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Re: California State Motor Vehicle Pollution Control Standards; Advanced Clean Cars II Regulations; Request for Waiver of Preemption [Docket ID No. EPA–HQ–OAR–2023–0292]

Dear Mr. Dickson,

The Specialty Equipment Market Association (SEMA) welcomes the opportunity to comment on the California Air Resources Board (CARB) request for Waiver Preemption to implement the Advanced Clean Cars II (ACC II) Regulation, 88 Fed. Reg. (December 26, 2023).

On behalf of our more than 7,000 member companies, SEMA has significant concerns regarding the impact of implementing the Advanced Clean Cars II. The regulation requires all new vehicles sold in California to be Zero-Emissions Vehicles (ZEV) by 2035. Although ACC II allows for 20% of vehicles sold to be hybrids, the regulations would prohibit the sale of traditional internal combustion engine (ICE) vehicles in 2035. ACC II requires that 35% of new cars, SUVs, and small trucks sold to be ZEV starting in 2026. The regulation increases ZEV sales requirements by 6% to 8% annually through 2035, when all new vehicles sold in California must be ZEV.

This proposal's large-scale transition to ZEV over a truncated timeline will significantly disrupt automotive supply chains and eliminate many jobs in vehicle manufacturing, parts production, and repair shops. Allowing the implementation of ACC II will lead up to 17 states and the District of Columbia that traditionally follow California's car emissions laws to adopt similar proposals. SEMA believes that while California is entitled to set vehicle regulations within its borders, it should not be capable of setting the emissions standards for nearly 140 million Americans who live in those states.

While the draft rule will adversely impact automotive businesses, their employees, and the millions of automotive enthusiasts whose careers, businesses, and passions are threatened by this proposal, it will also have considerable unintended consequences for individuals

and families who will have fewer choices when looking to purchase a new vehicle in the coming years. Allowing the implementation of ACC II is problematic when digging into its actual environmental impact, as the regulation only considers the emissions coming out of the tailpipe rather than the lifecycle emissions of producing and operating a vehicle.

Background on SEMA

SEMA is a non-profit trade association that represents over 7,000 mostly small businesses around the country that manufacture, distribute, and retail specialty parts and accessories for motor vehicles. The specialty automotive aftermarket industry employs over 1.3 million Americans and contributes $337 billion annually to the U.S. economy.

SEMA is most well-known for putting on the SEMA Show in Las Vegas, which is one of the largest trade shows in North America. The 2023 SEMA Show featured over 2,200 exhibitors and included over 160,000 attendees from around the world, showcasing the latest trends in performance and styling modifications of motor vehicles. The annual, trade-only event enables automotive specialty equipment manufacturers to debut new, innovative products, and connect with industry buyers from all over the world.

While SEMA's and the broader automotive industry's roots are tied to the internal combustion engine, the association prides itself on maintaining a forward-looking vision that enables all types of automotive enthusiasts to modify and personalize their vehicles of choice, including zero-emissions vehicles. For example, SEMA has strongly supported efforts in California to create a financial rebate program to convert gas- and diesel-powered motor vehicles into ZEVs and has allocated increasing space to ZEVs at the SEMA Show over the past four years. We have also used the SEMA Show to highlight advanced forms of vehicle propulsion that reduce emissions.

The 2023 SEMA Show featured the "SEMA FutureTech Studio" section in Central Hall of the Las Vegas Convention Center, featuring hybrid vehicles, other alternative-propulsion vehicles, and electric vehicles. This exclusive SEMA Show feature allowed attendees to learn about the future of vehicle propulsion with the newest technology and innovations in alternate fuels and EVs. The exhibit also included the "FutureTech LIVE" education stage, where industry leaders discussed different propulsion technologies, including EV, hybrid, hydrogen, alternative fuels, and other technological advancements. The SEMA FutureTech Studio is part of the new EV and Future Propulsion section that has evolved from the popular SEMA Electrified exhibit in previous years. The SEMA EV and Future Propulsion section reflected SEMA's "tech-agnostic" stance toward achieving cleaner, better-performing vehicles.

