹ The views expressed in this letter represent the majority consensus of the NESCAUM-member states and not necessarily the views of all individual member states.

Our states have successfully defended their right to adopt and implement the California light-duty vehicle standards, including the GHG standards, in multiple lawsuits by the automakers. If history is to repeat itself now, NESCAUM pledges to work closely with the §177 states and California to continue our shared commitment to adopt, implement and defend clean vehicle programs that are necessary to achieve air quality and climate goals.

The adoption of California's Advanced Clean Cars program has provided significant GHG emission reductions, public health benefits and savings for drivers, and ensured that the cleanest cars are available for sale in our states. Although the California and federal GHG emission standards for light duty vehicles currently in effect through model year 2025 are equivalent in stringency, the SAFE Vehicles Rule issued jointly by the U.S. Environmental Protection Agency and the National Highway Transportation Safety Administration proposes to weaken the federal standards, revoke California's existing waiver for its motor vehicle greenhouse gas emission standards, and find that California and the §177 states are preempted from adopting more stringent GHG standards and the ZEV regulation in lieu of the federal standards.

NESCAUM supports California's proposed amendments to the LEV III greenhouse gas regulation to clarify that the "deemed to comply" option, which accepts compliance with the federal standards as sufficient to demonstrate compliance with California's standards for model years 2017 through 2025, is only available so long as the currently adopted federal standards are in effect. This clarification is consistent with the original intent and the very premise of the deemed to comply provision – that the federal standards would provide overall greenhouse gas reductions that are equivalent to reductions required by the California standards. We also note that absent any changes to the existing federal standards in place through model year 2025, California's proposed amendments preserve the option of providing a single harmonized standard for automakers.

The proposed amendments will ensure that the critical emission benefits of California's program are not lost in our states due to the unwarranted relaxation of the federal standards. For these reasons, NESCAUM strongly supports clarifying the "deemed to comply" provision to ensure that the California standards are not adversely impacted by actions to reduce the stringency of the federal program.

We strongly oppose any effort to curtail California's authority to adopt more stringent GHG emission standards, or to rescind the waiver granted to California in 2013 for its existing GHG emission standards. The principles of cooperative federalism that are embodied throughout federal environmental legislation are reflected in §§ 209(b) and 177 of the Clean Air Act, where Congress explicitly preserved California's authority to adopt more stringent motor vehicle emission standards, and granted other states the right to adopt and enforce the California standards, in lieu of federal standards. By including §§ 209(b) and 177 in the Clean Air Act, Congress clearly authorized two sets of motor vehicle emissions standards in our nation and recognized the important role that states play in protecting public health and welfare. These statutory provisions have served our states and nation well for decades and must remain in place.

Given the urgent need for action to combat climate change at all levels of government, maintaining this authority, not just for NOx and other criteria pollutants, but also for GHG emissions, is critically important.

Finally, we thank California for its strong and sustained leadership and pioneering efforts to protect the environment, public health and welfare from motor vehicle pollution. California's Advanced Clean Cars Program is a critical part of our states' strategies to meet air quality, energy and climate goals and we look forward to our ongoing partnership with the State of California.

Thank you.