

# GREENHOUSE GAS IMPACT STATEMENT

## STATUTORY REQUIREMENT

The Administrative Procedure Act at 3 V.S.A. § 838(c) was amended, effective July 1, 2008, to require a greenhouse gas impact statement to be included with each proposed rule filing. As amended, 3 V.S.A. § 838(c)(4) states:

The greenhouse gas impact statement shall explain how the rule has been crafted to reduce the extent to which greenhouse gases are emitted. The secretary of administration, in conjunction with the secretaries of agriculture, food and markets, of natural resources, and of transportation, and the commissioner of public service shall provide a checklist which shall be used in the adoption of rules to assure the full consideration of greenhouse gas impacts, direct and indirect.

To date, no checklist has been developed and the Secretary of State's rulemaking forms have not been revised to reflect this new requirement. Nevertheless, the Agency of Natural Resources is submitting this Greenhouse Gas Impact Statement to comply with the new requirement set forth in 3 V.S.A. § 838(c)(4).

## OVERVIEW

Under the federal Clean Air Act (CAA), new motor vehicles must either meet default emission standards set by the U.S. Environmental Protection Agency (EPA) or motor vehicle emission standards adopted by California pursuant to CAA §209(b). Although all other states are preempted from adopting their own emission standards by CAA §209(a), CAA §177 allows states to adopt standards that are identical to California's emission standards.

Vermont first exercised its authority under CAA §177 to adopt California's Low Emission Vehicle (LEV) program in 1996 to reduce health related air toxins and photochemical smog precursors. Since then, Vermont has amended its LEV regulations periodically to stay consistent with California's regulations. The State of Vermont has identified the LEV Program, sometimes referred to as the "Clean Cars Program," as a key strategy in climate change mitigation.<sup>1</sup> The LEV Program is particularly important because the transportation sector is the largest source of greenhouse gas emissions in Vermont.<sup>2</sup> As discussed below, the proposed amendments to the LEV regulations will further the purpose of reducing greenhouse gas emissions from motor vehicles.

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<sup>1</sup> See Section VI "Transportation and Land Use", pp. 132-143, Vermont Comprehensive Energy Plan, Department of Public Service, May 2008.

<sup>2</sup> See document entitled *Final Vermont Greenhouse Gas Inventory & Projections 1990-2030* available at <http://www.anr.state.vt.us/air/Planning/htm/ccvtactions.htm>

The proposed amendments, also discussed in Attachment A to the Economic Impact Statement, and Attachment A to the Scientific Information Statement, will incorporate by reference: (1) California's revisions to the Zero Emission Vehicle (ZEV) program; (2) California's Environmental Performance Labeling requirements; and (3) California's amendments to Emission Warranty and Recall requirements.

## **DISCUSSION**

### 1) Zero Emission Vehicle (ZEV) Amendments.

The LEV Program is the overarching framework encompassing requirements for automobile manufacturers to meet emission standards for carbon monoxide, non-methane organic gases, nitrogen oxides, and greenhouse gases.<sup>3</sup> Manufacturers must also meet requirements to supply a portion of their fleet as zero emission vehicles (ZEVs), which are inherently lower in greenhouse gas production than conventional vehicles.

The proposed amendments to the ZEV requirements are expected to reduce emissions from motor vehicles. With respect to greenhouse gases, the California Air Resources Board (CARB) estimates that the revised ZEV program requirements, versus the existing regulation, would reduce total lifetime climate change emissions, based on a 150,000 mile vehicle life, by 26% during the 2012-2014 Phase III and 27% during the Phase IV 2015-2017 period of the ZEV Program.<sup>4</sup> The Agency of Natural Resources expects similar reductions in Vermont, following adoption of the proposed ZEV amendments.

### 2) Environmental Performance Labeling Amendments.

The proposed Environmental Performance Labeling amendments will require Global Warming scores, based on greenhouse gas emissions, and Smog scores to be displayed on a single label on new vehicles.<sup>5</sup> Currently, only Smog scores are displayed on new vehicles.

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<sup>3</sup> In order for California and other states to enforce the greenhouse gas emissions standards, EPA must first grant a waiver of federal preemption. EPA's waiver denial for these standards is currently being challenged in federal court.