Impact on Small Business

ACC II is a far too fast mandate for automakers to transition their production to BEVs in order to avoid being fined. It will produce a seismic shift for automotive aftermarket businesses that don't have the capacity to make the transition to zero-emissions vehicle technology this quickly. Automakers are receiving billions in federal and state grants and incentives to support the EV transition, yet they are scaling back investments in EVs due to the fact that customers are not embracing the move to electric propulsion vehicles as previously anticipated. Ford estimates that it lost $4.5 billion on EVs in 2023 resulting in the company delaying $12 billion in EV investments,

representing an 80% reduction in EV spending.[1] For many specialty aftermarket businesses, which are not receiving government subsidies and can't afford to sustain massive losses, requiring all new vehicles sold to be ZEV by 2035 poses an existential threat.

The specialty aftermarket has been at the forefront of technological innovation in the automotive industry for decades, creating and manufacturing parts that make motor vehicles more fuel-efficient, safer, and more appealing to consumers. Collectively, thousands of small businesses in our industry will be adversely impacted by ACC II. According to SEMA Data, 25% of our member companies manufacture performance and accessory products that upgrade internal combustion engine components, consisting of parts for air and fuel, ignition, emission control, and engine and exhaust. Consumers upgrading ICE engines and drivetrains account for over one-third of all industry sales. ACC II, if implemented, will eliminate a significant portion of the $112 billion economic impact of this key segment of the specialty aftermarket.

Government policies should support the work of small business innovators that employ over a million American workers by letting the market and innovation drive solutions to the environmental challenges that we all seek to solve. Sadly, ACC II does nothing to help small automotive innovators, who will be crushed by its ZEV mandate.

It is no secret that large automakers' BEV programs are losing billions each year despite the massive financial infusion of taxpayer dollars they receive from the government and subsidies to purchase EVs. If the largest automakers are struggling right now, how are small automotive businesses, including specialty aftermarket, repair and replacement parts businesses, and local garages, expected to survive?

17 States Follow California Emissions Standards

Providing California with a Clean Air Act waiver to implement ACC II allows the state and others to prohibit the sale of new gas-powered vehicles in 2035, which will have a seismic impact beyond California, given that 17 other states have previously adopted California motor vehicle emission standards. As of January 2023, nine states and the District of Columbia have already adopted ACC II and will implement it immediately if the EPA grants CARB a waiver request for the regulation. In addition, three states have ACC II standards through 2032, which require 87% of new motor vehicle sales to be ZEV, and two more states have started the regulatory process.

ACC II's mandates require a rapid increase in the percentage of ZEVs that automakers must sell each year from 2026 through 2035 when all new vehicles sold must have zero emissions; this policy is already impacting the vehicle fleet in California and other states that follow its emission laws. California's current ZEV regulations, ACC I, are so onerous that Stellantis, a member of the Big Three, has stopped shipping conventional ICE Jeeps to dealers in California and other CARB states in order to meet California's standards, sending instead only their hybrid models. Consumers must special order traditional ICE versions of these vehicles in California and other CARB states.

In the 17 states that would potentially be affected by this waiver, SEMA estimates that over 546,000 jobs, both directly and indirectly supported by our industry, accounting for more than $43 billion in wages and $16 billion in federal and state taxes paid, would be at risk.

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[1] https://fortune.com/2023/11/04/carmakers-rethink-electric-vehicle-investments-demand-inflation-interest-rates/

Tailpipe Emissions vs. Lifecycle Emissions

ACC II is also problematic because it does not adequately consider the full life cycle of emissions of vehicles and fuels to ensure the light-duty transportation sector achieves greenhouse gas (GHG) emissions reductions. This proposal exclusively looks at tailpipe emissions rather than factoring in the full carbon footprint of the manufacture of ZEVs, including their batteries and components. CARB's calculations should include the environmental impacts associated with mining for battery minerals, manufacturing ZEVs, and the resources from the power grid to power a full fleet of ZEVs.

