

August 9, 2019

Transmitted Via Electronic Mail

Mr. Allen Lyons, Division Chief
California Air Resources Board
9480 Telstar Ave, Suite 4
El Monte, CA 91731

To: Mr. Lyons

Re: Greenhouse Gas Program Compliance Path for Model Year 2020 Vehicles

The Association of Global Automakers, Inc.¹ is writing regarding the California Air Resources Board (ARB) letter, Reference No. CLC-2019-058 (August 5, 2019). Global Automakers appreciates ARB's intent to allow companies to generate a credit bank for the California greenhouse gas (GHG) program in the event of a split from the federal program. However, we don't believe it is necessary a formal declaration that an automaker is complying with California's GHG regulations in order to generate and use GHG credits. Further, our companies require additional time beyond the August 16th deadline. Additional time is needed, as explained, to resolve these concerns and determine an extension for decision-making.

1. Generation of Credit Banks

Discussion is needed regarding the generation of California GHG credit banks, because Global Automakers is fundamentally concerned with ARB's approach in the event of a bifurcated system. We do not understand why an automaker must first notify ARB of its intention to choose the California GHG program for MY2020 in order to generate credits. ARB's GHG regulations provide that manufacturers, who elect to demonstrate compliance with the California GHG program through the national compliance option, must notify ARB of that selection prior to the start of the applicable model year, *or*, if they do not choose this option, may simply comply with the California program. See 13 C.C.R. § 1961.3(c)(1). That is, the regulation requires notification in the event of selection of the national compliance option, not if a manufacturer chooses to comply with the California GHG program.

More importantly, nothing in California's regulations states that an automaker that has elected to use the national compliance option in § 1961.3(c) cannot generate credits for compliance in California in subsequent, or previous, years. In fact, the language in § 1961.3(b)(1)(A) is clear to the contrary, as it contains no such prerequisites: "[a] manufacturer that achieves fleet average CO₂ values lower than the fleet average CO₂ requirement for the corresponding model year shall receive credits for each model year in units of g/mi." Thus, so long as an automaker's California fleet achieves lower CO₂ emissions than required, it can generate credits irrespective of whether it has elected to use the national compliance option. In addition, under § 1961.3(b)(3), GHG credits may be carried forward for five model

¹ The Association of Global Automakers represents the U.S. operations of international motor vehicle manufacturers, original equipment suppliers, automotive technology companies and other automotive-related trade associations. Global Automakers' mission is to educate and advocate for policies that help foster a vibrant, growing, free and open U.S. auto industry for all stakeholders. The Association collaborates with industry leaders, legislators, regulators, and other stakeholders in Washington, DC and 50 state capitals to create the kind of public policy that promotes innovation, vehicle safety and environmental responsibility. For more information, visit www.globalautomakers.org.

years and may be used to offset future debits. We are not aware of any regulatory restrictions on the use of these credits based on earning such credits through the national compliance option.

Our reading of the regulation is supported by ARB's practice to date under § 1961.3(b)(4), whereby an automaker can use GHG credits to offset its Zero Emission Vehicle (ZEV) obligations under California law. We understand that some automakers are currently generating GHG credits and using them to offset ZEV requirements, even though they are also availing themselves of the national compliance option for GHG. This demonstrates that automakers can generate GHG credits in the California program even though they are using the national compliance option.

We therefore request that ARB confirm that automakers may continue to generate credits earned through over-complying with the GHG regulations in California during model years when they are using the national compliance option, and that they may apply such credits in future model years if/when separate compliance in California becomes necessary.

2. *Company Shutdowns*

Companies have shutdowns and/or vacation schedules that complicate decision-making from parent companies that must participate in such a significant decision. In general, eleven days is inadequate for such a complex decision with many yet-to-be clarified issues. Moreover, a decision to change a compliance plan, and associated certification testing, will need sign off from overseas headquarters, but many companies are closed this week and the next, leaving only one day for many companies to reach a very important decision.

3. *Regulatory Clarification Needed*

Companies do not yet fully understand how to implement the ARB GHG regulations. Clarity is needed before companies can declare a compliance path and so that certification can be started in a timely manner. See "Comments of the Association of Global Automakers Concerning CARB's Request for Input on California's 'Deemed to Comply' Provision," May 31, 2018. Discussion with ARB is needed to make sure all implementation issues are resolved prior to a decision regarding compliance plans.

Global Automakers would like to arrange a meeting with ARB to resolve these concerns. We request that ARB extend the deadline for responses to no earlier than September 30, 2019, assuming that these discussions are resolved by then. Thank you for your consideration of these requests.

Sincerely,



Julia M. Rege
Senior Director, Environment & Energy

CC: Steve Cliff
Jackie Lourenco