<sup>4</sup> CARB, Staff Report: Initial Statement of Reasons – 2008 Proposed Amendments to the California Zero Emission Vehicle Program Regulations, at p.38, Executive Summary, February 8, 2008.

<sup>5</sup> By statute, the Agency of Natural Resources is required to “establish, by rule, a vehicle emissions labeling program for new motor vehicles sold or leased in the state with a model year of 2010 or later.” 10 V.S.A. §579(a). The statute further provides: “A label that complies with the requirements of the California vehicle labeling program shall be deemed to meet the requirements of this section and the rules adopted thereunder for the content of labels.” 10 V.S.A. §579(b).

As described by CARB, the new Environmental Performance Labeling requirements are expected to reduce the extent to which greenhouse gases are emitted from motor vehicles as follows:

[T]he proposed label will affect the purchasing choices of some vehicle buyers, however the degree to which this occurs is not known. If consumers buy vehicles with lower smog indices, smog emissions will be lower. If they buy vehicles with lower global warming indices, these emissions may also decrease. However, compliance with the current greenhouse gas emissions standards are based on a fleet average CO<sub>2</sub>Equivalent value by each manufacturer. Thus it may be possible that purchase of a cleaner vehicle will allow a manufacturer to produce additional vehicles with higher emissions (at presumably a lower cost). This would negate the effect of the label resulting in no change in greenhouse gas emissions. Over time however, . . . increased awareness of the benefits of purchasing a vehicle with low greenhouse gas emissions will result in market pressure to increase the number of models available with low emissions, with the result being manufacturer fleet wide emissions will be lower than required by regulation. The increased consumer awareness of vehicle greenhouse gas emissions may also encourage purchasers of other products to buy green.<sup>6</sup>

Thus, the Agency believes that the proposed Environmental Performance Labeling requirements will create market pressure to increase production of vehicles with lower GHG emissions and will encourage the purchase of cleaner vehicles.

### 3) Emission Warranty Information and Recall Reporting Amendments.

The proposed Emission Warranty Information and Recall amendments are also expected to reduce greenhouse gas emissions from motor vehicles. These proposed amendments were crafted to ensure emissions performance over the useful life of a vehicle and reduce emissions impacts on the environment, including those of greenhouse gases. CARB illustrated the environmental impact of the proposed amendments by noting:

[W]hile it is inherently speculative to forecast the future emissions consequences of failed emissions components that fail over time it is beyond dispute that as motor vehicles age and accumulate high mileage, their emission control systems deteriorate and increasingly malfunction, causing emissions from motor vehicles to increase, and for these reasons, [CARB] needs to be able to order recalls on the basis of failing emissions-

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<sup>6</sup> CARB, Staff Report: Initial Statement of Reasons – Proposed Amendments to the Smog Index Vehicle Emissions Label, at p.25, May 4, 2007.

related components, not just on the basis of average emissions exceedances in an affected vehicle group.<sup>7</sup>

The failure of emissions control devices frequently result in increases of reactive organic gases (ROG) and oxides of nitrogen (NOx), along with carbon monoxide. Failed devices are also prone to elevating fuel consumption, impacting greenhouse gas emissions. Further, as the California Economic and Technology Advancement Advisory Committee (ETAAC) formed by AB 32, the California Global Warming Solutions Act of 2006, has recognized: “Because many criteria air pollutants such as the black carbon component of particulate matter and ozone also accelerate global climate change, air quality policies yield valuable contributions to AB 32’s GHG emission reduction goals.”<sup>8</sup>

The Agency of Natural Resources expects similar valuable contributions to controlling greenhouse gas emissions from the Vermont fleet by adoption of the proposed Emission Warranty Information and Recall amendments.

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<sup>7</sup> CARB, Staff Report: Initial Statement of Reasons for Proposed Rulemaking – Public Hearing to Consider Amendments to California’s Emission Warranty Information Reporting and Recall Regulations and Emission Test Procedures, at p.15, October 20, 2006.

<sup>8</sup> ETAAC Final Report, Technologies and Policies to Consider for Reducing Greenhouse Gas Emissions in California, at p.3-9, delivered to CARB February 11, 2008.