Argonne National Laboratory's Greenhouse Gases, Regulated Emissions and Energy Use in Technologies (GREET) model found that manufacturing an EV generates more carbon than producing an ICE vehicle, mainly due to the extraction and processing of minerals in EV batteries and production of the power cells. Toyota has circulated information on how the critical raw materials needed for BEVs could be better allocated to achieve similar goals of reducing GHG. The information demonstrates that the same amount of raw material needed to produce just one BEV could be used to make either six plug-in hybrid vehicles or 90 traditional hybrid vehicles. While the justification for ACC II is to drastically reduce motor vehicle emissions, the regulation does not consider that those 90 hybrid vehicles would reduce carbon 37 times as much as a single BEV over the lifetime of the vehicles.[2]

An analysis from S&P Global Mobility found that for the sixth consecutive year in a row, the average age of a vehicle on the road today is 12.5 years old.[3] Conversely, the "average age of battery electric vehicles in the U.S. fell to 3.6 years, down slightly from 3.7 years in 2022." According to a 2022 EPA report on greenhouse gas emissions, new vehicle fuel economy has increased 32% since model year 2004.[4] SEMA believes that tailpipe emissions can continue to be reduced without shifting to a zero-based tailpipe emissions model.

Of note, the U.S. Energy Information Administration reported that fossil fuels are the largest sources of energy for electricity generation in the United States, with an estimated 61% of all the electricity generated in 2021 coming from a combination of coal, natural gas, and petroleum.[5] Reuter's analysis of the Argonne Model found that a Tesla Model 3 that is charged using coal-fired power would need to be driven 78,700 miles in order to reach "carbon parity" with a gasoline-fueled Toyota Corolla.[6] While BEVs do not have tailpipe emissions, it is naïve to assume that they are carbon neutral given the fossil fuels that the U.S. and other countries around the world rely upon to produce the power to operate these vehicles.

A diverse approach to addressing GHG emissions through a multifaceted approach of cleaner fuels, alternative fuels, and electrification provides consumers with a choice in how they reduce their carbon footprint.

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[2] https://jalopnik.com/toyota-focusing-on-hybrids-not-electric-vehicles-1850440908
[3] https://www.reuters.com/business/autos-transportation/us-consumers-keep-vehicles-record-125-years-average-sp-2023-05-15/
[4] https://www.epa.gov/system/files/documents/2022-12/420s22001.pdf
[5] https://www.eia.gov/energyexplained/electricity/electricity-in-the-us.php
[6] https://www.reuters.com/business/autos-transportation/when-do-electric-vehicles-become-cleaner-than-gasoline-cars-2021-06-29/

Technology Neutral Alternatives

The specialty automotive aftermarket industry has been a leading innovator in alternative fuels and the manufacture of products that make ICE vehicles more fuel-efficient while increasing horsepower. Industry businesses are responsible for innovations ranging from replacing older engine technologies with newer, cleaner versions to converting older ICE vehicles to hydrogen, synthetics, bio, and other alternative fuels.

Given the timelines associated with implementing ACC II, the regulation leaves automakers with almost no choice but to produce EVs to meet the rapidly increasing annual ZEV sales requirements. SEMA believes the government should not pick winners and losers regarding automotive technology. Unfortunately, CARB has placed its thumb squarely on the scale for electric vehicles rather than helping the market drive technology solutions like Cummins' 15-liter fuel-agnostic engine platform, capable of running on hydrogen, natural gas, or diesel.[7]

It is noteworthy that the U.S. government and private entities have invested hundreds of billions of dollars to create the infrastructure in place for ICE vehicles. The newest ICE vehicle technology is carbon competitive with EVs when all of the vehicle life cycle costs are analyzed. The difference is that ICE infrastructure is already in place and paid for versus spending hundreds of billions of dollars to install non-existent EV infrastructure and offer subsidies to incentivize consumers to abandon cost-efficient ICE vehicles.

