

AB 1493 INFORMATIONAL HEARING

Greenhouse gas emissions: Legislative review of regulations adopted by the California Air Resources Board pursuant to AB 1493 (Pavley – 2002)

On July 22, 2002, Governor Gray Davis signed into law AB 1493 – Pavley (Chapter 200, Statutes of 2002). The bill, whose contents had previously been contained in AB 1058 (Pavley, 2001-02), was hotly contested, passing both the Senate and the Assembly by narrow margins.

The major provisions of the bill are as follows:

- It requires the Air Resources Board (ARB) to develop and adopt, no later than January 1, 2005, regulations that achieve the maximum feasible and cost-effective reduction of greenhouse gases emitted by motor vehicles.
- These regulations are prohibited from going into effect before January 1, 2006, and they may apply only to model-year 2009 or later motor vehicles.
- The Legislature is required to hold at least one public hearing to review the regulations, and it is allowed to adopt legislation to modify them.
- In developing the regulations, the ARB is required to consider their technological feasibility and economic impact.
- The regulations must provide flexibility in the means by which compliance may be achieved.
- Alternative methods of compliance must achieve equivalent or greater reductions in emissions but may not impose any mandatory trip reduction measures or land use restrictions.
- The regulations may not include additional fees and taxes on motor vehicles, fuels, or vehicle miles traveled, bans on any specific vehicle category, reductions in vehicle weights, speed limit reductions or limitations, or vehicle-miles-traveled restrictions or limitations.
- The regulations must provide an exemption for low-emission vehicles meeting optional standards for oxides of nitrogen (NO_x).
- The ARB may elect not to adopt a standard for any greenhouse gas included in an equally or more effective standard adopted in substantially the same timeframe by the federal government.

The genesis of AB 1058, and subsequently AB 1493, was the concern among many scientists and environmentalists that the emission of so-called "greenhouse gases" (primarily consisted of carbon dioxide (CO₂), but also including methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride) is contributing to an apparent warming of the Earth's atmosphere. Supporters of the bill pointed to a spate of warnings from a variety of scientific agencies, such as a report from the United Nations Intergovernmental Panel of Climate Change predicting a rise of up to 10.4 degrees in the Earth's temperature over the next century and indicating that the prior decade had been the warmest on record in the last 140 years. Supporters further noted that California is home to 0.5% of the world's population, yet emits nearly 7% of global CO₂ emissions.

Opponents of the bills contended that federal Corporate Average Fuel Economy (CAFE) law and the federal Clean Air Act prohibit state regulation of CO₂ emissions. This contention is based on the theory that CO₂ regulation is equivalent to fuel economy regulation, preempted by CAFE, and that CO₂ does not create localized pollution problems, making it ineligible for state regulation.

Subsequently, as directed by AB 1493, the ARB on September 24, 2004, approved regulations limiting the amount of greenhouse gas emissions that may be released from new passenger cars, SUVs and pickup trucks sold in California starting in model year 2009. According to ARB staff, the average reduction of greenhouse gases from new California cars and light trucks will be about 22 percent in 2012 and about 30 percent in 2016, compared to today's vehicles. Costs for the added technology needed to meet the rule are expected to average about \$325 per vehicle in 2012 and about \$1050 per vehicle to comply in 2016. The ARB staff analysis concludes that the new rules will result in savings for vehicle buyers by lowering operating expenses that will more than offset the increased initial costs of new vehicles.

In response to the ARB's action, the Alliance of Automobile Manufacturers on December 7, 2004 joined a group of California automobile dealers to challenge these regulations in the U.S. District Court in Fresno (Central Valley Chrysler-Jeep, Inc., et al v. Catharine E. Witherspoon) for being inconsistent with federal laws regarding motor vehicle fuel economy and air pollution. On the same day, four auto dealers, as well as DaimlerChrysler and General Motors, filed suit in Fresno County Superior Court (Fresno Dodge, Inc., et al v. California Air Resources Board), alleging that the Board did not follow statutory requirements regarding scientific peer review nor did it comply with relevant provisions of the Administrative Procedures Act. Finally, the Alliance of Automobile Manufacturers contends that fuel economy improvements must be balanced with safety and jobs considerations, that consumer choice must be preserved, that regulations should provide social benefits that are worth their costs, and that advanced technology should be driven by consumer demand.

The purpose of today's hearing, as indicated in statute, is to provide a legislative review of the ARB's greenhouse gas regulations to determine whether they are consistent with the direction given to the Board by AB 1493 and if any changes should be initiated by legislation.