Vehicle Choice and Cost for Consumers

ACC II flies in the face of consumers having the freedom to purchase the vehicles that best suit their personal needs and those of their families. CARB's rush to eliminate tailpipe emissions in the U.S. will cause great economic harm to millions of consumers across the country and is out of touch with marketplace realities. Pew Center Research found that about 6 out of 10 Americans (59%) oppose phasing out the production of new gas-powered vehicles by 2035.[8]

According to Kelly Blue Book, the average cost of a BEV is $53,000 versus $48,000 for a non-BEV vehicle, which puts an undue financial burden on American consumers.[9] The average cost of a BEV is just shy of the median salary in 2022 in the United States of $54,132, as reported by the U.S. Bureau of Labor Statistics. In addition to the increased up-front costs to consumers to purchase a BEV, J.D. Power reported that approximately 28 million American homeowners must spend, on average, an additional $1,300 to install at-home chargers, putting an additional financial burden on Americans.[10]

Despite the fact that 8.5% of new vehicles sold are BEV currently, a May 2023 report from J.D. Power found that 21% of consumers are very unlikely to consider purchasing an EV due to issues such as price, range, and limited charging availability. In the Fall of 2023, two of the big three U.S.

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[7] https://www.cummins.com/news/releases/2023/01/23/cummins-fuel-agnostic-engine-platform-capability-comes-con-expo

[8] https://www.pewresearch.org/short-reads/2023/07/13/how-americans-view-electric-vehicles/

[9] https://www.kbb.com/car-advice/when-will-car-prices-drop/

[10] https://www.jdpower.com/cars/shopping-guides/what-does-an-ev-home-charger-cost#:~:text=Prices%20for%20these%20home%20EV%20chargers%20range%20from,an%20independent%20seller%2C%20can%20charge%20any%20new%20EV.

automakers announced they were slowing down EV production and investments, citing slower consumer demand.[11] In addition to the auto manufacturers, nearly 4,000 auto dealers sent a letter to the Biden Administration stating the EV sales goals outlined in the EPA's proposed multipollutant standards for light and medium duty vehicles model year 2027 through 2032 are unrealistic in light of slowing demand for EVs.[12] Given that auto dealers are up in arms about requiring 67% of new vehicles sold to be EV by 2032, imagine how they will feel if required to sell 100% ZEVs starting in 2035 in California and states that adopt ACC II.

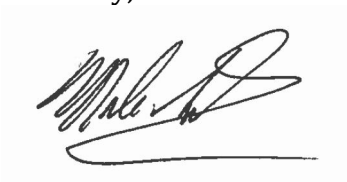
Conclusion

While the automobile's roots are tied to the internal combustion engine, SEMA prides itself on maintaining a forward-looking vision that embraces innovative technology, including EVs and other zero-emissions vehicles. The specialty automotive aftermarket has led the way with innovations by converting older ICE vehicles to new electric, hydrogen, and other alternative-fuel vehicles. Sadly, ACC II's plan to reduce tailpipe emissions does not factor this in. SEMA and its members have serious concerns with this regulation mandating 100% ZEV sales beyond California by eliminating consumer choice for more than 140 million Americans and the catastrophic impact on the specialty automotive aftermarket industry.

SEMA thanks the EPA for considering our comments and respectfully asks the agency to deny the California Air Resources Board's request for Waiver Preemption to implement the Advanced Clean Cars II Regulation.

If you have any questions about the comments, please feel free to contact me at MikeS@sema.org.

Sincerely,



Mike Spagnola
President & CEO
Specialty Equipment Market Association (SEMA)

[11] https://www.washingtonpost.com/business/2023/12/26/ev-demand-slows/
[12] https://www.roadandtrack.com/news/a45989334/auto-dealers-sign-letter-to-urge-president-biden-to-tap-brakes-on-ev-mandate/